

**REQUEST FOR QUALIFICATIONS  
FOR  
ATHLETIC FIELDS AND IRRIGATION SYSTEMS CONSTRUCTION  
ISSUED BY CHRISTINA SCHOOL DISTRICT**

**CONTRACT NUMBER CHR-2018-04**

**I. Overview**

The Christina School District, seeks services for athletic fields and irrigation systems construction for Newark High School, Christiana High School, and Glasgow High School. This request for qualifications ("RFQ") is issued pursuant to 29 *Del. C.* §§ [6981 and 6982](#).

The proposed schedule of events subject to the RFQ is outlined below:

Public Notice	Date: October 31, 2018
Deadline for Questions	Date: November 20, 2018
Response to Questions Posted by:	Date: November 22, 2018
Deadline for Receipt of Proposals (Time)	Date: November 26, 2018 at 2:00 PM (Local Time)
Estimated Notification of Award	Date: December 15, 2018

Each proposal must be accompanied by a transmittal letter which briefly summarizes the proposing firm's interest in providing the required professional services. The transmittal letter must also clearly state and justify any exceptions to the requirements of the RFQ which the applicant may have taken in presenting the proposal. (Applicant exceptions must also be recorded on Attachment 3). Furthermore, the transmittal letter must attest to the fact that no activity related to this proposal contract will take place outside of the United States. The Christina School District reserves the right to deny any and all exceptions taken to the RFQ requirements.

**MANDATORY PREBID MEETING**

A mandatory pre-bid meeting has not been established for this Request for Qualifications.

**II. Scope of Services**

The project(s) include construction of underground irrigation systems at designated athletic fields within the Christina School District. This project also includes the construction of Bermuda grass athletic fields at designated locations throughout the Christina School District.

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### **III. Required Information**

The following information shall be provided in each proposal in the order listed below. Failure to respond to any request for information within this proposal may result in rejection of the proposal at the sole discretion of the State.

#### **A. Minimum Requirements**

1. Provide Delaware license(s) and/or certification(s) necessary to perform services as identified in the scope of work.

Prior to the execution of an award document, the successful Vendor shall either furnish the Agency with proof of State of Delaware Business Licensure or initiate the process of application where required.

2. Vendor shall provide responses to the Request for Qualifications (RFQ) scope of work and clearly identify capabilities as presented in the General Evaluation Requirements below.
3. Complete all appropriate attachments and forms as identified within the RFQ.
4. Proof of insurance and amount of insurance shall be furnished to the Agency prior to the start of the contract period and shall be no less than as identified in the bid solicitation, Section D, Item 7, subsection g (insurance).
5. Provide response to Employing Delawareans Report (Attachment 9)
6. For all the following sections, the page limit is established as follows: One side equals 1 page, 2 sides equals 2 pages. Pages in a vendor's response shall be number like pages in a book.

Pages used for section breaks/section titles shall not count in the total number of pages in the proposal.

#### **B. Understanding of the Project (1 page)**

#### **C. Experience and Reputation (3 page limit)**

Provide a brief description of your firm, joint venture and sub consultant(s). At a minimum, include the following for your team: company history; the level of available resources; the total number of professional and technical personnel by discipline; and a statement as to why your team will be best qualified to deliver the project. If a joint venture, briefly state the length of your relationship and prior experience as a team.

#### **D. Relevant Expertise (10 page limit)**

1. Describe five (5) projects of similar size and scope that you have completed in the past five (5) years and any projects of the past five (5) years specifically related to Delaware School facilities. Include knowledge, understanding & experience with Public Works projects/requirements, Provide at a minimum:

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- a. project name and location
- b. planned vs. actual completion date
- c. planned vs. actual budget
- d. brief description of project
- e. total fees received for project

2. If a joint venture or association, provide the same information as shown above for work completed previously as a team. Provide no more than five (5) project examples.

### **E. Capacity to meet requirements (5 page limit)**

Provide an organizational chart identifying the team's key staff members and demonstrate how each team member will interact with other staff members assigned to this project. Provide a brief resume of key individuals describing at a minimum:

1. role on the project
2. education
3. professional registrations
4. relevant experience

### **F. Work Flow & Design Approach (5 page limit)**

Describe your scope of services specifically related to the construction of irrigation systems for athletic fields and the construction of Bermuda grass athletic fields. Also provide your methodology for interacting with the Owner, consultants and other team members during all phases of work to ensure successful completion of the project. It is understood that this work plan will be preliminary in nature but it should be illustrative of a realistic work plan for a project of this scope and type.

### **G. Financial Capability**

If you are a joint venture and not submitting combined information, each firm must submit information. Provide a copy of your last audited annual financial statement.

### **H. Litigation**

Record of any litigation brought against the firm or principals of the firm relative to providing similar services in the state of Delaware in the last five [5] years

### **I. Other criteria necessary for a quality cost-effective project**

Provide any supplemental information in support of your team's qualifications (corporate brochures, articles and awards).

## **IV. Professional Services RFQ Administrative Information**

### **A. RFQ Issuance**

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### 1. **Public Notice**

Public notice has been provided in accordance with 29 *Del. C.* [§6981](#).

### 2. **Obtaining Copies of the RFQ**

This RFQ is available in electronic form through the State of Delaware Procurement website at [www.bids.delaware.gov](http://www.bids.delaware.gov) . Paper copies of this RFQ will not be available.

### 3. **Assistance to Vendors with a Disability**

Vendors with a disability may receive accommodation regarding the means of communicating this RFQ or participating in the procurement process. For more information, contact the Designated Contact no later than ten days prior to the deadline for receipt of proposals.

### 4. **RFQ Designated Contact**

All requests, questions, or other communications about this RFQ shall be made in writing to the Christina School District. Address all communications to the person listed below; communications made to other Christina School District personnel or attempting to ask questions by phone or in person will not be allowed or recognized as valid and may disqualify the vendor. Vendors should rely only on written statements issued by the RFQ designated contact.

**Christina School District  
Facilities Management  
Nicholas Koski-Vacirca  
925 Bear-Corbitt Rd.  
Bear, DE 19701  
[Nicholas.vacirca@christina.k12.de.us](mailto:Nicholas.vacirca@christina.k12.de.us)**

To ensure that written requests are received and answered in a timely manner, electronic mail (e-mail) correspondence is acceptable, but other forms of delivery, such as postal and courier services can also be used.

### 5. **Consultants and Legal Counsel**

The Christina School District may retain consultants or legal counsel to assist in the review and evaluation of this RFQ and the vendors' responses. Bidders shall not contact the District's consultant or legal counsel on any matter related to the RFQ.

### 6. **Contact with District Employees**

Direct contact with Christina School District employees other than the Christina School District Designated Contact regarding this RFQ is expressly prohibited without prior consent. Vendors directly contacting Christina School District employees risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently doing business in the State who require contact in the normal course of doing that business.

### 7. **Organizations Ineligible to Bid**

Any individuals, businesses, organizations, corporations, consortiums, partnerships, joint ventures, or any other entity including subcontractors currently debarred or suspended are ineligible to bid. Any entity ineligible to conduct business in the State of Delaware for any reason is ineligible to respond to the RFQ.

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### 8. Exclusions

The Evaluation Team reserves the right to refuse to consider any proposal from a vendor who:

- a. Has been convicted for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;
- b. Has been convicted under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a State contractor;
- c. Has been convicted or has had a civil judgment entered for a violation under State or Federal antitrust statutes;
- d. Has violated contract provisions such as;
  - 1) Knowing failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
  - 2) Failure to perform or unsatisfactory performance in accordance with terms of one or more contracts;
- e. Has violated ethical standards set out in law or regulation; and
- f. Any other cause listed in regulations of the State of Delaware determined to be serious and compelling as to affect responsibility as a State contractor, including suspension or debarment by another governmental entity for a cause listed in the regulations.

### B. RFQ Submissions

#### 1. Acknowledgement of Understanding of Terms

By submitting a proposal, each vendor shall be deemed to acknowledge that it has carefully read all sections of this RFQ, including all forms, schedules and exhibits hereto, and has fully informed itself as to all existing conditions and limitations.

#### 2. Proposals

To be considered, all proposals must be submitted in writing and respond to the items outlined in this RFQ. The District reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with four (4) paper copies and one (1) electronic copy on CD or DVD media disk, or USB memory drive.

All properly sealed and marked proposals are to be sent to the Christina School District and received no later than **2:00 PM (Local Time) on November 23, 2018.** The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), US Mail, or by hand to:

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**Christina School District  
Facilities Management  
925 Bear-Corbitt Rd.  
Bear, DE 19701**

**Vendors are directed to clearly print “PROPOSAL ENCLOSED” and “CONTRACT NO. CHR-2018-02” on the outside of the proposal submission package.**

Any proposal received after the Deadline for Receipt of Proposals date shall not be considered and shall be returned unopened. The proposing vendor bears the risk of delays in delivery. The contents of any proposal shall not be disclosed as to be made available to competing entities during the negotiation process.

Upon receipt of vendor proposals, each vendor shall be presumed to be thoroughly familiar with all specifications and requirements of this RFQ. The failure or omission to examine any form, instrument or document shall in no way relieve vendors from any obligation in respect to this RFQ.

**3. Proposal Modifications**

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original response and conspicuously labeled as a change, amendment or modification to a previously submitted proposal. Changes, amendments or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

**4. Proposal Costs and Expenses**

The Christina School District will not pay any costs incurred by any Vendor associated with any aspect of responding to this solicitation, including proposal preparation, printing or delivery, attendance at vendor's conference, system demonstrations or negotiation process.

**5. Proposal Expiration Date**

Prices quoted in the proposal shall remain fixed and binding on the bidder at least through 60 (sixty) days. The Christina School District reserves the right to ask for an extension of time if needed.

**6. Late Proposals**

Proposals received after the specified date and time will not be accepted or considered. To guard against premature opening, sealed proposals shall be submitted, plainly marked with the proposal title, vendor name, and time and date of the proposal opening. Evaluation of the proposals is expected to begin shortly after the proposal due date. To document compliance with the deadline, the proposal will be date and time stamped upon receipt.

**7. Proposal Opening**

The Christina School District will receive proposals until the date and time shown in this RFQ. Proposals will be opened only in the presence of the Christina School District personnel. Any unopened proposals will be returned to the submitting Vendor.

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There will be no public opening of proposals, but a public log will be kept of the names of all vendor organizations that submitted proposals. The contents of any proposal shall not be disclosed to competing vendors prior to contract award.

### **8. Non-Conforming Proposals**

Non-conforming proposals will not be considered. Non-conforming proposals are defined as those that do not meet the requirements of this RFQ. The determination of whether an RFQ requirement is substantive or a mere formality shall reside solely within the Christina School District.

### **9. Concise Proposals**

The Christina School District discourages overly lengthy and costly proposals. It is the desire that proposals be prepared in a straightforward and concise manner. Unnecessarily elaborate brochures or other promotional materials beyond those sufficient to present a complete and effective proposal are not desired. The Christina School District's interest is in the quality and responsiveness of the proposal.

### **10. Realistic Proposals**

It is the expectation of the Christina School District that vendors can fully satisfy the obligations of the proposal in the manner and timeframe defined within the proposal. Proposals must be realistic and must represent the best estimate of time, materials and other costs including the impact of inflation and any economic or other factors that are reasonably predictable.

The Christina School District shall bear no responsibility or increase obligation for a vendor's failure to accurately estimate the costs or resources required to meet the obligations defined in the proposal.

### **11. Confidentiality of Documents**

Subject to applicable law or the order of a court of competent jurisdiction to the contrary, all documents submitted as part of the vendor's proposal will be treated as confidential during the evaluation process. As such, vendor proposals will not be available for review by anyone other than the Christina School District/Proposal Evaluation Team or its designated agents. There shall be no disclosure of any vendor's information to a competing vendor prior to award of the contract unless such disclosure is required by law or by order of a court of competent jurisdiction.

The Christina School District and its constituent agencies are required to comply with the State of Delaware Freedom of Information Act, [29 Del. C. § 10001, et seq. \("FOIA"\)](#). FOIA requires that the Christina School District's records are public records (unless otherwise declared by FOIA or other law to be exempt from disclosure) and are subject to inspection and copying by any person upon a written request. Once a proposal is received by the Christina School District and a decision on contract award is made, the content of selected and non-selected vendor proposals will likely become subject to FOIA's public disclosure obligations.

The Christina School District wishes to create a business-friendly environment and procurement process. As such, the District respects the vendor community's desire to protect its intellectual property, trade secrets, and confidential business information (collectively referred to herein as "confidential business information"). Proposals must contain sufficient information to be evaluated. If a vendor feels that they cannot submit

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their proposal without including confidential business information, they must adhere to the following procedure or their proposal may be deemed unresponsive, may not be recommended for selection, and any applicable protection for the vendor's confidential business information may be lost.

In order to allow the District to assess its ability to protect a vendor's confidential business information, vendors will be permitted to designate appropriate portions of their proposal as confidential business information.

Vendor(s) may submit portions of a proposal considered to be confidential business information in a separate, sealed envelope labeled "Confidential Business Information" and include the specific RFQ number. The envelope must contain a letter from the Vendor's legal counsel describing the documents in the envelope, representing in good faith that the information in each document is not "public record" as defined by 29 Del. C. § 10002, and briefly stating the reasons that each document meets the said definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, the Christina School District will open the envelope to determine whether the procedure described above has been followed. A vendor's allegation as to its confidential business information shall not be binding on the District. The District shall independently determine the validity of any vendor designation as set forth in this section. Any vendor submitting a proposal or using the procedures discussed herein expressly accepts the District's absolute right and duty to independently assess the legal and factual validity of any information designated as confidential business information. Accordingly, Vendor(s) assume the risk that confidential business information included within a proposal may enter the public domain.

### **12. Multi-Vendor Solutions (Joint Ventures)**

Multi-vendor solutions (joint ventures) will be allowed only if one of the venture partners is designated as the "**prime contractor**". The "**prime contractor**" must be the joint venture's contact point for the Christina School District and be responsible for the joint venture's performance under the contract, including all project management, legal and financial responsibility for the implementation of all vendor systems. If a joint venture is proposed, a copy of the joint venture agreement clearly describing the responsibilities of the partners must be submitted with the proposal. Services specified in the proposal shall not be subcontracted without prior written approval by the Christina School District, and approval of a request to subcontract shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of the work. Further, vendor shall be and remain liable for all damages to the Christina School District caused by negligent performance or non-performance of work by its subcontractor or its sub-subcontractor.

Multi-vendor proposals must be a consolidated response with all cost included in the cost summary. Where necessary, RFQ response pages are to be duplicated for each vendor.

#### **a. Primary Vendor**

The Christina School District expects to negotiate and contract with only one "prime vendor". The Christina School District will not accept any proposals that reflect an equal teaming arrangement or from vendors who are co-bidding on this



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RFQ. The prime vendor will be responsible for the management of all subcontractors.

Any contract that may result from this RFQ shall specify that the prime vendor is solely responsible for fulfillment of any contract with the District as a result of this procurement. The District will make contract payments only to the awarded vendor. Payments to any-subcontractors are the sole responsibility of the prime vendor (awarded vendor).

Nothing in this section shall prohibit the Christina School District from the full exercise of its options under Section IV.B.16 regarding multiple source contracting.

### **b. Sub-contracting**

The vendor selected shall be solely responsible for contractual performance and management of all subcontract relationships. This contract allows subcontracting assignments; however, vendors assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor.

Use of subcontractors must be clearly explained in the proposal, and major subcontractors must be identified by name. **The prime vendor shall be wholly responsible for the entire contract performance whether or not subcontractors are used.** Any sub-contractors must be approved by Christina School District.

### **c. Multiple Proposals**

A primary vendor may not participate in more than one proposal in any form. Sub-contracting vendors may participate in multiple joint venture proposals.

## **13. Sub-Contracting**

The vendor selected shall be solely responsible for contractual performance and management of all subcontract relationships. This contract allows subcontracting assignments; however, vendors assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor.

Use of subcontractors must be clearly explained in the proposal, and subcontractors must be identified by name. Any sub-contractors must be approved by Christina School District.

## **14. Discrepancies and Omissions**

Vendor is fully responsible for the completeness and accuracy of their proposal, and for examining this RFQ and all addenda. Failure to do so will be at the sole risk of vendor. Should vendor find discrepancies, omissions, unclear or ambiguous intent or meaning, or should any questions arise concerning this RFQ, vendor shall notify the Christina School District's Designated Contact, in writing, of such findings at least ten (10) days before the proposal opening. This will allow issuance of any necessary addenda. It will also help prevent the opening of a defective proposal and exposure of vendor's proposal upon which award could not be made. All unresolved issues should be addressed in the proposal.

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Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the Designated Contact, in writing, at least ten (10) calendar days prior to the time set for opening of the proposals.

### **a. RFQ Question and Answer Process**

The Christina School District will allow written requests for clarification of the RFQ. All questions shall be received no later than **November 20, 2018**. All questions will be consolidated into a single set of responses and posted on the State's website at [www.bids.delaware.gov](http://www.bids.delaware.gov) by the date of **November 21, 2018**. Vendor names will be removed from questions in the responses released. Questions should be submitted in the following format. Deviations from this format will not be accepted.

Section number

Paragraph number

Page number

Text of passage being questioned

### **15. District's Right to Reject Proposals**

The Christina School District reserves the right to accept or reject any or all proposals or any part of any proposal, to waive defects, technicalities or any specifications (whether they be in the Christina School District's specifications or vendor's response), to sit and act as sole judge of the merit and qualifications of each product offered, or to solicit new proposals on the same project or on a modified project which may include portions of the originally proposed project as the Christina School District may deem necessary in the best interest of the Christina School District.

### **16. District's Right to Cancel Solicitation**

The Christina School District reserves the right to cancel this solicitation at any time during the procurement process, for any reason or for no reason. The Christina School District makes no commitments expressed or implied, that this process will result in a business transaction with any vendor.

This RFQ does not constitute an offer by the Christina School District. Vendor's participation in this process may result in the Christina School District selecting your organization to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by the Christina School District to execute a contract nor to continue negotiations. The Christina School District may terminate negotiations at any time and for any reason, or for no reason.

### **17. District's Right to Award Multiple Source Contracting**

Pursuant to 29 *Del. C. § 6986*, the Christina School District may award a contract for a particular professional service to two or more vendors if the agency head makes a determination that such an award is in the best interest of the Christina School District.

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### **18. Notification of Withdrawal of Proposal**

Vendor may modify or withdraw its proposal by written request, provided that both proposal and request is received by the Christina School District prior to the proposal due date. Proposals may be re-submitted in accordance with the proposal due date in order to be considered further.

Proposals become the property of the Christina School District at the proposal submission deadline. All proposals received are considered firm offers at that time.

### **19. Revisions to the RFQ**

If it becomes necessary to revise any part of the RFQ, an addendum will be posted on the State of Delaware's website at [www.bids.delaware.gov](http://www.bids.delaware.gov). The Christina School District is not bound by any statement related to this RFQ made by any Christina School District employee, contractor or its agents.

### **20. Exceptions to the RFQ**

Any exceptions to the RFQ, or the Christina School District's terms and conditions, must be recorded on Attachment 3. Acceptance of exceptions is within the sole discretion of the evaluation committee.

### **21. Award of Contract**

The final award of a contract is subject to approval by the Christina School District. The Christina School District has the sole right to select the successful vendor(s) for award, to reject any proposal as unsatisfactory or non-responsive, to award a contract to other than the lowest priced proposal, to award multiple contracts, or not to award a contract, as a result of this RFQ.

Notice in writing to a vendor of the acceptance of its proposal by the Christina School District and the subsequent full execution of a written contract will constitute a contract, and no vendor will acquire any legal or equitable rights or privileges until the occurrence of both such events.

#### **a. RFQ Award Notifications**

After reviews of the evaluation committee report and its recommendation, and once the contract terms and conditions have been finalized, the Christina School District will take the recommendations of the evaluation committee to the School Board for approval prior to award of the contract.

The contract shall be awarded to the vendor whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFQ.

It should be explicitly noted that the Christina School District is not obligated to award the contract to the vendor who submits the lowest bid or the vendor who receives the highest total point score, rather the contract will be awarded to the vendor whose proposal is the most advantageous to the Christina School District. The award is subject to the appropriate Christina School District approvals.

After a final selection is made, the winning vendor will be invited to negotiate a contract with the Christina School District; remaining vendors will be notified in writing of their selection status.

**C. RFQ Evaluation Process**

An evaluation team composed of representatives of the Christina School District will evaluate proposals on a variety of quantitative criteria. Neither the lowest price nor highest scoring proposal will necessarily be selected.

The Christina School District reserves full discretion to determine the competence and responsibility, professionally and/or financially, of vendors. Vendors are to provide in a timely manner any, and all information that the Christina School District may deem necessary, to make a decision.

**1. Proposal Evaluation Team**

The Proposal Evaluation Team shall be comprised of representatives of the Christina School District. The Team shall determine which vendors meet the minimum requirements pursuant to selection criteria of the RFQ and procedures established in 29 Del. C. §§ [6981](#) and [6982](#). The Team will negotiate with the qualified firm designated 1<sup>st</sup> on the preference list OR the Team may negotiate with one or more vendors during the same period and may, at its discretion, terminate negotiations with any or all vendors. The Team shall make a recommendation regarding the award to the Program Director, who shall have final authority, subject to the provisions of this RFQ and 29 Del. C. § [6982](#), to award a contract to the successful vendor in the best interests of the Christina School District.

**2. Proposal Selection Criteria**

The Proposal Evaluation Team shall assign up to the maximum number of points for each Evaluation Item to each of the proposing vendor's proposals. All assignments of points shall be at the sole discretion of the Proposal Evaluation Team.

The proposals shall contain the essential information on which the award decision shall be made. The information required to be submitted in response to this RFQ has been determined by the Christina School District to be essential for use by the Team in the bid evaluation and award process. Therefore, all instructions contained in this RFQ shall be met in order to qualify as a responsive and responsible contractor and participate in the Proposal Evaluation Team's consideration for award. Proposals which do not meet or comply with the instructions of this RFQ may be considered non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Team.

The Team reserves the right to:

- Select for contract or for negotiations a proposal other than that with lowest costs.
- Reject any and all proposals or portions of proposals received in response to this RFQ or to make no award or issue a new RFQ.
- Waive or modify any information, irregularity, or inconsistency in proposals received.
- Request modification to proposals from any or all vendors during the contract review and negotiation.
- Negotiate any aspect of the proposal with any vendor and negotiate with more than one vendor at the same time.

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### Criteria Weight

All proposals shall be evaluated using the same criteria and scoring process. The following criteria shall be used by the Evaluation Team to evaluate proposals:

Criteria	Weight
Relevant Expertise - The qualifications and experience of the persons to be assigned to the project.	20
Experience - Familiarity and experience creating and running similar projects, including the ability to perform the work in a timely manner, company oversight, experience with public works projects/requirements.	30
Reputation - General administrative and/or professional reputation.	10
Capacity to meet requirements – Size & discipline composition of the firm and its ability to meet project requirements.	10
Work Flow & Designed Approach – Defined approach firm/team will take on this project.	20
Firms location relative to the project sites.	10
<b>Total</b>	<b>100%</b>

Vendors are encouraged to review the evaluation criteria and to provide a response that addresses each of the scored items. Evaluators will not be able to make assumptions about a vendor's capabilities so the responding vendor should be detailed in their proposal responses.

### 3. Proposal Clarification

The Evaluation Team may contact any vendor in order to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Proposals may not be modified as a result of any such clarification request.

### 4. References

The Evaluation Team may contact any customer of the vendor, whether or not included in the vendor's reference list, and use such information in the evaluation process. Additionally, the Christina School District may choose to visit existing installations of comparable systems, which may or may not include vendor personnel. If the vendor is involved in such site visits, the Christina School District will pay travel costs only for Christina School District personnel for these visits.

**5. Oral Presentations**

After initial scoring and a determination that vendor(s) are qualified to perform the required services, selected vendors may be invited to make oral presentations to the Evaluation Team. All vendor(s) selected will be given an opportunity to present to the Evaluation Team.

The selected vendors will have their presentations scored or ranked based on their ability to successfully meet the needs of the contract requirements, successfully demonstrate their product and/or service, and respond to questions about the solution capabilities.

The vendor representative(s) attending the oral presentation shall be technically qualified to respond to questions related to the proposed system and its components. All of the vendor's costs associated with participation in oral discussions and system demonstrations conducted for the Christina School District are the vendor's responsibility.

**D. Contract Terms and Conditions**

**1. Contract Use by Other Agencies**

**REF: Title 29, Chapter [6904\(e\)](#) Delaware Code.** If no state contract exists for a certain good or service, covered agencies may procure that certain good or service under another agency's contract so long as the arrangement is agreeable to all parties. Agencies, other than covered agencies, may also procure such goods or services under another agency's contract when the arrangement is agreeable to all parties.

**2. Cooperative Use of Award**

As a publicly competed contract awarded in compliance with 29 DE Code Chapter 69, this contract is available for use by other states and/or governmental entities through a participating addendum. Interested parties should contact the State Contract Procurement Officer identified in the contract for instruction. Final approval for permitting participation in this contract resides with the Director of Government Support Services and in no way places any obligation upon the awarded vendor(s).

**3. General Information**

- a.** The term of the contract between the successful bidder and the District shall be for 1(one) year with 2 (two) optional extensions for a period of one (1) year for each extension.
- b.** The selected vendor will be required to enter into a written agreement with the Christina School District. The Christina School District reserves the right to incorporate standard District contractual provisions into any contract negotiated as a result of a proposal submitted in response to this RFQ. Any proposed modifications to the terms and conditions of the standard contract are subject to review and approval by the Christina School District. Vendors will be required to sign the contract for all services and may be required to sign additional agreements.

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- c. The selected vendor or vendors will be expected to enter negotiations with the Christina School District, which will result in a formal contract between parties. Procurement will be in accordance with subsequent contracted agreement. This RFQ and the selected vendor's response to this RFQ will be incorporated as part of any formal contract.
- d. The Christina School District's standard contract will most likely be supplemented with the vendor's software license, support/maintenance, source code escrow agreements, and any other applicable agreements. The terms and conditions of these agreements will be negotiated with the finalist during actual contract negotiations.
- e. The successful vendor shall promptly execute a contract incorporating the terms of this RFQ within twenty (20) days after award of the contract. No vendor is to begin any service prior to receipt of a Christina School District purchase order signed by two authorized representatives of the agency requesting service, properly processed through the Christina School District Accounting Office and the Department of Finance. The purchase order shall serve as the authorization to proceed in accordance with the bid specifications and the special instructions, once it is received by the successful vendor.
- f. If the vendor to whom the award is made fails to enter into the agreement as herein provided, the award will be annulled, and an award may be made to another vendor. Such vendor shall fulfill every stipulation embraced herein as if they were the party to whom the first award was made.

#### **4. Collusion or Fraud**

Any evidence of agreement or collusion among vendor(s) and prospective vendor(s) acting to illegally restrain freedom from competition by agreement to offer a fixed price, or otherwise, will render the offers of such vendor(s) void.

By responding, the vendor shall be deemed to have represented and warranted that its proposal is not made in connection with any competing vendor submitting a separate response to this RFQ, and is in all respects fair and without collusion or fraud; that the vendor did not participate in the RFQ development process and had no knowledge of the specific contents of the RFQ prior to its issuance; and that no employee or official of the Christina School District participated directly or indirectly in the vendor's proposal preparation.

Advance knowledge of information which gives any particular vendor advantages over any other interested vendor(s), in advance of the opening of proposals, whether in response to advertising or an employee or representative thereof, will potentially void that particular proposal.

#### **5. Lobbying and Gratuities**

Lobbying or providing gratuities shall be strictly prohibited. Vendors found to be lobbying, providing gratuities to, or in any way attempting to influence a Christina School District employee or agent of the Christina School District concerning this RFQ or the award of a contract resulting from this RFQ shall have their proposal immediately rejected and shall be barred from further participation in this RFQ.

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The selected vendor will warrant that no person or selling agency has been employed or retained to solicit or secure a contract resulting from this RFQ upon agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, the Christina School District shall have the right to annul any contract resulting from this RFQ without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

All contact with Christina School District employees, contractors or agents of the Christina School District concerning this RFQ shall be conducted in strict accordance with the manner, forum and conditions set forth in this RFQ.

### **6. Solicitation of District Employees**

Until contract award, vendors shall not, directly or indirectly, solicit any employee of the Christina School District to leave the Christina School District's employ in order to accept employment with the vendor, its affiliates, actual or prospective contractors, or any person acting in concert with vendor, without prior written approval of the Christina School District's contracting officer. Solicitation of Christina School District employees by a vendor may result in rejection of the vendor's proposal.

This paragraph does not prevent the employment by a vendor of a Christina School District employee who has initiated contact with the vendor. However, Christina School District employees may be legally prohibited from accepting employment with the contractor or subcontractor under certain circumstances. Vendors may not knowingly employ a person who cannot legally accept employment under state or federal law. If a vendor discovers that they have done so, they must terminate that employment immediately.

### **7. General Contract Terms**

#### **a. Independent Contractors**

The parties to the contract shall be independent contractors to one another, and nothing herein shall be deemed to cause this agreement to create an agency, partnership, joint venture or employment relationship between parties. Each party shall be responsible for compliance with all applicable workers compensation, unemployment, disability insurance, social security withholding and all other similar matters. Neither party shall be liable for any debts, accounts, obligations or other liability whatsoever of the other party or any other obligation of the other party to pay on the behalf of its employees or to withhold from any compensation paid to such employees any social benefits, workers compensation insurance premiums or any income or other similar taxes.

It may be at the Christina School District's discretion as to the location of work for the contractual support personnel during the project period. The Christina School District may provide working space and sufficient supplies and material to augment the Contractor's services.

#### **b. Temporary Personnel are Not District Employees Unless and Until They are Hired**

Vendor agrees that any individual or group of temporary staff person(s) provided to the Christina School District pursuant to this Solicitation shall remain the employee(s) of Vendor for all purposes including any required compliance with the



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Affordable Care Act by the Vendor. Vendor agrees that it shall not allege, argue, or take any position that individual temporary staff person(s) provided to the District pursuant to this Solicitation must be provided any benefits, including any healthcare benefits by the Christina School District and Vendor agrees to assume the total and complete responsibility for the provision of any healthcare benefits required by the Affordable Care Act to aforesaid individual temporary staff person(s). In the event that the Internal Revenue Service, or any other third party governmental entity determines that the Christina School District is a dual employer or the sole employer of any individual temporary staff person(s) provided to the Christina School District pursuant to this Solicitation, Vendor agrees to hold harmless, indemnify, and defend the District to the maximum extent of any liability to the District arising out of such determinations.

Notwithstanding the content of the preceding paragraph, should the Christina School District subsequently directly hire any individual temporary staff employee(s) provided pursuant to this Solicitation, the aforementioned obligations to hold harmless, indemnify, and defend the Christina School District shall cease and terminate for the period following the date of hire. Nothing herein shall be deemed to terminate the Vendor's obligation to hold harmless, indemnify, and defend the Christina School District for any liability that arises out of compliance with the ACA prior to the date of hire by the Christina School District. Vendor will waive any separation fee provided an employee works for both the vendor and hiring agency, continuously, for a three (3) month period and is provided thirty (30) days written notice of intent to hire from the agency. Notice can be issued at second month if it is the District's intention to hire.

### **c. ACA Safe Harbor**

The District and its utilizing agencies is not the employer of temporary or contracted staff. However, the District is concerned that it could be determined to be a Common-law Employer as defined by the Affordable Care Act ("ACA"). Therefore, the District seeks to utilize the "Common-law Employer Safe Harbor Exception" under the ACA to transfer health benefit insurance requirements to the staffing company. The Common-law Employer Safe Harbor Exception can be attained when the District and/or its agencies are charged and pay for an "Additional Fee" with respect to the employees electing to obtain health coverage from the Vendor.

The Common-law Employer Safe Harbor Exception under the ACA requires that an Additional Fee must be charged to those employees who obtain health coverage from the Vendor, but does not state the required amount of the fee. The District requires that all Vendors shall identify the Additional Fee to obtain health coverage from the Vendor and delineate the Additional Fee from all other charges and fees. The Vendor shall identify both the Additional Fee to be charged and the basis of how the fee is applied (i.e. per employee, per invoice, etc.). The District will consider the Additional Fee and prior to award reserves the right to negotiate any fees offered by the Vendor. Further, the Additional Fee shall be separately scored in the proposal to ensure that neither prices charged nor the Additional Fee charged will have a detrimental effect when selecting vendor(s) for award.

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### **d. Licenses and Permits**

In performance of the contract, the vendor will be required to comply with all applicable federal, state and local laws, ordinances, codes, and regulations. The cost of permits and other relevant costs required in the performance of the contract shall be borne by the successful vendor. The vendor shall be properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C. § 2502*.

Prior to receiving an award, the successful vendor shall either furnish the Christina School District with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE 19899 or by telephone to one of the following numbers: (302) 577-8200—Public Service, (302) 577-8205—Licensing Department.

Information regarding the award of the contract will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject vendor to applicable fines and/or interest penalties.

### **e. Notice**

Any notice to the Christina School District required under the contract shall be sent by registered mail to:

**Christina School District / Facilities Services  
Nicholas Koski-Vacirca  
925 Bear-Corbitt Rd.  
Bear, DE 19701**

### **f. Indemnification**

#### **1. General Indemnification**

By submitting a proposal, the proposing vendor agrees that in the event it is awarded a contract, it will indemnify and otherwise hold harmless the Christina School District, its agents and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the vendor's, its agents and employees' performance work or services in connection with the contract, regardless of whether such suits, actions, claims or liabilities are based upon acts or failures to act attributable, whole or part, to the District, its employees or agents.

#### **2. Proprietary Rights Indemnification**

Vendor shall warrant that all elements of its solution, including all equipment, software, documentation, services and deliverables, do not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party. In the event of any claim, suit or action by any third party against the Christina School District, the Christina School District shall promptly notify the vendor in writing and vendor shall defend such claim, suit or action at vendor's expense, and vendor shall indemnify the Christina School District against any loss, cost, damage, expense or liability arising out of such claim, suit or action (including, without limitation, litigation costs, lost employee time, and counsel fees) whether or not such claim, suit or action is successful.

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If any equipment, software, services (including methods) products or other intellectual property used or furnished by the vendor (collectively "Products") is or in vendor's reasonable judgment is likely to be, held to constitute an infringing product, vendor shall at its expense and option either:

- a. Procure the right for the Christina School District to continue using the Product(s);
- b. Replace the product with a non-infringing equivalent that satisfies all the requirements of the contract; or
- c. Modify the Product(s) to make it or them non-infringing, provided that the modification does not materially alter the functionality or efficacy of the product or cause the Product(s) or any part of the work to fail to conform to the requirements of the Contract, or only alters the Product(s) to a degree that the Christina School District agrees to and accepts in writing.

### g. Insurance

1. Vendor recognizes that it is operating as an independent contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the vendor's negligent performance under this contract, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the vendor in their negligent performance under this contract.
2. The vendor shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this contract. The vendor is an independent contractor and is not an employee of the Christina School District.
3. During the term of this contract, the vendor shall, at its own expense, also carry insurance minimum limits as follows:

a.	Commercial General Liability	\$1,000,000 per occurrence / \$3,000,000 aggregate
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And at least one of the following, as outlined below:

b.	Medical or Professional Liability	\$1,000,000 per occurrence / \$3,000,000 aggregate
c.	Misc. Errors and Omissions	\$1,000,000 per occurrence / \$3,000,000 aggregate
d.	Product Liability	\$1,000,000 per occurrence / \$3,000,000 aggregate

The successful vendor must carry (a) and at least one of (b), (c), or (d) above, depending on the type of Service or Product being delivered.

If the contractual service requires the transportation of departmental clients or staff, the vendor shall, in addition to the above coverage's, secure at its own expense the following coverage;

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a.	Automotive Liability (Bodily Injury)	\$100,000/\$300,000
b.	Automotive Property Damage (to others)	\$ 25,000

4. The vendor shall provide a Certificate of Insurance (COI) as proof that the vendor has the required insurance. The COI shall be provided prior to agency contact prior to any work being completed by the awarded vendor(s).
5. The Christina School District shall be named as an additional insured.
6. Should any of the above described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions.

### **h. Performance Requirements**

The selected Vendor will warrant that it possesses, or has arranged through subcontractors, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all Federal and State laws, and County and local ordinances, regulations and codes.

### **i. Vendor Emergency Response Point of Contact**

The awarded vendor(s) shall provide the name(s), telephone, or cell phone number(s) of those individuals who can be contacted twenty four (24) hours a day, seven (7) days a week where there is a critical need for commodities or services when the Governor of the State of Delaware declares a state of emergency under the Delaware Emergency Operations Plan or in the event of a local emergency or disaster where a state governmental entity requires the services of the vendor. Failure to provide this information could render the proposal as non-responsive.

In the event of a serious emergency, pandemic or disaster outside the control of the State, the State may negotiate, as may be authorized by law, emergency performance from the Contractor to address the immediate needs of the State, even if not contemplated under the original Contract or procurement. Payments are subject to appropriation and other payment terms.

### **j. Warranty**

The Vendor will provide a warranty that the deliverables provided pursuant to the contract will function as designed for a period of no less than one (1) year from the date of system acceptance. The warranty shall require the Vendor correct, at its own expense, the setup, configuration, customizations or modifications so that it functions according to the District's requirements.

### **k. Costs and Payment Schedules**

All contract costs must be as detailed specifically in the Vendor's cost proposal. No charges other than as specified in the proposal shall be allowed without written consent of the Christina School District. The proposal costs shall include full compensation for all taxes that the selected vendor is required to pay.

The Christina School District will require a payment schedule based on defined and measurable milestones. Payments for services will not be made in advance of work performed. The Christina School District may require holdback of contract monies until acceptable performance is demonstrated (as much as 25%).

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### **I. Penalties**

The Christina School District may include in the final contract penalty provisions for non-performance, such as liquidated damages.

### **m. Termination of Contract**

The contract resulting from this RFQ may be terminated as follows by Christina School District.

1. **Termination for Cause:** If, for any reasons, or through any cause, the Vendor fails to fulfill in timely and proper manner its obligations under this Contract, or if the Vendor violates any of the covenants, agreements, or stipulations of this Contract, the District shall thereupon have the right to terminate this contract by giving written notice to the Vendor of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Vendor under this Contract shall, at the option of the District, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the District.

On receipt of the contract cancellation notice from the District, the Vendor shall have no less than five (5) days to provide a written response and may identify a method(s) to resolve the violation(s). A vendor response shall not effect or prevent the contract cancellation unless the District provides a written acceptance of the vendor response. If the District does accept the Vendor's method and/or action plan to correct the identified deficiencies, the District will define the time by which the Vendor must fulfill its corrective obligations. Final retraction of the District's termination for cause will only occur after the Vendor successfully rectifies the original violation(s). At its discretion the District may reject in writing the Vendor's proposed action plan and proceed with the original contract cancellation timeline.

2. **Termination for Convenience:** The District may terminate this Contract at any time by giving written notice of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, supplies, and other materials shall, at the option of the District, become its property and the Vendor shall be entitled to receive compensation for any satisfactory work completed on such documents and other materials, and which is usable to the District.
3. **Termination for Non-Appropriations:** In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the District requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds. This is not a termination for convenience and will not be converted to such.

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### **n. Non-discrimination**

In performing the services subject to this RFQ the vendor, as set forth in Title 19 Delaware Code Chapter 7 section [711](#), will agree that it will not discriminate against any employee or applicant with respect to compensation, terms, conditions or privileges of employment because of such individual's race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin. The successful vendor shall comply with all federal and state laws, regulations and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of contract.

### **o. Covenant against Contingent Fees**

The successful vendor will warrant that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission or percentage, brokerage or contingent fee excepting bona-fide employees, bona-fide established commercial or selling agencies maintained by the Vendor for the purpose of securing business. For breach or violation of this warranty the Christina School District shall have the right to annul the contract without liability or at its discretion to deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

### **p. Vendor Activity**

No activity is to be executed in an off shore facility, either by a subcontracted firm or a foreign office or division of the vendor. The vendor must attest to the fact that no activity will take place outside of the United States in its transmittal letter. Failure to adhere to this requirement is cause for elimination from future consideration.

### **q. Vendor Responsibility**

The District will enter into a contract with the successful Vendor(s). The successful Vendor(s) shall be responsible for all products and services as required by this RFQ whether or not the Vendor or its subcontractor provided final fulfillment of the order. Subcontractors, if any, shall be clearly identified in the Vendor's proposal by completing Attachment 6, and are subject the approval and acceptance of Christina School District

### **r. Personnel, Equipment and Services**

1. The Vendor represents that it has, or will secure at its own expense, all personnel required to perform the services required under this contract.
2. All of the equipment and services required hereunder shall be provided by or performed by the Vendor or under its direct supervision, and all personnel, including subcontractors, engaged in the work shall be fully qualified and shall be authorized under State and local law to perform such services.
3. None of the equipment and/or services covered by this contract shall be subcontracted without the prior written approval of the District. Only those subcontractors identified in Attachment 6 are considered approved upon award. Changes to those subcontractor(s) listed in Attachment 6 must be approved in writing by the District.

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### **s. Fair Background Check Practices**

Pursuant to 29 Del. C. [§6909B](#) and effective November 4, 2014 the State does not consider the criminal record, criminal history, credit history or credit score of an applicant for state employment during the initial application process unless otherwise required by state and/or federal law. Vendors doing business with the State are encouraged to adopt fair background check practices. Vendors can refer to 19 Del. C. [§711\(g\)](#) for applicable established provisions.

### **t. Vendor Background Check Requirements**

Vendor(s) selected for an award that access district property or come in contact with vulnerable populations, including children and youth, shall be required to complete background checks on employees serving the District's on premises contracts. Unless otherwise directed, at a minimum, this shall include a check of the following registry:

- Delaware Sex Offender Central Registry at:  
<https://desexoffender.dsp.delaware.gov/SexOffenderPublic/>

Individuals that are listed in the registry shall be prevented from direct contact in the service of an awarded district contract, but may provide support or off-site premises service for contract vendors. Should an individual be identified and the Vendor(s) believes their employee's service does not represent a conflict with this requirement, may apply for a waiver to the primary agency listed in the solicitation. The District's decision to allow or deny access to any individual identified on a registry database is final and at the District's sole discretion.

By District request, the Vendor(s) shall provide a list of all employees serving an awarded contract, and certify adherence to the background check requirement. Individual(s) found in the central registry in violation of the terms stated, shall be immediately prevented from a return to district property in service of a contract award. A violation of this condition represents a violation of the contract terms and conditions, and may subject the Vendor to penalty, including contract cancellation for cause.

Individual contracts may require additional background checks and/or security clearance(s), depending on the nature of the services to be provided or locations accessed, but any other requirements shall be stated in the contract scope of work or be a matter of common law. The Vendor(s) shall be responsible for the background check requirements of any authorized Subcontractor providing service to the Agency's contract.

### **u. Work Product**

All materials and products developed under the executed contract by the vendor are the sole and exclusive property of the District. The vendor will seek written permission to use any product created under the contract.

### **v. Contract Documents**

The RFQ, the purchase order, the executed contract and any supplemental documents between the Christina School District and the successful vendor shall constitute the contract between the Christina School District and the vendor. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter:

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contract, Christina School District's RFQ, Vendor's response to the RFQ and purchase order. No other documents shall be considered. These documents will constitute the entire agreement between the Christina School District and the vendor.

### **w. Applicable Law**

The laws of the State of Delaware shall apply, except where Federal Law has precedence. The successful vendor consents to jurisdiction and venue in the State of Delaware.

In submitting a proposal, Vendors certify that they comply with all federal, state and local laws applicable to its activities and obligations including:

1. the laws of the State of Delaware;
2. the applicable portion of the Federal Civil Rights Act of 1964;
3. the Equal Employment Opportunity Act and the regulations issued there under by the federal government;
4. a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; and
5. that programs, services, and activities provided to the general public under resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued there under by the federal government.

If any vendor fails to comply with (1) through (5) of this paragraph, the Christina School District reserves the right to disregard the proposal, terminate the contract, or consider the vendor in default.

The selected vendor shall keep itself fully informed of and shall observe and comply with all applicable existing Federal and State laws and County and local ordinances, regulations and codes, and those laws, ordinances, regulations, and codes adopted during its performance of the work.

### **x. Severability**

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

### **y. Scope of Agreement**

If the scope of any provision of the contract is determined to be too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the contract shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to the law.



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### **z. Affirmation**

The Vendor must affirm that within the past five (5) years the firm or any officer, controlling stockholder, partner, principal, or other person substantially involved in the contracting activities of the business is not currently suspended or debarred and is not a successor, subsidiary, or affiliate of a suspended or debarred business.

### **aa. Audit Access to Records**

The Vendor shall maintain books, records, documents, and other evidence pertaining to this Contract to the extent and in such detail as shall adequately reflect performance hereunder. The Vendor agrees to preserve and make available to the District, upon request, such records for a period of five (5) years from the date services were rendered by the Vendor. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The Vendor agrees to make such records available for inspection, audit, or reproduction to any official District or State representative in the performance of their duties under the Contract. Upon notice given to the Vendor, representatives of the District or other duly authorized State or Federal agency may inspect, monitor, and/or evaluate the cost and billing records or other material relative to this Contract. The cost of any Contract audit disallowances resulting from the examination of the Vendor's financial records will be borne by the Vendor. Reimbursement to the District for disallowances shall be drawn from the Vendor's own resources and not charged to Contract cost or cost pools indirectly charging Contract costs.

### **bb. Other General Conditions**

1. **Current Version** – “Packaged” application and system software shall be the most current version generally available as of the date of the physical installation of the software.
2. **Current Manufacture** – Equipment specified and/or furnished under this specification shall be standard products of manufacturers regularly engaged in the production of such equipment and shall be the manufacturer's latest design. All material and equipment offered shall be new and unused.
3. **Volumes and Quantities** – Activity volume estimates and other quantities have been reviewed for accuracy; however, they may be subject to change prior or subsequent to award of the contract.
4. **Prior Use** – The Christina School District reserves the right to use equipment and material furnished under this proposal prior to final acceptance. Such use shall not constitute acceptance of the work or any part thereof by the Christina School District.
5. **Status Reporting** – The selected vendor will be required to lead and/or participate in status meetings and submit status reports covering such items as progress of work being performed, milestones attained, resources expended, problems encountered and corrective action taken, until final system acceptance.
6. **Regulations** – All equipment, software and services must meet all applicable local, State and Federal regulations in effect on the date of the contract.
7. **Changes** – No alterations in any terms, conditions, delivery, price, quality, or specifications of items ordered will be effective without the written consent of the Christina School District.

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8. **Purchase Orders** – Agencies that are part of the First State Financial (FSF) system are required to identify the contract number CHR-2018-02 on all Purchase Orders (P.O.) and shall complete the same when entering P.O. information in the state's financial reporting system.
9. **Additional Terms and Conditions** – The Christina School District reserves the right to add terms and conditions during the contract negotiations.

### E. RFQ Miscellaneous Information

#### 1. No Press Releases or Public Disclosure

The Christina School District reserves the right to pre-approve any news or broadcast advertising releases concerning this solicitation, the resulting contract, the work performed, or any reference to the Christina School District with regard to any project or contract performance. Any such news or advertising releases pertaining to this solicitation or resulting contract shall require the prior express written permission of the Christina School District.

The District will not prohibit or otherwise prevent the awarded vendor(s) from direct marketing to the State of Delaware agencies, departments, municipalities, and/or any other political subdivisions, however, the Vendor shall not use the District's seal or imply preference for the solution or goods provided.

#### 2. Definitions of Requirements

To prevent any confusion about identifying requirements in this RFQ, the following definition is offered: The words *shall*, *will* and/or *must* are used to designate a mandatory requirement. Vendors must respond to all mandatory requirements presented in the RFQ. Failure to respond to a mandatory requirement may cause the disqualification of your proposal.

#### 3. Production Environment Requirements

The Christina School District requires that all hardware, system software products, and application software products included in proposals be currently in use in a production environment by a least three other customers, have been in use for at least six months, and have been generally available from the manufacturers for a period of six months. Unreleased or beta test hardware, system software, or application software will not be acceptable.

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### **F. Attachments**

The following attachments and appendixes shall be considered part of the solicitation:

- Attachment 1 – No Proposal Reply Form
- Attachment 2 – Non-Collusion Statement
- Attachment 3 – Exceptions
- Attachment 4 – Confidentiality and Proprietary Information
- Attachment 5 – Business References
- Attachment 6 – Subcontractor Information Form
- Attachment 7 – Monthly Usage Report
- Attachment 8 – Subcontracting (2<sup>nd</sup> Tier Spend) Report
- Attachment 9 – Employing Delawareans Report
- Attachment 10 – Office of Supplier Diversity Application
- Appendix A – Minimum Response Requirements
- ~~Appendix B – Scope of Work / Technical Requirements~~

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## **IMPORTANT – PLEASE NOTE**

- **Attachments 2, 3, 4, 5 and 9 must be included in your proposal**
- Attachment 6 must be included in your proposal if subcontractors will be involved
- Attachments 7 and 8 represent required reporting on the part of awarded vendors. Those bidders receiving an award will be provided with active spreadsheets for reporting.

### **REQUIRED REPORTING**

One of the primary goals in administering this contract is to keep accurate records regarding its actual value/usage. This information is essential in order to update the contents of the contract and to establish proper bonding levels if they are required. The integrity of future contracts revolves around our ability to convey accurate and realistic information to all interested parties.

A complete and accurate Usage Report (Attachment 7) shall be furnished in an **Excel format and submitted electronically**, no later than the 15<sup>th</sup> (or next business day after the 15<sup>th</sup> day) of each month, detailing the purchasing of all items on this contract. The reports shall be submitted and sent as an attachment to CHR-2018-04. Submitted reports shall contain accurate descriptions of the products, goods or services procured, quantities procured and prices paid. Any exception to this mandatory requirement or failure to submit complete reports, or in the format required, may result corrective action, up to and including the possible cancellation of the award. Failure to provide the report with the minimum required information may also negate any contract extension clauses. Additionally, Vendors who are determined to be in default of this mandatory report requirement may have such conduct considered against them, in assessment of responsibility, in the evaluation of future proposals.

**AGENCIES MAY NOT REMOVE SUBCONTRACTING 2<sup>ND</sup> TIER REPORTS –**  
Reporting is required by Executive Order.

In accordance with Executive Order 44, the State of Delaware is committed to supporting its diverse business industry and population. The successful Vendor will be required to accurately report on the participation by Diversity Suppliers which includes: minority (MBE), woman (WBE), veteran owned business (VOBE), or service disabled veteran owned business (SDVOBE) under this awarded contract. The reported data elements shall include but not be limited to; name of state contract/project, the name of the Diversity Supplier, Diversity Supplier contact information (phone, email), type of product or service provided by the Diversity Supplier and any minority, women, veteran, or service disabled veteran certifications for the subcontractor (State OSD certification, Minority Supplier Development Council, Women's Business Enterprise Council, VetBiz.gov). The format used for Subcontracting 2<sup>nd</sup> Tier report is shown as in Attachment 8.

Accurate 2nd tier reports shall be submitted to the contracting Agency's Office of Supplier Diversity at [vendorusage@state.de.us](mailto:vendorusage@state.de.us) on the 15<sup>th</sup> (or next business day) of the month following each quarterly period. For consistency quarters shall be considered to end the last day of March, June, September and December of each calendar year. Contract spend during the covered periods shall result in a report even if the contract has expired by the report due date.

**NO PROPOSAL REPLY FORM**

Contract No. CHR-2018-04    Contract Title: Athletic Fields & Irrigation System Construction

To assist us in obtaining good competition on our Request for Proposals, we ask that each firm that has received a proposal, but does not wish to bid, state their reason(s) below and return in a clearly marked envelope displaying the contract number. This information will not preclude receipt of future invitations unless you request removal from the Vendor's List by so indicating below, or do not return this form or bona fide proposal.

Unfortunately, we must offer a "No Proposal" at this time because:

- ☐ 1. We do not wish to participate in the proposal process.
- ☐ 2. We do not wish to bid under the terms and conditions of the Request for Proposal document. Our objections are:  
\_\_\_\_\_  
\_\_\_\_\_
- ☐ 3. We do not feel we can be competitive.
- ☐ 4. We cannot submit a Proposal because of the marketing or franchising policies of the manufacturing company.
- ☐ 5. We do not wish to sell to the State. Our objections are:  
\_\_\_\_\_  
\_\_\_\_\_
- ☐ 6. We do not sell the items/services on which Proposals are requested.
- ☐ 7. Other: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
FIRM NAME

\_\_\_\_\_  
SIGNATURE

☐ We wish to remain on the Vendor's List **for these goods or services.**

☐ We wish to be deleted from the Vendor's List **for these goods or services.**

**CONTRACT NO.:** CHR-2018-04  
**CONTRACT TITLE:** Athletic Fields & Irrigation System Construction  
**DEADLINE TO RESPOND:** November 23, 2018 at 2:00 PM (Local Time)

### NON-COLLUSION STATEMENT

This is to certify that the undersigned Vendor has neither directly nor indirectly, entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this proposal, **and further certifies that it is not a sub-contractor to another Vendor who also submitted a proposal as a primary Vendor in response to this solicitation** submitted this date to the Christina School District.

It is agreed by the undersigned Vendor that the signed delivery of this bid represents, subject to any express exceptions set forth at Attachment 3, the Vendor's acceptance of the terms and conditions of this solicitation including all specifications and special provisions.

**NOTE:** Signature of the authorized representative **MUST** be of an individual who legally may enter his/her organization into a formal contract with the Christina School District.

COMPANY NAME \_\_\_\_\_ Check one)

<input type="checkbox"/>	Corporation
<input type="checkbox"/>	Partnership
<input type="checkbox"/>	Individual

NAME OF AUTHORIZED REPRESENTATIVE  
(Please type or print) \_\_\_\_\_

SIGNATURE \_\_\_\_\_ TITLE \_\_\_\_\_

COMPANY ADDRESS \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_ FAX NUMBER \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

FEDERAL E.I. NUMBER \_\_\_\_\_ CHRISTINA SCHOOL DISTRICT  
LICENSE NUMBER \_\_\_\_\_

COMPANY CLASSIFICATIONS:  CERT. NO.:	Certification type(s)	Circle all that apply	
	Minority Business Enterprise (MBE)	Yes	No
	Woman Business Enterprise (WBE)	Yes	No
	Disadvantaged Business Enterprise (DBE)	Yes	No
	Veteran Owned Business Enterprise (VOBE)	Yes	No
	Service Disabled Veteran Owned Business Enterprise (SDVOBE)	Yes	No

[The above table is for informational and statistical use only.]

PURCHASE ORDERS SHOULD BE SENT TO:  
(COMPANY NAME) \_\_\_\_\_

ADDRESS \_\_\_\_\_

CONTACT \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_ FAX NUMBER \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

**AFFIRMATION:** Within the past five years, has your firm, any affiliate, any predecessor company or entity, owner, Director, officer, partner or proprietor been the subject of a Federal, State, Local government suspension or debarment?

YES \_\_\_\_\_ NO \_\_\_\_\_ if yes, please explain \_\_\_\_\_

**THIS PAGE SHALL HAVE ORIGINAL SIGNATURE, BE NOTARIZED AND BE RETURNED WITH YOUR PROPOSAL**

SWORN TO AND SUBSCRIBED BEFORE ME this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

Notary Public \_\_\_\_\_ My commission expires \_\_\_\_\_

City of \_\_\_\_\_ County of \_\_\_\_\_ State of \_\_\_\_\_

### Attachment 3

EXCEPTION FORM

Contract No. CHR-2018-04  
Contract Title: Athletic Fields & Irrigation System Construction

CONFIDENTIAL INFORMATION FORM

☐ By checking this box, the Vendor acknowledges that they are not providing any information they declare to be confidential or proprietary for the purpose of production under 29 Del. C. ch. 100, Delaware Freedom of Information Act.

Confidentiality and Proprietary Information

**Note: use additional pages as necessary.**



Contract No. CHR-2018-04  
 Contract Title: Athletic Fields & Irrigation System Construction

### BUSINESS REFERENCES

List a minimum of three business references, including the following information:

- Business Name and Mailing address
- Contact Name and phone number
- Number of years doing business with
- Type of work performed

Please do not list any State Employee as a business reference. If you have held a State contract within the last 5 years, please provide a separate list of the contract(s).

1.	<b>Contact Name &amp; Title:</b>	
	<b>Business Name:</b>	
	<b>Address:</b>	
	<b>Email:</b>	
	<b>Phone # / Fax #:</b>	
	<b>Current Vendor (YES or NO):</b>	
	<b>Years Associated &amp; Type of Work Performed:</b>	
2.	<b>Contact Name &amp; Title:</b>	
	<b>Business Name:</b>	
	<b>Address:</b>	
	<b>Email:</b>	
	<b>Phone # / Fax #:</b>	
	<b>Current Vendor (YES or NO):</b>	
	<b>Years Associated &amp; Type of Work Performed:</b>	
3.	<b>Contact Name &amp; Title:</b>	
	<b>Business Name:</b>	
	<b>Address:</b>	
	<b>Email:</b>	
	<b>Phone # / Fax #:</b>	
	<b>Current Vendor (YES or NO):</b>	
	<b>Years Associated &amp; Type of Work Performed:</b>	

**IT IS PREFERRED THAT CHRISTINA SCHOOL DISTRICT PERSONNEL NOT BE USED AS REFERENCES.**

## SUBCONTRACTOR INFORMATION FORM

<b>PART I – STATEMENT BY PROPOSING VENDOR</b>		
1. CONTRACT NO. CHR-2018-04	2. Proposing Vendor Name:	3. Mailing Address
4. SUBCONTRACTOR		
a. NAME	4c. Company OSD Classification: Certification Number: _____	
b. Mailing Address:	4d. Women Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4e. Minority Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4f. Disadvantaged Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4g. Veteran Owned Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4h. Service Disabled Veteran Owned Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No	
5. DESCRIPTION OF WORK BY SUBCONTRACTOR		
6a. NAME OF PERSON SIGNING	7. BY (Signature)	8. DATE SIGNED
6b. TITLE OF PERSON SIGNING		
<b>PART II – ACKNOWLEDGEMENT BY SUBCONTRACTOR</b>		
9a. NAME OF PERSON SIGNING	10. BY (Signature)	11. DATE SIGNED
9b. TITLE OF PERSON SIGNING		

\* Use a separate form for each subcontractor



**SAMPLE REPORT - FOR ILLUSTRATION PURPOSES ONLY**

Christina School District																
Subcontracting (2nd tier) Quarterly Report																
Prime Name:							Report Start Date:									
Contract Name/Number							Report End Date:									
Contact Name:							Today's Date:									
Contact Phone:							*Minimum Required		Requested detail							
Vendor Name*	Vendor TaxID*	Contract Name/ Number*	Vendor Contact Name*	Vendor Contact Phone*	Report Start Date*	Report End Date*	Amount Paid to Subcontractor*	Work Performed by Subcontractor UNSPSC	M/WBE Certifying Agency	Veteran /Service Disabled Veteran Certifying Agency	2nd tier Supplier Name	2nd tier Supplier Address	2nd tier Supplier Phone Number	2nd tier Supplier email	Description of Work Performed	2nd tier Supplier Tax Id

**Note:** A copy of the Subcontracting Quarterly Report will be sent by electronic mail to the Awarded Vendor.

Completed reports shall be saved in an Excel format, and submitted to the following email address: [vendorousage@state.de.us](mailto:vendorousage@state.de.us)

Contract No. CHR-2018-04  
Contract Title: Athletic Fields & Irrigation System Construction

**EMPLOYING DELAWAREANS REPORT**

As required by House Bill # 410 (Bond Bill) of the 146<sup>th</sup> General Assembly and under Section 30, No bid for any public works or professional services contract shall be responsive unless the prospective bidder discloses its reasonable, good-faith determination of:

1. Number of employees reasonably anticipated to be employed on the project: \_\_\_\_\_
2. Number of such employees who are bona fide legal residents of Delaware: \_\_\_\_\_  
Percentage of such employees who are bona fide legal residents of Delaware: \_\_\_\_\_
3. Total number of employees of the bidder: \_\_\_\_\_
4. Total percentage of employees who are bona fide residents of Delaware: \_\_\_\_\_

If subcontractors are to be used:

1. Number of employees who are residents of Delaware: \_\_\_\_\_
2. Percentage of employees who are residents of Delaware: \_\_\_\_\_

“Bona fide legal resident of this State” shall mean any resident who has established residence of at least 90 days in the State.

Christina School District  
**State of Delaware**

**Office of Supplier Diversity  
Certification Application**

The most recent application can be downloaded from the following site:

<http://gss.omb.delaware.gov/osd/certify.shtml>

Submission of a completed Office of Supplier Diversity (OSD) application is optional and does not influence the outcome of any award decision.

The minimum criteria for certification require the entity must be at least 51% owned and actively managed by a person or persons who are eligible: minorities, women, veterans, and/or service disabled veterans. Any one or all of these categories may apply to a 51% owner.



**Complete application and mail, email or fax to:**

Office of Supplier Diversity (OSD)  
100 Enterprise Place, Suite 4  
Dover, DE 19904-8202  
Telephone: (302) 857-4554 Fax: (302) 677-7086  
Email: [osd@state.de.us](mailto:osd@state.de.us)  
Web site: <http://gss.omb.delaware.gov/osd/index.shtml>

**THE OSD ADDRESS IS FOR OSD APPLICATIONS ONLY.  
NO BID RESPONSE PACKAGES WILL BE ACCEPTED BY THE OSD.**

**APPENDIX A  
MINIMUM MANDATORY SUBMISSION REQUIREMENTS**

Each vendor solicitation response should contain at a minimum the following information:

1. Transmittal Letter as specified on page 1 of the Request for Qualifications including an Applicant's experience, if any, providing similar services.
2. The remaining vendor proposal package shall identify how the vendor proposes meeting the contract requirements and shall include pricing. Vendors are encouraged to review the Evaluation criteria identified to see how the proposals will be scored and verify that the response has sufficient documentation to support each criteria listed.
3. Pricing as identified in the solicitation (Cost is not applicable for this proposal).
4. One (1) complete, signed and notarized copy of the non-collusion agreement (See Attachment 2). Bid marked "ORIGINAL", **MUST HAVE ORIGINAL SIGNATURES AND NOTARY MARK.** All other copies may have reproduced or copied signatures – Form must be included.
5. One (1) completed RFQ Exception form (See Attachment 3) – please check box if no information – Form must be included.
6. One (1) completed Confidentiality Form (See Attachment 4) – please check if no information is deemed confidential – Form must be included.
7. One (1) completed Business Reference form (See Attachment 5) – please provide references preferably other than Christina School District contacts – Form must be included.
8. One (1) complete and signed copy of the Subcontractor Information Form (See Attachment 6) for each subcontractor – only provide if applicable.
9. One (1) complete Employing Delawareans Report (See Attachment 9)
10. One (1) complete OSD application (See link on Attachment 10) – only provide if applicable

The items listed above provide the basis for evaluating each vendor's proposal. **Failure to provide all appropriate information may deem the submitting vendor as "non-responsive" and exclude the vendor from further consideration.** If an item listed above is not applicable to your company or proposal, please make note in your submission package.

Vendors shall provide proposal packages in the following formats:

1. Four (4) paper copies of the vendor proposal paperwork. **One (1) paper copy must be an original copy, marked "ORIGINAL" on the cover, and contain original signatures.**
2. One (1) electronic copy of the vendor proposal saved to CD or DVD media disk, or USB memory stick. Copy of electronic price file shall be a separate file from all other files on the electronic copy. (If Agency has requested multiple electronic copies, each electronic copy must be on a separate computer disk or media).