

**REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES**  
**Long Range Facilities Master Plan and Certificate of Necessity**  
**ISSUED BY CAPITAL SCHOOL DISTRICT**  
**CONTRACT NUMBER 1701**

**I. Overview**

The Capital School District, seeks professional services to provide a Long Range Facilities Master Plan and Certificate of Necessity. This request for proposals (“RFP”) is issued pursuant to 29 *Del. C.* §§ [6981 and 6982](#).

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

Public Notice	Date: <u>7/29/29</u>
Deadline for Questions	Date: <u>8/12/16</u>
Response to Questions Posted by:	Date: <u>8/19/16</u>
Deadline for Receipt of Proposals	Date: <u>8/26/16</u> at 3:00 PM (Local Time)
Estimated Notification of Award	Date: <u>9/21/16</u>

Furthermore, the transmittal letter must attest to the fact, at a minimum, that the Vendor shall not store or transfer non-public Capital School District data outside of the United States. For technology related solicitations, Vendors may refer to the Delaware Department of Technology and Information identified terms and conditions included in this solicitation.

The Capital School District reserves the right to deny any and all exceptions taken to the RFP requirements.

**MANDATORY PREBID MEETING**

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

**II. Scope of Services**

See APPENDIX A.

**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 Capital School District.

**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.

STATE OF DELAWARE  
Capital School District

2. Vendor shall provide responses to the Request for Proposal (RFP) 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 RFP.
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).

**B. General Evaluation Requirements**

1. The qualifications and experience of Long Range Facility Planning and Certificate of Necessity Planning
2. Presentation
3. Price
4. References

**IV. Professional Services RFP Administrative Information**

**A. RFP Issuance**

**1. Public Notice**

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

**2. Obtaining Copies of the RFP**

This RFP 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 RFP will not be available.

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

Vendors with a disability may receive accommodation regarding the means of communicating this RFP 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. RFP Designated Contact**

All requests, questions, or other communications about this RFP shall be made in writing to the Capital School District. Address all communications to the person listed below; communications made to other Capital 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 RFP designated contact.

**SEAN SOKOLOWSKI**  
**198 COMMERCE WAY, DOVER, DE 19904**  
**SEAN.SOKOLOWSKI@CAPITAL.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**

STATE OF DELAWARE  
Capital School District

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

**6. Contact with Capital School District Employees**

Direct contact with State of Delaware employees other than the Capital School District Designated Contact regarding this RFP is expressly prohibited without prior consent. Vendors directly contacting State of Delaware 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 individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity including subcontractors currently debarred or suspended is ineligible to bid. Any entity ineligible to conduct business in the State of Delaware for any reason is ineligible to respond to the RFP.

**8. Exclusions**

The Proposal 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. RFP Submissions**

**1. Acknowledgement of Understanding of Terms**

By submitting a bid, each vendor shall be deemed to acknowledge that it has carefully read all sections of this RFP, 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 RFP. The Capital School District reserves the right to reject

STATE OF DELAWARE  
Capital School District

any non-responsive or non-conforming proposals. Each proposal must be submitted with two (7) paper copies and one (1) electronic copy on CD or DVD media disk, or USB memory drive. Please provide a separate electronic pricing file from the rest of the RFP proposal responses.

All properly sealed and marked proposals are to be sent to the Capital School District and received no later than **3:00 PM (Local Time) on 8/26/16**. The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), US Mail, or by hand to:

**Sean Sokolowski**  
**CAPITAL SCHOOL DISTRICT**  
**198 COMMERCE WAY, DOVER, DE 19904**

**Vendors are directed to clearly print “BID ENCLOSED” and “CONTRACT NO. 1701” on the outside of the bid 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 RFP. The failure or omission to examine any form, instrument or document shall in no way relieve vendors from any obligation in respect to this RFP.

**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 Capital 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 8/9/17. The Capital 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

STATE OF DELAWARE  
Capital School District

the proposal due date. To document compliance with the deadline, the proposal will be date and time stamped upon receipt.

**7. Proposal Opening**

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

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 in accordance with [Executive Order # 31](#) and Title 29, Delaware Code, [Chapter 100](#).

**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 RFP. The determination of whether an RFP requirement is substantive or a mere formality shall reside solely within the Capital School District.

**9. Concise Proposals**

The Capital 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 Capital School District's interest is in the quality and responsiveness of the proposal.

**10. Realistic Proposals**

It is the expectation of the Capital 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 Capital 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 Capital 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 Capital School District is required to comply with the State of Delaware Freedom of Information Act, [29 Del. C. § 10001, et seq. \("FOIA"\)](#). FOIA requires that the Capital 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

STATE OF DELAWARE  
Capital School District

Capital 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 Capital School District wishes to create a business-friendly environment and procurement process. As such, the Capital School 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 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 Capital School 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 RFP 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 Capital 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 Capital School District. The Capital School 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 Capital School 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. Price Not Confidential**

Vendors shall be advised that as a publically bid contract, no Vendor shall retain the right to declare their pricing confidential.

**13. 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 Capital 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

STATE OF DELAWARE  
Capital School District

the Capital 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 Capital 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, RFP response pages are to be duplicated for each vendor.

**a. Primary Vendor**

The Capital School District expects to negotiate and contract with only one “prime vendor”. The Capital School District will not accept any proposals that reflect an equal teaming arrangement or from vendors who are co-bidding on this RFP. The prime vendor will be responsible for the management of all subcontractors.

Any contract that may result from this RFP shall specify that the prime vendor is solely responsible for fulfillment of any contract with the Capital School District as a result of this procurement. The Capital School 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 Capital 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 Capital 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.

**14. 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 Capital School District.

STATE OF DELAWARE  
Capital School District

**15. Discrepancies and Omissions**

Vendor is fully responsible for the completeness and accuracy of their proposal, and for examining this RFP 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 RFP, vendor shall notify the Capital 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.

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. RFP Question and Answer Process**

The Capital School District will allow written requests for clarification of the RFP. All questions shall be received no later than **8/12/16**. 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 **8/19/16**. 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

Questions not submitted electronically shall be accompanied by a CD and questions shall be formatted in Microsoft Word.

**16. Capital School District's Right to Reject Proposals**

The Capital 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 Capital 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 Capital School District may deem necessary in the best interest of the Capital School District.

**17. Capital School District's Right to Cancel Solicitation**

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



STATE OF DELAWARE  
Capital School District

This RFP does not constitute an offer by the Capital School District. Vendor's participation in this process may result in the Capital 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 Capital School District to execute a contract nor to continue negotiations. The Capital School District may terminate negotiations at any time and for any reason, or for no reason.

**18. Capital School District's Right to Award Multiple Source Contracting**

Pursuant to 29 *Del. C.* [§ 6986](#), the Capital 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 Capital School District.

**19. Potential Contract Overlap**

Vendors shall be advised that the Capital School District, at its sole discretion, shall retain the right to solicit for goods and/or services as required by its agencies and as it serves the best interest of the Capital School District. As needs are identified, there may exist instances where contract deliverables, and/or goods or services to be solicited and subsequently awarded, overlap previous awards. The Capital School District reserves the right to reject any or all bids in whole or in part, to make partial awards, to award to multiple vendors during the same period, to award by types, on a zone-by-zone basis or on an item-by-item or lump sum basis item by item, or lump sum total, whichever may be most advantageous to the Capital School District.

**20. 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 Capital 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 Capital School District at the proposal submission deadline. All proposals received are considered firm offers at that time.

**21. Revisions to the RFP**

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

**22. Exceptions to the RFP**

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

**23. Award of Contract**

The final award of a contract is subject to approval by the Capital School District. The Capital 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 RFP.

STATE OF DELAWARE  
Capital School District

Notice in writing to a vendor of the acceptance of its proposal by the Capital 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. RFP Award Notifications**

After reviews of the evaluation committee report and its recommendation, and once the contract terms and conditions have been finalized, the Capital School District will award 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 RFP.

It should be explicitly noted that the Capital 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 Capital School District. The award is subject to the appropriate Capital School District approvals.

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

**24. Cooperatives**

Vendors, who have been awarded similar contracts through a competitive bidding process with a cooperative, are welcome to submit the cooperative pricing for this solicitation.

**C. RFP Evaluation Process**

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

The Capital 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 Capital School District may deem necessary to make a decision.

**1. Proposal Evaluation Team**

The Proposal Evaluation Team shall be comprised of representatives of the Capital School District. The Team shall determine which vendors meet the minimum requirements pursuant to selection criteria of the RFP and procedures established in 29 *Del. C.* §§ [6981](#) and [6982](#). 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 Board of Education, who shall have final authority, subject to the provisions of this RFP and 29 *Del. C.* § [6982](#), to award a contract to the successful vendor in the best interests of the Capital School District.

STATE OF DELAWARE  
Capital 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 RFP has been determined by the Capital School District to be essential for use by the Team in the bid evaluation and award process. Therefore, all instructions contained in this RFP 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 RFP 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 RFP or to make no award or issue a new RFP.
- 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.

**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
The qualifications and experience of Long Range Facility Planning and Certificate of Necessity Planning	30
Presentation	30
Price	30
References	10

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.

STATE OF DELAWARE  
Capital School District

**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 Capital 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 Capital School District will pay travel costs only for Capital 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 interview with 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.

All of the vendor's costs associated with participation in interviews conducted for the Capital 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 Capital School District 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 Capital School District shall be for one (1) year.
- b.** The selected vendor will be required to enter into a written agreement with the Capital School District. The Capital School District reserves the right to incorporate standard State contractual provisions into any contract negotiated as

STATE OF DELAWARE  
Capital School District

a result of a proposal submitted in response to this RFP. Any proposed modifications to the terms and conditions of the standard contract are subject to review and approval by the Capital School District. Vendors will be required to sign the contract for all services, and may be required to sign additional agreements.

- c. The selected vendor or vendors will be expected to enter negotiations with the Capital School District, which will result in a formal contract between parties. Procurement will be in accordance with subsequent contracted agreement. This RFP and the selected vendor's response to this RFP will be incorporated as part of any formal contract.
- d. The Capital 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 RFP within twenty (20) days after award of the contract. No vendor is to begin any service prior to receipt of a Capital School District purchase order signed by two authorized representatives of the agency requesting service, properly processed through the State of Delaware 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.
- g. The Capital School District reserves the right to extend this contract on a month-to-month basis for a period of up to three months after the term of the full contract has been completed.

**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 RFP, and is in all respects fair and without collusion or fraud; that the vendor did not participate in the RFP development process and had no knowledge of the specific contents of the RFP prior to its issuance; and that no employee or official of the Capital 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**

STATE OF DELAWARE  
Capital School District

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

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 RFP upon agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, the Capital School District shall have the right to annul any contract resulting from this RFP 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 Capital School District employees, contractors or agents of the Capital School District concerning this RFP shall be conducted in strict accordance with the manner, forum and conditions set forth in this RFP.

**6. Solicitation of Capital School District Employees**

Until contract award, vendors shall not, directly or indirectly, solicit any employee of the Capital School District to leave the Capital 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 Capital School District's contracting officer. Solicitation of Capital 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 Capital School District employee who has initiated contact with the vendor. However, Capital 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 Capital School District's discretion as to the location of work for the contractual support personnel during the project period. The Capital School District may provide working space and sufficient supplies and material to augment the Contractor's services.

STATE OF DELAWARE  
Capital School District

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

Vendor agrees that any individual or group of temporary staff person(s) provided to the Capital School District pursuant to this Solicitation shall remain the employee(s) of Vendor for all purposes including any required compliance with the 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 Capital School District pursuant to this Solicitation must be provided any benefits, including any healthcare benefits by the State of Delaware 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 Capital School District is a dual employer or the sole employer of any individual temporary staff person(s) provided to the State of Delaware pursuant to this Solicitation, Vendor agrees to hold harmless, indemnify, and defend the State to the maximum extent of any liability to the State arising out of such determinations.

Notwithstanding the content of the preceding paragraph, should the Capital 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 State of Delaware 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 State of Delaware for any liability that arises out of compliance with the ACA prior to the date of hire by the State of Delaware. 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 State's intention to hire.

**c. ACA Safe Harbor**

The State and its utilizing agencies are not the employer of temporary or contracted staff. However, the State is concerned that it could be determined to be a Common-law Employer as defined by the Affordable Care Act ("ACA"). Therefore, the State 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 State 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 State 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 State will consider the Additional Fee and prior to award reserves the

STATE OF DELAWARE  
Capital School District

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.

**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 Capital 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 Capital School District required under the contract shall be sent by registered mail to:

**CAPITAL SCHOOL DISTRICT**  
**Attn: Sean Sokolowski, CFO**  
**198 COMMERCE WAY, DOVER, DE 19904**  
**CONTACT**

**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 Capital 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 Capital School 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 Capital School District, the Capital School District shall



STATE OF DELAWARE  
Capital School District

promptly notify the vendor in writing and vendor shall defend such claim, suit or action at vendor's expense, and vendor shall indemnify the Capital 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.

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 Capital 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 Capital 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 Capital 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.	Professional Liability	\$1,000,000 per occurrence / \$3,000,000 aggregate
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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:

STATE OF DELAWARE  
Capital School District

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 Capital 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. PERFORMANCE BOND**

There is no Performance Bond requirement.

**j. 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 Capital School District may negotiate, as may be authorized by law, emergency performance from the Contractor to address the immediate needs of the Capital School District, even if not contemplated under the original Contract or procurement. Payments are subject to appropriation and other payment terms.

**k. 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 Capital School District's requirements.

**l. 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 Capital School District. The proposal costs shall include full compensation for all taxes that the selected vendor is required to pay.

STATE OF DELAWARE  
Capital School District

The Capital 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 Capital School District may require holdback of contract monies until acceptable performance is demonstrated (as much as 25%).

**m. Penalties**

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

**n. Dispute Resolution**

At the option of, and in the manner prescribed by the Capital School District the parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in arbitration or other proceeding involving the parties, provided evidence that is otherwise admissible or discoverable shall not be rendered inadmissible.

If the matter is not resolved by negotiation, as outlined above, or, alternatively, Capital School District elects to proceed directly to mediation, then the matter will proceed to mediation as set forth below. Any disputes, claims or controversies arising out of or relating to this Agreement shall be submitted to mediation by a mediator selected by CAPITAL SCHOOL DISTRICT, and if the matter is not resolved through mediation, then it shall be submitted, in the sole discretion of CAPITAL SCHOOL DISTRICT, to the Capital School District, Business Manager, for final and binding arbitration. CAPITAL SCHOOL DISTRICT reserves the right to proceed directly to arbitration or litigation without negotiation or mediation. Any such proceedings held pursuant to this provision shall be governed by Delaware law and venue shall be in Delaware. The parties shall maintain the confidential nature of the arbitration proceeding and the Award, including the Hearing, except as may be necessary to prepare for or conduct the arbitration hearing on the merits. Each party shall bear its own costs of mediation, arbitration or litigation, including attorneys' fees.

**o. Termination of Contract**

The contract resulting from this RFP may be terminated as follows by Capital 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 Capital School 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

STATE OF DELAWARE  
Capital School District

reports or other material prepared by the Vendor under this Contract shall, at the option of the Capital School 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 Capital School District.

On receipt of the contract cancellation notice from the Capital School 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 Capital School District provides a written acceptance of the vendor response. If the Capital School District does accept the Vendor's method and/or action plan to correct the identified deficiencies, the Capital School District will define the time by which the Vendor must fulfill its corrective obligations. Final retraction of the Capital School District's termination for cause will only occur after the Vendor successfully rectifies the original violation(s). At its discretion the Capital School District may reject in writing the Vendor's proposed action plan and proceed with the original contract cancellation timeline.

2. **Termination for Convenience:** The Capital School 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 Capital School 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 Capital School 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 Capital School 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.

**p. Non-discrimination**

In performing the services subject to this RFP 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.

**q. 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

STATE OF DELAWARE  
Capital School District

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 Capital 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.

**r. 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.

**s. Vendor Responsibility**

The Capital School 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 RFP 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 Capital School District.

**t. 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 Capital School 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 Capital School District.

**u. Fair Background Check Practices**

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

**v. Vendor Background Check Requirements**

Vendor(s) selected for an award that access Capital School District property or come in contact with vulnerable populations, including children and youth, shall be required to complete background checks on employees serving the Capital School 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://sexoffender.dsp.delaware.gov/>

STATE OF DELAWARE  
Capital School District

Individuals that are listed in the registry shall be prevented from direct contact in the service of an awarded Capital School 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 Agency's decision to allow or deny access to any individual identified on a registry database is final and at the Agency's sole discretion.

By Agency 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 Capital School 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.

**w. Drug Testing Requirements for Large Public Works**

Pursuant to 29 Del.C. [§6908\(a\)\(6\)](#), effective as of January 1, 2016, OMB has established regulations that require Contractors and Subcontractors to implement a program of mandatory drug testing for Employees who work on Large Public Works Contracts funded all or in part with public funds. The regulations establish the mechanism, standards and requirements of a Mandatory Drug Testing Program that will be incorporated by reference into all Large Public Works Contracts awarded pursuant to 29 Del.C. [§6962](#).

Final publication of the identified regulations can be found at the following:  
[4104 Regulations for the Drug Testing of Contractor and Subcontractor Employees Working on Large Public Works Projects](#)

**x. Work Product**

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

**y. Contract Documents**

The RFP, the purchase order, the executed contract and any supplemental documents between the Capital School District and the successful vendor shall constitute the contract between the Capital 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: contract, Capital School District's RFP, Vendor's response to the RFP and purchase order. No other documents shall be considered. These documents will

STATE OF DELAWARE  
Capital School District

constitute the entire agreement between the Capital School District and the vendor.

**z. 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 Capital 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.

**aa. 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.

**bb. Assignment Of Antitrust Claims**

As consideration for the award and execution of this contract by the Capital School District, the Vendor hereby grants, conveys, sells, assigns, and transfers to the Capital School District all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, regarding the specific goods or services purchased or acquired for the Capital School District pursuant to this contract. Upon either the Capital School District's or the Vendor notice of the filing of or reasonable likelihood of filing of an action under the antitrust laws of the United States or the State of Delaware, the Capital School

STATE OF DELAWARE  
Capital School District

District and Vendor shall meet and confer about coordination of representation in such action.

**cc. 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.

**dd. 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.

**ee. 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 Capital School 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 Capital School District representative in the performance of their duties under the Contract. Upon notice given to the Vendor, representatives of the Capital School District or other duly authorized Capital School District 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 Capital School 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.

**ff. 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.



STATE OF DELAWARE  
Capital School District

4. **Prior Use** – The Capital 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 Capital 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. **Assignment** – Any resulting contract shall not be assigned except by express prior written consent from the Agency.
8. **Changes** – No alterations in any terms, conditions, delivery, price, quality, or specifications of items ordered will be effective without the written consent of the Capital School District.
9. **Purchase Orders** – Agencies that are part of the First State Financial (FSF) system are required to identify the contract number 1701 on all Purchase Orders (P.O.) and shall complete the same when entering P.O. information in the state's financial reporting system.
10. **Billing** – The Vendor is required to "Bill as Shipped" to the respective ordering agency(s). Ordering agencies shall provide contract number, ship to and bill to address, contact name and phone number.
11. **Additional Terms and Conditions** – The Capital School District reserves the right to add terms and conditions during the contract negotiations.

**E. RFP Miscellaneous Information**

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

The Capital 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 Capital 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 Capital School District.

The Capital School 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 State's seal or imply preference for the solution or goods provided.

**2. Definitions of Requirements**

To prevent any confusion about identifying requirements in this RFP, 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 RFP. Failure to respond to a mandatory requirement may cause the disqualification of your proposal.

**3. Production Environment Requirements**

STATE OF DELAWARE  
Capital School District

The Capital 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.

**F. Attachments**

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

- Attachment 1 – Proposal Requirements
- Attachment 2 – Non Collusion Statement
- Attachment 3 – Confidentiality and Proprietary Information
- Attachment 4 – Business References
- Attachment 5 – Office of Supplier Diversity Application
  
- Appendix A – Scope of Work
- Appendix B – Selection Process

*[balance of page is intentionally left blank]*

Proposal Requirements

Information required in the proposal is to include:

- (1) A letter of application submitted on the official letterhead of the firm expressing an interest in the project;
- (2) Experience with similar educational projects;
- (3) List of names of architects/engineers who are intended to perform such services as architectural drawings, mechanical engineering, electrical engineering, structural engineering, site engineering;
- (4) Experience of the project team - Resumes to be prepared by the firm and submitted indicating capabilities of key personnel assigned to the project. Standard Form 254 and Form 255 General Services Administration, Architect-Engineer and Related Services Questionnaire would be permitted for this purpose;
- (5) Capabilities that would be furnished by outside consultants. Names of consultants normally used to provide these services should be included;
- (6) Liaison person to be assigned to the project by the firm;
- (7) Samples of previous work representing the kind of final product and documents to be submitted to CSD;
- (8) Record of any litigation brought against the firm or principals of the firm relative to providing similar services;
- (9) Statement of attitude and philosophy towards completion of this project;
- (10) Present and anticipated work load;
- (11) Schedule to culminate with Submission and defense of application of Certificate of Necessity to DOE by April 28<sup>th</sup>, 2017;
- (11) Other appropriate information deemed important to more fully understand the submitting firm's skill, experience, or capabilities will be accepted;
- (12) Pricing.

Any firm failing to meet the minimal submittal requirements will be disqualified. Information deemed proprietary or company sensitive must be marked accordingly.

Submittals

All interested firms should submit seven (7) paper copies and one (1) electronic copy on CD or DVD media disk, or USB memory drive of its proposal to:

Sean Sokolowski, Business Manager  
Capital School District  
196 Commerce Way  
Dover, Delaware 19904

STATE OF DELAWARE  
Capital School District

Attachment 2

THE UNDERSIGNED BIDDER CERTIFIES THAT NEITHER HE NOR ANY REPRESENTATIVE OF HIS COMPANY HAS, EITHER DIRECTLY OR 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.

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
NAME OF LOCAL REPRESENTATIVE (PRINT)

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

\_\_\_\_\_  
TELEPHONE NUMBER

\_\_\_\_\_  
E.I. NUMBER

**RFP Due Date: 8/26/16 at 3:00 p.m. Eastern Time. RFP'S NOT RECEIVED BY THIS TIME SHALL NOT BE CONSIDERED. NO EXCEPTIONS WILL BE MADE.**

Contract No. 1701

Contract Title: Long Range Facilities Master Plan and Certificate of Necessity

**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.

<b>Confidentiality and Proprietary Information</b>

**Note: Vendor may use additional pages as necessary, but the format shall be the same as provided above.**

STATE OF DELAWARE  
Capital School District

Attachment 4

Contract No. 1701

Contract Title: Long Range Facilities Master Plan and Certificate of Necessity

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 Capital School District 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>	

**CAPITAL SCHOOL DISTRICT PERSONNEL MAY NOT BE USED AS REFERENCES.**

**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.  
THE OSD WILL NOT ACCEPT ANY VENDOR BID RESPONSE PACKAGES.**

Scope of Work

The Capital School District (CSD) is seeking proposals for professional services in conjunction with their Major Capital Program. Scope in the major capital program will include an evaluation of the condition, serviceability and replacement of existing facilities leading to a long and short range plan including the submission and defense of an application for Certificate of Necessity to the Delaware Department of Education (DOE). A Facility Index Rating shall be established to identify each deficiency and prioritize a phased plan of construction. A draft report shall be presented to CSD and DOE. All comments of CSD and DOE shall be addressed in the final report. Facility evaluation shall include (but not be limited too):

- Architecture of existing schools
- Structural evaluation of existing schools
- Mechanical/plumbing/Electrical evaluation of existing schools
- Site conditions of existing schools
- Capacity of existing schools
- Safety of existing schools
- Energy efficiency of existing schools
- Grade Realignment of existing schools

Furthermore, services are also to include:

- New school planning (if applicable)
- Develop Educational Specifications
- Application for Certificate of Necessity (if applicable)
- Defense of Certificate of Necessity to DOE (if applicable)
- Pre-referendum planning (if applicable)

Existing schools to be considered in evaluation

- Central Middle School
- William Henry Middle School
- Booker T Washington Elementary
- East Dover Elementary
- Fairview Elementary School
- Hartly Elementary School
- North Dover Elementary School
- South Dover Elementary School
- Towne Point Elementary School
- Land at One Pat Lynn Drive (Former HS)
- Kent County Community School
- Kent County Secondary ILC (No facilities evaluation, but needs to be incorporated into long range plan)



**APPENDIX B**

Selection Process

A committee hereinafter referred to as the Professional Services Selection Committee (PSSC) will make the initial screening and conduct the interviews. From the information submitted, the PSSC will select up to five firms to make a presentation. The District will contact the firms to set up the date and time of the presentations.

Firms are strongly encouraged to provide detail on long range planning experience related to school construction. The selections made by the PSSC shall be final and binding in all ways and shall not be subject to appeal.

The PSSC will evaluate the proposals, pricing and references and select up to five (5) firms to present to the PSSC. CSD will notify the firms of the time and place of the presentations after the proposals have been evaluated by the PSSC.

The Board of Education through the PSSC will negotiate with the firm deemed to be most qualified. In the event the Board of Education is unable to successfully negotiate a contract with this firm, it shall terminate negotiations and proceed to negotiate with the second most qualified firm. In the event the Board through the PSSC is unable to successfully negotiate a contract with this firm, it shall terminate negotiations and proceed to negotiate with the third most qualified firm. At any point in the negotiations process, the district may at its discretion, terminate negotiations with any or all firms.

The Board reserves the right to make selections as it feels best meet its needs and interests and is not open for discussion or debate.