

REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES
Construction Manager Services for Howard High School Athletic Fields
ISSUED BY NCCVT SCHOOL DISTRICT
CONTRACT NUMBER 1903

I. Overview

The NCCVT School District, seeks professional services to provide Construction Manager Services for Howard High School Athletic Fields. 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>10/04/18</u>
Deadline for Questions	Date: <u>10/15/18</u>
Response to Questions Posted by:	Date: <u>10/16/18</u>
Deadline for Receipt of Proposals	Date: <u>10/18/18 at 1:00 pm</u> (Local Time)
Estimated Notification of Award	Date: <u>10/29/18</u>

Furthermore, the transmittal letter must attest to the fact, at a minimum, that the Vendor shall not store or transfer non-public NCCVT 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 NCCVT 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

Kirkwood Park is currently owned by the City of Wilmington; however, the District is working with the City to redesign Kirkwood Park for expanded use of Howard High School and modification to the existing park areas for use of the general public. The new facilities would include a practice field, main game field with viewing areas, relocated playground, relocated pavilion structure, reconstructed restroom building, relocated basketball courts and new playground facilities. Additionally, the existing Clifford Brown Statue Plaza and Formal Garden Structure may be removed/relocated/reimagined in some form or combination to best suit the school and community needs. The Construction Manager will participate and coordinate all facets of capital improvements including but not limited to:

1. Basic services during the pre-construction phase may include but are not limited to: review of design; making relevant recommendations in the best interest of the District; value engineering; presentation of a detailed estimate of construction cost; development of a construction schedule based on the District’s funding availability; preparation of bid packages; conducting pre-bid meetings; and, interfacing with the architect and all stakeholders, as necessary.

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2. Basic services during the construction include but are not limited to: cooperation with architect, coordination of the contractors with the various phases of the project including prepurchasing; conducting pre-construction and progress meetings; receiving and reviewing shop drawings and related submittals before forwarding to the architect; assuring compliance with contract drawings and specifications; maintaining current cost data and conducting monthly Owner's meeting coordinating all ongoing and future projects with regard to construction schedule and costs accountability; project completion and closeout; post-construction activities will include warranty responsibilities, project training and coordination of move-in activities. Compiling and categorizing change orders by project for submission to the School Board for approval; required attendance by Construction Manager's Executive Project Manager at the District's monthly school board meetings.

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 NCCVT 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.

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. Experience
2. Expertise
3. Reputation
4. Capacity

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 . Paper copies of this RFP will not be available.

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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 NCCVT School District. Address all communications to the person listed below; communications made to other NCCVT 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

1417 Newport Road, Wilmington, DE 19804

SEAN.SOKOLOWSKI@NCCVT.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 NCCVT 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 NCCVT School District's consultant or legal counsel on any matter related to the RFP.

6. Contact with NCCVT School District Employees

Direct contact with State of Delaware employees other than the NCCVT 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,

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- 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 NCCVT School District reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with five (5) 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 NCCVT School District and received no later than **1:00 PM (Local Time) on 10/18/18**. The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), US Mail, or by hand to:

Sean Sokolowski
NCCVT SCHOOL DISTRICT
1417 Newport Road, Wilmington, DE 19804

Vendors are directed to clearly print “BID ENCLOSED” and “CONTRACT NO. 1903” 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.

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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 NCCVT 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 10/18/19. The NCCVT 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 NCCVT School District will receive proposals until the date and time shown in this RFP. Proposals will be opened in the presence of NCCVT 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 NCCVT School District.

9. Concise Proposals

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

10. Realistic Proposals

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It is the expectation of the NCCVT 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 NCCVT 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 NCCVT 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 NCCVT 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 NCCVT 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 NCCVT 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 NCCVT School District wishes to create a business-friendly environment and procurement process. As such, the NCCVT 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 NCCVT 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.

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Upon receipt of a proposal accompanied by such a separate, sealed envelope, the NCCVT 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 NCCVT School District. The NCCVT 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 NCCVT 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 NCCVT 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 NCCVT 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 NCCVT 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 NCCVT School District expects to negotiate and contract with only one "prime vendor". The NCCVT 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 NCCVT School District as a result of this procurement. The NCCVT 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 NCCVT School District from the full exercise of its options under Section IV.B.16 regarding multiple source contracting.

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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 NCCVT 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 NCCVT 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 NCCVT 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 NCCVT School District will allow written requests for clarification of the RFP. All questions shall be received no later than **10/15/18**. All questions will be consolidated into a single set of responses and posted on the State's website at www.bids.delaware.gov by the date of **10/16/18**. 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

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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. NCCVT School District's Right to Reject Proposals

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

17. NCCVT School District's Right to Cancel Solicitation

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

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

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

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

19. Potential Contract Overlap

Vendors shall be advised that the NCCVT 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 NCCVT 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 NCCVT 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 NCCVT School District.

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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 NCCVT 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 NCCVT 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. The NCCVT School District is not bound by any statement related to this RFP made by any NCCVT School District employee, contractor or its agents.

22. Exceptions to the RFP

Any exceptions to the RFP, or the NCCVT 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 NCCVT School District. The NCCVT 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.

Notice in writing to a vendor of the acceptance of its proposal by the NCCVT 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 NCCVT 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 NCCVT 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 NCCVT School District. The award is subject to the appropriate NCCVT School District approvals.

After a final selection is made, the winning vendor will be invited to negotiate a contract with the NCCVT 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 NCCVT School District will evaluate proposals on a variety of quantitative criteria. Neither the lowest price nor highest scoring proposal will necessarily be selected.

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

1. Proposal Evaluation Team

The Proposal Evaluation Team shall be comprised of representatives of the NCCVT 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 NCCVT 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 NCCVT 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.

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- 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
Experience	30
Expertise	30
Reputation	30
Capacity	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.

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 NCCVT 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 NCCVT School District will pay travel costs only for NCCVT 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 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.

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All of the vendor's costs associated with participation in interviews conducted for the NCCVT 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 NCCVT 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 NCCVT School District shall be for one (1) year. The contract may be renewed for three (3) one (1) year extensions.
- b. The selected vendor will be required to enter into a written agreement with the NCCVT School District. The NCCVT School District reserves the right to incorporate standard State contractual provisions into any contract negotiated as 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 NCCVT 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 NCCVT 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 NCCVT 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 NCCVT 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

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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 NCCVT 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 NCCVT 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 NCCVT School District employee or agent of the NCCVT 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 NCCVT 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 NCCVT School District employees, contractors or agents of the NCCVT 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 NCCVT School District Employees

Until contract award, vendors shall not, directly or indirectly, solicit any employee of the NCCVT School District to leave the NCCVT School District's employ in order to accept employment with the vendor, its affiliates, actual or prospective contractors,

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or any person acting in concert with vendor, without prior written approval of the NCCVT School District's contracting officer. Solicitation of NCCVT 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 NCCVT School District employee who has initiated contact with the vendor. However, NCCVT 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 NCCVT School District's discretion as to the location of work for the contractual support personnel during the project period. The NCCVT School District may provide working space and sufficient supplies and material to augment the Contractor's services.

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 NCCVT 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 NCCVT 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 NCCVT 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 NCCVT School District subsequently directly hire any individual temporary staff employee(s) provided pursuant to this Solicitation, the aforementioned

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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 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 NCCVT 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.

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

NCCVT SCHOOL DISTRICT
Attn: Sean Sokolowski, CFO
1417 Newport Road, Wilmington, DE 19804
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 NCCVT 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 NCCVT 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 NCCVT School District, the NCCVT 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 NCCVT 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 NCCVT 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 NCCVT School District agrees to and accepts in writing.

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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 NCCVT 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;

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 NCCVT 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.

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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 NCCVT School District may negotiate, as may be authorized by law, emergency performance from the Contractor to address the immediate needs of the NCCVT 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 NCCVT 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 NCCVT School District. The proposal costs shall include full compensation for all taxes that the selected vendor is required to pay.

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

m. Penalties

The NCCVT 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 NCCVT 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,

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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, NCCVT 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 NCCVT SCHOOL DISTRICT, and if the matter is not resolved through mediation, then it shall be submitted, in the sole discretion of NCCVT SCHOOL DISTRICT, to the NCCVT School District, Business Manager, for final and binding arbitration. NCCVT 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 NCCVT 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 NCCVT 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 reports or other material prepared by the Vendor under this Contract shall, at the option of the NCCVT 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 NCCVT School District.

On receipt of the contract cancellation notice from the NCCVT 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 NCCVT School District provides a written acceptance of the vendor response. If the NCCVT School District does accept the Vendor's method and/or action plan to correct the identified deficiencies, the NCCVT School District will define the time by which the Vendor must fulfill its corrective obligations. Final retraction of the NCCVT School District's termination for cause will only occur after the Vendor successfully rectifies the original violation(s). At its discretion, the NCCVT 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 NCCVT School District may terminate this Contract at any time by giving written notice of such termination and specifying

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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 NCCVT 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 NCCVT 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 NCCVT 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 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 NCCVT 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 NCCVT 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

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identified in the Vendor's proposal by completing Attachment 6, and are subject to the approval and acceptance of NCCVT 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 NCCVT 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 NCCVT School District.

u. Fair Background Check Practices

Pursuant to 29 Del. C. [§6909B](#), the NCCVT School District does not consider the criminal record, criminal history, credit history or credit score of an applicant for NCCVT School District employment during the initial application process unless otherwise required by State and/or federal law. Vendors doing business with the NCCVT 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 NCCVT 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 NCCVT 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/>

Individuals that are listed in the registry shall be prevented from direct contact in the service of an awarded NCCVT 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 NCCVT 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.

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

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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 NCCVT 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 NCCVT School District, the Vendor hereby grants, conveys, sells, assigns, and transfers to the NCCVT 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 NCCVT School District pursuant to this contract. Upon either the NCCVT 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 NCCVT School 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.

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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 NCCVT 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 NCCVT School District representative in the performance of their duties under the Contract. Upon notice given to the Vendor, representatives of the NCCVT School District or other duly authorized NCCVT 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 NCCVT 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.
4. **Prior Use** – The NCCVT 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 NCCVT 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 NCCVT School District.
9. **Purchase Orders** – Agencies that are part of the First State Financial (FSF) system are required to identify the contract number 1903 on all

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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 NCCVT 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 NCCVT 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 NCCVT 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 NCCVT School District.

The NCCVT 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

The NCCVT 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
- Attachment 6 – Subcontractor List

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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 (10 page limit) - 30 points.
 - Demonstrate the firms experience in Construction Managerural services for Secondary Educational (9-12) Major Capital Projects
- (3) Expertise (8 page limit) - 30 points.
 - Provide an organizational chart identifying all of your key staff members and demonstrate how each member will interact with other staff members assigned to this project. Provide a brief resume of key individuals describing at a minimum:
 - Role on project
 - Education
 - Professional registrations
 - Relevant Experience
- (4) Reputation (8 page limit) - 30 points.
 - Submission of documents or references substantiating the reputation of the firm. Listing of any litigation brought against the firm or principals of the firm in the last five (5) years.
- (5) Capacity (8 page limit) - 10 points.
 - Provide a brief description the size of the firm, estimate of manpower required for the execution of the project, the total number of professional and technical personnel by discipline, and current listing of work in progress. In addition, provide an estimate of the time required for the design of existing facilities. Provide a copy of your last audited financial statement.
- (6) Liaison person to be assigned to the project by the firm;
- (7) Other appropriate information deemed important to more fully understand the submitting firm's skill, experience, or capabilities will be accepted;
- (8) Non- Collusion Statement
- (9) Confidential Information Form

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 five (5) 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
NCCVT School District
1417 Newport Road
Wilmington, DE 19804

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NCCVT 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: 10/18/18 at 1:00 p.m. Eastern Time. RFP'S NOT RECEIVED BY THIS TIME SHALL NOT BE CONSIDERED. NO EXCEPTIONS WILL BE MADE.

STATE OF DELAWARE
NCCVT School District

Attachment 4

Contract No. 1903
Contract Title: Howard High School Athletic Fields

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 NCCVT 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.	Contact Name & Title:	
	Business Name:	
	Address:	
	Email:	
	Phone # / Fax #:	
	Current Vendor (YES or NO):	
	Years Associated & Type of Work Performed:	

2.	Contact Name & Title:	
	Business Name:	
	Address:	
	Email:	
	Phone # / Fax #:	
	Current Vendor (YES or NO):	
	Years Associated & Type of Work Performed:	

3.	Contact Name & Title:	
	Business Name:	
	Address:	
	Email:	
	Phone # / Fax #:	
	Current Vendor (YES or NO):	
	Years Associated & Type of Work Performed:	

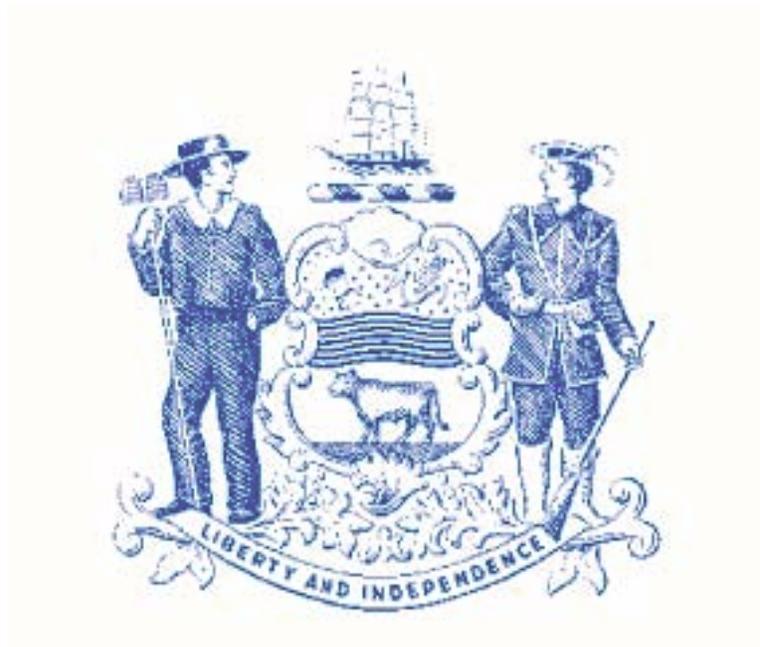
NCCVT SCHOOL DISTRICT PERSONNEL MAY NOT BE USED AS REFERENCES.

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
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.**

STATE OF DELAWARE
 NCCVT School District

Attachment 6

SUBCONTRACTOR INFORMATION FORM

PART I – STATEMENT BY PROPOSING VENDOR		
1. CONTRACT NO. Enter Contract Number	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 (<i>Signature</i>)	8. DATE SIGNED
6b. TITLE OF PERSON SIGNING		
PART II – ACKNOWLEDGEMENT BY SUBCONTRACTOR		
9a. NAME OF PERSON SIGNING	10. BY (<i>Signature</i>)	11. DATE SIGNED
9b. TITLE OF PERSON SIGNING		

Use a separate form for each subcontractor