



West Campus  
211 East Rose Street  
Smithfield, NC 27577

Exceptional Children Department

## REQUEST FOR PROPOSALS

### Board Certified Behavior Analyst and Registered Behavior Technicians

**Point of Contact:** Christina Robinson, Director of Exceptional Children

Email: christinarobinson@johnston.k12.nc.us

Fax: 919-989-9380

Office: 919-934-7325 ext. 1018

**DEADLINE FOR SUBMISSION OF PROPOSALS:**

**July 22, 2024 by 8:30am**

#### **NOTICE TO BIDDERS**

All bids are required to be **SEALED** and sent in either by hand delivery or mail, and received by Johnston County Public Schools, West Campus Building, 211 East Rose Street Smithfield, NC 27577, **RFP No. 200-BEHAVIOR-7222024-CR**, Attn: Christina Robinson no later than **Monday, April 22, 2024 at 8:30AM (local time)**. All replies must reference **RFP No. 200-BEHAVIOR-7222024-CR** and include **Vendor Name**.

**NOTE: RFP No. 200-BEHAVIOR-7222024-CR and Vendor Name**, must be present and visible and clearly labeled on the outer shipping envelope/package/container otherwise the bid may be rejected. Refer to page 6 for proper mailing instructions and hand delivery instructions.

Bids submitted via facsimile (FAX) machine, open, see through, or emailed in response to this request for proposal will not be accepted. Bids are subject to rejection unless submitted on this form. Late Bids will not be accepted and will be considered non responsive.

*\*Historically Underutilized Businesses are encouraged to bid*

<p><b>Johnston County Public Schools</b></p> <p><b>Exceptional Children Department</b></p> <p>Refer <b>ALL</b> Inquiries to:          Christina Robinson</p> <p>Telephone No: 919-934-7325 Ext. 1018</p>	<p><b>REQUEST FOR PROPOSALS NO.</b>  <b>200-BEHAVIOR-7222024-CR</b></p>
	<p><b>Bids will be publicly opened:</b></p> <p>at 8:30am on July 22, 2024          Johnston County Public Schools          West Campus Building,          211 East Rose Street          Smithfield, NC 27577</p>
	<p>Contract Type: <b>Leave Blank</b></p>
	<p>Commodity: <b>Leave Blank</b></p>
<p><b>E-Mail:</b></p> <p><a href="mailto:christinarobinson@johnston.k12.nc.us">christinarobinson@johnston.k12.nc.us</a></p>	<p><b>Using Agency Name:</b></p> <p>Johnston County Public Schools</p>
<p><b>(See page 6 for hand delivery and mailing instructions.)</b></p>	

**Request/Background**

Johnston County Public Schools (JCPS) is seeking proposals for a Board-Certified Behavior Analyst (BCBA) and Registered Behavior Technicians (RBTs) to provide behavioral instructional services and support to special education students in the school setting. The BCBA and RBTs will assist with Functional Behavior Assessments and Behavior Intervention Plans; maintain required records for progress monitoring; participate in appropriate professional development as requested by the district; engage in ongoing collaboration and provide ongoing consultation with JCPS staff and administrators; and perform other behavior support duties as assigned. They will also assist in the preparation of evaluation reports, progress notes, progress reports, and/or IEPs. Additionally, individuals will participate in IEP meetings and/or parent meetings as requested by the district.

**Performance Requirements/Specifications**

1. Agencies that provide the services of Registered Behavior Technicians (RBTs) will provide appropriate supervision by a Board-Certified Behavior Analyst.
2. The BCBA and RBTs will be knowledgeable in utilizing the Applied Behavior Analysis (ABA) interventions intended to reduce, eliminate, or prevent the future occurrence of severe problem behaviors.
3. The BCBA and RBTs will be able to model intervention strategies to manage and modify severe behavior and model teaching functionally related replacement skills and behaviors.
4. Attending parent conferences and/or individual education plan meetings, if invited, to contribute to the educational program of the assigned students.
5. Candidates must be able to provide relevant licenses, certifications and/or credentials as required by the State of North Carolina to practice in the field being offered.
6. In addition to provision of valid certificates, the candidates shall have at a minimum, one year of experience working with persons with developmental disabilities.
7. If required, complete documentation including Medicaid billing forms.

**Bidder Questions**

All questions concerning this RFP, or any request for additional data or information must be submitted in writing via email to Christina Robinson at [christinarobinson@johnston.k12.nc.us](mailto:christinarobinson@johnston.k12.nc.us) subject line must reference **QUESTIONS RFP No. 200-BEHAVIOR-7222024-CR** by **July 15, 2024**

Responses to these questions will be provided **no later than July 16, 2024** via this [LINK](#). JCPS will make every effort to provide answers to questions within 24 hours of receiving the question via the Link provided. Questions received after the timeframe provided to submit questions are not guaranteed to be answered. JCPS will make every effort to answer any and all questions submitted.

**ANTICIPATED TIMETABLE**

Event	Responsibility	Date & Time
Post RFP - Public Notice	JCPS	July 11, 2024
Submit Written Questions to <a href="mailto:christinarobinson@johnston.k12.nc.us">christinarobinson@johnston.k12.nc.us</a>	Vendor	July 15, 2024
Provide Responses to Questions at this <a href="#">Link</a>	JCPS	July 16, 2024
Submit Bids - Bid Documents Due	Vendor	July 22, 2024 by 8:30am
Public Bid Opening	JCPS	All sealed bids will be publicly opened on July 22, 2024 at 8:30am

*\* Historically Underutilized Businesses are encouraged to bid*

**Summary**

Proposals are being solicited for a Board-Certified Behavior Analyst (BCBA) and Registered Behavior Technicians (RBTs) to provide behavioral instructional services and support to special education students in the school setting. JCPS provides an appropriate education for all students identified as having special needs pursuant to the Individuals with Disabilities Education Act (IDEA). Some students with disabilities need behavioral services as a part of their individual education plan.

**Term of Contract**

The agreement shall commence following award upon the date of execution of the agreement by both parties and extend for a period of August 1, 2024 - June 30, 2025. Any amendment or modification of the agreement shall be null and void, unless it is contained in writing signed by both parties.

**Proposal Format**

Responses must follow the format outlined below. Johnston County Public Schools may reject as non-responsive at its sole discretion any proposal that does not provide complete and/or adequate responses or departs in any substantial way from the required format. Responses should be divided using tabs to separate each section, listed sequentially as follows:

**Letter of Transmittal**

Provide a letter of transmittal including the required information:

- Identification of the vendor, including name, address, telephone number, fax number, and e-mail address
- Location of the office from which coordination of service will be provided, including hours of operation

- The signature of an officer of the Vendor authorized to bind the Vendor
- The name, contact information, and hours of operation of the individual who serves as the point of contact for this solicitation, and
- Summarize your company's ability to meet the needs of JCPS for for a Board-Certified Behavior Analyst (BCBA) and Registered Behavior Technicians (RBTs)

Address the letter to JCPS Director Of Exceptional Children, Christina Robinson.

### **Responsiveness to JCPS Request**

The vendor shall provide for a Board-Certified Behavior Analyst (BCBA) and Registered Behavior Technicians (RBTs) who meet the following qualifications and attributes, please elaborate on your companies capability of providing the following:

- BCBA must be fully recognized by the National Behavior Analyst Certification Board as a Board-Certified Behavior Analyst
- RBTs must be able to perform tasks based on the RBT Task List (2nd Edition), related to measurement, assessment, skill acquisition, behavior reduction, documentation and reporting professional conduct and scope of practice.
- Experience in working with children with varied/extensive behavioral problems and needs
- General knowledge of the Individuals with Disabilities Education Act (IDEA) as it relates to behavioral and social emotional services designed to enable a child with a disability to receive FAPE.

### **Vendors Experience**

The written proposal must include a summary of the Vendor's demonstrated experience and success in supplying school systems with BCBAs and RBTs to work with students with disabilities (in a school setting). Provide contact information for at least three (3) references from schools/districts and/or families with special needs children. At least one (1) reference must be from a school/district. Schools/Districts in North Carolina are preferred. References should include the name of the contact persons, school/district name, telephone number and email address. The references must be provided for similar projects recently completed in the past three (3) years.

The Vendor(s) must show evidence of its technical capability in the services identified in this RFP. The Vendor(s) shall also be knowledgeable concerning all applicable federal, state, and local laws, regulations, and ordinances. Work shall be done in conformance with current professional practices in the State of North Carolina

**EXECUTION**

In compliance with this Invitation for Bids, and subject to all the conditions herein, the undersigned offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein. By executing this bid, I certify that this bid is submitted competitively and without collusion (G.S. 143-54), that none of our officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and that we are not an ineligible vendor as set forth in G.S. 143-59.1. False certification is a Class I felony.

This submission is an attestation that the entity providing this response is in compliance with state and federal conflicts of interest laws, including N.C.G.S. 14-234. Specifically, the entity attests that it is not owned by a Johnston County Board of Education member or the spouse of a JCBOE Board member with more than a 10% ownership interest or other interest in the entity such that, if selected, the entity would be a party to the contract, derive any income or commission directly from the contract, or acquire property under the contract.

**Failure to execute/sign bid prior to submission shall render bid invalid. Late bids are not acceptable**

BIDDER:		FEDERAL ID OR SOCIAL SECURITY NO.	
STREET ADDRESS:		P.O. BOX:	ZIP:
CITY & STATE & ZIP:		TELEPHONE NUMBER:	TOLL FREE TEL. NO (800)
PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE			
HAS YOUR COMPANY BEEN DEBARRED, SUSPENDED EXCLUDED OR INELIGIBLE FROM DOING BUSINESS WITH EITHER THE STATE OR FEDERAL GOVERNMENT? YES _____ NO _____			
TYPE OR PRINT NAME & TITLE OF PERSON SIGNING:		FAX NUMBER:	
AUTHORIZED SIGNATURE:	DATE:	E-MAIL:	

In an effort to support the sustainability efforts of the State of North Carolina we solicit your cooperation in this effort.

**It is desirable that all responses meet the following requirements:**

- All copies are printed **double sided**.
- All submittals and copies are printed on **recycled paper with a minimum post-consumer content of 30%** and indicate this information accordingly on the response.
- Unless absolutely necessary, all bids and copies should **minimize or eliminate use of non-recyclable or non-reusable materials** such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
- Materials should be submitted in a format which allows for **easy removal and recycling** of paper materials

**HAND DELIVERY:** One (1) original executed bid document and one (1) copy of your proposal in a single envelope (2 total). Bids should be completely sealed, address envelope, and include bid number as shown below. Hand deliver to Johnston County Public Schools Exceptional Children Department located at West Campus, 211 East Rose Street Smithfield, NC 27577, **RFP No. 200-BEHAVIOR-7222024-CR** no later than **8:30am. On July 22, 2024** Bids must be delivered between Monday - Thursday from the hours of 8:00am - 4:30pm. During the summer months, JCPS is closed on Fridays and the weekends.

**MAILING INSTRUCTIONS:** Mail one original executed bid document and two (2) copies of your proposal in a single envelope (2 total). Bids should be completely sealed, address envelope, and include bid number as shown below to Johnston County Public Schools Exceptional Children Department located at West Campus, 211 East Rose Street Smithfield, NC 27577 **RFP No. 200-BEHAVIOR-7222024-CR**, Attn: Christina Robinson, no later than **8:30am. On July 22, 2024** at which time they will be publicly opened.

Bidders are welcome to attend the bid opening but bidder presence is not required and no weight or other consideration toward any award decision will be given to any bidder's attendance or absence at the bid opening. The time/date recorder located at JCPS Exceptional Children Department West Campus 211 East Rose Street Smithfield, NC 27577 will be used to record the official time of receipt. **The outside of the sealed envelope or package shall be marked RFP No. 200-BEHAVIOR-7222024-CR and include Vendor Name. It is the responsibility of the bidder to have the bid in this office by the specified time and date of opening.**

<p><b>DELIVER TO:</b></p> <p>Johnston County Public Schools West Campus Behavioral Services Bid No. 200-BEHAVIOR-7222024-CR Attn: Christina Robinson 211 East Rose Street Smithfield, NC 27577 Bid Deadline Date: Bid Deadline Time:</p>
<p><b>RFP Number and VENDOR NAME MUST BE INDICATED ON THE OUTER SHIPPING PACKAGE/CONTAINER/ENVELOPE</b></p>

**AWARD CRITERIA:** As provided by statute, award will be based on the lowest and best bid most advantages to Johnston County Public Schools as determined by consideration of:

1. Responsiveness to Request (BCBA and RBTs Qualifications) (22%)
2. Vendor Experience (22%)
3. General reputation and performance capabilities of the bidder (22%)
4. Expense Proposal (34%).

The right is reserved to award this contract to a single overall bidder for all services, or to make awards on the basis of individual services, whichever shall be considered to be most advantageous or to constitute its best interest. Bidders should show prices such as hourly pricing per BCBA and/or RBT, but are requested also to offer a lump sum price as indicated on the expense proposal.

**BID EVALUATION:** Bids are requested on the services as hereinafter specified. Johnston County Public School reserves the right to reject any bid on the basis of need and specifications not met that are requested in this Request for Proposals as well as costs. Bidder(s) are cautioned that any/all information furnished or not furnished on this bid may be used as a factor in determining the award of this contract.

An evaluation team will review the proposals using the following Award Criteria on this page and make a recommendation.

Please do not contact any JCPS staff member other than the designated contact person, Christina Robinson by email only, regarding the project contemplated under this RFP while the RFP is open to receiving bids. Once the deadline for bids has passed and bids have been opened please refrain from contacting JCPS in regards to making corrections, clarifications, or alterations to the bids submitted. JCPS will only take into consideration the bids submitted on or before the set date and time and no changes will be accepted.

Johnston County Public Schools reserves the right to reject any and all proposals and discontinue the RFP process without obligation or liability to any potential vendor.

Johnston County Public Schools reserves the right to select the proposal(s) which in its sole judgment best meet the needs, services and cost of JCPS.

Johnston County Public Schools reserves the right to accept or reject any one or more items of the proposal and/or waive any irregularities or informalities in any proposal or in the proposal process.

Johnston County Public Schools reserves the right to award more than one contract to one or more bidders if it is in the best interest of Johnston County Public Schools.

Johnston County Public Schools will make decisions regarding evaluation of the proposal. JCPS also reserves the right to judge and determine whether a request is compliant and has satisfactorily met the requirements of the RFP.

**DEVIATIONS:** Any deviations from specifications and requirements herein must be clearly pointed out by the bidder in **BLUE** ink. Otherwise it will be considered that items offered are in strict compliance with these specifications and requirements, and successful bidder will be held responsible therefore. Deviations must be explained in detail on an attached sheet in **BLUE** ink. However, no implication is made that deviations will be acceptable. Bidder is advised that the response (or lack thereof) on this question does not take precedence over specific responses or non-responses provided elsewhere in this bid.

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**Expense Proposal**

An expense proposal shall be completed. The expense proposal must clearly list all costs or charges to be paid by JCPS in connection with hiring a BCBA and RBTs, to work with students with disabilities (in the school setting), through your agency. Here is a [template](#) that should be used to ensure all needed information is made available within your proposal.

**Expense Proposal**

**1.Hourly Pay Rate per Candidate**

Hourly Pay Rate per Board Certified Behavior Analyst (BCBA) \$ \_\_\_\_\_

Hour Pay Rate per Registered Behavior Technician (RBT) \$ \_\_\_\_\_

**2. Potential monthly cost per BCBA employee** \$ \_\_\_\_\_

**Potential monthly cost per RBT employee** \$ \_\_\_\_\_

**3. Potential number of staff available**

BCBAs \_\_\_\_\_

RBTs \_\_\_\_\_

**4. Potential annual cost per BCBA (#2 Times 10 months)** \$ \_\_\_\_\_

**Potential annual cost per RBT (#2 Times 10 months)** \$ \_\_\_\_\_

PLEASE PROVIDE COMPLETE DESCRIPTIONS OF SERVICES TO ENSURE IT ALIGNS WITH JCPS NEEDS. JOHNSTON COUNTY PUBLIC SCHOOLS RESERVES THE RIGHT TO DETERMINE IF BIDDER'S OFFER IS ACCEPTABLE.

**ALL CHARGES, SALES TAX OR ANY OTHER FEES MUST BE INCLUDED IN BID PRICE. IT IS UNDERSTOOD THAT THE PRICES QUOTED HEREIN THAT DO NOT EXPLICITLY STATE ANY OF THE ABOVE IS THE BIDDERS FULL AND COMPLETE RESPONSE TO THIS REQUEST FOR PROPOSALS AND WILL BE BOUND BY PRICE QUOTED.**

**JOHNSTON COUNTY PUBLIC SCHOOLS WILL NOT BE RESPONSIBLE FOR ADDITIONAL CHARGES NOT STATED IN QUOTE PROVIDED IN RESPONSE TO THIS REQUEST FOR PROPOSALS.**

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**TERMS AND CONDITIONS**

1. **READ, REVIEW AND COMPLY:** It shall be the bidder's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements specified herein.
663059712. **NOTICE TO BIDDERS:** All bids are subject to the provisions of special terms and conditions specific to this Request for Proposal, the specifications. Johnston County Public Schools ("JCPS") objects to and will not evaluate or consider any additional terms and conditions submitted with a bidder response. This applies to any language appearing in or attached to the document as part of the bidder's response. **DO NOT ATTACH ANY ADDITIONAL TERMS AND CONDITIONS.** By execution and delivery of this document, the bidder agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect.
663059713. **DEFINITIONS:**
- **BIDDER:** Company, firm, corporation, partnership, individual, etc., submitting a response to a Request for Proposal.
  - **TERM CONTRACT:** A contract generally intended to cover all normal requirements for a commodity for a specified period of time based on estimated quantities only.
  - **OPEN MARKET CONTRACT:** A contract for the purchase of a commodity not covered by a term contract.
663059714. **EXECUTION:** Failure to sign under EXECUTION section will render the bid invalid.
663059715. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this bid, the order of precedence shall be (1) special terms and conditions specific to this bid, (2) specifications, and (3) Instructions to Bidders.
663059716. **TIME FOR CONSIDERATION:** Unless otherwise indicated on the first page of this document, the bidder's offer shall be valid for 45 days from the date of bid opening. Preference may be given to bids allowing not less than 45 days for consideration and acceptance.
663059717. **SPECIFICATIONS:** Any deviation from specifications indicated herein must be clearly pointed out; otherwise, it will be considered that items offered are in strict compliance with these specifications, and the bidder will be held responsible therefore. Deviations shall be explained in detail. **The bidder shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable.**
663059718. **INFORMATION AND DESCRIPTIVE LITERATURE:** Bidder is to furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this bid, each bidder must submit with their bid descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous bid will not satisfy this provision. Bids which do not comply with these requirements will be subject to rejection.
663059719. **RECYCLING AND SOURCE REDUCTION:** It is the policy of JCPS to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective. We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will protect the commodity and contain it for its intended use. Companies are strongly urged to bring to the attention of JCPS which issued the solicitation document, those products or packaging they offer which have recycled content and that are recyclable.
663059720. **CLARIFICATIONS/INTERPRETATIONS:** Any and all questions regarding this document must be addressed to the purchaser named on the cover sheet of this document. Do not contact the school or department directly. Any and all revisions to this document shall be made only by written addendum from JCPS Purchasing Department. The bidder is cautioned that the requirements of this bid can be altered only by written addendum and that verbal communications from whatever source are of no effect.
663059721. **ACCEPTANCE AND REJECTION:** JCPS reserves the right to reject any and all bids, to waive any informality in bids and, unless otherwise specified by the bidder, to accept any item in the bid. If either a unit price or extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.
663059722. **REFERENCES:** JCPS reserves the right to require a list of users of the exact item offered. JCPS may contact these users to determine acceptability of the bid. Such information may be considered in the evaluation of the bid.
663059723. **AWARD OF CONTRACT:** As directed by statute, qualified bids will be evaluated and acceptance may be made of the lowest and best bid most advantageous to JCPS as determined upon consideration of such factors as: prices offered; the quality of the articles offered; the general reputation and performance capabilities of the bidders; the substantial conformity with the specifications and other conditions set forth in the bid; the suitability of the articles for the intended use; the related services

needed; the date or dates of delivery and performance; and such other factors deemed by JCPS to be pertinent or peculiar to the purchase in question. Unless otherwise specified by JCPS or the bidder, JCPS reserves the right to accept any item or group of items on a multi-item bid. JCPS also reserves the right to reject any and all bids. In addition, on TERM CONTRACTS, JCPS reserves the right to make partial, progressive or multiple awards: where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service, geographical areas; other factors deemed by JCPS to be pertinent or peculiar to the purchase in question.

663059724. **HISTORICALLY UNDERUTILIZED BUSINESSES:** JCPS invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.
663059725. **CONFIDENTIAL INFORMATION:** As provided by statute and rule, JCPS will consider keeping trade secrets which the bidder does not wish disclosed confidential. Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the bidder. Cost information shall not be deemed confidential. In spite of what is labeled as a trade secret, the determination whether it is or not will be determined by North Carolina law.
663059726. **SAMPLES:** Sample of items, **when required**, must be furnished as stipulated herein, free of expense, and if not destroyed will, upon request be returned at the bidder's expense. Request for the return of samples must be made within 10 days following date of bid opening. Otherwise the samples will become JCPS property. Each individual sample must be labeled with the bidder's name, bid number, and item number. A sample on which an award is made, will be retained until the contract is completed, and then returned, if requested, as specified above.
663059727. **AWARD PROCEDURES:** Contract award notice shall be posted on JCPS website. Contract award notices are sent **only** to those actually awarded contracts, and not to every person or firm responding to this solicitation.
663059728. **ANTI-NEPOTISM:** The Bidder warrants that, to the best of its knowledge and in the exercise of due diligence, none of its corporate officers, directors, or trustees and none of its employees who will directly provide services under this Contract are immediate family members of any member of the Johnston County Public Schools Board of Education or of any principal or central office staff administrator employed by the Owner. For purposes of this provision, "immediate family" means spouse, parent, child, brother, sister, grandparent, or grandchild, and includes step, half, and in-law relationships. Should the Bidder become aware of any family relationship covered by this provision or should such a family relationship arise at any time during the term of this Contract, the Bidder shall immediately disclose the family relationship in writing to JCPS. Unless formally waived by JCPS, the existence of a family relationship covered by this Contract is grounds for immediate termination by JCPS without further financial liability to the Bidder.
663059729. **DEFAULT AND PERFORMANCE BOND:** In case of default by the Bidder, JCPS may procure the articles or services from other sources and hold the Bidder responsible for any excess cost occasioned thereby. JCPS reserves the right to require performance bond or other acceptable alternative guarantees from successful bidder without expense to JCPS.
663059730. **GOVERNMENTAL RESTRICTIONS:** In the event any Governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the items offered prior to their delivery, it shall be the responsibility of the Bidder to notify in writing JCPS, indicating the specific regulation which required such alterations. JCPS reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the contract.
663059731. **TAXES:** Any applicable taxes shall be included. G.S. 143-59.1 bars the JCPS from entering into contracts with vendors if the vendor or its affiliates meet one of the conditions of G. S. 105-164.8(b) and refuse to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the bid document the vendor certifies that it and all of its affiliates (if it has affiliates) collect(s) the appropriate taxes.
663059732. **SITUS:** The place of this contract, its situs and forum, shall be Johnston County, North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.
663059733. **GOVERNING LAWS:** This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina.
663059734. **INSPECTION AT BIDDER'S SITE:** JCPS reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a Bidder prior to contract award, and during the contract term as necessary for JCPS determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the contract.
663059735. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice or acceptance of goods, whichever is later. Payment may be made by procurement card and it shall be accepted by the Bidder for payment if the Bidder accepts that card (Visa, Mastercard, etc.) or check from other customers.

663059736. **CONDITION AND PACKAGING:** Unless otherwise provided by special terms and conditions or specifications, it is understood and agreed that any item offered or shipped has not been sold or used for any purpose and shall be in first class condition. All containers/packaging shall be suitable for handling, storage or shipment.

663059737. **STANDARDS:** All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate state inspector which customarily requires the label or re-examination listing or identification marking of the appropriate safety standard organization; such as the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and /or National Electrical Manufacturers' Association for electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type of device offered and furnished. Further, all items furnished shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.

663059738. **PATENT:** The Bidder shall hold and save JCPS, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, on account of any confidential information, copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this contract, including use by JCPS or disclosure of any information pursuant to the NC Public Records Act.

663059739. **ASSIGNMENT:** No assignment of the Bidder's obligations nor the Bidder's right to receive payment hereunder shall be permitted.

However, upon written request approved by the purchasing department and solely as a convenience to the Bidder, JCPS may:

- a. Forward the Bidder's payment check directly to any person or entity designated by the Bidder, and
- b. Include any person or entity designated by Bidder as a joint payee on the Bidder's payment check.

In no event shall such approval and action obligate JCPS to anyone other than the Bidder and the Bidder shall remain responsible for fulfillment of all contract obligations.

**663059740. INSURANCE:**

- a. **Worker's Compensation** including Occupational Disease and Employer's Liability Insurance. Statutory - Amount and coverage as required by State of North Carolina Workers Compensation laws. Employer's Liability - At least

Part A	Bodily Injury	Statutory Limits
Part B	By Accident	\$500,000 each accident
	By Disease	\$500,000 policy limit
		\$500,000 each employee

- b. **Public liability and Property Damage Insurance** - The Bidder shall procure insurance coverage for direct operations, contractual liability and completed operations with limits not less than those stated below:

	Occurrence:
General Aggregate	\$2,000,000
Premises Operations	\$1,000,000
Personal & Advertising Injury	\$1,000,000

- c. **Comprehensive Automobile Liability Insurance**, including coverage for owned, hired and non-owned vehicles: A Combined Single Limit for bodily injury and property damage limit of not less than \$1,000,000; and \$2,000 medical payments.
- d. **Certificates of Insurance** acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These Certificates shall contain a provision that coverage afforded under the policies will not be canceled until at least thirty (30) days' prior written notice has been given to the Owner, and that the Johnston County Public Schools Board of Education is listed as additional insured on general liability.

The successful bidder agrees to hold harmless and indemnify the JCPS Board of Education for any liability that may arise from the negligent or illegal acts of the bidder's employees or agents.

663059741. **GENERAL INDEMNITY:** The Bidder shall hold and save JCPS, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses, accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the Bidder in the performance of this contract and that are attributable to the negligence or intentionally tortious acts of the Bidder. The Bidder represents and warrants that it shall make no claim of any kind or nature against JCPS agents who are involved in the delivery or processing of Bidder goods to JCPS. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.

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663059742. **CANCELLATION (TERM CONTRACTS ONLY):** All contract obligations shall prevail for at least 180 days after the effective date of the contract. After that period, in addition to the provisions of the paragraph entitled Price Adjustments, for the protection of both parties, this contract may be canceled in whole or in part by either party by giving 30 days prior notice in writing to the other party.
663059743. **QUANTITIES (TERM CONTRACTS ONLY):** The award of a term contract neither implies nor guarantees any minimum or maximum purchases there under.
663059744. **PRICE ADJUSTMENTS (TERM CONTRACTS ONLY):** Any price changes, downward or upward, which might be permitted during the contract period must be general, either by reason of market change or on the part of the Bidder to other customers.
- a. **Notification:** Must be given to JCPS, in writing, concerning any proposed price adjustments. Such notification shall be accompanied by a copy of the manufacturer's official notice or other acceptable evidence that the change is general in nature.
- b. **Decreases:** JCPS shall receive full proportionate benefit immediately at any time during the contract period.
- c. **Increases:** All prices shall be firm against any increase for 180 days from the effective date of the contract. After this period, a request for increase may be submitted with JCPS reserving the right to accept or reject the increase, or cancel the contract. Such action by JCPS shall occur not later than 15 days after the receipt by JCPS of a properly documented request for price increase. Any increases accepted shall become effective not later than 30 days after the expiration of the original 15 days reserved to evaluate the request for increase.
663059745. **INVOICES:** It is understood and agreed that orders will be shipped at the established contract prices in effect on dates orders are placed. Invoicing at variance with this provision will subject the contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item.
663059746. **LUNSFORD ACT/CRIMINAL BACKGROUND CHECKS:** The Bidder shall conduct at its own expense sexual offender registry checks on each of its employees, agents, ownership personnel, or contractors ("contractual personnel") who will engage in any service on or delivery of goods to school system property or at a school-system sponsored event. The checks shall include at a minimum checks of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry ("the Registries"). For the Bidder's convenience only, all of the required registry checks may be completed at no cost by accessing the North Carolina Sex Offender Registry website at <http://sexoffender.ncdoj.gov/>. The Bidder shall provide certification on Sexual Offender Registry Check Certification Form that the registry checks were conducted on each of its contractual personnel providing services or delivering goods under this Contract prior to the commencement of such services or the delivery of such goods. The Bidder shall conduct a current initial check of the registries (a check done more than 30 days prior to the date of this Contract shall not satisfy this contractual obligation). In addition, Bidder agrees to conduct the registry checks and provide a supplemental certification form before any additional contractual personnel are used to deliver goods or provide services pursuant to this Contract. Bidder further agrees to conduct annual registry checks of all contractual personnel and provide annual certifications at each anniversary date of this Contract. Bidder shall not assign any individual to deliver goods or provide services pursuant to this Contract if said individual appears on any of the listed registries. Bidder agrees that it will maintain all records and documents necessary to demonstrate that it has conducted a thorough check of the registries as to each contractual personnel, and agrees to provide such records and documents to the school system upon request. Bidder specifically acknowledges that the school system retains the right to audit these records to ensure compliance with this section at any time at the school system's sole discretion. Failure to comply with the terms of this provision shall be grounds for immediate termination of the Contract. In addition, the school system may conduct additional criminal records checks at Bidder's expense. If the school system exercises this right to conduct additional criminal records checks, Bidder agrees to provide within seven (7) days of request the full name, date of birth, state of residency for the past ten years, and any additional information requested by the school system for all contractual personnel who may deliver goods or perform services under this Contract. Bidder further agrees that it has an ongoing obligation to provide the school system with the name of any new contractual personnel who may deliver goods or provide services under the Contract. JCPS reserves the right to prohibit any contractual personnel of Bidder from delivering goods or providing services under this Contract if JCPS determines, in its sole discretion, that such contractual personnel may pose a threat to the safety or well-being of students, school personnel or others.
663059747. **ACCESS TO PERSONS AND RECORDS:** JCPS auditors shall have access to any records as a result of this bid or the Contract. JCPS may audit the records of the Bidder during the term of the Contract to verify accounts and data affecting fees or performance.
663059748. **COMPLIANCE WITH E-VERIFY:** Bidder shall comply with all applicable laws and regulations in providing services under this Contract. In particular, Bidder shall not employ any individuals to provide services to the School System who are not authorized by federal law to work in the United States. Bidder represents and warrants that it is aware of and in compliance with the Immigration Reform and Control Act and North Carolina law (Article 2 of Chapter 64 of the North Carolina General Statutes) requiring use of the E-Verify system for employers who employ twenty-five (25) or more employees and that it is and will remain in compliance with these laws at all times while providing services pursuant to this Contract. Bidder shall also ensure that any of its subcontractors (of any tier) will remain in compliance with these laws at all times while providing subcontracted services in connection with this Contract.

663059749. **COMPLIANCE WITH AFFORDABLE CARE ACT:** Bidder is responsible for providing affordable health care coverage to all of its full-time employees providing services to the School System. The definitions of "affordable coverage" and "full-time employee" are governed by the Affordable Care Act and accompanying IRS and Treasury Department regulations.

663059750. **RESTRICTED COMPANIES LIST:** Bidder certifies that as of the date of this Contract, Bidder is not included on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.58. Bidder also represents that as of the date of this Contract, Bidder is not included on the list of restricted companies determined to be engaged in a boycott of Israel created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.81.

### Federally Required Clauses

**Remedies for Breach:** Contracts exceeding the Simplified Acquisition Threshold (\$250,000) must address administrative, contractual, or legal remedies where contractors violate or breach contract terms.

**Termination for Cause/Convenience:** Contracts in excess of \$10,000 must address ability of non-Federal entity to terminate (1) for cause, and (2) for convenience (i.e., for any reason).

**Equal Opportunity Clause:** "Federally assisted construction contracts" (41 C.F.R. 60-1.3) must include the Equal Opportunity Clause specified at 41 C.F.R. Part 60-1.4(b).

**Davis-Bacon Act:** "Where required by Federal program legislation", all prime construction contracts" in excess of \$2,000 must require compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144; 3146-3148) and implementing regulations. Generally, the Act requires payment of "prevailing wages" specified in Department of Labor guidance and payment no less than once per week.

**Copeland Anti-Kickback Act:** All prime construction contracts in excess of \$2,000 include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), which generally prohibits contractors from inducing any person involved in construction to give up any compensation to which they are entitled.

**Contract Work Hours and Safety Standards Act:** Requires computing wages of mechanics and laborers used in construction work on basis of 40-hour work week and 1.5x pay overtime wages. Prohibits requiring laborers and mechanics from working in unsanitary, hazardous, or dangerous settings.

**Rights to Inventions Made Under a Contract or Agreement:** Requires non-Federal entity to comply with 37 C.F.R. Part 401 (implementing provisions of Bayh-Dole Act), which governs rights to certain intellectual property developed with the proceeds of federal funding.

**Clean Air Act and Federal Water Pollution Control Act:** Contracts and subawards in excess of \$150,000 must contain a provision requiring non-Federal award to agree to comply with all standards, orders, or regulations issued pursuant to the Clean Air Act and Federal Water.

**Suspension and Debarment:** Contracts cannot be awarded to exclude parties. Contractor should certify that contractor, principals, or affiliates are excluded or disqualified. Contractor should agree to flow down requirements to covered transactions.

**Byrd Anti-Lobbying Amendment:** Contractors that apply or bid on contracts exceeding \$100,000 must file with the recipient or subrecipient the certification found at 31 C.F.R. Part 21, Appendix A (Certification Regarding Lobbying). Separately, all contractors must certify to the tier above that it will not and has not used Federal appropriate funds to lobby (as further defined in the clause).

**Procurement of Recovered Materials:** Requires contractors to comply with Section 6002 of Solid Waste Disposal Act, which generally requires procuring only items designated by EPA at 40 CFR Part 247 as containing "highest percentage of recovered materials practicable" where the cost of a purchase exceeds \$10,000.

**Huawei / ZTE Ban (“Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment”):**

Prohibits recipients or subrecipients from obligating grant funds to:

(1) Procure or obtain; (2) Extend or renew a contract to procure or obtain; or (3) Enter into a contract (or extend a renew a contract) to procure or obtain...

Equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential part of any system, or as critical technology of any system.

“Covered telecommunications equipment or services” includes items produced by certain Chinese manufacturers specified in 2 C.F.R. 200.216.

**Domestic Preferences Clause:** 2 C.F.R. 200.322 states that “as appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provided a preference for the purchase, acquisition, or use of goods, products, materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).”

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## JCPS Purchasing Department Ethics Policy and Standards of Conduct

All purchasing department employees conducting business transactions on the behalf of the Johnston County Public Schools hold positions of public trust which dictates that their actions be governed by the highest standards of personal and business conduct. Each employee must exhibit the highest standards of honesty, integrity, and fairness when engaging in any activity concerning the school system, particularly in relationships with vendors, suppliers, the public and other employees.

Employees shall perform their jobs in a competent and ethical manner without violating the public trust or applicable law, policies, and regulations.

### **Conflict of Interest:**

The following acts are deemed by state law and/or the Board of Education to be in conflict with the interests of the Johnston County Public Schools.

1. An employee shall not, for personal financial gain, solicit or sell or have any pecuniary (financial) interest in the supplying of any goods, wares, merchandise materials, supplies, services, or equipment to the Johnston County Public Schools System. Approved extended employment shall not be a violation of this.
2. An employee shall not, for personal financial gain, solicit or sell or have any pecuniary (financial) interest in the sale of any goods, wares, merchandise, materials, supplies, equipment, or services to students or employees of this school system at school, on school premises, or any Johnston County Public Schools facility.
3. An employee shall not act as an agent for any manufacturer, merchant, dealer, publisher, or author seeking to sell any goods, wares, merchandise, materials, supplies, services, or equipment to the Johnston County Public Schools.
4. An employee shall not receive or accept any gift, reward, gratuity, or other compensation from any manufacturer, merchant, dealer, publisher, or author for influencing or recommending to the school system or any school that it use a seller's goods, wares, merchandise, materials, supplies, services, or equipment.

An employee shall not use for personal financial gain, any school facilities, supplies, equipment, or student labor (student labor during regular school hours), in the manufacture, creation, or repair of any goods, wares, or merchandise for sale, or for the providing of services to the general public. However, this provision shall not prohibit the renting of school facilities to school employees in accordance with Community Schools' policies and regulations. 6. Except as allowed by state law (N.C.G.S. §§14-234, 143-58.1), no employee shall use the powers, policies, and procedures of the State's Division of Purchase and Contract or the school system's Purchasing Division to purchase or procure any property or service for private use or benefit.

### **Nepotism:**

No employee shall approve any contract with or purchase any goods or services from any immediate family member without disclosure to and approval of the Chief Business Officer. In addition, no employee shall recommend the employment of or directly supervise or evaluate any immediate family member without disclosure to and approval of the Assistant Superintendent of Human Resources. Immediate family includes employee's spouse, parents, children, stepchildren, brothers, sisters, mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law. In addition, for the purpose of this regulation, anyone living in the same household with the employee is considered a member of the immediate family. , internal auditors, external audit firm (contracted to perform the annual audit), or any persons authorized by the Superintendent or the Finance Officer to receive it.

### **Gifts to Employees:**

School system employees shall not accept any gifts except token gifts of insubstantial value. School system employees shall not accept any gift, reward, gratuity, or other compensation from any manufacturer, merchant, dealer, publisher, or author for the purpose of influencing or recommending to the school system or any school the use of a seller's goods, wares, merchandise, materials, supplies, services, or equipment. Refer to Policy: 3243/4243

## **JOHNSTON COUNTY PUBLIC SCHOOLS BID PROTEST PROCEDURE**

### **PURPOSE**

To insure fairness and to promote open competition, Johnston County Public Schools shall be consistent in responding to an offeror's protest over contract awards..

### **PROCEDURE**

Any party which is a prospective bidder, offeror, or contractor that may be aggrieved by the solicitation must submit a written protest within five (5) calendar days prior to the opening of the Request for Bid, Request for Proposal.

Any party which is an actual bidder, offeror, or contractor that may be aggrieved by the award of a contract, must submit a written protest within five (5) days of Johnston County Public Schools transmitting via fax or email the announcement of intent to award.

The protest must be addressed to the Director of Purchasing and must include all the following information:

1. Name, address, telephone number, facsimile number and e-mail of the protester.
2. Signature of the protester or authorized agent.
3. The bid name and number.
4. A detailed statement of the legal and factual grounds of protest including copies of relevant documents.
5. Any supporting exhibits, evidence, or documents to substantiate any claims.
6. All information establishing that the protester is an interested party for the purpose of filing a protest.
7. The form of relief requested

After careful consideration of all relevant information the Director of Purchasing shall make a written decision.

Any and all costs incurred by a protesting party in connection with a protest shall be the sole responsibility of the protesting party.

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## CONTRACT PROVISIONS

By submission of a proposal, the Contractor agrees to comply with the following provisions. Failure to comply with any and all provisions herein may be cause for the contracting agency to issue a cancellation notice to a contractor.

### Reporting Requirements

The Contractor is notified that this project will be financed with *American Recovery and Reinvestment Act of 2009* (hereinafter, "ARRA") / Race to the Top ("RttT") Funds. The Contractor shall ensure that all subcontracts and other contracts for goods and services for an ARRA/RttT-funded project have the mandated provisions of this directive in their contracts. Pursuant to Title XV, Section 1512 of the ARRA/RttT, the State shall require that the Contractor provide reports and other employment information as evidence to document the number of jobs created or jobs retained by this contract from the Contractor's own workforce and any subcontractors. No direct payment will be made for providing said reports, as the cost for the same shall be included in the various items in the contract.

### Posting with the Local Employment Security Commission

In addition to any other job postings the Contractor normally utilizes, the Office of Economic Recovery & Investment (hereinafter, "OERI") requires that the Contractor shall post with the local Employment Security Commission Office all positions for which he intends to hire workers as a result of being awarded this contract. Labor and semiskilled positions must be posted for at least 48 hours before the hiring decision. All other positions must be posted a minimum posting of five days before the hiring decision. The Contractor and any Subcontractor shall report the new hires in the manner prescribed by the Employment Security Commission and the OERI.

### Required Contract Provision to Implement ARRA/RttT Section 902

Section 902 of the ARRA/RttT requires that each contract awarded using ARRA/RttT funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to:

- (1) examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
- (2) interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

Accordingly, the Comptroller General and his representatives shall have the authority and rights prescribed under Section 902 of the ARRA/RttT with respect to contracts funded with recovery funds made available under the ARRA/RttT. Section 902 further states that nothing in 902 shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

### Authority of the Inspector General provision

Section 1515(a) of the ARRA/RttT provides authority for any representatives of the United States Inspector General to examine any records or interview any employee or officers working on this contract. The contractor is advised that representatives of the Inspector General have the authority to examine any record and interview any employee or officer of the contractor, its subcontractors or other firms working on this contract. Section 1515(b) further provides that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an Inspector General.

### Buy American provision

Section 1605 of the ARRA/RttT requires that iron, steel and manufactured goods used in public buildings or public works projects be manufactured in the United States. Contractor agrees to abide by this provision and shall maintain records of such purchases for inspections by authorized agents of the State of North Carolina and federal agencies. The Contractor must obtain a written exception from this provision from the agency issuing the contract.

### **Wage Rate Provision**

Section 1606 of the ARRA/RttT requires that all laborers and mechanics employed by contractors and subcontractors with funds from the ARRA/RttT shall be paid wages at rates not less than the prevailing wage rate under the Davis-Bacon Act. The contractor agrees that by the submission of a proposal in response to a solicitation funded in whole or in part with recovery funds, continuous compliance will be maintained with the Davis-Bacon Act.

### **Availability and Use of Funds**

Contractors understand and acknowledge that any and all payment of funds or the continuation thereof is contingent upon fund availability or required state matching funds.

### **Whistleblower Provisions**

Contractors understand and acknowledge that Article 14 of Chapter 124, NCGS 126-84 through 126-88 (applies to the State and state employees), Article 21 of Chapter 95, NCGS 95-240 through 95-245 (applies to anyone, including state employees), and Section 1553 of the Recovery Act (applies to anyone receiving federal funds), provide protection to State, Federal and contract employees.

### **Outsourcing outside the USA without Specific Prior Approval Provision**

Contractor agrees not to use any recovery funds from a contract or any other performance agreement awarded by the State of North Carolina, its agencies, or political subdivisions for outsourcing outside of the United States, without specific prior written approval from the agency issuing the contract.

### **Federal, State and Local Tax Obligations**

By submission of a proposal, contractors and subcontractors assert and self-certify that all Federal, State and local tax obligations have been or will be satisfied prior to receiving recovery funds.

### **Anti-Discrimination and Equal Opportunity**

Pursuant to Section 1.7 of the guidance memorandum issued by the United States Office of Management and Budget on April 3, 2009, recovery funds must be distributed in accordance with all anti-discrimination and equal opportunity statutes, regulations, and Executive Orders pertaining to the expenditure of funds.

### **Office of State Budget and Management Access to Records**

OERI requires that the contractor and subcontractor agree to allow the Office of State Budget and Management internal auditors and state agency internal auditors access to records and employees pertaining to the performance of any contract awarded by a public agency.