Fayette County Public Schools Purchasing Department

General Terms & Conditions

Last Revised May 2025

Scope of General Terms and Conditions

These General Terms and Conditions apply to all solicitations, contracts, purchase orders, and other resulting procurement tools issued by, or entered into by Fayette County Public Schools (hereinafter FCPS).

1. When solicitation or contract Special Terms and Conditions conflict, it is the selected conditions of FCPS that shall control.

Specification Compliance Guidelines and Definitions

1. Terms Defined
   - 1.1. Whenever the terms "shall", "must", or "will" are used in the solicitation, the specification/requirement being referred to will be mandatory. Failure to meet any mandatory requirement can cause a reduction in evaluation scoring or rejection of the response.
   - 1.2. Whenever the terms "can", "may", "should" or "might" are used in the solicitation, the specification/requirement being referred to is desirable. Failure to provide any items so-termed may cause a reduction in evaluation scoring if applicable.
2. Specifications Compliance
   - 2.1. Through the submission of a response, the respondent verifies that their response fully complies, or complies with an exception or alternative to the listed specifications. Compliance standards are determined as follows:
   - 2.2. "Comply Fully" – respondent's solution complies explicitly with the specifications/requirements as written.
     - 2.2.1. The respondent must notate via page number and location reference of how the response meets the stated requirements and specifications.
   - 2.3. "Comply with an exception or alternate" – respondent's solution complies with some or part of the specifications and requirements and the respondent must mark those requirements listed as exceptions by indicating such on any accompanying forms or documents.
     - 2.3.1. If not expressly forbidden by the solicitation, the respondent may pose an alternative to the listed specification that will be evaluated following the guidelines contained herein.
     - 2.3.2. The respondent must notate via page number and location reference of how the response meets the stated requirements and specifications.
     - 2.3.3. Whenever the respondent can comply with an exception, the respondent must attach a description of how/why an exception is proposed which should be labeled as an attachment under the guidelines above.
     - 2.3.4. Failure to notate an exception, or include an explanation as defined above, does not relieve the respondent of compliance in full if awarded.
   - 2.4. "Cannot comply" – respondent's solution does not comply with specification/requirement.
     - 2.4.1. Failure to indicate non-compliance will be interpreted to mean that the respondent can comply in full.
     - 2.4.2. Whenever the respondent cannot comply, the respondent has the option to include an alternative as defined above.
3. Scoring and Evaluation
   - 3.1. Specifications and/or requirements listed in solicitations, appendices, and as presented in general and special terms and conditions are subject to evaluation scoring.
   - 3.2. Responses will be evaluated based on the best solution for FCPS as defined by the listed specifications and requirements, respondent business capability, and value.

Questions and Addenda Regarding Solicitations

1. Request for Interpretation
   - 1.1. If the respondent is in doubt as to the meaning of any part of a solicitation, they may request an interpretation.
     - 1.1.1. All communication shall be done in writing and sent via email to the Purchasing Department agent or contact listed in the solicitation.
     - 1.1.2. All correspondence should be clearly labeled with the solicitation title and number.
   - 1.2. No oral interpretations shall be made as to the meaning of any part of the solicitation. FCPS will not be responsible for any other interpretations or explanations other than those issued by formal solicitation addenda.
   - 1.3. Failure to request an interpretation shall not relieve the successful respondent from the obligation to perform work in accordance with the response as interpreted subsequently by FCPS authorized representatives.
   - 1.4. The resulting addenda issued as part of the solicitation process may be incorporated in subsequent contracts or purchase orders at the sole discretion of FCPS.
2. Incorporated Contents
   - 2.1. All documents submitted in response to a solicitation, including any attachments or appendices, are incorporated into any resulting contract.
   - 2.2. If any language of the response conflicts with the language of the solicitation, the language of the solicitation shall govern at the sole and full discretion of FCPS.

Restrictions and Conflicts of Interests

1. Communication Restrictions
   - 1.1. From the issue date of the solicitation until an intent to award notification is issued, respondents are not allowed to communicate for any reason with any FCPS employee except through the Purchasing Department, during the respondent's conference or scheduled meeting, or as provided in the scope of existing work agreements.
2. Lobbying Restrictions
   - 2.1. Respondents are hereby advised that they are not to lobby with any FCPS personnel or board members.

2.2. All oral or written inquiries must be directed through the Purchasing Department.
2.3. Attempts at lobbying may be grounds for rejection of the response and exclusion from future solicitations.

3. Conflicts of Interests
3.1. All respondents must disclose with their response the name of any officer, director, or employee who is also an employee of FCPS.
3.2. Respondents must disclose the name of any FCPS employee or family member who owns, directly or indirectly, any interest in the respondent's firm or any of its branches.
3.3. Failure to disclose such conflicts may be grounds for rejection of the response and exclusion from future solicitations.

Response Declinations, Disputes, and Protests

1. Response Declinations
1.1. FCPS reserves the right to the following: reject any responses, waive any irregularity in responses, accept any item or group of items unless qualified by the respondent, and/or acquire additional quantities at prices quoted on this request for responses, unless additional quantities are not acceptable, in which case the response must be noted: "response is for specified quantity only."

2. Revision or Withdrawal of Response
2.1. A response may be revised or withdrawn by the respondent before the response submission date and time as specified in the solicitation schedule of events.
2.2. After the response submission date and time, FCPS Purchasing Department will permit withdrawal only when the best interest of FCPS would be served.

3. Disputes and Protests
3.1. Through the submission of a response; respondents agree to waive any claims they may have against FCPS, its employees, agents, members, representatives, and legal counsel.
3.2. In case of any double meaning or difference of opinion as to the items and/or services to be furnished or supplied, the decision of FCPS shall be final and binding on both parties.
3.3. Any contest or dispute must be submitted in writing via email, mail, or delivery to the Purchasing Department within three (3) business days of award posting.

4. Default
4.1. If the awarded respondent should breach any potential contract resulting from the solicitation, FCPS reserves the right to seek all remedies in law and/or equity.

5. Cancellation
5.1. If the awarded respondent violates any of the provisions of the solicitation or resulting contract, the superintendent or his/her designee will give written notice to the respondent stating the deficiencies.
5.2. Unless the deficiencies are corrected within thirty (30) calendar days, a recommendation will be made by the Purchasing Department for immediate cancellation.
5.3. Upon cancellation, FCPS may pursue all legal remedies as provided by law.

6. Contract Termination
6.1. FCPS reserves the right to terminate any contract resulting from the solicitation at any time and for any reason upon giving written notice thirty (30) days in advance to the other party.
6.2. If said contract should be terminated for convenience, FCPS will be relieved of all obligations under said contract and FCPS will only be required to pay the awarded respondent the amount of the contract performed to the date of termination.

7. Debarred, Suspended, and Ineligible Status
7.1. A respondent certifies by submission of their response that the respondent and/or any of its subcontractors or suppliers (if applicable) have not been debarred, suspended, or declared ineligible by any government agency.
7.2. FCPS reserves the right to reject any vendor who violates this condition before, during, and after a solicitation or resulting order, contract, agreement, or purchase order.

Pricing

1. Firm Pricing
1.1. The respondent should propose firm net pricing for the term of the solicitation with discounts marked.
1.2. Propose items following all terms and conditions stated.
1.3. Prices must be stated in units of the quantity specified in solicitation requirements.
1.3.1. In case of a discrepancy in computing the amount of the response, the unit price quoted will govern.
1.4. Alternate pricing terms and conditions submitted may not be evaluated or suffer a reduction in evaluation scoring.
1.5. Fayette County Public Schools is a tax-exempt entity.
1.5.1. It is the respondent's responsibility to be familiar with applicable tax implications and the respondent shall be liable for all such costs associated with their response.
1.6. FCPS reserves the right to purchase or compare pricing available, or made available from, cooperative purchasing agreements and other governmental contracts.

2. Pricing Adjustments
2.1. FCPS recognizes that independent market factors may result or necessitate the need for price changes. The respondent agrees to the following:
2.2. Adjustments made to resulting pricing must meet the following conditions:
2.2.1. All price increases must be based upon product cost ONLY, and documentation of the price increase is required.
2.2.2. Prices must be held firm for the term of the solicitation or December 31st of the issuing year, after which an escalator can be invoked.
2.2.3. The awarded respondent must provide the FCPS Purchasing Department written notification at a minimum of 30 days before a price escalation change.
2.2.4. Single changes of no more than the lower of 10% or the twelve-month average of the Consumer Price Index (CPI) at the time of the request is allowed. There are exceptions only when market conditions dictate a revised escalator for a particular commodity.
2.2.5. FCPS reserves the right to accept or reject any price escalation. A rejection of a price escalation may result in the

termination of any agreement, contract, purchase order, or other agreement without fault or obligation.

2.3. Tariff-Based Price Adjustments:

2.3.1. Not discarding the foregoing statements above, FCPS recognizes the imposition of tariffs or trade restrictions may impact the supplier's ability to maintain pricing.

2.3.2. Suppliers may notify FCPS of the impact, supported by credible cost data. Credible cost data would include documentation as follows:

2.3.2.1. Copy of the official tariff schedule or notice (e.g., from the U.S. International Trade Commission, or Customs and Border Protection (CBP))

2.3.2.2. Federal Register notice showing the imposition of the tariff with effective dates and Harmonized Tariff Schedule (HTS codes) including reference to the HTS code for the product.

2.3.3. FCPS reserves the right to request the following as evidence of payment of tariffs:

2.3.3.1. CBP Form 7501 (Entry Summary): This shows tariff duties paid upon entry to the U.S.

2.3.3.2. Commercial invoice showing the importation of goods and/or bill of lading or shipping documents indicating international sourcing, the duty or tariff amounts listed, and/or supplier name as importer of record or a third-party customs broker.

2.3.4. FCPS will engage in good-faith negotiations to consider price modifications, substitute goods, or alternative sourcing arrangements, with the goal of minimizing disruption to public services and maintaining the continuity of supply.

Delivery

1. Inside Deliveries Only
   - 1.1. Unless otherwise specifically authorized by FCPS personnel, all deliveries to FCPS locations shall be required as “Inside Delivery”.
   - 1.2. Inside Delivery is defined as delivery to a building with or without an accessible dock where the product ordered is brought into the building by the delivery driver to specific rooms or areas as directed by FCPS staff.
2. Notification Required
   - 2.1. Vendors and their delivery subcontractors are required to notify FCPS staff a minimum of one (1) business day prior to delivery.
   - 2.2. If delivery cannot be made on the day requested, the vendor and/or their subcontractor shall schedule an alternate day with FCPS personnel at no cost to the District.
3. Refusal of Delivery
   - 3.1. Should FCPS refuse delivery due to, but not limited to, improper delivery information or refusal of the carrier to meet Inside Delivery requirements, the vendor shall be responsible for additional costs incurred for alternate / corrected delivery.

Legal Compliance

1. Georgia Code: O.C.G.A. § 20-2-506 Compliance
   - 1.1. Per O.C.G.A. § 20-2-506, any contract entered into by FCPS shall terminate and without further obligation on the part of the school district at the close of the calendar year in which it was executed (December 31st) and at the close of each succeeding calendar year for which it may be renewed as provided.
   - 1.2. The contract may provide for automatic renewal unless action is taken by the school system to terminate such contract, and the nature of such action shall be determined by the sole discretion of FCPS.
   - 1.3. The contract shall state the total obligation of the school system for the calendar year of execution and shall further state the total obligation which will be incurred in each calendar year renewal term.
2. Non-Appropriations-Georgia Code O.C.G.A. § 36-60-13 Compliance
   - 2.1. Per O.C.G.A. § 36-60-13, if funds fail to be appropriated by the Fayette County Board of Education each fiscal year beginning July 1st during the term of this contract, then this contract shall terminate on June 30th following written notice from Fayette County Public Schools.
   - 2.2. The contract may provide for automatic renewal unless action is taken by the school system to terminate such contract, and the nature of such action shall be determined by the sole discretion of FCPS.
3. Americans with Disabilities Act (ADA)
   - 3.1. Respondents should ensure that their response, resulting contracts, durable goods, and projects are compliant with the Americans with Disabilities Act and corresponding legislation.
   - 3.2. Submission of response indicates the respondent’s familiarity and compliance with the ADA and corresponding legislation. Compliance failure will be the sole responsibility of the respondent.
   - 3.3. FCPS reserves the right to reject any response deemed not compatible with the ADA or corresponding legislation at its sole discretion.
4. Section 508 Rehabilitation Act Compliance
   - 4.1. Respondents should ensure that their response, resulting contracts, durable goods, and projects are compliant with Section 508 Rehabilitation Act and corresponding rulings.
   - 4.2. Submission of response indicates the respondent’s familiarity and compliance with the Section 508 Rehabilitation Act and corresponding rulings. Compliance failure will be the sole responsibility of the respondent.
   - 4.3. FCPS reserves the right to reject any response deemed not compatible with Section 508 Rehabilitation Act or corresponding rulings at its sole discretion.
5. Non-Discrimination Policy
   - 5.1. The respondent, contractors, and subcontractors may not discriminate against any employee or applicant for employment, to be employed in the performance of this response with the respect to hiring, tenure, terms, conditions, or privileges of employment because of race, color, religion, national origin, or ancestry, or because of age, handicap or sex,

except where based on bona fide occupational qualifications.

6. Non-Collusion
   - 6.1. The respondent acknowledges that this response is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, services, or equipment and is in all respects fair and without collusion or fraud.
   - 6.2. Collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards.
   - 6.3. Respondent agrees to abide by all conditions of this solicitation and certify that the signatory is authorized to sign this form for the respondent (per O.C.G.A. § 50-5-67).
   - 6.4. Respondent further certifies that the provisions of the O.C.G.A. Title 45, Chapter 10, Article 2 have not and will not be violated in any respect.
7. Drug-Free Workplace
   - 7.1. According to O.C.G.A. § 50-24-3, the respondent will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance including marijuana during the performance of this contract.
   - 7.2. If the respondent has more than one employee, including respondent, the respondent shall provide for such employee(s) a drug-free workplace program, per the Georgia Drug-Free Workplace Act as provided in O.C.G.A. § 50-24-1 throughout the solicitation and any resulting contracts.
   - 7.3. The respondent will secure from any subcontractor hired to work on any job assigned under the solicitation written attestation to the same.
   - 7.4. The respondent may be suspended, terminated, or debarred if it is determined that the respondent has made false certification or the respondent has violated such certification by failure to carry out the requirements of O.C.G.A. § 50-24-3(b)
8. Confidentiality Matters and Requirements
   - 8.1. Respondent acknowledges that some material and information which may come into its possession or knowledge in connection with the solicitation, or the awarded performance thereof, may consist of confidential and private information of FCPS, its students, or employees; the disclosure of which to, or use by, third parties may be damaging or in violation of applicable law.
   - 8.2. Advertising: Respondent shall not prepare or disseminate any publicity relating to this response or the services performed without the express written consent of FCPS, professional reference citations excluded.
   - 8.3. FCPS complies with O.C.G.A. § 20-2-665, O.C.G.A. § 20-2-666, and O.C.G.A. § 20-2-667. Unless required by state or federal law; or in the case of health or safety emergencies; respondents shall not collect the following records in regards to students or families thereof:
     - 8.3.1. Juvenile Delinquency Records
     - 8.3.2. Criminal Records
     - 8.3.3. Medical/Health Records
     - 8.3.4. Political affiliations or voting history
     - 8.3.5. Income
     - 8.3.6. Religious Affiliation or beliefs
   - 8.4. As part of FCPS's compliance with O.C.G.A. § 20-2-665, O.C.G.A. § 20-2-666, and O.C.G.A. § 20-2-667. Unless required by state or federal law; or in the case of health or safety emergencies; respondents shall not engage knowingly in:
     - 8.4.1. Amassing a student profile
     - 8.4.2. Behaviorally targeted advertising
     - 8.4.3. Selling or trafficking in student data
     - 8.4.4. Disclose any information without parental consent
   - 8.5. Respondent also agrees to abide by conditions of the Family Educational Rights and Privacy Act (FERPA) where applicable.
   - 8.6. When the solicitation is for electronic software and applications services, respondents agree to conform to the Common Sense Media Privacy Evaluations process. FCPS may check for compliance at any time via the Privacy Evaluations list located on the Common Sense Media website.
9. Georgia Open Records Act Compliance (O.C.G.A. § 50-18-70)
   - 9.1. Notwithstanding the foregoing, this solicitation and any resulting responses, evaluations, contract, agreement, or purchase orders are subject to the Georgia Open Records Act and may be released publicly.
   - 9.2. Pursuant to the act, for any records or documents marked as "confidential" or "trade secrets" the respondent must submit and attach to the records an affidavit affirmatively declaring that specific information in the records constitutes trade secrets according to O.C.G.A. § 10-1-761.
   - 9.3. Failure to attach such an affidavit will result in the record being considered public and subject to release under the Georgia Open Records Act.
   - 9.4. If FCPS determines that the specifically identified information does not constitute a trade secret, it shall notify the entity submitting the affidavit of its intent to disclose the information within ten days unless prohibited from doing so by an appropriate court order.
   - 9.5. In the event the entity wishes to prevent disclosure of the requested records, the entity may file an action in superior court to obtain an order that the requested records are trade secrets exempt from disclosure. The entity filing such action shall serve the requestor with a copy of its court filing.
   - 9.6. If the agency determines that the specifically identified information does constitute a trade secret, the agency shall withhold the records, and the requester may file an action in superior court to obtain an order that the requested records are not trade secrets and are subject to disclosure.
10. Choice of Law and Venue
    - 10.1. The Laws of the State of Georgia shall govern this response in all respects. Any lawsuit or other action based on claims arising from this response shall be brought in a court or other forum of competent jurisdiction in Fayette County, Georgia.
11. Taxes
    - 11.1. The respondent will timely pay all taxes lawfully imposed upon the respondent concerning the solicitation and any resulting contract.
    - 11.2. Fayette County Public Schools are a tax-exempt entity.

12. OSHA Compliance
    - 12.1. The respondent warrants that the products/services supplied to FCPS shall conform in all respects to the standards set forth by the Occupational Safety and Health Administration and the failure to comply with this condition may be considered grounds for default.
    - 12.2. Should any product/service be determined not to comply with standards set forth by the Occupational Safety and Health Administration the respondent shall assume all liabilities including civil penalties assessed.
13. Licenses and Permits
    - 13.1. Where respondents are required to enter or go onto FCPS property to deliver materials or perform work or services because of a solicitation, the respondent will assume the full duty, obligation, and expense of obtaining all necessary licenses, permits, and insurance.
    - 13.2. Respondent shall, at its own expense, obtain all necessary permits, give all notices, and pay all license fees and taxes as required.
    - 13.3. Respondent shall, at its own expense, comply with all applicable local, state, and Federal laws, ordinances, rules, and regulations; as well as local building codes, ordinances, and Board of Education policies pertaining to the solicitation or resulting contract.
14. Background Check Verification Compliance
    - 14.1. FCPS requires all vendors who perform services on any and all District property to conduct criminal background checks on all employees who will or may be physically present on District property at any time whether students are present or not.
        - 14.1.1. Vendors must provide verification of a successful and clear background check for each employee as defined above including verification against the Georgia Sex Offender Registry.
        - 14.1.2. Failure to provide such verification to the approval of the Purchasing Department may be grounds for rejection of solicitation response.
        - 14.1.3. Any vendor employee prohibited from District property due to negative criminal/sexual offender history found therein will constitute cause for immediate termination of any and all contracts held by the vendor and could result in permanent debarment as defined herein.
    - 14.2. Any criminal conduct or behavior deemed inappropriate by District staff of a vendor employee while on site may result in criminal charges, criminal trespass notification, and/or constitute cause for immediate termination of any and all contracts held by the vendor and could result in permanent debarment as defined herein.

Samples, Demonstrations, Interviews, and Testing

1. Samples
    - 1.1. Samples of items, when required, must be furnished free of expense.
    - 1.2. Each sample must be labeled with “SAMPLE”, the respondent’s name, solicitation title, and number.
    - 1.3. Failure of the respondent to either deliver the required samples or identify samples as indicated may be a reason for rejection of the response.
    - 1.4. Unless otherwise indicated, samples should be delivered to FCPS Purchasing Department per solicitation guidelines.
    - 1.5. Samples will be retained until testing and evaluation are complete. Samples not claimed after ten (10) calendar days by the respondent following the issuance of an intent to award will become the property of FCPS.
2. Demonstrations
    - 2.1. FCPS may request full demonstrations of requested products or services before the award of any contract.
    - 2.2. Costs for such demonstrations or the provision thereof shall be the sole responsibility of the respondent.
3. Interviews
    - 3.1. FCPS may request respondents interview with end-users, Purchasing Department staff, or evaluation committees as part of the evaluation process.
    - 3.2. Costs for such interviews or the execution thereof shall be the sole responsibility of the respondent.
4. Testing
    - 4.1. FCPS may test items for compliance with requirements.
    - 4.2. Testing parameters are at the sole discretion and desire of FCPS.
    - 4.3. Respondent shall assume full responsibility for payment for all charges for testing and analysis of any materials offered, delivered, or submitted.

Standards for Manufactured Goods

1. Minimum Standards
    - 1.1. Manufactured goods made in the United States or the State of Georgia may be given preference during the evaluation process at the sole discretion of FCPS.
    - 1.2. Goods of Foreign Manufacture: To be considered for an award, goods of foreign manufacture shall meet all requirements contained in the solicitation, shall be in stock in the continental United States, and shall be available for shipment following terms specified in the solicitation.
    - 1.3. The respondent shall bear all costs of acquiring manufactured goods as a result of any solicitation or resulting contract, purchase order, or agreement.
    - 1.4. FCPS will not issue payment in any form, full or partially, until solicited item or service has been fully accepted to FCPS’s satisfaction.
2. Conditions and Packaging
    - 2.1. Any item proposed or shipped as a result of the solicitation shall be new (current production model at the time of the award).
    - 2.2. All containers shall be suitable for storage or shipment and all submitted prices shall include standard commercial packaging.
3. Underwriters Laboratories
    - 3.1. Unless otherwise stipulated in the response, all manufactured items and fabricated assemblies shall be UL listed.
4. Brand Names and Alternates
    - 4.1. Use of a brand name, trade name, make, model, and manufacturer or vendor catalog number in the solicitation (unless noted otherwise or listed as “no alternates accepted”) is to establish a grade or quality of material only.
    - 4.2. If a product other than specified is proposed, FCPS shall be the sole judge concerning the merits of the response submitted.

4.3. FCPS will not issue any approval or acceptance of alternate items or proposals before solicitation submittal and evaluation.

5. Copyrights and Patent Rights
   5.1. Respondent warrants that there has been no violation of copyrights or patent rights in manufacturing, producing, or selling the goods shipped or ordered because of the solicitation.
   5.2. Respondent agrees to hold FCPS harmless from all liability, loss, or expense occasioned by any such violation.
6. Manufacturer's Certification
   6.1. FCPS reserves the right to request separately, or as a specification in the solicitation, from the respondent a separate manufacturer certification of all statements made in the response.
   6.2. Respondent assumes all costs and actions of acquiring manufacturer certifications if requested.
   6.3. Failure to do so shall constitute grounds for rejection of response.
7. Occupational and Materials Health and Safety
   7.1. If items delivered require a Material Safety Data Sheet (MSDS): The MSDS shall be provided with initial shipment and shall be revised on a timely basis as appropriate.
   7.2. MSDS information must be in hard copy with a notation of the manufacturer's website address for the MSDS link.

Warranty and Support Requirements

1. Minimum Standards
   1.1. FCPS asserts that warranty coverage begins at the time of payment.
   1.2. FCPS is not bound by any terms or conditions in any respondent's contract, packaging, invoices, service catalog, brochure, technical data sheet, or other documents which attempts to impose any conditions that waive, amend, abridge, abrogate, are in conflict with, or are in addition to FCPS's contractual rights as provided under state or federal law.
   1.3. Any good(s) purchased under the solicitation will be defect-free in materials and workmanship and be of the quality, size, and dimensions ordered.
   1.4. The packaging, packing, marking, and shipping of such goods will conform to the requirements of the solicitation and as outlined in the response.
   1.5. This express warranty shall not be waived because of acceptance of the goods or payment thereof by FCPS.
2. Warranty For Goods
   2.1. Upon request by FCPS, the respondent further agrees within thirty (30) days to correct, without charge to FCPS, any defects in the goods which develop during the life of the warranty after acceptance and payment by FCPS.
   2.2. Respondent further agrees to indemnify FCPS against damages of any sort resulting from faulty workmanship or materials by the respondent while performing any warranty or guaranty work (or by any third party performing such work for and on behalf of respondent).
   2.3. Any goods or parts thereof, corrected or furnished in replacement under this clause, shall also be subject to the terms of this clause to the same extent as goods initially delivered.

Insurance Requirements

1. Duration of Insurance
   1.1. All insurance required by the response shall be maintained during the entire length of the response, including any extensions, and until all service and work have been completed to the satisfaction of FCPS.
   1.2. No respondent or subcontractor shall commence delivery, installation, or service of any kind under the response until all insurance requirements contained within the solicitation have been complied with and evidence supplied to FCPS.
2. Coverage as Additional Insured
   2.1. FCPS shall be covered as an additional insured under all insurance required by the response. Confirmation of this shall appear on all certificates of insurance and all applicable policies.
   2.2. FCPS shall be given no less than 30 days' notice of any insurance cancellation, changes, or renewals.
3. Provider Rating Standards
   3.1. For the response, regardless of risk, companies providing insurance for respondents must have an A.M. Best company rating not less than "A" and be in a financial size category not less than Class IX.
   3.2. Evidence of the current A.M. Best Company Rating may be required by including a copy of the rating page for the insurance company.
4. Failure to Comply
   4.1. In the event the respondent neglects, refuses, or fails to provide the insurance as required by the response or if such insurance is canceled for any reason, FCPS shall have the right, but not the duty, to procure the same, and the cost, therefore, shall be deducted from money then due or thereafter to become due to the vendor or FCPS shall have the right to cancel the response.
   4.2. Failure to comply with insurance standards may result in the respondent being declared in default and any resulting order, agreement, or contract canceled with no loss to FCPS.
5. Workers' Compensation Insurance Requirements
   5.1. The respondent shall procure and maintain workers compensation and employer's liability insurance to cover every employee who is or may be engaged in work under the response in the limits listed below:
      5.1.1. Bodily injury by accident - $100,000 each accident
      5.1.2. Bodily injury by disease - $100,000 each employee; $500,000 policy limit
6. Commercial General Liability Insurance Requirements
   6.1. The respondent shall procure and maintain comprehensive insurance in an amount not less than $1,000,000 for bodily injury and property damage combined single limit. The following specific extensions of coverage shall be provided and indicated on the certificate of insurance:
      6.1.1. Commercial general liability
      6.1.2. Premises operations
      6.1.3. Completed operations
      6.1.4. Contractual liability insurance (to cover breach of response)
      6.1.5. Personal injury
7. Broad Form Property Damage Coverage Requirement
   7.1. This coverage shall cover the use of all equipment, hoists, and vehicles on the site/sites not covered by automobile liability under the contract. Policy coverage must be on an occurrence basis.

8. Automobile Liability Coverage Requirements
   - 8.1. Automobile liability must include any auto, hired autos, and non-owned autos with a combined single limit of $1,000,000.00 per occurrence. Aggregate must be a minimum of $1,000,000.00.
9. Certificate of Insurance (COI)
   - 9.1. If requested, the respondent must provide a current COI before any work or service is performed on FCPS property conforming to the insurance guidelines contained herein, and any contained in solicitation special terms and conditions.
10. Liability
    - 10.1. Respondent shall be liable for any damage or loss to FCPS incurred in the completion of respondent's contract or obligations as a result of their response.
    - 10.2. Notwithstanding the foregoing, the liability herein shall be limited to $10,000,000 and the respondent recognizes that the resulting agreement will receive consideration for indemnification provided herein.
11. Indemnification
    - 11.1. Respondent hereby waives, releases, relinquishes, discharges, and agrees to indemnify, protect and save harmless members of the Fayette County School District, Fayette County Public Schools, and Fayette County Board of Education and its officers, agents, and employees (hereinafter collectively referred to as "Indemnities"), of and from all claims, demands, liabilities, loss, costs or expenses for any loss or damage (including but not limited to reasonable attorneys' fees) growing out of, or otherwise occurring in connection with this response, due to any act or omission on the part of the respondent, its agents, employees, subcontractors, or others working at the direction of the respondent or on its behalf; or due to any breach of this response by the respondent; or due to the application or violation of any pertinent Federal, State or local law, rule or regulation by the respondent, its agents, employees, subcontractors, or others working at the direction of the respondent or on its behalf.
    - 11.2. This indemnification shall apply although the indemnities may be partially responsible for the situation giving rise to the claim.
    - 11.3. This indemnification shall apply even though a claim results in a monetary obligation that exceeds any contractual commitment.
    - 11.4. This indemnification shall not apply if the situation giving rise to the claim results solely from the negligence or willful acts of indemnities.
    - 11.5. This indemnification extends to the successors and replaced assignees of the respondent, and this indemnification and release survive the duration of this response, the termination of this response, and the dissolution or, to the extent allowed by law, the bankruptcy of the respondent.
12. Hold Harmless Agreement
    - 12.1. Through the submission of a response or acceptance of an award, contract, order, or agreement the respondent shall hold harmless FCPS from all claims, suits, actions, damages, liability, and expenses in connection with loss of life, bodily or personal injury or property damage, including loss of use thereof directly or indirectly caused by, resulting from, arising out of or occurring in connection with the performance of this response.
    - 12.2. The respondent's obligation shall not be limited by or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

Subcontracting

1. Subcontracting Guidelines
   - 1.1. Except as may be generally or specifically permitted by the solicitation, the respondent shall not delegate, subcontract, assign, or otherwise permit anyone other than respondent personnel to perform any of the work and/or provide any of the services required of the respondent under this response or resulting contract or assign any of its rights or obligations herein. As such the following applies:
     - 1.1.1. Consent of FCPS to use subcontractors must be obtained, which may be granted or withheld by FCPS at its sole discretion.
     - 1.1.2. The respondent must notify FCPS of all subcontractors used to fulfill the submitted response, including those contracted by their agents (such as delivery services).
2. Subcontractor Standards
   - 2.1. Subcontractors must meet all standards contained herein as well as those specific to the accompanying solicitation.

Contract Restrictions & Requirements

1. Legal Background
   - 1.1. Fayette County Public School's status as a local education agency imposes certain restrictions on its contracting activities that a private school or company does not face. Many standard clauses typically found in commercial contracts can not be accepted by the District. The restrictions are based on constitutional and statutory prohibitions. The following provisions are some of the most common provisions that the District may strike through when negotiating an agreement or contract.
2. Indemnification and/or Hold Harmless Restriction
   - 2.1. Fayette County Public Schools are constitutionally prohibited from agreeing to indemnify third parties. Indemnification provisions have been determined to violate the prohibition against pledges of the State's credit and the prohibition against gratuities by the State. (Ga. Const. Art. VII, Sec. IV, Par. VIII; Ga. Const. Art. III. Sec. VI, Par. VI; 1980 Op. Att'y Gen. 80-67; Op. Att'y Gen. 74-115)
   - 2.2. Indemnification provisions have also been determined to be invalid as an unauthorized attempt to contractually waive the State's sovereign immunity. (1980 Op. Att'y Gen. 80-67)
3. Governing Law Venue Requirement & Restriction
   - 3.1. Contracts with Fayette County Public Schools must be governed by the laws of the State of Georgia and Fayette County, therefore any legal action arising from contracts must be in the venue of local, state, or federal courts that are located in or serve Fayette County, Georgia.
4. Late Payment / Cancellation Charges / Interest Charges Restriction
   - 4.1. Georgia local education agencies such as Fayette County Public Schools are prohibited from agreeing to pay late payments or cancellation charges. This stems from an opinion of the Attorney General that late payment charges are in the nature of penalty/gratuity which the State is constitutionally prohibited

from paying. (Attn. Gen. Position Paper dated August 8, 1978; Bently v. State Board of Examiners, 152 Ga. 836 (1922).

5. Illegal Immigration and Enforcement Act of 2011 Requirement
   - 5.1. The contractor and District both acknowledge and agree that compliance with the requirements of OCGA 13-10-91, et seq., Georgia State Board Rule 300-10-1-.02, et seq., and OCGA 50-36-1, et seq. are conditions of any contract/agreement. By execution of a contract/agreement, the Contractor certifies that he/she is in compliance with OCGA 13-10-91, et seq. and OCGA 50-36-1, et seq. and will continue to comply with the statutes during the term of the contract/agreement.
6. Fiscal Year and Non-Appropriations
   - 6.1. All contracts will be termed according to the fiscal year from July 1 to June 30 and will automatically terminate on June 30 of each year. The District may authorize automatic renewal up to four times beyond the first term. (O.C.G.A. Sec. 50-5-64; Sec. 36-60-13; and Att'y Gen. op. 74-115)
   - 6.2. State statute requires specific language which allows for instantaneous termination of the contract in the event funds are not appropriated in subsequent years. (O.C.G.A. Sec. 50-5-64 and Sec. 36-60-13)

Award Notification, Ordering, and Invoicing

1. Intent to Award
   - 1.1. The award shall be made to the respondent(s) whose response is deemed the best solution for the school system, taking into account all of the evaluation factors, requirements, and specifications outlined in the solicitation.
2. Board Recommendation
   - 2.1. It is the current procedure of the FCPS Purchasing Department to submit recommendations to award to the members of the Board of Education during its monthly work session on the first Monday of each month. The board may then move the item to its regular meeting on the third Monday of the month for a vote.
   - 2.2. A recommendation to award does not guarantee approval.
   - 2.3. The board reserves the right to alter, cancel, or reschedule any meeting as well as table, reject, or investigate any award recommendation.
3. Award Posting
   - 3.1. Award information will be posted on the school system's website and is subject to review and approval by FCPS.
   - 3.2. An Intent to Award Notification may be issued before the final review and approval by the Board of Education. Such intent does not guarantee an award nor constitute an order.
4. Invoicing and Payment
   - 4.1. Invoices may be emailed to invoices.finance@fcboe.org or mailed to LaFayette Education Center, Building A, 205 LaFayette Avenue, Fayetteville, Georgia 30214, Attention: Accounts Payable. Invoices must include the following:
     - 4.1.1. Vendor/contractor name
     - 4.1.2. Address for remittance of payment
     - 4.1.3. Contact number and email for invoicing issues
     - 4.1.4. Location of delivery or service address
     - 4.1.5. Unique invoice number
     - 4.1.6. Clear listing of items ordered with quantities and price extensions
     - 4.1.7. When applicable, discounts marked
     - 4.1.8. Corresponding FCPS purchase order or contract number
5. Payment Terms
   - 5.1. Payment will be made after the item/services have been accepted, inspected, and found to comply with award requirements, free of damage or defect, and properly invoiced.
   - 5.2. Payment terms are net thirty (30) days on all purchase orders and contracts resulting from this, or any solicitation.
   - 5.3. Vendors will invoice FCPS for the products or services on or about the date of shipment thereof. Remittance of invoices from the vendor to FCPS shall occur within five (5) working days of any shipment of products or completion of services.
   - 5.4. Payment of each invoiced amount is due within thirty (30) days of the acceptance of the product or service by FCPS, unless otherwise mutually agreed in writing by both the vendor and FCPS.
   - 5.5. At the request of the vendor, FCPS may choose to complete a credit application at its sole discretion.