Data Service Center

168 S. Dupont Highway
New Castle, DE 19720
www.dataservice.org

Phone: (302) 504-7200
Fax: (302) 504-7201
Helpdesk: (302) 504-7222

June 24, 2019

**RE: RFP Number:** **2-19-40**

**RFP Title:** **Attorney/Legal Services – Red Clay Consolidated School District**

**Date/Time of RFP Opening:** **July 30, 2019 at 2:00 PM**

The Central Bidding Department of the Colonial and Red Clay Consolidated School Districts will receive sealed proposals for the above referenced bid until the time and date stated above when they will be publicly opened in the Office of the Manager of the Central Bidding Department, 168 S. Dupont Highway, New Castle, DE 19720.

Enclosed are General Instructions to Bidders and Specifications, which I strongly encourage you to be fully aware of when submitting a proposal. **The enclosed Proposal Form must be used in submitting a proposal.** The General Instructions to Bidders, Special and/or Specifications are to be returned only if you wish to take exception to anything contained therein. You should retain these documents (or copies) for information in the event you are a successful bidder.

If you have any questions concerning the enclosed information, please contact me.

Sincerely,

Emily Ryan

Emily L. Ryan
Coordinator – Administrative Applications & Central Bidding
Data Service Center

DATA SERVICE CENTER

CENTRAL BIDDING DEPARTMENT

COLONIAL SCHOOL DISTRICT
RED CLAY CONSOLIDATED SCHOOL DISTRICT

# GENERAL INSTRUCTIONS TO BIDDERS

THE GENERAL RULES AND CONDITIONS WHICH FOLLOW APPLY TO ALL PURCHASES AND BECOME A PART OF EACH CONTRACT OR PURCHASE ORDER. BEFORE SUBMITTING ITS BID, THE BIDDER MUST REVIEW ALL INSTRUCTIONS AND SPECIFICATIONS. A BIDDER'S MISINTERPRETATION OR IGNORANCE OF SUCH INSTRUCTIONS OR SPECIFICATIONS WILL NOT EXCUSE THE BIDDER FROM COMPLYING WITH THE INSTRUCTIONS AND SPECIFICATIONS. THE BIDDER MUST ALSO REVIEW APPLICABLE STATE LAWS. IF THESE INSTRUCTIONS OR THE BID SPECIFICATIONS ARE INCONSISTENT WITH STATE LAW, STATE LAW SHALL CONTROL.

NOTE: "District(s)" refers to the Colonial and Red Clay Consolidated School Districts, individually or collectively as indicated in the Special Instructions or Specifications.

## 1. BID PROPOSALS

Use the enclosed Proposal Form in submitting a Bid Proposal. The Bid Proposal must be dated and signed by an authorized representative of the bidder. A Request for Bids for Red Clay Consolidated, and/or Colonial School Districts received from any source other than the Central Bidding Department may not be complete or current. When you are made aware of an existing Request for Bid, you should contact this office for the bid documents.

All Bids must, prior to the time set for the public opening, be returned to the Data Service Center, Central Bidding Department, 168 S. Dupont Highway, New Castle, DE 19720, in the enclosed pre-addressed envelope with the bidder's name, bid number, and time and date of the bid opening appearing on the envelope. All bids must be in sealed envelopes.

## 2. "RFP" - REQUESTS FOR PROPOSALS

When the use of competitive sealed bidding is either not practicable or not advantageous to the District, a procurement may be effected after receipt of a response to a "Request For Proposal" ("RFP"). The "RFP" differs from a "Bid" in that offerors submitting proposals may be afforded an opportunity to discuss and revise proposals. Revisions may be permitted after submissions of proposals and prior to award for the purpose of obtaining best and final offers. Negotiations may be conducted with responsible offerors who submit proposals reasonably likely to be selected for award.

The contents of any proposal shall not be disclosed so as to be available to competing offerors during the negotiation process. The award shall be made to the offeror(s) whose proposal is most advantageous to the District(s), taking into consideration the evaluation factors set forth in the RFP. The award may be made upon criteria which do not include price.

## 3. PRE-BID MEETINGS

In the case of any public works contract for the construction, re-construction, alteration or repair of any public building or other public improvement of any District, there shall be a meeting of all prospective bidders and of the District called by the District upon reasonable notice and at a place and time stated in such notice which meeting shall be at least 15 days before the date for the submission of bids (29 § 6962(d)(10)a Delaware Code).

Pre-bid meetings for non-public works contracts and for public works contracts that do not exceed $50,000 in value, and attendance requirements for such meetings, shall be at the discretion of the District(s).

4. DELIVERY OF BID PROPOSALS

Sealed Bid Proposal must be received in the Central Bidding Department, 168 S. Dupont Highway, New Castle, DE 19720, prior to the time set for the Bid Opening. It is the responsibility of the Bidder to make certain that the Bid Proposal is in the Central Bidding Department prior to the time set for the Bid Opening. The District(s) accepts no responsibility for any bid entrusted to the United States Postal Service, or any other delivery service or company. Bid Proposals not received in the Central Bidding Department by the time set for the Bid Opening will not be considered.

5. BID OPENING

Bids will be publicly opened in the Office of Central Bidding, Data Service Center, 168 S. Dupont Highway, New Castle, DE 19720 or other designated location at the time designated on the Proposal Form, and in the Advertisement for Bids. The purpose of the opening is to reveal the names of those bidders submitting proposals. The opening is not to serve as a forum for determining the responsiveness of each bid, or the apparent low bidder. Additional information shall be disclosed at the discretion of the Districts.

The contents of any "Request For Proposal" will not be disclosed at an opening so as not to interfere with the negotiation process. Only the names of those submitting proposals shall be revealed.

6. POLICY AND PROCEDURE FOR THE EXAMINATION AND COPYING OF PUBLIC RECORDS

Title 29 § 10003 Delaware Code Freedom of Information Act

(a) All public records shall be open to inspection and copying by any citizen of the State during regular business hours by the custodian of the records for the appropriate public body. Reasonable access to and reasonable facilities for copying of these records shall not be denied to any citizen. If the record is in active use or in storage and, therefore, not available at the time a citizen requests access, the custodian shall so inform the citizen and make an appointment for said citizen to examine such records as expediently as they may be made available. Any reasonable expense involved in the copying of such records shall be levied as a charge on the citizen requesting such copy.

(b) It shall be the responsibility of the public body to establish rules and regulations regarding access to public records as well as fees charged for copying of such records. (60 Del. Laws, c. 641 § 1.)

A. Examination of Contract File

Any citizen of the State or bidder may review the contract file only after making an appointment to do so with the Central Bidding Office. Requests to review the records during an unannounced office visit may be denied if department personnel are busy, or if the file is in active use. Trade secrets and commercial or financial information of a privileged or confidential nature shall not be deemed public.

B. Requests for Bid Tabulations

Copies of a bid tabulation may be obtained from the Data Service Center either by mail after receipt of a written request and a self-addressed and stamped envelope, or by making an appointment to pick up copies that will be left at the Receptionist's desk. Bid tabulation and/or contract information other than the name of the successful bidder will not be given out over the telephone. Requests for bid tabulations during an unannounced office visit may be denied if work flow of department personnel will be disrupted.

C. Copying Fees

The Data Service Center reserves the right to charge a reasonable fee for the copying of any public record. Such charges must be paid to the Data Service Center prior to receiving the copies.

7. STATUS OF PROPOSALS

A. Unless otherwise stated in the Special Instructions or on the Proposal Form, the Proposal submitted by bidders shall be binding for a period of 60 days from the date the bids are opened. Requests for Proposals shall be binding for a period of 90 days.

B. Bids may be withdrawn up to the time of the bid opening upon request of the bidder. Such a request must be in writing and received by the Manager of Central Bidding prior to the time stated for the bid opening. Timely requests submitted by facsimile or telegram will be honored.

C. Waiver - The District(s) reserves the right to waive any failure to conform to the instructions or specifications if the waiver: (1) does not involve a mandatory statutory requirement; (2) does not provide a competitive advantage to one or more bidders; and (3) is in the best interest of the District(s).

D. Bidders may take exception to the terms and conditions of the instructions and/or specifications. Exceptions must be submitted prior to the opening of bids. Exceptions that do not conform to State bid law and/or create inequality in the treatment of bidders will be rejected. The bid of a bidder taking exception may be rejected if the District(s) rejects the exception.

8. AWARDING OF BIDS

A. The District(s) reserves the right to award the bid to the lowest qualified bidder meeting specifications by item, in total, or any other method, whichever is deemed by the District(s) to be in its best interest.

B. The District(s) reserves the right to award the bid to 2 or more firms if the advertisement for bids notifies bidders of the right of the District(s) to make such an award and the criteria for such an award.

C. The District(s) reserves the right to reject any and all bids, in whole or in part, to make partial awards, to waive any irregularity, to reasonably increase or decrease quantities where estimated quantities are shown or where definite quantities are shown, and may reject any bid which indicates any omission, contains alteration of form or additions not requested or imposes conditions, or where the individual bidder should receive a total award of less than $500.00, or offers alternate items, and make any award which is deemed to be in the best interest of the District(s).

D. In the event of tie bids, the District(s) will decide which bidder is to be awarded the contract by any criteria of its choice.

E. The contract shall be awarded by the District(s) and it's Board(s) within 60 days after the opening of bids. Failure to do so shall be cause for rejection of all bids. Responses to Requests for Proposals shall be awarded within 90 days after the opening of Proposals. Failure to do so shall be cause for rejection of all proposals.

9. BID DEPOSIT

All bid deposits are waived for contracts valued at less than $25,000.00. Deposits are required for contracts for materials or services in excess of $25,000.00 unless the bid specifications state that bid deposits are waived. All public works contracts in excess of $50,000.00 require a deposit. All bids shall be accompanied with a deposit of either a good and sufficient bond to the State of Delaware for the benefit of the District involved, with corporate surety authorized to do business in this State, for a sum equal to 10% of the bid, or in lieu of the bid bond a security of the bidder assigned to and approved by the District. Bidders are advised that they may obtain written confirmation from the Data Service Center for the acceptance of a security deposit other than a bond, prior to the submission of the bid. The bid bond need not be for a specific sum but may be stated to be for a sum equal to 10% of the bid to which it relates and not to exceed a certain stated sum, if said sum is equal to at least 10% of the bid. All bidders shall submit a separate bid deposit for each proposal. Where all four (4) Districts are named in a proposal, a single bid deposit drawn to the order of the Brandywine School District, will be acceptable. Upon the execution of a formal contract and necessary bonds, the bid deposit will be returned to the successful bidder. The deposit of the unsuccessful bidders will be returned to them immediately upon the awarding of the contract, or the rejection of all bids.

10. FORMAL CONTRACT AND/OR PURCHASE ORDER

A. The successful bidder shall execute the formal contract, and also the required bonds, within twenty (20) days after the award of the contract. In the event any successful bidder refuses or neglects to execute a formal contract or required bond within (20) days of the awarding of the contract, the bid deposit of the successful bidder may be taken and become the absolute property of the State for the benefit of the named District(s), as liquidated damages, and not as a forfeiture or as a penalty, and shall be deposited with the State Treasurer, and the District(s) will award Contract to the next lowest bidder or re-advertise for new bids. The District(s) will proceed to collect on the bid deposit. The District(s) waives all formal contracts on contract awards of less than $5,000.00; the obligations of the bidder shall be set forth in the bid specifications, these General Instructions, and any special instructions. No bidder or Vendor is to begin any work until it receives a State of Delaware Purchase Order signed by two authorized representatives of the District(s), properly processed through the State of Delaware Accounting Office. The Purchase Order shall serve as the authorization to proceed with work in accordance with the bid specifications and the special instructions.

B. The formal contract or purchase order shall incorporate by reference these General Instructions, as well as the Special Instructions and Specifications and the bidder's Proposal.

C. If a bid is submitted to more than one District, each such District awarding the bid shall enter into a separate contract with the low, qualified bidder.

11. PERFORMANCE AND PAYMENT BONDS

A. Performance and payment bonds are required for materials or non-professional service contracts, unless reduced or waived as stated in the bid specifications. Contracts for less than $25,000 may contain a waiver of the bond requirement provided the successful vendor posts with the State an irrevocable letter of credit or other suitable or readily collectible financial security for the project. Such letter of credit or other security shall be issued for a term commencing simultaneously with the execution of the formal contract and terminating no later than 3 years, subsequent to the date of delivery of such material or non-professional service or to the extent of the warranty period, whichever is greater. In no event shall such security expire without the express written approval of the State. When required, the successful bidder shall simultaneously with the execution of the formal contract, execute a good and sufficient Performance and Labor and Materials bond to the State of Delaware for the benefit of the District(s), with corporate surety authorized to do business in this State, in a sum equal to 100 percent of the contract price.

B. Performance and payment bonds are required for public works contracts. The successful bidder shall simultaneously with the execution the formal contract, execute a good and sufficient Performance and Labor and Materials Bond to the State of Delaware for the benefit of the District(s) with corporate surety authorized to do business in this State, in a sum equal to 100 percent of the contract price. Contracts may contain a waiver of the bond requirement, provided, however, that the successful bidder post with the contracting Agency an irrevocable letter of credit or other suitable or readily collectible financial security for the project. Such security shall be subject to the terms and conditions of the contracting District.

C. The bond when required shall be conditioned upon the faithful compliance and performance by the successful bidder of each and every term and condition of the contract and the proposal and specifications at the time, and in the manner prescribed by the contract and specifications including the payment in full to every person furnishing materials or performing labor in the performance of the contract, of all sums of money due him for such labor or materials. The bond shall also contain the successful bidder's guarantee to indemnify and save harmless the State and the District(s) from all cost, damages, and expenses, including attorneys fees, growing out of or by reason of the successful bidder's failure to comply and perform the work and complete the contract in accordance with the contract.

D. The District(s) will, when it considers that the interest of the State so require, cause judgment to be confessed upon the bond. All sums received through confession of judgment shall be paid to the State Treasurer for the credit of the District(s).

E. Every person furnishing materials or performing labor under the contract for which the successful bidder is liable may maintain an action on the bond for the subcontractor's or supplier's own use in the name of the State, in any court of competent jurisdiction, for the recovery of such sum or sums as may be due such person from the successful bidder, but if the bond so provides, no suit shall be commenced after the expiration of one (1) year following the date on which the successful bidder ceased work on the contract. Otherwise, suits may be commenced at any time within three (3) years following the date the last work is done on the contract.

F. The performance and payment bond shall include a provision that the Surety shall have the right to participate in any arbitration proceeding which may involve liability under the bond, and that the arbitration award in any such arbitration proceeding shall be binding on the Surety.

G. No person or surety, in any action brought under this section, or on the bond required by this section, shall assert as a defense to such action, the claim that the bond given pursuant to this section contained a limitation or restriction not provided for by this section.

12. FAILURE TO COMPLY WITH CONTRACT: NEW AWARD: SUPERVISION

If any person entering into a contract under the authority of this chapter neglects or refuses to perform it or fails to comply with the terms thereof, the District(s) will terminate the contract and proceed to award a new contract in accordance with the provisions of Chapter 69, Title 29 of the Delaware Code, or may require the surety on the performance bond to complete the contract in accordance with the terms of the performance bond.

Should a contractor/supplier fail to perform under the conditions of this contract, the District(s) reserves the right to purchase the item or items on the open market and charge to the contractor/supplier or deduct from any monies owed the contractor/supplier, the difference between the bid price and the purchase price. However, no such action will be taken without first notifying the contractor/supplier by certified letter and giving him reasonable time to reply, but in no event longer than 10 days from the mailing of the certified letter. Failure to supply items as bid may be cause for removal of a bidder from our vendor bid list.

13. CONTRACT FOR PUBLIC BUILDINGS: LISTING SUBCONTRACTORS: BIDDER AS SUBCONTRACTOR: SUBSTITUTION OF SUBCONTRACTORS: PENALTIES: SUBCONTRACTING LIMITATION

Any public works contract, the probable cost of which exceeds $100,000, for the construction, reconstruction, alteration, or repair of any public building of the State or any agency or governmental unit within the State, shall, in addition to the other requirements of this chapter by subject to the following provisions.

A. Such contract shall be awarded only to a bidder whose bid is accompanied by a statement containing for each subcontractor category set forth in the "listing" as provided in §6962(d)(10) of this Chapter, the name and address (City or Town and State only - Street Number and P.O. Box addresses not required) of the subcontractor whose services he intends to use in performing the work or in performing the work and providing the material, for such subcontractor category. No bidder for such a contract shall list himself in any accompanying statement as the subcontractor of any part of the public building unless the bidder, in addition to being licensed as a contractor of the State, shall also be recognized in the industry not only as a prime contractor but also as a subcontractor or contractor in and for any such part of parts of such work so listed in such accompanying statement.

B. Neither the State nor agency nor governmental unit shall accept any bid for such a contract or award any such contract to any bidder, as the prime contractor, if the bidder has listed himself as the subcontractor for any subcontractor category set forth on the "listing" as provided in §6962(d)(10) of this Chapter, unless it has been established to the satisfaction of the awarding agency that the bidder has customarily performed the specialty work of such subcontractor category by artisans regularly employed by the bidder in his organization, that the bidder is duly licensed by the State to engage in such specialty work, if the State required such licenses and that the bidder is recognized in the industry as a bona fide subcontractor or contractor in such specialty work and subcontractor category. Illustrative only (and not intended to be exhaustive) of typical subcontractor categories involving their own respective types of specialty work, are plumbing, electrical wiring, heating, roofing, insulating, weather-stripping, masonry, bricklaying, and plastering. The decision of the awarding agency as to whether a bidder who lists himself as the subcontractor for a subcontractor category set forth in the "listing" as provided in §6962(d)(10) for such subcontractor category, shall be final and binding upon all bidders, and no action of any nature shall lie against any awarding agency because of its decision

in this regard.

C. After such a contract has been awarded, the successful bidder shall not substitute another subcontractor for any subcontractor whose name was set forth in the statement which accompanied his bid without the written consent of the agency awarding the contract. No agency shall consent to such substitution unless the agency is satisfied that the subcontractor in question whose name is listed in the successful bidder's accompanying statement (1) is unqualified to perform the work required, or (2) has failed to execute a timely reasonable subcontract, or (3) has defaulted in the performance of the part of the work covered by the subcontract, or (4) is no longer engaged in such business.

D. Such a contract shall contain a provision for withholding from or requiring the payment by, the successful bidder of a penalty, the amount to be determined by the agency, for the failure to utilize any or all the subcontractors set forth in the successful bidder's accompanying statement in the performance of the work on the public building contemplated by the contract. Any sum so withheld from or paid by the contractor for any such failure may be remitted or refunded, in whole or in part, by the agency awarding the contract, but only in the event it is established to the satisfaction of the agency, that the subcontractor in question has defaulted or is no longer engaged in such business. No claim for the remission or refund of any penalty shall be granted under this section unless application therefore is filed within one year after the liability of the successful bidder accrues. If any such application for refund of any sum paid as a penalty is denied, or if no application for refund is filed within the period provided herein for filing an application, such sum shall revert to the State.

E. Any contract for a public works project may include a provision that the successful bidder on a specialty contract perform, at a minimum, a fixed percentage of the work up to 50% of the total contract bid. Factors to be considered by the awarding agency in setting the required percentage of amount of work the successful bidder must perform may include the degree of difficulty involved in the agency's administration of the work covered under the terms of the contract; the degree of specialty work contemplated in the contract and the time period required in which to complete the public works project. The terms of the contract shall so specify reasons for the stated percentage in its general terms and conditions.

14. WAGE PROVISIONS IN PUBLIC CONSTRUCTION CONTRACTS FAILURE TO PAY PREVAILING WAGE RATES: PENALTY

A. The specifications for every contract or aggregate of contracts relating to a public works project in excess of $500,000 for new construction (including painting and decorating) or $45,000 for alteration, repair, renovation, rehabilitation, demolition or reconstruction (including painting and decorating of buildings or works) to which this State or any subdivision thereof is a party and for which the State appropriated any part of the funds and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Delaware Department of Labor, Division of Industrial Affairs, to be prevailing in the county in which the work is to be performed. The prevailing wage shall be the wage paid to a majority of employees performing similar work as reported in the Department's annual prevailing wage survey or in the absence of a majority, the average wage paid to all employees reported.

B. Every contract based upon these specifications shall contain a stipulation that the employer shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the specifications, regardless of any contractual relationship which may be alleged to exist between the employer and such laborers and mechanics. The specifications shall further stipulate that the scale of wages to be paid shall be posted by the employer in a prominent and easily accessible place at the site of the work, and that there may be withheld from the employer so much of accrued payments as may be considered necessary by the Department of Labor to pay to laborers and mechanics employed by the employer the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and rates of wages received by such laborers and mechanics to be remitted to the Department of Labor for distribution upon resolution of any claims.

C. Every contract based upon these specifications shall contain a stipulation that sworn payroll information, as required by the Department of Labor, be furnished weekly.

Every employer performing work on a public project shall furnish weekly payroll reports to the Department of Labor on forms provided (upon request) by the Department. Payroll reports shall be mailed or delivered by the employer to the Department within one week from the last work day covered by the report. Failure to complete each and every section of the report (including the requirement that the form be notarized) will constitute a failure to submit sworn payroll information as required by the Department. Payroll reports shall be mailed to: Delaware Department of Labor, Prevailing Wage 4425 North Market Street 3rd Floor, Wilmington, DE 19802.

D. The Department of Labor shall investigate all claims that the prevailing wage rates as provided for under this section are not being or have not been paid. Upon finding that an employer has not paid or is not paying the prevailing wage rates, the Department of Labor shall notify the employer of the violations by certified mail and make an effort to obtain compliance. Upon failure to obtain compliance within 15 days of receipt of said certified mail, the Secretary may terminate all rights of the employer to proceed with the work under the public construction contract, and the employer shall be responsible for all damages resulting therefrom.

E. Any employer who knowingly fails or refuses to pay the prevailing wage rates provided for under this Section, or who fails to submit payroll reports or post notice of the wage rates which apply to the project shall, for each such violation, be subject to a Civil Penalty of not less than $1,000 nor more than $5,000 for each violation. No public construction contract in this State shall be bid on, awarded to, or received by any contractor or subcontractor, or to any person, firm, partnership, or corporation in which such employer has an interest who, within two years after entry of a judgment pursuant to this chapter, is adjudicated in violation of this chapter in subsequent proceeding, until three years have elapsed from the date of the subsequent penalty judgment. A Civil Penalty claim may be filed in any court of competent jurisdiction.

F. Any laborer or mechanic employed by any employer, or the Department of Labor on behalf of any laborer or mechanic employed by any employer, who is paid in a sum less than the prevailing wage rates provided for under this section shall have a right of action against the employer in any court of competent jurisdiction to recover up to treble the difference between the amount so paid and the prevailing wage rate. Such action may be brought by the Department of Labor in the name and for the benefit of the laborer or mechanic with or without an assignment of the claim from the employee, the Department of Labor shall have the power to settle and adjust any such claim to the same extent as would the aggrieved employee. It shall not be a defense to such action that the underpayment was received by the laborer or mechanic without protest. Upon the filing of an action under this section, the employer shall post suitable bond approved by the court for the damages which may be recoverable thereunder. Any judgment entered for plaintiff shall include an award for reasonable attorney's fees and costs of prosecution.
The Department of Labor shall not be required to pay the filing fee or other costs of the action or fees of any nature to file bond or other security of any nature in connection with such action or with proceedings supplementary thereto or as a condition precedent to the availability to the Department of any process in aid of such action or proceedings. The Department shall have the authority to join various claimants in 1 preferred claim lien and, in case of suit, to join them in 1 cause of action.

G. Any wages collected under this chapter, but not claimed by the employee within 1 year from the date of collection, shall be retained by the Department of Labor for enforcement purposes.

H. No action to recover wages and damages under this section shall be brought after the expiration of 2 years from the accruing of the cause of action.

I. Whenever any person shall contract with another for the performance of any work which the contracting person has undertaken to perform, he or she shall become civilly liable to employees engaged in the performance of work under such contract for the payment of wages, exclusive of treble damages, as required under this section, whenever and to the extent that the employer of such employees fails to pay such wages, and the employer of such employees shall be liable to such person for any wages paid by him under this Section. If pursuant to this Subsection (I) a person becomes civilly liable to employees of another, such liability shall not constitute a violation of this Section for purposes of the termination, civil penalty and debarment provisions of Subsections (D) and (E) of this Section.

J. A contract manager shall be responsible for monitoring compliance with this Section, but shall not become civilly liable to the same extent as the contracting person. For purposes of this Section, "contract manager" means any person who performs the function of the contracting person without becoming a party to the contract of performance, but rather contracts with the recipient of the goods or services to act as his/her agent. A contract manager who knowingly fails or refuses to monitor compliance with this Section shall, for each such failure or refusal, be subject to a Civil Penalty of not less than $100 nor more than $500. A Civil Penalty claim under this subsection may be filed in any court of competent jurisdiction. A contract manager's liability for a Civil Penalty pursuant to this Subsection (j) shall not constitute a violation of this section for purposes of the termination, civil penalty and debarment provisions of Subsection (D) and (E) of this Section.

K. Any employer who discharges or in any manner discriminates against an employee because that employee has made a complaint or has given information to the Department pursuant to this chapter, or because that employee has caused to be instituted or is about to cause to be instituted any proceedings under this chapter, or has testified or is about to testify in any such proceedings, shall be deemed in violation of this chapter and shall be subject to a civil penalty of not less than $1,000 nor more than $5,000 for each violation.

15. PREFERENCE FOR DELAWARE LABOR: STIPULATION IN CONTRACT

In the construction of all public works for the State or any political subdivision thereof, or by persons contracting with the State or any political subdivision thereof, preference in employment of laborers, workmen or mechanics, shall be given to bona fide legal citizens of the State, who have established citizenship by residence of at least ninety days in the State. Any person, company or corporation who violates the provisions of this section shall pay a penalty to the Secretary of Finance equal to the amount of compensation paid to any person in violation of this section.

16. NON-DISCRIMINATION

In performing this work the successful bidder agrees to the following:

A. The successful bidder will not discriminate against any employee or application for employment because of race, creed, color, sex, national origin, age or disability. The vendor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex, national origin, age or disability. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. The successful bidder will, in all solicitations or advertisements for employees place by or on behalf of himself, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, national origin, age or disability.

17. EQUAL OPPORTUNITY EMPLOYER

The named School District(s) is an equal opportunity employer and does not discriminate or deny services on the basis of race, color, creed, national origin, sex, disability, or age.

18. INSURANCE - LIABILITY

The successful bidder shall maintain, at its expense, the following insurance:

A. Public Liability and Automobile Liability Insurance

1. The policy is to be provided for both the owner and the contractor.

2. Minimum coverage for bodily injury shall be $500,000 for any one individual and $1,000,000 for any one accident.

3. Minimum coverage for property damage shall be $500,000 for any one accident.

4. Policies shall include completed operations, owners and contractors Protective Liability and Contractual Liability coverage, including protection against claims arising out of the activities of subcontractors in the same minimum amounts stated above.

5. If the project involves excavations, deep trenching, or blasting, endorsements to the policy should be obtained to cover these hazards.

6. Certificates of insurance must be filed with the owner guaranteeing fifteen (15) days notice prior to cancellation.

B. Builders Risk Policy

1. The builders risk policy shall be an all risk coverage policy.

2. The policy shall be in the name of the owner and prime contractor, jointly, "as their interests may appear."

3. On new construction or complete additions, the policy will be carried on a completed value basis.

4. On renovation projects, the policy will be covered by either an installation floater or a separate policy of sufficient dollar amount to fully cover the cost of the materials stored.

5. If it is your policy to pay for material not stored on the site, either a separate certificate of insurance must be issued or a rider must be added to the existing builders risk policy. The amount of coverage must be sufficient to cover all materials stored off the site.

6. Certificates of insurance must be filed with the owner guaranteeing fifteen (15) days notice prior to cancellation.

C. Worker's Compensation Including Employee's Liability

1. Minimum limit on Employee's Liability to be $100,000 minimum limit for all employees working at one site.

2. Certificates of insurance must be filed with the owner guaranteeing fifteen (15) days notice prior to cancellation.

D. Boiler Insurance

1. If a new boiler is started prior to acceptance of the installation by the owner, the contractor must carry boiler insurance until acceptance by the owner.

2. Minimum coverage for boiler insurance of bodily injury will be $1,000,000. For property damage the minimum coverage will also be $1,000,000.

3. Certificates of insurance must be filed with the owner guaranteeing fifteen (15) days notice prior to cancellation.

Contractor 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 Contractor'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 Contractor in their negligent performance under this Contract.

The Contractor 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 Contractor is an independent contractor and is not an employee of the State.

During the term of this Contract, the Contractor shall, at its own expense, carry insurance with minimum coverage limits as follows:

| | | |
|---|---|---|
| | a) Comprehensive General Liability | $1,000,000 |
| and | | |
| | b) Medical/Professional Liability | $1,000,000/ $3,000,000 |
| or | c) Misc. Errors and Omissions | $1,000,000/$3,000,000 |
| or | d) Product Liability | $1,000,000/$3,000,000 |

All contractors must carry (a) and at least one of (b), (c), or (d), depending on the type of service or product being delivered.

If the contractual service requires the transportation of Departmental clients or staff, the contractor shall, in addition to the above coverage, secure at its own expense the following coverage:

e) Automotive Liability (Bodily Injury) $100,000/$300,000
f) Automotive Property Damage (to others) $ 25,000

Not withstanding the information contained above, the Contractor shall indemnify and hold harmless the State of Delaware, the Department and the Division from contingent liability to others for damages because of bodily injury, including death, that may result from the Contractor's negligent performance under this Contract, and any other liability for damages for which the Contractor is required to indemnify the State, the Department and the Division under any provision of this Contract.

The policies required under Paragraph B3 must be written to include Comprehensive General Liability coverage, including Bodily Injury and Property damage insurance to protect against claims arising from the performance of the Contractor and the contractor's subcontractors under this Contract and Medical/Professional Liability coverage when applicable.

The Contractor shall provide a Certificate of Insurance as proof that the Contractor has the required insurance. The certificate shall identify the Department and the Division as the "Certificate Holder" and shall be valid for the contract's period of performance as detailed in the scope of work to be performed.

The Contractor acknowledges and accepts full responsibility for securing and maintaining all licenses and permits, including the Delaware business license, as applicable and required by law, to engage in business and provide the goods and/or services to be acquired under the terms of this Contract. The Contractor acknowledges and is aware that Delaware law provides for significant penalties associated with the conduct of business without the appropriate license.

19. LICENSES, FEES, PERMITS, TAXES, AND STATE LAWS

In the performance of this Contract the successful Bidder is required to comply with all applicable Federal, State, and Local laws, ordinances, codes, and regulations. The cost of permits, insurance, taxes, and other relevant costs required in the performance of the Contract shall be borne by the successful Bidder. All Delaware Laws in reference to construction shall be as binding as though quoted in full herein and their application shall be fully adhered to by all parties affected hereby. The vendor shall furnish upon request any or all of the referenced items.

All bidders shall be properly licensed and authorized to transact business in the State of Delaware as provided for in Delaware Code Title 30, §2502 and in any and all Delaware Municipalities having jurisdiction to require such licensing within the geographic boundaries of the site(s) where the work is to be performed prior to the execution of any contract resulting from this bid. In the case of contracts in excess of $50,000.00 which are competitively bid, such person shall have initiated the license application procedure required by this subsection with the Division of Revenue prior to, or in conjunction with, the submission of a bid on a contract, or in the case of a subcontractor, prior to the submission of a bid by the general contractor. Proof of such license compliance shall be as determined by the School District(s) or their designee.

All bidders for public works projects shall insure that they have met all general contractor and/or subcontractor licensing requirements in accord with the requirement of Title 29 §6962 prior to submitting a bid.

NOTE: Contractors and subcontractors bonding and licensing requirements were amended by HB585 and as of January 1, 1987, require the following:

A. Bidders shall obtain and comply with the Delaware Department of Revenue's Technical Information Memorandum 88-10 dated December 29, 1986. This Technical Information Memorandum constitutes the Division of Revenue's Regulations with regard to contractor licensing and bonding requirements under the amended statutes. These Regulations are promulgated pursuant to 30 Del. C. §2103(b).

B. 30 Del. C. §375 Requirements:

1. Surety bonds in the amount of 6% of the contract or subcontract price are required for all non-resident contractors for contracts within the State of Delaware in which either:

(a) The single contract or subcontract totals $20,000 or more; or

(b) The contract or subcontract is a "cost-plus" contract whose estimated cost-and-profit totals $20,000 or more; or

(c) The aggregate of two or more contracts or subcontracts in a calendar year totals $20,000 or more.

2. The Division of Revenue will accept cash bonds, which may be paid by check, on contracts not exceeding $100,000.

3. The contractor's bond shall be filed before construction commences on any contract upon which a bond is required pursuant to 30 Del. C. §375, as outlined in Paragraph (a-c) above.

C. For licensing requirements, penalties, definitions, information filing, and other requirements, bidders shall refer to Technical Information memorandum 86-10 and to the referenced sections of the Delaware Code. For additional information call 1-800-292-7826.

20. WAGE SCALE - PREVAILING

When the schedule of prevailing wages is not attached, it is the responsibility of vendors to obtain it from the Delaware Department of Labor, 4425 North Market Street, 3rd Floor, Wilmington, DE 19802

21. PATENTS, TRADEMARKS, AND COPYRIGHTS

The supplier shall hold free of any liability, the School District(s) and the officers and employees, of any costs or expenses arising from patent, trademark or copyright infringement incurred by use of any item supplied or process used in performance of this Contract.

22. COVENANT AGAINST CONTINGENT FEES

The bidder warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement of understanding for a commission or percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the bidder for the purpose of securing business. For breach or violation of this warrantee the School District(s) 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 fees.

23. TAXES - EXEMPT

Since the School District(s) is exempt, prices quoted shall not include Federal taxes or State of Local taxes. Tax Exemption number is 51-6000279.

24. TRADE DISCOUNTS

All prices offered must be lowest net price after trade discounts have been considered. Bids offering a percentage off list prices will not be accepted unless; (1) Specifically requested in that manner; (2) A copy of the referenced price list accompanies the bid.

25. COMMERCIAL WARRANTEE AND GUARANTEE CERTIFICATE

The supplier agrees that the supplies or services furnished under the Contract shall be covered by the most favorable commercial warranties the supplier gives to any customer for such supplies or services and that the rights and remedies provided herein are in addition to and do not limit any rights afforded to the District(s) by any other clauses of the Contract. A final payment for performance shall not relieve the successful bidder of responsibility for faulty materials or workmanship.

26. INTERPRETATION OF SPECIFICATIONS

Should any bidder be in doubt as to the intention and meaning of the specifications, he may make inquiry to the Office of the Supervisor of Central Bidding of the District(s). Questions received less than three working days before the opening of bids may not be considered. All questions in order to be considered must be submitted in writing.

27. EXAMINATION OF SITE AND OTHER CONDITIONS BEARING ON THIS WORK

Before submitting proposal, bidders shall fully inform themselves of the nature of the work by personal examination of the site, and by such means as they consider necessary, as to matters, conditions, or considerations bearing on or in any way affecting the preparation of their proposal. A bidder shall not at any time after the submission of his proposal claim that there is any misunderstanding in regard to the location, extent, or nature of the work to be performed. No claims for any extra will be allowed because of alleged impossibilities in the production of the results specified, or because of inadequate or improper plans or specifications, and whenever a result is required, the successful bidder shall furnish any and all extras and make any changes needed to produce, to the satisfaction of the District(s), the required results at no expense to the District(s).

Failure of the bidder to thoroughly understand all aspects of the solicitation before submitting their bid shall not be sufficient cause to permit withdrawal of its bid nor secure relief on pleas of error after the contract is awarded.

28. BRAND NAMES AND APPROVED EQUAL

A. Where a particular manufacturer or several manufacturers, brands or models are referenced, it is to be interpreted as indicating the type or quality of material, and shall be interpreted to include an "approved equal". Bids may be considered on models or brands or products of manufacturers other than those specified if the items being substituted were approved by the designee of the District(s).

B. Where a manufacturer, brand, or model is referenced in the bid specifications, the absence of a reference to a different manufacturer, brand, or model in the bidder's proposal shall be interpreted as a bid on the manufacturer, brand, or model specified. Where several manufacturers or models are referenced as being equally acceptable and the bidder does not indicate what particular model or brand they are offering, the Designee of the District(s) shall have the right to select any brand or model referenced.

Only one bid per item will be considered. If a vendor submits more than one bid on an item, none of the vendor's bids on that item will be considered.

C. The Board of Education of the District(s) shall be the sole judge as to whether or not items submitted meet specifications or whether or not items being bid are equal. Any attempt to "resell" or disqualify other supplies while the proposals are being analyzed may be reason for your bid to be disqualified. If additional information is required, contact the Central Bidding Department.

D. All items furnished under the Contract must be new and unused, latest models (unless otherwise specified) and free from all defects. The foregoing excepts exchange, normal "rebuilt" items, where specified.

29. SAMPLES AND DESCRIPTIVE LITERATURE

A. When requesting approval to bid models, brands or products of manufacturers other than those specified, such a request must be accompanied by catalog cuts and/or detailed specifications. The

District(s) may also request bidders to submit samples for examination and appraisal.

B. Requested samples shall be submitted at no cost to the District(s) and may be required by the District(s) either prior to, at the time of the bid opening, or within ten calendar days following the request. Time of submission of samples shall be specified in the specifications. Samples shall be specified in the specifications. Samples not provided as requested, will be reason to reject the bid for that item. All such samples shall be identified as to the supplier, model number, bid item number and other information that may be required; these samples will be returned after evaluation. Suppliers shall have the responsibility of picking up their samples within two weeks after notification. Samples not removed after two weeks will automatically become the property of the District(s) at no charge.

30. RESPONSIBILITY FOR DAMAGE AND CARE OF SCHOOL PROPERTY

The Supplier in the performance of this Contract will be held financially responsible for any damage to the grounds, buildings, or equipment caused by him, his subcontractors or employees, or other persons engaged in the performance of the Contract.

Every reasonable effort shall be made by workmen to proceed with the work as described in these specifications in a manner accepted in trade circles as the highest level of workmanship. The successful bidder for this work shall be responsible for all damage to other work caused by his workmen or through the neglect of his workmen on the site.

Workmanlike care shall be expected at all times in performing the work. It shall be the responsibility of the successful bidder to repair or replace all damaged property, the damage for which he, or anyone working under his direction is responsible.

31. SUPPLIER CLEAN-UP

All debris resulting from the supplier's delivery and installation shall be disposed of entirely by the supplier in an efficient and expeditious manner as required and directed by the District(s) Designee. The successful bidder shall at all times keep the premises free from accumulation of waste materials or rubbish caused by his employees or work. District(s)-owned trash receptacles are not to be used by the vendor without prior approval.

32. STORAGE OF MATERIALS

Every effort shall be made by the successful bidder to schedule delivery of materials so that a minimum of storage space is required. The successful bidder shall not encumber the premises with his materials and shall store all materials in a place designated by the Board of Education or its representative. The District(s) will not be responsible for any damage to or theft of tools or materials used in this work.

33. UNPACKING AND ASSEMBLING

All work described in the specifications regarding unpacking, assembling, and placement of all movable furniture and/or equipment must be completed within five (5) days after furniture and/or equipment is received on the site unless prior approval is received.

Any bidder failing to unpack and assemble knockdown equipment and furniture will be charged (deduction will be made from billing) a fee to cover the District's cost of unpacking and assembling.

34. SERVICE

Each bidder may be required to submit a signed statement to the effect he can furnish service by factory trained personnel Monday to Friday during the hours of 8:00 a.m. - 4:00 p.m.

35. SCHEDULE FOR PERFORMANCE OF WORK

All work described in these specifications must be completed with reasonable promptness. The District(s) shall be the sole judge of what is "reasonably prompt" under the circumstances. If the successful bidder does not begin the work in a reasonable amount of time, it will be notified that if it fails to initiate the work promptly, the contract may be terminated and the District(s) will forthwith proceed to collect for nonperformance of the work.

36. ORDERING

All items or services to be furnished under the Contract will be ordered by the issuance of a Purchase Order signed by two authorized representatives of the District(s). This document must be in the hands of the successful bidder prior to any work commencing on the Contract.

37. DELIVERY, INSPECTION, ACCEPTANCE, AND PACKAGING

A. All supplies, materials, equipment, goods, and services are to be delivered postpaid to the location or locations indicated on the Proposal Form, Specifications, or Purchase Order. No labor will be provided to help unload any product under Contract.

B. The delivery of goods or items furnished under the terms of the Contract shall not be considered as acceptance thereof until the goods are inspected. The District(s) shall have a reasonable opportunity to inspect. If, for example, goods are delivered on August 1, the District(s) may not have a reasonable opportunity to inspect such goods until September or October. In all events, shipping invoices or other documents sent with goods shall not be controlling with respect to the timing of inspection. The inspection and test by the District(s) of any supplies or lots thereof does not relieve the supplier from any responsibility regarding defects or other failure to meet the Contract requirements which may be discovered subsequent to delivery. Except as otherwise provided in the Contract, acceptance shall be conclusive except as regards to Patent defects, fraud, or such gross mistakes as amount to fraud.

C. Any item to be supplied as a result of this Contract shall be subject to inspection and test by the Ordering Office, to the extent practicable, at all times and places including the period of manufacture and in any event prior to acceptance.

D. In case any item or lots of items are found to be defective in material or workmanship or otherwise not in conformity with the requirements of the Contract, the Ordering Office shall have the right to either reject them (with or without instructions as to their disposition) or to require their correction. Items or lots of items which have been rejected or required to be corrected shall be removed or, if required by the Ordering Office as they may deem appropriate, corrected in place by and at the expense of the supplier promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If the supplier fails to promptly remove such items or lots of items which are required to be removed, or promptly to replace or correct such items or lots of items, the District(s) either (1) may re-contract or otherwise, replace or correct such items and charge the supplier the cost occasioned the District(s) thereby, or (2) may terminate the Contract for default as provided in the clause of the Contract entitled "Failure to comply with Contract".

E. Acceptance or rejection of any items shall be made as promptly as practicable after delivery, except as otherwise provided in the Contract; but failure to inspect and accept or reject items shall neither relieve the supplier from responsibility for such items as are not in accordance with the Contract requirements nor impose liability on the District(s) therefore.

F. Neither the School District(s) nor other Ordering Office will assume responsibility for damage to any rejected delivery caused by weather, improper warehousing, or mishandling.

G. All outer packs of items delivered under the Contract (except subsistence items delivered to cafeterias) must be marked with the Purchase Order/Contract number and item identification.

Failure to provide adequate identifying markings may result in refusal of the delivery.

H. Unless otherwise stated, all prices include delivery and placement within the ship-to-address in that area specified in the Contract or Purchase Order.

I. Collect shipments will not be accepted.

J. All shipments shall be F.O.B. point of destination as indicated in the Proposal or on the Purchase Order.

38. INVOICES

Invoices must be completely identifiable, supported by delivery receipts where specified, and contain the following minimum information:

1. Purchase Order/Contract number.

2. Delivery destination as it appears on the Purchase Order.

3. Contract item number, quantity and description of item billed.

4. Unit price and extended price of each item.

5. Total amount of invoice.

6. Any prompt payment discount offered.

39. INDEMNIFICATION

By submitting a bid, all bidders agree that in the event they are awarded a contract, they will indemnify and otherwise hold harmless the District(s), its agents and employees from any and all liability, suits, actions or claims, together with all costs, expenses or attorneys' fees, arising out of their performance of work or supplying materials and services in connection with the contract. This agreement to indemnify and hold harmless shall cover all suits, actions, claims or liabilities asserted against the District(s), its agents and employees, regardless of whether such suits, actions, claims or liabilities are based upon acts or failures to act attributable to the District(s) or its employees or agents, to the extent that it shall be also determined that the acts, or failure to act are attributable, in whole or in part, to such bidders or its employees or agents.

40. ASSIGNMENT OF ANTITRUST CLAIMS

As consideration for the award and execution by the Board(s) of this contract, the successful bidder hereby grants, conveys, sells, assigns, and transfers to the State of Delaware 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, relating to the particular goods or services purchased or acquired by the Board(s) pursuant to this contract.

41. HAZARDOUS MATERIALS

As required in the Hazardous Chemical Information Act of June, 1984, all vendors supplying any materials that may be defined as hazardous, must provide Material Safety Data Sheets for those products. Any chemical product should be considered hazardous if it is known to be present in the work place, and if employees may be exposed under normal conditions or in any foreseeable emergency situation. Material Safety Data Sheets must be provided directly to each School along with the shipping slips that includes those products.

42. CONTRACT DOCUMENTS

These General Instructions and any Special Instructions, Bid Specifications, Requests for Bid, Bid Proposal Form, Purchase Order, and Contract shall be a part of and constitute the contract entered into by the District(s) and any successful bidder. In the event there is any discrepancy between any of the foregoing contract documents, the following order of documents governs so that the former prevails over the latter: Contract, Purchase Order, Bid Specifications, Special Instructions, General Instructions, Requests for Bid and Bid Proposal Form.

43. THE CONTRACT

This Contract shall be governed by Delaware law, and any dispute concerning the interpretation or application of this Contract, and any documents incorporated by reference into this Contract, or any materials supplied or work performed under this Contract must be heard in Delaware.

44. TRANSFER OF BIDS

The District named in this bid and the successful bidder may reach an agreement to make available to any agency or school district in the State the bid prices submitted for this contract. Where such an agreement exists, the District(s) named shall have access to purchase under the contract.

45. SUPPLIER DIVERSITY

In accordance with Executive Order 44 – the State of Delaware is committed to supporting its diverse business industry and population. The successful Vendor will be required to accurately report on the participation by Diversity Suppliers which includes: minority (MBE), woman (WBE), veteran owned business (VOBE), or service disabled veteran owned business (SDVOBE) under this awarded contract. The reported data elements shall include but not be limited to; name of state contract/project, the name of the Diversity Supplier, Diversity Supplier contact information (phone, email), type of product or service provided by the Diversity Supplier and any minority, women, veteran, or service disabled veteran certifications for the subcontractor (State OSD certification, Minority Supplier Development Council, Women's Business Enterprise Council, VetBiz.gov). The format used for Subcontracting 2nd Tier reporting is shown as Attachment 9.

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

**REQUEST FOR PROPOSAL #2-19-40**
**Attorney/Legal Services**
**Red Clay Consolidated School District**

## Background Information

The Red Clay Consolidated School District was formed on July 1, 1981and is one of the four districts created when the New Castle County School District was reorganized. Red Clay includes northwestern sections of the City of Wilmington and its suburbs, all the way to the Pennsylvania State Line, from the Brandywine Creek to the Pike Creek Valley area, and along the Christina River back to the city line. The district serves approximately 16,000 students in 14 elementary schools, 7 middle schools, 5 high schools, 4 special schools, and 3 charter schools. Of the nearly 1800 district employees, about 1060 are teachers. The district operates on a budget of more than $158 million.

## Scope of Work

### QUALIFICATION REQUIREMENTS

Respondents to the RFP must meet the following minimum requirements:
1. Member in good standing of the Delaware Bar Association Supreme Court of Delaware and licensed to practice before all state and federal courts in the Supreme Court of the State of Delaware offer all attorneys working on this matter.
2. Member in good standing and licensed to practice before the United States District Courts of Delaware and Third Circuit Court of Appeals of all attorneys working on this matter.
3. Have minimum of three (3) attorneys with experience in all aspects of federal and state education laws.
4. Have a minimum of five (5) years' experience working with a public school district in all areas of service required herein.
5. Ability to provide same day response.
6. Designation of a lead attorney with appropriate experience.
7. No conflict of interest in representing the Red Clay Consolidated School District in any action brought by or against it.

### AWARD OF SERVICES

The Board of Education may award one contract for all legal services as listed below or may elect to award separate contracts in the following areas: general counsel, special education, tax, and negotiations/labor relations/personnel administration. Attorneys may submit proposals to provide services in one, two, three or all of the services areas listed.

### DESCRIPTION OF SERVICES

The selected attorney(s) will provide legal services including, but not limited to the following:
Services to be included in EACH of the service areas:

1. Red Clay works hard to ensure that it provides education services consistent with all applicable laws. Counsel will be expected to understand all applicable laws and provide appropriate and timely advice and legal counsel to the Board and the Administration on emergent and potential legal issues to ensure Red Clay complies with all laws.
2. Counsel is expected to respond, at least verbally to be followed in writing, within a maximum of twenty-four hours when an inquiry is made by the Board or the Administration.
3. Written legal opinions upon request.

4. Aid in development of policies and/or review of policies in accordance with law when changes are being considered.
5. Initiate and/or defend lawsuits as necessary and at the direction of the Board.
6. Consider all areas for potential recovery of expenses and costs.
7. Prepare all necessary legal documents.
8. Review contracts upon request from district administration or the Board.
9. Knowledgeable in State Procurement Laws (Title 29) including construction contracts and contracts covered under public works, professional services and material and non-professional services.
10. Familiarity with issues related to construction management and general contracting.
11. Knowledgeable in state and federal education regulations as well as Red Clay Board policies.
12. Attend meetings of the Board or its committees or third parties upon request.
13. Work cooperatively with legal counsel of insurance companies, consortiums, or other collective groups with whom the Board may be affiliated.
14. Represent the school district in all judicial and/or administrative proceedings within the specific service area in which the district or any of its board members, administrators, or agents may be a party or have an interest.
15. Provide written, timely notification to the Board of changes in school law or state regulations including court and administrative decisions that might impact upon the operation of the school district and/or Board deliberations.
16. Conduct in-service programs and training on specified legal issues and topics for appropriate staff members identified in the RFP and upon request.
17. Advise School Board or administration if an in-service may be needed.
18. Fulfill other legal duties as are commonly accepted and assigned.

**General Counsel Services to be provided upon request:**

1. Review and advice relating to
    a. legal notices,
    b. resolutions,
    c. board policies
    d. Various matters including but not limited to social media, FOIA, HIPPA, FERPA, district governance, procurement and service contracts, bid specifications, bidding matters, contract preparation and execution, and remedies of contract disputes, student discipline, attendance, adherence to rules and regulations.
2. Represent the Board in matters involving interfacing with the municipal governing bodies including planning and adjustment boards, financial matters, jurisdictional matters, etc. and with federal, state, and county agencies as needed.
3. Provide assurance statements as required for financial audits, bonding matters, and grant compliance.
4. Report issues with potential claim implications to the district's insurance carrier.

**Special Education Counsel Services to be provided upon request:**

1. Review special education issues upon request and provide guidance to Board and Administration, as well as staff.
2. Represent the district in mediation.

3. Represent the district at all stages of due process beyond mediation including administrative law, State Board and court proceedings.
4. Review special education contracts (as deemed necessary).
5. Report issues with potential claim implications to the district's insurance carrier through identified district administration.
6. Provide requested training for staff so they understand and comply with all special education laws and help the district understand through lessons learned how to better comply with special education laws.

**Labor/Personnel Counsel services to be provided upon request:**

1. Serve as attorney for the board in labor relations and personnel administration as requested. a. Review grievances with the administration and assist in the writing of administrative responses to grievances upon request/as warranted.
   b. Represent the Board in all grievances at the Board review and beyond.
   c. Represent the Board in all arbitrations, administrative proceedings, court proceedings, etc. involving labor relations or personnel administration.
   d. Advise the Board on employment, employee discipline, seniority, tenure and other personnel administration matters.

The Red Clay Consolidated School Board of Education will evaluate proposals using the following criteria:

1. Experience and Qualifications of Vendor
2. Demonstrated ability to meet identified needs
3. Quality of Adherence to RFP guidelines
4. Staffing Plan
5. Training Plan
6. Cost to the District

Information beyond the minimum requirements may also be submitted.

**Questions**

Any questions related to this proposal must be directed to Emily Ryan, Central Bidding Department, eryan@dataservice.org . All questions must be put in writing (in email format). All questions/answers will be posted on http://www.bids.delaware.gov . It is the vendor's responsibility to view the amendments.

**Documentation**

The following documentation/information must be included with the proposal:

- Firm Qualifications and Experience – The proposal should state the size of the firm, the size of the staff, the location of the office from which the work on this engagement is to be performed, and the number and nature of the professional staff to be employed in this engagement on a full-time basis and the number and nature of the staff to be employed on a part-time basis.

- Staffing Resources
    - Identify the person that will be principally responsible for working with the District and lead this relationship and communications. Indicate the specific role and responsibility of that individual.
    - Provide brief biographies of the individual(s) that will be working directly with the District.
      The firm should identify all individuals, including the partners, junior partners, associates, paralegals, and support staff, who would be assigned to the engagement and indicate whether each attorney is licensed to practice law in the State of Delaware. The successful firm shall be required to have approval from the District for anyone other than those attorneys and support staff identified in the proposal. Provide background information on each and their experience in dealing with issues similar to this engagement.
- Summary of Qualifications
- Insurance – a copy of your general and professional liability insurance must be included.
- Fee proposal – a complete breakdown of all of the Attorney's fees/costs. Any proposed reimbursable expenses shall also be listed. A schedule of fees for Partners, Associates, paralegals and Support Staff, as well as billing practices such as whether intra firm conversations are double billed. The firm must provide both its hourly rates and its flat rates. Indicate willingness to engage in alternate fee arrangements, flat fees, and lock in hourly rates for at least two years. Provide the percentage of the work performed by the people that will be involved in this engagement which are currently under alternate fee arrangements. Provide at least 10 examples of current alternate fee arrangements. In addition, list free training in substantive areas that you will provide the District and the Board each year and provide examples of the materials you have recently used in providing such training.
- License to Practice in Delaware – an affirmative statement should be included, indicating that the firm and assigned staff are licensed to practice law in all courts in the State Delaware, as well as all courts within the Third Circuit Court of Appeals.
- References/Similar Engagements
    - Prospective vendors must include the most significant engagements (maximum of 5) performed in the last five years that are similar to the Districts requirements. Provide the names of the individuals who the District may contact as reference, as well as phone number and email of the individual.
- Other
    - List relevant experience in mediation, arbitration, and other alternate dispute resolution in the areas of law covered by this engagement.
    - Identify areas that may be potential recoveries (i.e., contracts) to the District and list any experience you have with pursuing and obtaining such recoveries in the areas of law covered by this engagement.
    - List whether lead attorney will be able to attend all executive meetings
    - Provide mock staffing and budget for common matter
    - List diversity of law firm, as well as the attorneys and paralegals that would work on the matters covered by this RFP.
    - List technology platform(s) and applications used in standard engagements of this nature.
    - A list of all current Delaware public school clients or "other" public school clients and length and type of service to each.
    - A list of all clients that have terminated services in the past two years.
    - Affirmative Action Statement

- Transition Plan
  - Based on the final district Board action and award, there may be a need to review currently open cases (non-insurance) that will need to be handled by the district's current counsel. Please provide a brief summary of a transition plan that could be executed.

**Criteria for Award**

Proposals will be evaluated using the following criteria:

| | |
|---|---|
| Experience and Qualifications of Vendor | 25% |
| Demonstrated ability to meet identified needs | 25% |
| Quality of Adherence to RFP guidelines | 5% |
| Staffing Plan | 10% |
| Training Plan | 10% |
| Cost to the District | 25% |

**Bid Bond**

The Red Clay Consolidated School District hereby waives the requirement for a Bid Deposit in the amount of 10% of the bid.

**Performance Bond**

The Red Clay Consolidated School District hereby waives the requirement that the successful bidder execute a one hundred percent (100%) Performance Bond.

**Contract Period**

This contract shall be in effect for (3) years, commencing as soon as it is awarded by the District's Board of Education.* This contract may be extended, upon mutual agreement, to include additional time periods. Increase in fees, if accepted as part of a contract extension, shall not exceed the increase in the Consumer Price Index (CPI-W, Phila. Region) for the latest twelve month period at the time of acceptance.
*With up to two (2) 1-year renewals.

**Interviews/Samples**

Upon request, bidders must submit samples of previous completed assignments and also be available, within 48 hours notice, for interviews conducted by school district personnel.

**Multiple Award**

In order to assure that the District receives adequate coverage, the District reserves the right to award this contract to more than one vendor. Each service may be awarded individually or grouped, however is determined to be in the best interest of the District

**Early Termination**

Either party may terminate this contract with a thirty (30) day written notice.

**Copies**

Ten (10) copies of your proposal must be submitted. Proposals should not exceed (40) pages.

**Non-Performance**

In the event the contractor does not fulfill its obligations under the terms and conditions of this contract, or otherwise provide adequate services, the Red Clay Consolidated School District may purchase equivalent product on the open market. Any difference in cost between the contract prices herein and the price of open market product shall be the responsibility of the contractor. Under no circumstances shall monies be due the contractor in the event open market products can be obtained below contract cost. Any monies charged to the contractor may be deducted from an open invoice.

**Request for Proposals Procedures**

Vendors submitting proposals may be afforded an opportunity for discussion and revision of proposals. Revisions may be permitted after submissions of proposals and prior to award for the purpose of obtaining best and final offers. Negotiations may be conducted with responsible vendors who submit proposals found to be reasonably likely to be selected for award. The contents of any proposal shall not be disclosed so as to be available to competing vendors during the negotiation process.

The award shall be made to the responsible vendor(s) whose proposal is most advantageous to the school district, taking into consideration the evaluation factors set forth in this request.

## PROPOSAL FORM

**REQUEST FOR PROPOSAL #2-19-40**
**Attorney/Legal Services**
**Red Clay Consolidated School District**

The above costs are submitted in accordance with the General Instructions to bidders, and the Specifications. Any exceptions to these are to be listed below; otherwise, I agree to complete the contract as per the General Instructions and Specifications:

_____

_____

_____
NAME OF COMPANY SUBMITTING PROPOSAL

_____
ADDRESS

_____

THE UNDERSIGNED BIDDER CERTIFIES THAT NEITHER HE NOR ANY REPRESENTATIVE OF HIS COMPANY HAS, EITHER DIRECTLY OR INDIRECTLY ENTER 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 REPRESENTATIVE (PRINT) FEDERAL E.I. NUMBER

_____ _____
TELEPHONE NUMBER (TOLL FREE IF AVAILABLE) FAX NUMBER

**RFP OPENING: July 30, 2019 at 2:00 PM**

**PROPOSALS NOT RECEIVED BY THIS TIME SHALL NOT BE CONSIDERED. NO EXCEPTIONS WILL BE MADE.** *Only the names of the bidders will be announced at the public opening.*