



## THE CHARLOTTE-MECKLENBURG BOARD OF EDUCATION

Procurement Services  
4421 Stuart Andrew Blvd., Suite 210  
Charlotte, NC 28217

### REQUEST FOR PROPOSALS

Emergency Assistance to Homeless Students and Families

RFP # 163-08312023TB

ISSUE DATE: August 31, 2023

ISSUER: Anthony A. Becker

[anthonya.becker@cms.k12.nc.us](mailto:anthonya.becker@cms.k12.nc.us)

**PROPOSAL DUE DATE AND TIME: SEPTEMBER 28, 2023, at 3:00 pm, EST  
(Prevailing Local Time)**

**NOTE:** Technical questions concerning the specifications in this Request for Proposals will be received until **3:00 pm, SEPTEMBER 08, 2023**, by e-mailing Anthony A. Becker ([anthonya.becker@cms.k12.nc.us](mailto:anthonya.becker@cms.k12.nc.us)), CMBE Sr. Purchasing Agent. **Technical questions will not be accepted after this date and time.** CMBE will make every effort to provide answers by **SEPTEMBER 15, 2023, by 12:00 PM**. When appropriate, questions and answers will be posted on the internet as an addendum, located under the RFP # being modified at <https://evp.nc.gov/>

**It is the offeror's responsibility to ensure that all addenda have been reviewed and, if need be, signed and returned.**

## Procurement Statement of Non-Preference

It is the intent of The Charlotte-Mecklenburg Board of Education to procure a product and/or service in the size, quality, and parameters of the following specifications. Sometimes, for facilitation of bidding/quoting procedures only, a certain manufacturer, product, or vendor will be utilized to help streamline this process. However, The Charlotte-Mecklenburg Board of Education invites and encourages all other qualified bidders to submit equivalent bids/quotes. The primary purpose is to ensure that no interested party is excluded or limited from the bidding/quoting process. All bids/quotes are evaluated equally, based on the following criteria:

- 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 request for bids/quotes.
- The suitability of the articles for the intended use.
- The personal or related services needed.
- Transportation charges.
- The dates of delivery and performance.
- Such other factor(s) deemed pertinent or peculiar to the purchase in question which, if controlling, shall be made a matter of record.

All bids/quotes submitted should be as closely sized, equipped, etc. to the desired specifications. Any exceptions to the specifications will be evaluated based on the best interest of The Charlotte-Mecklenburg Board of Education.

# RFP SUBMITTING INSTRUCTIONS:

All bid responses shall be submitted electronically via the North Carolina electronic Vendor Portal (eVP) @ <https://evp.nc.gov/>. NO MAILED OR EMAIL SUBMISSIONS WILL BE ACCEPTED.

**REGISTERING WITH eVP:** All bid responses shall be submitted electronically via the North Carolina’s eVP system. **You must be registered with NC’s eVP to submit a bid. Register as soon as possible! It may take several days for your account to become active.**

Please go to this page to register <https://evp.nc.gov/>. A video on this process can be found at: <https://eprocurement.nc.gov/training/vendor-training/registering-evp>. Some FAQs are answered at: <https://eprocurement.nc.gov/system-tips/vendor-tips>. Please NOTE: CMS is NOT using NC eProcurement or Ariba Network.

Once you have registered and have your login and password set up, review your commodity registration. You must be registered with **UNSPSC Code 911100 (Personal and Domestic Services)** to automatically receive email notifications of addenda and award. See this video <https://www.youtube.com/watch?v=8AP0ve3xYNw> (1:08:35 through 1:10:00).

This video <https://www.youtube.com/watch?v=8AP0ve3xYNw> (1:10:00-1:11:47) explains how to add notifications for specific email addresses and commodity codes.

Written questions shall be emailed to Anthony Becker at [anthonya.becker@cms.k12.nc.us](mailto:anthonya.becker@cms.k12.nc.us) by the date and time specified below in the schedule of events. Vendors will enter “RFP #163-03302023TB – Questions” as the subject for the email. Question submittals include a reference to the applicable RFP section and be submitted in the format shown below:

Reference	Vendor Question
RFP Section, Page Number	Vendor question...?

Questions received prior to the submission deadline date, CMS’s response, and any additional terms deemed necessary by CMS will be posted in the form of an addendum. No information, instruction or advice provided orally or informally by any CMS personnel, whether made in response to a question or otherwise regarding this RFP, shall be considered authoritative or binding. Vendors shall be entitled to rely only on written material contained in an addendum to this RFP.

FINAL DEADLINE FOR ANY INQUIRY, CLARIFICATION, OR INFORMATION REGARDING THIS RFP MUST BE RECEIVED NO LATER THAN THE DATE & ENTER TIME NOTED IN THE SCHEDULE OF EVENTS. THIS IS TO ALLOW CMS SUFFICIENT TIME TO ADDRESS ALL RECEIVED INQUIRIES.

**ADDENDUM:** In the event any changes to this RFP occur, the changes or corrections to this RFP will be made by addendum, and any updated information contained in any addendum will prevail over the information contained in the original RFP or any previous addendum. CMBE is the sole authority for the issuance of any addendum related to this RFP. Any communications from any person or entity other than CMBE regarding any matters related to this bid are invalid and will have no influence on this RFP. Each addendum will be posted to NC’s eVP system. **PRIOR TO SUBMITTING YOUR BID**, go to <https://evp.nc.gov/solicitations/>, in the search box key in **163-0831023TB**, click the magnifying glass, click the Solicitation Number. Any addenda will show as an additional PDF document below the bid download near the bottom of the page. Unless otherwise stated, each addendum must be acknowledged by

uploading the addendum (or if provided, an addendum acknowledgement form) with your bid.

**SUBMITTING YOUR BID:** Go to <https://evp.nc.gov/solicitations/>. In the search box key in **163-08312023TB**, click the magnifying glass, click the Solicitation Number. Click Respond to Solicitation and follow the instructions. For a video on this, go to: <https://www.youtube.com/watch?v=8AP0ve3xYNw>, (1:22:50 through 1:27:00).

Submissions must be received by **September 28, 2023, no later than 3:00PM Eastern Standard Time (EST)**.

**Offerors will be required to submit the following:**

- One (1) copy of the proposal submitted as a single PDF document.

Files should be saved in the following format:

- ***RFP\_#163-0831 2023TB\_Offerors Name.pdf***

Note: When uploading your proposal, please understand that the upload able file size is limited to 125MB per document. Printing the PDF document in black or grayscale (as opposed to color), reducing the resolution or splitting the file into multiple documents may prove necessary.

Failure to submit a bid in strict accordance with these instructions shall constitute sufficient cause to reject a Vendor's bid(s).

**PUBLIC BID OPENING:** Since bid submissions will be opened electronically when they are released to the buyer by the State of North Carolina's software, the public bid will be facilitated either by a conference call or by online meeting software. Should you wish to join the public bid opening, contact the buyer at the email listed on the first page of the bid no later than 10 am the day of the bid opening. If you do not receive confirmation within the hour, please phone the buyer.

The following chart shows the schedule of events to prepare your organization's Proposal. The key events and deadlines for this process are as follows:

Due Date	Event
AUGUST 31, 2023	<b>Posted to The State of North Carolina electronic Purchasing System (eVP)</b>
SEPTEMBER 8, 2023	<b>Deadline for vendors to submit questions via email to ensure a timely answer from Charlotte-Mecklenburg Schools All questions must be submitted to the Buyer's email address noted: <a href="mailto:anthonya.becker@cms.k12.nc.us">anthonya.becker@cms.k12.nc.us</a></b>
OCTOBER 3, 2023	Deadline for submitting proposals: <b>Submitted electronically via the North Carolina electronic Purchasing System (eVP)</b>

# OVERVIEW AND SCOPE OF WORK

## Introduction

The Charlotte-Mecklenburg Board of Education (CMBOE) is seeking proposals from interested service providers that provide Emergency Assistance to Homeless Students and Families. We are interested in organizations and companies that specialize in serving administering services and resources to underserved populations. The primary purpose of this Request for Proposals (RFP) is to assess the marketplace, ascertain viable service providers available, and select a set of providers that will be part of a portfolio of providers to serve students in a targeted set of schools.

## Background

In 1986 President Regan and the 100<sup>th</sup> Congress enacted the McKinney-Vento Act, which supports a homeless student's right to remain in, get to, and succeed at school. Students who lack fixed, regular, and adequate night-time residence face multiple struggles. However, the foundational struggles that accompany the lives of transient students can have an impact that school systems alone are unequipped to address.

Charlotte-Mecklenburg Schools has the largest homeless student population in the state. As of June 2023, there were over 4,700 homeless students. The school district's obligation is to provide services including transportation to and from school regardless of where the student is sleeping at night, provide school assignment and enrollment stability, facilitate access to academic support services, school uniforms, and provide access to summer academic enrichment programming. Beyond needs directly related to school and achievement, MCV student achievement is impacted by a broad array of basic needs that are beyond the scope of school district services. The McKinney-Vento Act expects school districts to develop community partnerships to meet these non-instructional needs. CMS has many such partnerships, including an organization that provides new shoes, another that provides Target gift cards, and another that accepts requests for specific goods via Amazon and crowdfunding.

## Purpose

The federal government recognized that during the pandemic, the number of homeless families escalated, and the needs of those families have increased. As a result, school districts received COVID-funding that can be used to meet an extensive array of MCV family needs. The allowances of this funding source go beyond general academic and school-related needs and reach into areas where most school districts do not have purchasing capabilities. As a result, to maximize utilization of this funding source, Charlotte-Mecklenburg Schools is seeking a vendor to administer programs and services related to basic survival needs and academic-related resources for McKinney-Vento eligible families.

## Scope of Work

The vendor will provide services for MCV students and families, including purchasing and distributing gift cards for groceries and fuel as well as limited dignity items and services (laundry, soaps, deodorants, etc.). In addition, for scenarios meeting district-defined criteria, the vendor would facilitate family access to short-term lodging. In the realm of academic financial needs, the selected vendor will support the launch of high school students into college and career through the payment of select fees, facilitation of campus visits etc.

The selected vendor would be responsible for purchase, distribution and coordination of assistance to eligible families through:

- Providing gift cards for fuel and/or arranging rideshare services to help support families getting to and from school, mental health, and/or medical appointments.
- Providing gift cards for groceries or prepared food.
- Coordination of and payment for short-term hotel/motel shelter for not more than 3 nights in a calendar year for a family.
- Providing dignity items (underwear, socks, hygiene products, laundry services, laundry detergent etc.).
- Providing limited clothing items, including school uniforms.
- Facilitation of access to college exploration activities
- Payment of college-related fees for current high school seniors (ex. application fees, deposits, dorm room necessities).
- Payment of high school senior activities fees.

The selected vendor will invoice CMS for services rendered, and CMS will then pay the vendor. CMS cannot provide funding for anticipated expenses in advance of services being rendered. The vendor would provide detailed records of services/supports rendered as part of the monthly invoicing process. The selected vendor would be paid administrative costs monthly.

## Desired Student Outcomes

The overarching goal is to minimize barriers to school attendance, academic achievement, and positive college and career transitions for MCV students. Success will be determined by the number of students supported through the program.

## Reporting

A monthly summary of the dollar amount of support given to CMS MCV families by name in each category of support as well as cumulative number of supports will be provided to the Charlotte-Mecklenburg Schools McKinney-Vento Program. Monthly record keeping of authorization from identified school and/or district staff will be required as well as routine monthly tracking of schools served and families receiving support.

Verification of need and McKinney-Vento eligibility will be provided through school assigned MCV liaisons and/or Charlotte-Mecklenburg Schools MCV staff. Parents must acknowledge approved and acceptable use of released support.

# RFP Questions and Areas of Interest

This Request for Proposals is a means of information gathering to inform a purchasing decision. We ask that all submissions address targeted areas of interest.

## Vendor Application and Scoring Rubrics

Interested vendors should submit a proposal containing detailed responses to each of the prompts below:

1. Describe your level of experience working in the Charlotte-Mecklenburg community or in a community of similar size and demographics, and how that influences the services you are proposing.
2. Provide a detailed description of any relevant experience administering usage of 3rd party funds. Include contact information for two relevant references.
3. CMS has over 180 schools and serves over 3,700 MCV families. Propose a method for receiving requests for support from families and school or district staff who serve MCV families.
4. Describe how you would facilitate student and parent access to each of the 7 goods or services outlined below, bearing in mind the following:
  - Many homeless families do not have access to personal transportation.
  - Payment for college and career related expenses must often be applied to an individualized online student account.
  - Hotel rooms must be secured by a credit or debit card; CMS is unable to provide this. Additionally, there is a potential for damages when reserving a hotel room. This risk must be mitigated.Eligible student and family needs:
  - Providing gift cards for fuel and/or arranging rideshare services to help support families getting to and from school, mental health, and/or medical appointments.
  - Providing gift cards for groceries or prepared food.
  - Coordination of and payment for short-term hotel/motel shelter for not more than 3 nights in a calendar year for a family.
  - Providing dignity items (underwear, socks, hygiene products, laundry services, laundry detergent etc.).
  - Providing limited clothing items, including school uniforms.
  - Payment of college and career-related fees for current high school seniors (ex. application fees, deposits, dorm room necessities).
  - Payment of high school senior activities fees.
5. Provide a sample of the monthly reporting you would present to CMS alongside your monthly invoicing.
6. What actions would you need to take to be prepared to perform this work, and what would your timeline be from accepted proposal to performing the work?
7. Present financial statements to demonstrate that the agency has the necessary liquidity to administer this program on a reimbursement basis.
8. Proposed administrative cost structure-Justify your proposed administrative costs; describe how you would use current or new staff to administer this program.

**Scoring Rubric**

<b>Criteria (% of total score)</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
Relevant Experience Quality of References  25%	Agency performs work of this nature regularly; strong references.	Some relevant experience; moderately strong references.	Little relevant experience; neutral references.	No relevant experience; no references.
Strength Proposed Referral Method and Family Access to Purchases  30%	Proposed referral and resource access method can be implemented with few adjustments.	Proposed referral and resource access method can be implemented with many adjustments.	Proposed referral and resource access method is unable to be implemented but shows promise.	Proposed referral and resource access method is unrealistic; shows lack of understanding of school system or family structures.
Project Readiness Timeline  10%	Existing organization structure results in short readiness timeline.	Minor adjustments needed to be prepared to administer the project.	Strong, feasible plan of action to get to a readiness state.	Plan of action suggests a lengthy start-up timeline.
Financial Status  115%	Financial records indicate ability to administer funding and services with little to no risk to the agency or CMS.	Financial records indicate ability to administer funding and services with moderate to the agency or CMS.	Financial records indicate some concern about ability to administer funding and services.	Financial records indicate some little to no ability to administer funding and services.
Costs  20%	Costs are justified and reasonable based on presented structure.	Costs are moderately reasonable based on the presented structure.	Costs are somewhat high based on presented structure.	Costs are unreasonable based on the presented structure.



# AWARD CRITERIA

Proposals will be evaluated on the following criteria and point allocations:

The CMBE is not obligated to accept the lowest cost proposal submitted by the firm with an acceptable Proposal.

<b>Factor</b>	<b>Weight</b>
Relevant Experience	25%
Strength Proposed Referral Method and Family Access to Purchases	30%
Project Readiness Timeline	10%
Financial Status	15%
Costs	20%
<b>Total</b>	<b>100</b>
A zero-point allocation in any area may disqualify a proposal from consideration.	

## CLARIFICATION OF PROPOSALS

1. Qualified proposals will be evaluated and acceptance made based on the best value offered to the Charlotte-Mecklenburg Schools.
2. Award Criteria: The right is reserved to award this contract to a single overall bidder on all items, or to make awards on the basis of individual items or groups of items or may award each service to individual vendors, whichever shall be considered by The Charlotte-Mecklenburg Board of Education to be most advantageous or to constitute its best interest. Bidders should show unit prices but are requested also to offer a fixed price.
3. The Charlotte-Mecklenburg Board of Education may make such reasonable investigations as deemed proper and necessary to determine the ability of the Offeror to perform the work/service proposed, and the Offeror shall furnish to the Charlotte-Mecklenburg Board of Education all such information and data for this purpose as may be requested.
4. The Charlotte-Mecklenburg Board of Education reserves the right to reject any proposal if the evidence submitted by, or investigations of, such vendor fail to satisfy the Charlotte-Mecklenburg Board of Education that such vendor is properly qualified to carry out the obligations of the contract and to complete the work/furnish the item(s) contemplated therein.
5. This proposal does not commit the Charlotte-Mecklenburg Board of Education to award a contract or pay costs incurred in the preparation of this proposal.
6. At their option, evaluators may request oral presentations or discussion with any or all vendors for the purpose of clarification or to amplify the materials presented in any part of the proposal. However, vendors are cautioned that the evaluators are not required to request clarification; therefore, all proposals should be complete and reflect the most favorable terms available from the vendor.
7. The Charlotte-Mecklenburg Board of Education reserves the right to negotiate with any vendor. The successful vendor may be asked to participate in negotiations and make revisions to their proposal based on these negotiations.
8. The Charlotte-Mecklenburg Board of Education reserves the right to upgrade services and/or modify/add/delete the number accounts and/or features as the email environment changes either during the year or at the beginning of each year renewal.
9. The Charlotte-Mecklenburg Board of Education reserves the right to accept any offer or to reject all offers with or without cause.
10. Individual invoices must be issued for each purchase order received.

11. Bid Evaluation: Bids are requested on the services as hereinafter specified. The Charlotte Mecklenburg Board of Education reserves the right to reject any bid on the basis of function, compatibility with user requirements of utility 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.
12. Descriptive Literature: All bids must be accompanied by complete descriptive literature, specifications, and other pertinent data necessary for their evaluation as required by the attached General Contract Terms & Conditions; otherwise, they will be subject to rejection.
13. Suitability for Intended Use: Bidders are requested to offer only comparable services which will provide the equivalent capabilities, features and diversity called for herein. The Charlotte-Mecklenburg Board of Education reserves the right to evaluate all proposals for suitability for the required use and to award the one best meeting requirements and thought to be in The Charlotte-Mecklenburg Board of Education's best interest.
14. Deviations: Any deviations from specifications and requirements herein must be clearly pointed out by the bidder. Otherwise, it will be considered that equipment and or services offered is in strict compliance with these specifications and requirements, and successful bidder will be held responsible therefore. Deviations must be explained in detail below or on an attached sheet. However, no implication is made by The Charlotte-Mecklenburg Board of Education that deviations will be acceptable.
15. The 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.
16. Firm Bid: Prices and any other entry made hereon by the bidder shall be considered firm and not subject to change or withdrawal.
17. Demonstration: The Charlotte-Mecklenburg Board of Education reserves the right to require a demonstration (in person or webinar) of the services offered. Such demonstration would be performed at user's facility, by bidder or his authorized representative, before award of contract, upon request by The Charlotte-Mecklenburg Board of Education, free of charge to The Charlotte-Mecklenburg Board of Education, and for the purpose of assessing suitability of the offered services for the intended use. Failure of bidder or his authorized representative to perform demonstration (if requested) in accordance with the above may be grounds for nullification of the bid. The results of such a demonstration would be considered in the award of contract.
18. Reference to Other Data: Only information received in response to this RFP will be reviewed. Appendices are accepted.
19. Disclosure: Please be aware that responses may be subject to disclosure under the North Carolina Public Act. If your firm is selected by CMS, the financial terms of the agreement will be public information. For clarification, please contact the CMS general counsel's office at 980-343-6228.

# PRICE PROPOSAL SHEET

Total Cost of Proposal	\$
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## EXECUTION OF PROPOSAL

Therefore, in compliance with this Request for Proposals, and subject to all conditions herein, the undersigned offers and agrees, if this proposal is accepted within 120 days from the date of the opening, to furnish the subject goods and services as outlined in their response.

OFFEROR:

\_\_\_\_\_  
ADDRESS:

\_\_\_\_\_  
CITY, STATE, ZIP: \_\_\_\_\_

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

FEDERAL EMPLOYER IDENTIFICATION NUMBER: \_\_\_\_\_

**By signing the proposal, the vendor is accepting the Uniform Guidance terms and conditions listed.**

BY: \_\_\_\_\_ TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed or printed name)

**Uniform Guidance procurement policy compliance statement:**

**“Contracts funded with federal grant or loan funds must be procured in a manner that conforms with all applicable Federal laws, policies, and standards, including those under the Uniform Guidance (2 C.F.R. Part 200).” Additional information can be found at:**

**<http://www.cms.k12.nc.us/cmsdepartments/Finance/procurementservices/Pages/default.aspx>**

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ACCEPTANCE OF PROPOSAL

***(Charlotte-Mecklenburg Board of Education)***

BY: \_\_\_\_\_ TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

**THIS PAGE MUST BE SIGNED AND INCLUDED IN YOUR PROPOSAL.**

## Minority, Women, Small Business Enterprise Information

Charlotte-Mecklenburg Board of Education (CMBE) promotes full and equal access to business opportunities with Charlotte-Mecklenburg Schools (CMS). Minority-owned, women-owned, and small business enterprises (collectively “M/W/SBE”) as well as other responsible vendors shall have a fair and reasonable opportunity to participate in CMS business opportunities.

Prime suppliers (i.e., those who deal directly with CMS) should support Charlotte-Mecklenburg School’s M/W/SBE Program by making an effort to engage minority, women, and/or small businesses as subcontractors for goods and services for CMS to the extent available. Prime supplier’s spending with M/W/SBE subcontractors constitutes Second Tier supplier diversity spending by CMS and the results of Second Tier spending is tracked within our program.

Each bidder or respondent to the solicitation shall submit with their bid the M/W/SBE Utilization Form. A listing of M/W/SBE firms and the CMS M/W/SBE guidelines may be obtained by contacting the M/W/SBE Administrator at 980-343-8638.

**Failure to complete and submit the M/W/SBE Utilization Form may render bid or proposal response invalid.**

FEDERAL UNIFORM GUIDANCE

Minority, Women, and Small Business Enterprise (MWSBE) Certification

Entities should indicate their MWSBE status when responding to this Competitive Informal Quote

Check all that apply:

- Minority Owned Business
- Women Owned Business
- Small Business Enterprise

**Yes**, I certify that my company has been certified by a bona fide certifying entity as a Historically Underutilized Business (HUB), including by way of example, and not limitation, such as the North Carolina Department of Administration, Carolinas Minority Supplier Development Council, National Minority Supplier Development Council, Women Business Enterprise Network Council, Greater Women’s Business Council and/or City of Charlotte Small Business Enterprise Certification. **I have attached a copy of our certification to this form.**

- No**, my company has not yet received MWSBE certification.
- No**, my company is not a minority, woman, or small business enterprise.

Company Name (Please Print)

\_\_\_\_\_

Signature of Authorized Representative

\_\_\_\_\_

Print Authorized Representative Name

\_\_\_\_\_

Date

**MINORITY, WOMEN, SMALL BUSINESS ENTERPRISE (M/W/SBE)  
Utilization Form  
For: Purchases of Goods and Services**

We, \_\_\_\_\_ do certify that on the \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_ (Bidder)  
 \_\_\_\_\_ (Bid Description)  
 \_\_\_\_\_ \$ \_\_\_\_\_  
 \_\_\_\_\_ (Bid Number) (Dollar Amount of Bid)

**This form must be completed regardless of the amount or lack of M/W/SBE participation attained.**

I will expend a minimum of \_\_\_\_\_ % of the total dollar amount of the contract with minority, women, or small business enterprises. M/W/SBEs will be employed as vendors, suppliers, or providers of professional services. Such work will be subcontracted to the following firms listed below.

Attach additional sheets if required.

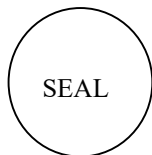
Name and Address	*M/W/SBE Category	Work description	Dollar Value

\*M/W/SBE categories: Black, African American (**B**), Hispanic (**H**), Asian American (**A**) Native American Indian (N), Female (**F**), Small (**S**), or Socially and Economically Disadvantaged (**D**)

The undersigned will enter into a formal agreement with Minority/Women/ Small Business Firms for work listed in this schedule conditional upon execution of a contract with the Charlotte-Mecklenburg Board of Education. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_



Signature: \_\_\_\_\_

Title: \_\_\_\_\_

State of \_\_\_\_\_ County of \_\_\_\_\_  
 Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
 Notary Public \_\_\_\_\_  
 My commission expires: \_\_\_\_\_

**This form must be completed regardless of the amount or lack of M/W/SBE participation attained.**



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**ADDENDA RECEIPT**  
**RFP # 163-xxxxxxxTB**  
**Charlotte-Mecklenburg BOE**  
**Emergency Assistance of Homeless Students and Families**

ADDENDUM #:

DATE:

INITIALS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify that this Proposal complies with the General and Specific Specifications and Conditions issued by the CMBE including all addenda issued under RFP 163-08312023TB

**It is the offeror's responsibility to assure that all addenda have been reviewed and, if need be, signed and returned.**

\_\_\_\_\_  
(Please Print Name)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Contractor Name

# FINAL CHECKLIST

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1. Proposal information should be submitted to:

**All bid responses shall be submitted electronically via the North Carolina electronic Vendor Portal (eVP) @ <https://evp.nc.gov/>. NO MAILED OR EMAIL SUBMISSIONS WILL BE ACCEPTED.**

All bid responses shall be submitted electronically via the North Carolina's eVP system. **You must be registered with NC's eVP to submit a bid. Register as soon as possible! It may take several days for your account to become active.**

Please go to this page to register <https://evp.nc.gov/>. A video on this process can be found at: <https://eprocurement.nc.gov/training/vendor-training/registering-evp>. Some FAQs are answered at: <https://eprocurement.nc.gov/system-tips/vendor-tips>. Please NOTE: CMS is NOT using NC eProcurement or Ariba Network.

**Failure to submit a bid in strict accordance with these instructions shall constitute sufficient cause to reject a Vendor's bid(s).**

2. Proposals should be submitted **no later than SEPTEMBER 28, 2023 @ 3:00PM, EST (Prevailing Local Time)**
3. The complete proposal must include:

- Part I:** Cover page
- Part II:** Executive summary (please provide an overview that includes information about your organization, experience & expertise, the services you provide, and how your organization proposes to contribute to this work.)
- Part III:** Pricing/Fee Proposal
- Part IV:** Signed Execution of Proposal
- Part V:** Federal Uniform Guidance MWSBE Certification
- Part VI:** MWSBE Utilization Form
- Part VII:** Copy of Signed Addenda (when applicable)
- Part VIII:** Detailed information answering the RFP questions & areas of interest (please answer these questions in order including the question number & question along with each response)
- Part IX:** References
- Part X:** Supplemental or ancillary materials required for Emergency Assistance to Homeless Students and Families

4. Each Proposal must include all Parts listed above to be considered a complete submittal. Failure to include all Parts could result in a rejection of the proposal.

# THE CHARLOTTE-MECKLENBURG BOARD OF EDUCATION

## REQUEST FOR PROPOSAL INSTRUCTIONS

1. **EXCEPTIONS:** All proposals are subject to the terms and conditions outlined herein. All responses shall be controlled by such terms and conditions and the submission of other terms and conditions, price lists, catalogs, and/or other documents as part of an offeror's response will be waived and have no effect either on this Request for Proposals or on any contract that may be awarded resulting from this solicitation. Offeror specifically agrees to the conditions set forth in the above paragraph by signature to the proposal.
2. **COMPETITIVE OFFER:** Pursuant to the provision of G.S. 143-54, and under penalty of perjury, the signer of any proposal submitted in response to this RFP thereby certifies that this proposal has not been arrived at collusively or otherwise in violation of either Federal or North Carolina antitrust laws.
3. **ORAL EXPLANATIONS:** The Charlotte-Mecklenburg Board of Education shall not be bound by oral explanations or instructions given at any time during the competitive process or after award.
4. **REFERENCE TO OTHER DATA:** Only information which is received in response to this RFP will be evaluated; reference to information previously submitted shall not be evaluated.
5. **ELABORATE PROPOSALS:** Elaborate proposals in the form of brochures or other presentations beyond that necessary to present a complete and effective proposal are not desired.
6. **COST FOR PROPOSAL PREPARATION:** Any cost incurred by offerors in preparing or submitting offers are the offerors' sole responsibility; The Charlotte Mecklenburg Board of Education will not reimburse any offeror for any costs incurred prior to award.
7. **TIME FOR ACCEPTANCE:** Each proposal shall state that it is a firm offer which may be accepted within a period of 60 days. Although the contract is expected to be awarded prior to that time, the 60 day period is requested to allow for unforeseen delays.
8. **TITLES:** Titles and headings in this RFP and any subsequent contract are for convenience only and shall have no binding force or effect.
9. **CONFIDENTIALITY OF PROPOSALS** In submitting its proposal the offeror agrees not to discuss or otherwise reveal the contents of the proposal to any source outside of Charlotte-Mecklenburg Board of Education, until after the award of the contract. Offerors not in compliance with this provision may be disqualified, at the option of The Charlotte-Mecklenburg Board of Education, from contract award. Only discussions authorized by The Charlotte Mecklenburg Board of Education are exempt from this provision.
10. **RIGHT TO SUBMITTED MATERIAL:** All responses, inquiries, or correspondence relating to or in reference to the RFP, and all other reports, charts, displays, schedules, exhibits, and other documentation submitted by the offerors shall become the property of The Charlotte-Mecklenburg Board of Education when received.
11. **OFFEROR'S REPRESENTATIVE:** Each offeror shall submit with its proposal the name, address, and telephone number of the person(s) with authority to bind the firm and answer questions or provide clarification concerning the firm's proposal.
12. **SUBCONTRACTING:** Offerors may propose to subcontract portions of the work provided that their proposals clearly indicate what work they plan to subcontract and to whom and that all information required about the prime contractor is also included for each proposed subcontractor.

13. **PROPRIETARY INFORMATION:** Trade secrets or similar proprietary data which the offeror does not wish disclosed to other than personnel involved in the evaluation or contract administration will be kept confidential to the extent permitted by NCAC T01:05B.1501 and G.S. 132-1.3 if identified as follows: Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL". Any section of the proposal which is to remain confidential shall also be so marked in boldface on the title page of that section. Cost information may not be deemed confidential. In spite of what is labeled as confidential, the determination as to whether or not it is shall be determined by North Carolina Law.
14. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order #150 The Charlotte-Mecklenburg Board of Education 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.
15. **DECLINE TO OFFER:** Any firm which receives a copy of the RFP but which declines to make an offer is requested to send a written "Decline to Offer" to the issuing office. Failure to respond as requested may subject the firm to removal from consideration on future requirements.
16. **PROTEST PROCEDURES:** When an offeror wants to protest a contract award pursuant to this solicitation, they must submit a written request to the Chief Finance Officer of Charlotte-Mecklenburg Board of Education. This request must be received within (10) ten consecutive calendar days from the date of the contract award, and must contain specific sound reasons and any supporting documentation for the protest. Note: Contract award notices are sent only to those actually awarded contracts, and not to every person or firm responding to this solicitation. Offerors may call the Procurement Official listed on the first page of this document to obtain a verbal status of contract award. If the Chief Finance Officer can render a decision based on the facts without a meeting, a written response with a decision will be rendered within 10 consecutive calendar days of the receipt of the protest letter. If not, The Chief Finance Officer will schedule a meeting with the protesting party to hear their complaint. This meeting will be held within 30 consecutive calendar days after receipt of the written protest. The Chief Finance Officer will respond to the protesting party in writing with a decision within 30 consecutive calendar days from the date of the protest meeting. All decisions of the Chief Finance Officer shall be the final administrative review.

# THE CHARLOTTE-MECKLENBURG BOARD OF EDUCATION

## STANDARD TERMS AND CONDITIONS

- ACCEPTANCE:** Seller's acknowledgment of the terms of this purchase order (this "Order"), without timely express written objection, or Seller's shipment or performance of any part of this Order, constitutes an agreement to (i) all terms and conditions set forth or referenced herein and on the face of this Order, (ii) on any attachments hereto, (iii) any applicable solicitation documentation related to this Order (including without limitation any request for proposals or invitation for bids or Seller's response thereto) that deal with the same subject matter as this Order, and (iv) any other terms and conditions of a written agreement signed by Seller and The Charlotte Mecklenburg Board of Education ("CMBE") that deals with the same subject matter as this Order (collectively, the "Contract Documents"). The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Seller and CMBE with respect to the purchase by CMBE of the (i) goods ("Goods") and/or (ii) services provided or work performed ("Services") as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." In the event of any conflict between any terms and conditions of the Contract Documents, the terms and conditions most favorable to CMBE shall control. This Order constitutes an offer by CMBE and expressly limits acceptance to the terms and conditions stated herein. No additional or supplemental provision or provisions in variance herewith that may appear in Seller's quotation, acknowledgment, invoice, or in any other communication from Seller to CMBE shall be deemed accepted by or binding on CMBE. CMBE hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until CMBE's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by CMBE are subject to correction.
- QUANTITIES:** Shipments must equal exact amounts ordered unless otherwise agreed in writing by CMBE. The award of a term contract neither implies nor guarantees any minimum or maximum purchases.
- PRICES:** If Seller's price or the regular market price of any of the Goods or Services covered hereunder is lower than the price stated in the Contract Documents on the date of shipment of such Goods or Services, Seller agrees to give CMBE the benefit of such lower price on any such Goods or Services. In no event shall Seller's price be higher than the price last quoted or last charged to CMBE unless otherwise agreed in writing. No charges for transportation, boxing, crating, etc. are allowable unless such charges are included in the Contract Documents.
- 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 may subject the Contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item. Invoices shall be sent to CMBE's accounts payable department with a copy to the CMBE Project Coordinator.
- FREIGHT ON BOARD:** All shipments of Goods are FOB destination unless otherwise stated in the Contract Documents.
- TAXES:** Applicable taxes shall be invoiced as a separate item.
- PAYMENT TERMS:** Payment terms are Net 30 days after receipt of correct invoice or acceptance of Goods or Services, whichever is later.

8. **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.
9. **DELAY IN SHIPMENT:** Time and date of delivery are of the essence, except when delay is due to causes beyond Seller's reasonable control and without Seller's fault or negligence.
10. **RISK OF LOSS:** Seller shall have the risk of loss of and damage to the Goods subject to the Contract Documents until such Goods are delivered to the destination and accepted by CMBE or its nominee.
11. **REJECTION:** All Goods and Services shall be received subject to CMBE's inspection. Goods or Services that are defective in workmanship or material or otherwise not in conformity with the requirements of the Contract Documents may be rejected and returned at Seller's expense or may be accepted at a reduced price. CMBE may require Seller to promptly replace or correct any rejected Goods or Services and, if Seller fails to do so, CMBE may contract with a third party to replace such Goods and Services and charge Seller the additional cost.
12. **COMPLIANCE WITH ALL LAWS:** Seller warrants that all performance hereunder shall be in accordance with all applicable federal, state, and local laws, regulations and orders.
13. **REGISTERED SEX OFFENDERS:** Contractor acknowledges that CMBE Policy ADDA, "Registered Sex Offenders," prohibits anyone registered or required to register as a sex offender from being present on any CMBE Property for any reason, whether before, during or after school hours, or on or off of CMS property. Contractor expressly agrees that it, and any of its employees, will comply with this policy and acknowledges that any individuals that violate this policy are subject to removal from CMS Property by CMS and/or law enforcement officials and may also be subject to criminal prosecution. If Contractor, any of Contractor's employees, or any of Contractor's subcontractors or employees of subcontractors will have any direct interaction with students, then Contractor or the subcontractor must (i) on an annual basis conduct a check of the N.C. Sex Offender and Public Protection Registration Program, the N.C. Sexually Violent Predator Registration Program and the National Sex Offender Registry for all such employees; and (ii) prohibit individuals listed on such registries from being on CMS Property.
14. **WARRANTIES:** Seller warrants that all Goods and Services delivered hereunder will be free from defects in materials and workmanship and will conform strictly to the specifications, drawings, or samples specified or furnished. This warranty shall survive any inspection, delivery, acceptance or payment by CMBE of the Goods and Services and shall run to CMBE and any user of the Goods or Services. This express warranty is in addition to Seller's implied warranties of merchantability and fitness for a particular purpose which shall not be disclaimed. In addition to any other rights available at law or equity, CMBE shall be entitled to all rights and remedies provided by the Uniform Commercial Code, Chapter 25 of the North Carolina General Statutes, for breach of express warranties and implied warranties of merchantability or fitness for a particular purpose, including but not limited to consequential and incidental damages.

- 15. INDEMNIFICATION:** Seller shall indemnify and hold harmless CMBE, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees and liability that any of them may sustain (a) arising out of Seller's failure to comply with any applicable law, ordinance, regulation, or industry standard or (b) arising directly or indirectly out of Seller's performance or lack of performance of the terms and conditions of the Contract. In the event that any Goods or Services sold and delivered or sold and performed under the Contract Documents shall be defective in any respect whatsoever, Seller shall indemnify and save harmless CMBE, its officers, agents, employees and assigns from all loss or the payment of all sums of money by reason of all accidents, injuries or damages to persons or property that shall happen or occur in connection with the use or sale of such Goods or Services and are contributed to by said condition. In the event Seller, its employees, agents, subcontractors and or lower-tier subcontractors enter premises occupied by or under the control of CMBE in the performance of the Contract Documents, Seller agrees that it will indemnify and hold harmless CMBE, its officers, agents, employees and assigns, from any loss, costs, damage, expense or liability by reason of property damage or personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with such entry.
- 16. INSURANCE:** Unless such insurance requirements are waived or modified by CMBE or the Charlotte-Mecklenburg Department of Insurance and Risk Management ("DIRM"), Seller certifies that it currently has and agrees to purchase and maintain during its performance under the Contract the following insurance from one or more insurance companies acceptable to CMBE and authorized to do business in the State of North Carolina: Automobile - Seller shall maintain bodily injury and property damage liability insurance covering all owned, non-owned and hired automobiles. The policy limits of such insurance shall not be less than \$1,000,000 combined single limit each person/each occurrence. Commercial General Liability - Seller shall maintain commercial general liability insurance that shall protect Seller from claims of bodily injury or property damage which arise from performance under the Contract. This insurance shall include coverage for contractual liability. The policy limits of such insurance shall not be less than \$1,000,000 combined single limit each occurrence/annual aggregate. Worker's Compensation and Employers' Liability Insurance - If applicable to Seller, Seller shall meet the statutory requirements of the State of North Carolina for worker's compensation coverage and employers' liability insurance. Seller shall also provide any other insurance or bonding specifically recommended in writing by the DIRM or required by applicable law. Certificates of such insurance shall be furnished by Seller to CMBE and shall contain the provision that CMBE be given 30 days' written notice of any intent to amend or terminate by either Seller or the insuring company. Failure to furnish insurance certificates or to maintain such insurance shall be a default under the Contract and shall be grounds for immediate termination of the Contract.
- 17. TERMINATION FOR CONVENIENCE:** In addition to all of the other rights which CMBE may have to cancel this Order, CMBE shall have the further right, without assigning any reason therefore, to terminate any work under the Contract Documents, in whole or in part, at any time at its complete discretion by providing 10 days' notice in writing from CMBE to Seller. If the Contract is terminated by CMBE in accordance with this paragraph, Seller will be paid in an amount which bears the same ratio to the total compensation as does the Goods or Services actually delivered or performed to the total originally contemplated in the Contract. CMBE will not be liable to Seller for any costs for completed Goods, Goods in process or materials acquired or contracted for, if such costs were incurred prior to the date of this Order.
- 18. TERMINATION FOR DEFAULT:** CMBE may terminate the Contract, in whole or in part, immediately and without prior notice upon breach of the Contract by Seller. In addition to any other remedies available to CMBE law or equity, CMBE may procure upon such terms as CMBE shall deem appropriate, Goods or Services substantially similar to those so terminated, in which case Seller shall be liable to CMBE for any excess costs for such similar supplies or services and any expenses incurred in connection therewith.

19. **CONTRACT FUNDING:** It is understood and agreed between Seller and CMBE that CMBE's obligation under the Contract is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made. No legal liability on the part of CMBE for any payment may arise until funds are made available to CMBE's Finance Officer and until Seller receives notice of such availability. Should such funds not be appropriated or allocated, the Contract shall immediately be terminated. CMBE shall not be liable to Seller for damages of any kind (general, special, consequential or exemplary) as a result of such termination.
20. **ACCOUNTING PROCEDURES:** Seller shall comply with any accounting and fiscal management procedures prescribed by CMBE to apply to the Contract and shall assure such fiscal control and accounting procedures as may be necessary for proper disbursement of and accounting for all project funds.
21. **IMPROPER PAYMENTS:** Seller shall assume all risks attendant to any improper expenditure of funds under the Contract. Seller shall refund to CMBE any payment made pursuant to the Contract if it is subsequently determined by audit that such payment was improper under any applicable law, regulation or procedure. Seller shall make such refunds within 30 days after CMBE notifies Seller in writing that a payment has been determined to be improper.
22. **CONTRACT TRANSFER:** Seller shall not assign, subcontract or otherwise transfer any interest in the Contract without the prior written approval of CMBE.
23. **CONTRACT PERSONNEL:** Seller agrees that it has, or will secure at its own expense, all personnel required to perform the services set forth in the Contract.
24. **KEY PERSONNEL:** Seller shall not substitute for key personnel (defined as those individuals identified by name or title in the Contract Documents or in written communication from Seller) assigned to the performance of the Contract without prior written approval from CMBE Project Coordinator (the individual at CMBE responsible for administering the Contract).
25. **CONTRACT MODIFICATIONS:** The Contract may be amended only by written amendment duly executed by both CMBE and Seller. However, minor modifications may be made by CMBE Project Coordinator to take advantage of unforeseen opportunities that: (a) do not change the intent of the Contract or the scope of Seller's performance; (b) do not increase Seller's total compensation or method of payment; and (c) either improve the overall quality of the product or service to CMBE without increasing the cost, or reduce the total cost of the product or service without reducing the quantity or quality. All such minor modifications to the Contract must be recorded in writing and signed by both the Project Coordinator and Seller, and placed on file with the Contract. No price adjustments will be made unless the procedure has been included in the Contract and a maximum allowable amount stipulated.
26. **RELATIONSHIP OF PARTIES:** Seller is an independent contractor and not an employee of CMBE. The conduct and control of the work will lie solely with Seller. The Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between Seller and CMBE. Employees of Seller shall remain subject to the exclusive control and supervision of Seller, which is solely responsible for their compensation.
27. **ADVERTISEMENT:** The Contract will not be used in connection with any advertising by Seller without prior written approval by CMBE.
28. **NONDISCRIMINATION:** During the performance of the Contract, Seller shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.



- 29. CONFLICT OF INTEREST:** Seller represents and warrants that no member of CMBE or any of its employees or officers who may obtain a direct benefit, personal gain or advantage for themselves or a relative or associate as a result of the Contract, subcontract or other agreement related to the Contract is in a position to influence or has attempted to influence the making of the Contract, has been involved in making the Contract, or will be involved in administering the Contract. Seller shall cause this paragraph to be included in all Contracts, subcontracts and other agreements related to the Contract.
- 30. GRATUITIES TO CMBE:** The right of Seller to proceed may be terminated by written notice if CMBE determines that Seller, its agent or another representative offered or gave a gratuity to an official or employee of CMBE in violation of policies of CMBE.
- 31. KICKBACKS TO SELLER:** Seller shall not permit any kickbacks or gratuities to be provided, directly or indirectly, to itself, its employees, subcontractors or subcontractor employees for the purpose of improperly obtaining or rewarding favorable treatment in connection with a CMBE Contract or in connection with a subcontract relating to a CMBE Contract. When Seller has grounds to believe that a violation of this clause may have occurred, Seller shall promptly report to CMBE in writing the possible violation.
- 32. MONITORING AND EVALUATION:** Seller shall cooperate with CMBE, or with any other person or agency as directed by CMBE, in monitoring, inspecting, auditing or investigating activities related to the Contract. Seller shall permit CMBE to evaluate all activities conducted under the Contract. CMBE has the right at its sole discretion to require that Seller remove any employee of Seller from CMBE property and from performing services under the Contract following provision of notice to Seller of the reasons for CMBE's dissatisfaction with the services of Seller's employee.
- 33. FINANCIAL RESPONSIBILITY:** Seller is financially solvent and able to perform under the Contract. If requested by CMBE, Seller agrees to provide a copy of its latest audited annual financial statements or other financial statements as deemed acceptable by CMBE's Finance Officer. In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Seller, the inability of Seller to meet its debts as they become due or in the event of the appointment, with or without Seller's consent, of an assignee for the benefit of creditors or of a receiver, then CMBE shall be entitled, at its sole option, to cancel any unfilled part of the Contract without any liability whatsoever.
- 34. 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 Seller to notify, in writing, the issuing purchasing office at once, indicating the specific regulation which required such alterations. CMBE reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract.
- 35. INSPECTION AT SELLER'S SITE:** CMBE reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective contractor prior to Contract award, and during the Contract term as necessary for CMBE 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.

36. **CONFIDENTIAL INFORMATION:** Student Information: If, during the course of Seller's performance of the Contract, Seller should obtain any information pertaining to the students' official records, Seller agrees to keep any such information confidential and to not disclose or permit it to be disclosed, directly or indirectly, to any person or entity. The Contract shall not be construed by either party to constitute a waiver of or to in any manner diminish the provisions for confidentiality of students' records. Additionally, pursuant to N.C.G.S. 115C-401.1, it is unlawful for a person who enters into a contract with a local board of education to sell personally identifiable information that is obtained from a student as a result of that person's performance under the Contract. Employee Personnel Information: If, during the course of Seller's performance of the Contract, Seller should obtain any information pertaining to employees of CMBE's personnel records, Seller agrees to keep any such information confidential and to not disclose or permit it to be disclosed, directly or indirectly, to any person or entity. Other Confidential Information: (a) Seller agrees that it will at all times hold in confidence for CMBE all designs, know-how, techniques, devices, drawings, specifications, patterns, technical information, documents, business plans, item requirements, forecasts and similar data, oral, written or otherwise, conveyed by CMBE to Seller in connection herewith or procured, developed, produced, manufactured or fabricated by Seller in connection herewith or procured, developed, produced, manufactured or fabricated by Seller in connection with Seller's performance hereunder (collectively, "Information"). Seller shall exercise the same degree of care to prevent disclosure of any Information to others as it takes to preserve and safeguard its own proprietary information, but in any event, no less than a reasonable degree of care. Seller shall not, without the prior written consent of CMBE, reproduce any Information; nor disclose Information to any party; nor use any Information for any purpose other than performance for the benefit of Seller hereunder. (b) Any technical knowledge or information of Seller which Seller shall have disclosed or may hereafter disclose to CMBE in connection with the Goods or other performance covered by the Contract shall not, unless otherwise specifically agreed upon in writing by CMBE, be deemed to be confidential or proprietary information and shall be acquired by CMBE free from any restrictions as part of the consideration of the Contract.
37. **INTELLECTUAL PROPERTY:** Seller agrees, at its own expense, to indemnify, defend and save CMBE harmless from all liability, loss or expense, including costs of settlement and attorney's fees, resulting from any claim that CMBE's use, possession or sale of the Goods or Services infringes any copyright, patent or trademark or is a misappropriation of any trade secret.
38. **NO PRE-JUDGMENT OR POST-JUDGMENT INTEREST:** In the event of any action by Seller for breach of contract in connection with the Contract, any amount awarded shall not bear interest either before or after any judgment, and Seller specifically waives any claim for interest.
39. **BACKGROUND CHECKS:** At the request of CMBE's Project Coordinator, Seller (if an individual) or any individual employees of Seller shall submit to CMBE criminal background check and drug testing procedures.
40. **MEDIATION:** If a dispute arises out of or relates to the Contract, or the breach of the Contract, and if the dispute cannot be settled through negotiation, the parties agree to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to litigation.
41. **NO THIRD-PARTY BENEFITS:** The Contract shall not be considered by Seller to create any benefits on behalf of any third party. Seller shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third party benefits.

42. **FORCE MAJEURE:** If CMBE is unable to perform its obligations or to accept the services or goods because of Force Majeure (as hereinafter defined), the time for such performance by CMBE or acceptance of services will be equitably adjusted by allowing additional time for performance or acceptance of services equal to any periods of Force Majeure. "Force Majeure" shall mean any delays caused by acts of God, riot, war, terrorism, inclement weather, labor strikes, material shortages and other causes beyond the reasonable control of CMBE.
43. **OWNERSHIP OF DOCUMENTS:** All documents created pursuant to the Contract shall, unless expressly provided otherwise in writing, be owned by CMBE. Upon the termination or expiration of the Contract, any and all finished or unfinished documents and other materials produced by Seller pursuant to the Contract shall, at the request of CMBE, be turned over to CMBE. Any technical knowledge or information of Seller which Seller shall have disclosed or may hereafter disclose to CMBE shall not, unless otherwise specifically agreed upon in writing by CMBE, be deemed to be confidential or proprietary information and shall be acquired by CMBE free from any restrictions as part of the consideration of the Contract.
44. **STRICT COMPLIANCE:** CMBE may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
45. **GENERAL PROVISIONS:** CMBE's remedies as set forth herein are not exclusive. Any delay or omission in exercising any right hereunder, or any waiver of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default. If action be instituted by Seller hereunder, CMBE shall be entitled to recover costs and reasonable attorney's fees. Seller may not assign, pledge, or in any manner encumber Seller's rights under this Order, or delegate the performance of any of its obligations hereunder, without CMBE's prior, express written consent.
46. **CONTRACT SITUS:** All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of the Contract, will be determined in Mecklenburg County, North Carolina. North Carolina law will govern the interpretation and construction of the Contract.

**\*\*\*\*\*SAMPLE CONTRACT\*\*\*\*\***

**THE CHARLOTTE-MECKLENBURG BOARD OF EDUCATION  
CONTRACT ROUTING SHEET**

Contractor (name): \_\_\_\_\_ CMS Vendor Number: \_\_\_\_\_  
(address): \_\_\_\_\_

Purpose of Contract (brief description): \_\_\_\_\_

Submitting Department: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Budget Account Number: \_\_\_\_\_ Requisition #: \_\_\_\_\_  
**(Place Req # on Contract Page 1)**

Contract Amount: \$ \_\_\_\_\_  
Contract Period: \_\_\_\_\_ Contact Phone No: \_\_\_\_\_  
CMBE Employee to Contact: \_\_\_\_\_

**NOTE:** Individuals listed below should initial, date and forward this form after completing their responsibilities relating to this Contract. Responsibilities of each individual are stated in the Contract Manual.

	Date Received	Date Processed	Initials
1. Approved by Fund Owner/Acquire Vendor Signature (LC Area Superintendent <b>IF</b> Appropriate) <b>SEE INSURANCE CERTIFICATE, #3 and PAGE 9</b> <b>FORWARD TO CMS GEN COUNSEL OFFICE</b>	_____	_____	_____
2. Approved by School Board Attorney	_____	_____	_____
3. Reviewed by Representative of Division of Insurance & Risk Management <b>WITH CMBOE NAMED</b> as CERTIFICATE HOLDER/ Additional Insured (See Example page 9)	_____	_____	_____
4. Approved by Appropriate Representatives of CMBE			
_____ Board Chairperson ( <b>IF</b> required)	_____	_____	_____
_____ Superintendent ( <b>IF</b> required)	_____	_____	_____
_____ Chief Community Relations & Engagement Officer	_____	_____	_____
_____ Chief Operating Officer	_____	_____	_____
_____ Chief Academic Officer	_____	_____	_____
_____ Associate Superintendent Student Services	_____	_____	_____
_____ Chief Human Resources Officer	_____	_____	_____
_____ Chief of Staff	_____	_____	_____
_____ Chief Communications Officer	_____	_____	_____
_____ Chief Equity Officer	_____	_____	_____
<b>FORWARD TO BUDGET</b>			
5. Pre-audited by Representative of Budget and Finance Officer	_____	_____	_____
<b>FORWARD TO PURCHASING</b>			
6. Purchase Order Number Assigned by Purchasing Director, or designee, and contract distributed	_____	_____	_____

**Contract #:**  
**Lawson Requisition #:**

**THE CHARLOTTE-MECKLENBURG BOARD OF EDUCATION  
CONTRACT FOR SERVICES**

This Contract for Services (“Contract”) is made and entered into effective [Date] between The Charlotte-Mecklenburg Board of Education (“CMBE”) and [Contractor Name] (“Contractor” or “Seller”).

For and in consideration of the mutual promises set forth in this Contract, the parties agree as follows:

1. Obligations of Contractor - The Contractor agrees to provide services (the “Services”) to fully, timely and properly complete [Project Name] as more particularly described in the Scope of Work document attached hereto and incorporated herein by reference as Exhibit 1.

**INSTRUCTIONS:** Provide a complete and specific description of the services and/or goods to be provided. The description should be clear enough so that a person not familiar with the project would understand the Contractor's responsibilities. Include all of the following relevant to the Contract:

1. Dates and times of performance. If unknown at the time the Contract is signed, state how dates and times will be determined. All contracts must have an end of term date.
2. Performance or quality standards.
3. Names or titles of particular persons expected to render the service.
4. Licenses, accreditations or other qualifications required of Contractor or Contractor's employees.
5. Quantity (number of items to be delivered, number of students to be served, number of hours of consulting services to be rendered, etc.). If the exact amount is unknown, state the maximum or minimum. What are the deliverables and how will deliverables be determined?
6. Place where goods are to be delivered or where services are to be performed.
7. If contract is for consulting services for professional development, confirmation that Contractor is charging a uniform/reasonable price for any identical services provided to other CMS departments.
8. Term of contract, beginning and ending date.
9. Provide an Exhibit containing the scope of services on the Contractor’s letterhead.
10. **DELETE ALL INSTRUCTIONS !**

**[If Master Work Order Contract, then INSERT:** Individual tasks will be assigned in writing on a project by project basis by an authorized representative of the CMBE. Such writing shall be in the form of a standard CMBE purchase order (“Purchase Order”), such Purchase Order to specify the specific Services desired by the CMBE; the dates, times and locations that the Contractor shall provide the requested Services; and the compensation that the Contractor will be paid for providing the requested Services. The Contractor will be deemed to have accepted a Purchase Order and be obligated to provide the services outlined in the Purchase Order in accordance with the price and other terms of the Purchase Order, and the terms and conditions hereof, unless within 24 hours after the Contractor’s receipt of a Purchase Order, the Contractor notifies the Project Coordinator (as hereinafter defined) in writing that it does not accept the Purchase Order and will not provide the requested Services.

The term of this Contract shall be [Term of Contract].

This Contract does not grant the Contractor the right or the exclusive right to provide specified services to CMBE. Similar services may be obtained from sources other than the Contractor (or not at all) at the discretion of the CMBE.

The Contractor shall begin work immediately upon issuance of a written notice to proceed. The Contractor agrees to perform the Services in a timely, complete, and professional manner and in accordance with the terms and conditions of this Contract. Furthermore, the Contractor represents and warrants that (i) it is duly qualified and licensed to provide the Services, (ii) it will provide the Services in a manner consistent with the level of care and skill ordinarily exercised by contractors providing similar services under similar conditions, (iii) it possesses sufficient experience, personnel, and resources to complete the Services, (iv) it shall perform the Services in compliance with applicable laws, statutes, ordinances, codes, orders, rules and regulations, and (v) its reports, if any, shall be complete, accurate, and unambiguous.

2. Obligations of CMBE. CMBE agrees to pay the Contractor for services as follows:

**INSTRUCTIONS:** Include the fee amount (flat fee or rate), any travel or lodging, and “the total not to exceed” amount of payment(s) and/or a description of services the CMBE will give as consideration.  
**INCLUDE BUDGET ACCOUNT**  
**DELETE THESE/ALL ‘INSTRUCTIONS.’**

			Budget Account No.:
(i)	Contractor’s Fee	\$	_____
(ii)	Travel Not to Exceed	\$	_____
(iii)	Lodging/Food Not to Exceed	\$	_____
(iv)	Other	\$	_____
(v)	Total Not to Exceed		_____

**[If multi-year:** The parties acknowledge that CMBE operates on a July 1-June 30 fiscal year and that operating funds are made available to CMBE on a year to year basis. The mechanism by which CMBE shall confirm that funding is available will be issuance of standard CMBE purchase orders (each, a “Purchase Order”) from time-to-time. The initial Purchase Order for services is expected to be issued on or about **[DATE]** and will reflect the amount of the authorization for the Services for **[Described initial scope]** in the amount of **[Dollar Amount]**. Thereafter, on an as-needed basis as determined by CMBE, CMBE may amend existing Purchase Orders from time to time or issue a new Purchase Order (e.g. at the start of each new fiscal year).]

**[If master contract:** A separate purchase order shall be issued for each assignment and the total amount due to the Contractor for a particular work assignment shall not exceed the amount shown in the purchase order for that assignment.]

3. Project Coordinator. **[Primary Contact for CMBE]** is designated as the Project Coordinator for the CMBE. The Project Coordinator shall be the CMBE’s representative in connection with the Contractor’s performance under this Contract. The CMBE has complete discretion in replacing the Project Coordinator with another person of its choosing.
4. Contractor Supervisor. **[Primary Contact for Contractor]** is designated as the Contractor Supervisor for the Contractor. The Contractor Supervisor is fully authorized to act on behalf of the Contractor in connection with this Contract.
5. Terms and Methods of Payment. CMBE will make payment after invoices are approved on a net 30 day basis. CMBE will not pay for services or materials in advance without the prior approval of the Finance Officer. Contractor to submit invoices on the following schedule: **[Invoice Schedule]**

**INSTRUCTIONS: CHOOSE ONE of the following versions: (DELETE THESE AND ALL INSTRUCTIONS.)**

**VERSION #1. INSTRUCTIONS:** If MULTIPLE INVOICES and payments are anticipated, choose this version by including the following provision: **DELETE THE INSTRUCTIONS. OTHERWISIE, SELECT SINGLE PAYMENT OPTION # 2**

<u>Payment Number</u>	<u>Period Covered by Invoice</u> _____	<u>Date of Invoice</u>	<u>Amount</u>
---------------------------	--	----------------------------	---------------

**INSTRUCTIONS:** If the amount will be determined later based on the extent to which goods are purchased or services are rendered, change the "Amount" column to read "Amount Not to Exceed".  
**DELETE THE INSTRUCTIONS.**

**VERSION #2. INSTRUCTIONS:** If only one invoice is anticipated, choose this version by including the following provision:  
**DELETE THESE AND ALL INSTRUCTIONS.**

6. Additional Provisions.

- a. Standard Terms and Conditions: Contractor agrees to the Standard Terms and Conditions set forth as Attachment A, attached hereto and incorporated herein by reference.
- b. Iran Divestment Act: Contractor certifies that, as of the date listed below, it is not on the Final Divestment List, as created by the State Treasurer pursuant to N.C.G.S. § 143-6A-4, in violation of the Iran Divestment Act. In compliance with the requirements of the Iran Divestment Act and N.C.G.S. § 143C-6A-5(b), Contractor shall not utilize in the performance of the contract any subcontractor that is identified on the Final Divestment List. The Final Divestment List can be found on the State Treasurer’s website at the address [www.nctreasurer.com/Iran](http://www.nctreasurer.com/Iran) and should be updated every 180 days.
- c. E-Verification: Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.
- d. Federal Uniform Guidance: “Contracts funded with federal grant or loan funds must be procured in a manner that conforms with all applicable Federal laws, policies, and standards, including those under the Uniform Guidance (2 C.F.R. Part 200).” Additional information can be found at: <http://www.cms.k12.nc.us/cmsdepartments/Finance/procurementservices/Pages/default.aspx>.

7. Counterpart Execution. This Contract may be executed and recorded in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. Each party shall be entitled to rely upon executed copies of this Contract transmitted by facsimile or electronic “PDF” to the same and full extent as the originals.

**[THE REST OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]  
[SIGNATURES ON NEXT PAGE]**

**IN WITNESS WHEREOF**, the CMBE and the Contractor have executed this Contract on the day and year first written above.

**[CONTRACTOR NAME]**

\_\_\_\_\_  
Contractor Name

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Contractor's Federal Identification #  
[if Contract is with Organization or Social Security Number if individual]

\_\_\_\_\_  
Originator/Fund Owner

This instrument has been preaudited in the manner required by the School Budget and Fiscal Control Act.

LC Area Superintendent  
 Special Fund Owner

\_\_\_\_\_  
Finance Officer

APPROVED AS TO FORM:

REVIEWED BY:

\_\_\_\_\_  
School Board Attorney

\_\_\_\_\_  
Division of Insurance and Risk Management

**THE CHARLOTTE-MECKLENBURG BOARD OF EDUCATION**

\_\_\_\_\_  
Superintendent OR Authorized Designee

Chief Academic Officer     Chief Operating Officer

\_\_\_\_\_  
THE CHARLOTTE MECKLENBURG BOARD OF EDUCATION CHAIR (if applicable)



## Attachment A

### Standard Terms and Conditions

1. **Acceptance.** Seller's acknowledgment of the terms of this purchase order (this "Order"), without timely express written objection, or Seller's shipment or performance of any part of this Order, constitutes an agreement to (i) all terms and conditions set forth or referenced herein and on the face of this Order, (ii) on any attachments hereto, (iii) any applicable solicitation documentation related to this Order (including without limitation any request for proposals or invitation for bids or Seller's response thereto) that deal with the same subject matter as this Order, and (iv) any other terms and conditions of a written agreement signed by Seller and The Charlotte-Mecklenburg Board of Education ("CMBE") that deals with the same subject matter as this Order (collectively, the "Contract Documents"). The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Seller and CMBE with respect to the purchase by CMBE of the (i) goods ("Goods") and/or (ii) services provided or work performed ("Services") as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." In the event of any conflict between any terms and conditions of the Contract Documents, the terms and conditions most favorable to CMBE shall control. This Order constitutes an offer by CMBE and expressly limits acceptance to the terms and conditions stated herein. No additional or supplemental provision or provisions in variance herewith that may appear in Seller's quotation, acknowledgment, invoice, or in any other communication from Seller to CMBE shall be deemed accepted by or binding on CMBE. CMBE hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until CMBE's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by CMBE are subject to correction.
2. **Quantities.** Shipments must equal exact amounts ordered unless otherwise agreed in writing by CMBE. The award of a term contract neither implies nor guarantees any minimum or maximum purchases.
3. **Prices.** If Seller's price or the regular market price of any of the Goods or Services covered hereunder is lower than the price stated in the Contract Documents on the date of shipment of such Goods or Services, Seller agrees to give CMBE the benefit of such lower price on any such Goods or Services. In no event shall Seller's price be higher than the price last quoted or last charged to CMBE unless otherwise agreed in writing. No charges for transportation, boxing, crating, etc. are allowable unless such charges are included in the Contract Documents.
4. **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 may subject the Contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item. Invoices shall be sent to CMBE's accounts payable department with a copy to the CMBE Project Coordinator.
5. **Freight on Board.** All shipments of Goods are FOB destination unless otherwise stated in the Contract Documents.
6. **Taxes.** Applicable taxes shall be invoiced as a separate item.
7. **Payment Terms.** Payment terms are Net 30 days after receipt of correct invoice or acceptance of Goods or Services, whichever is later.
8. **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.

9. Delays in Shipment. Time and date of delivery are of the essence, except when delay is due to causes beyond Seller's reasonable control and without Seller's fault or negligence.

10. Risk of Loss. Seller shall have the risk of loss of and damage to the Goods subject to the Contract Documents until such Goods are delivered to the destination and accepted by CMBE or its nominee.

11. Rejection. All Goods and Services shall be received subject to CMBE's inspection. Goods or Services that are defective in workmanship or material or otherwise not in conformity with the requirements of the Contract Documents may be rejected and returned at Seller's expense or may be accepted at a reduced price. CMBE may require Seller to promptly replace or correct any rejected Goods or Services and, if Seller fails to do so, CMBE may contract with a third party to replace such Goods and Services and charge Seller the additional cost.

12. Compliance with All Laws. Seller warrants that all performance hereunder shall be in accordance with all applicable federal, state and local laws, regulations and orders.

13. Registered Sex Offenders. Contractor acknowledges that CMBE Policy ADDA, "Registered Sex Offenders," prohibits anyone registered or required to register as a sex offender from being present on any CMBE Property for any reason, whether before, during or after school hours, or on or off of CMBE Property. Contractor expressly agrees that it, and any of its employees, will comply with this policy and acknowledges that any individuals that violate this policy are subject to removal from CMBE Property by CMS and/or law enforcement officials and may also be subject to criminal prosecution. "CMBE Property" includes all property owned or operated by the Charlotte-Mecklenburg Board of Education, including school campuses and buildings, athletic fields, playgrounds, parking lots, bus stops, vehicles, school buses, activity buses and any other properties owned or controlled by CMS.

If Contractor, any of Contractor's employees, or any of Contractor's subcontractors or employees of subcontractors will have any direct interaction with students, then Contractor or the subcontractor must (i) on an annual basis conduct a check of the N.C. Sex Offender and Public Protection Registration Program, the N.C. Sexually Violent Predator Registration Program and the National Sex Offender Registry for all such employees; and (ii) prohibit individuals listed on such registries from being on CMBE Property.

14. Warranties. Seller warrants that all Goods and Services delivered hereunder will be free from defects in materials and workmanship and will conform strictly to the specifications, drawings, or samples specified or furnished. This warranty shall survive any inspection, delivery, acceptance or payment by CMBE of the Goods and Services and shall run to CMBE and any user of the Goods or Services. This express warranty is in addition to Seller's implied warranties of merchantability and fitness for a particular purpose which shall not be disclaimed. In addition to any other rights available at law or equity, CMBE shall be entitled to all rights and remedies provided by the Uniform Commercial Code, Chapter 25 of the North Carolina General Statutes, for breach of express warranties and implied warranties of merchantability or fitness for a particular purpose, including but not limited to consequential and incidental damages.

15. Indemnification. Seller shall indemnify and hold harmless CMBE, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees and liability that any of them may sustain (a) arising out of Seller's failure to comply with any applicable law, ordinance, regulation, or industry standard or (b) arising directly or indirectly out of Seller's performance or lack of performance of the terms and conditions of the Contract. In the event that any Goods or Services sold and delivered or sold and performed under the Contract Documents shall be defective in any respect whatsoever, Seller shall indemnify and save harmless CMBE, its officers, agents, employees and assigns from all loss or the payment of all sums of money by reason of all accidents, injuries or damages to persons or property that shall happen or occur in connection with the use or sale of such Goods or Services and are contributed to by said condition. In the event Seller, its employees, agents, subcontractors and or lower-tier subcontractors enter premises occupied by or under the control of CMBE in the performance of the Contract Documents, Seller agrees that it will indemnify and hold harmless CMBE, its officers, agents, employees and assigns, from any loss, costs, damage, expense or liability by reason of property damage or personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with such entry.

16. Insurance. Unless such insurance requirements are waived or modified by CMBE or the Charlotte-Mecklenburg Department of Insurance and Risk Management (“DIRM”), Seller certifies that it currently has and agrees to purchase and maintain during its performance under the Contract the following insurance from one or more insurance companies acceptable to CMBE and authorized to do business in the State of North Carolina: Automobile - Seller shall maintain bodily injury and property damage liability insurance covering all owned, non-owned and hired automobiles. The policy limits of such insurance shall not be less than \$1,000,000 combined single limit each person/each occurrence. Commercial General Liability - Seller shall maintain commercial general liability insurance that shall protect Seller from claims of bodily injury or property damage which arise from performance under the Contract. This insurance shall include coverage for contractual liability. The policy limits of such insurance shall not be less than \$1,000,000 combined single limit each occurrence/annual aggregate. Worker's Compensation and Employers' Liability Insurance - If applicable to Seller, Seller shall meet the statutory requirements of the State of North Carolina for worker's compensation coverage and employers' liability insurance. Seller shall also provide any other insurance or bonding specifically recommended in writing by the DIRM or required by applicable law. Certificates of such insurance shall be furnished by Seller to CMBE and shall contain the provision that CMBE be given 30 days' written notice of any intent to amend or terminate by either Seller or the insuring company. Failure to furnish insurance certificates or to maintain such insurance shall be a default under the Contract and shall be grounds for immediate termination of the Contract.

17. Termination for Convenience. In addition to all of the other rights which CMBE may have to cancel this Order, CMBE shall have the further right, without assigning any reason therefore, to terminate any work under the Contract Documents, in whole or in part, at any time at its complete discretion by providing 10 days notice in writing from CMBE to Seller. If the Contract is terminated by CMBE in accordance with this paragraph, Seller will be paid in an amount which bears the same ratio to the total compensation as does the Goods or Services actually delivered or performed to the total originally contemplated in the Contract. CMBE will not be liable to Seller for any costs for completed Goods, Goods in process or materials acquired or contracted for, if such costs were incurred prior to the date of this Order.

18. Termination for Default. CMBE may terminate the Contract, in whole or in part, immediately and without prior notice upon breach of the Contract by Seller. In addition to any other remedies available to CMBE law or equity, CMBE may procure upon such terms as CMBE shall deem appropriate, Goods or Services substantially similar to those so terminated, in which case Seller shall be liable to CMBE for any excess costs for such similar supplies or services and any expenses incurred in connection therewith.

19. Contract Funding. It is understood and agreed between Seller and CMBE that CMBE's obligation under the Contract is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made. No legal liability on the part of CMBE for any payment may arise until funds are made available to CMBE's Finance Officer and until Seller receives notice of such availability. Should such funds not be appropriated or allocated, the Contract shall immediately be terminated. CMBE shall not be liable to Seller for damages of any kind (general, special, consequential or exemplary) as a result of such termination.

20. Accounting Procedures. Seller shall comply with any accounting and fiscal management procedures prescribed by CMBE to apply to the Contract and shall assure such fiscal control and accounting procedures as may be necessary for proper disbursement of and accounting for all project funds.

21. Improper Payments. Seller shall assume all risks attendant to any improper expenditure of funds under the Contract. Seller shall refund to CMBE any payment made pursuant to the Contract if it is subsequently determined by audit that such payment was improper under any applicable law, regulation or procedure. Seller shall make such refunds within 30 days after CMBE notifies Seller in writing that a payment has been determined to be improper.

22. Contract Transfer. Seller shall not assign, subcontract or otherwise transfer any interest in the Contract without the prior written approval of CMBE.

23. **Contract Personnel.** Seller agrees that it has, or will secure at its own expense, all personnel required to perform the services set forth in the Contract.
24. **Key Personnel.** Seller shall not substitute for key personnel (defined as those individuals identified by name or title in the Contract Documents or in written communication from Seller) assigned to the performance of the Contract without prior written approval from CMBE Project Coordinator (the individual at CMBE responsible for administering the Contract).
25. **Contract Modifications.** The Contract may be amended only by written amendment duly executed by both CMBE and Seller. However, minor modifications may be made by CMBE Project Coordinator to take advantage of unforeseen opportunities that: (a) do not change the intent of the Contract or the scope of Seller's performance; (b) do not increase Seller's total compensation or method of payment; and (c) either improve the overall quality of the product or service to CMBE without increasing the cost, or reduce the total cost of the product or service without reducing the quantity or quality. All such minor modifications to the Contract must be recorded in writing and signed by both the Project Coordinator and Seller, and placed on file with the Contract. No price adjustments will be made unless the procedure has been included in the Contract and a maximum allowable amount stipulated.
26. **Relationship of Parties.** Seller is an independent contractor and not an employee of CMBE. The conduct and control of the work will lie solely with Seller. The Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between Seller and CMBE. Employees of Seller shall remain subject to the exclusive control and supervision of Seller, which is solely responsible for their compensation.
27. **Advertisement.** The Contract will not be used in connection with any advertising by Seller without prior written approval by CMBE.
28. **Nondiscrimination.** During the performance of the Contract, Seller shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.
29. **Conflict of Interest.** Seller represents and warrants that no member of CMBE or any of its employees or officers who may obtain a direct benefit, personal gain or advantage for themselves or a relative or associate as a result of the Contract, subcontract or other agreement related to the Contract is in a position to influence or has attempted to influence the making of the Contract, has been involved in making the Contract, or will be involved in administering the Contract. Seller shall cause this paragraph to be included in all Contracts, subcontracts and other agreements related to the Contract.
30. **Gratuities to CMBE.** The right of Seller to proceed may be terminated by written notice if CMBE determines that Seller, its agent or another representative offered or gave a gratuity to an official or employee of CMBE in violation of policies of CMBE.
31. **Kickbacks to Seller.** Seller shall not permit any kickbacks or gratuities to be provided, directly or indirectly, to itself, its employees, subcontractors or subcontractor employees for the purpose of improperly obtaining or rewarding favorable treatment in connection with a CMBE Contract or in connection with a subcontract relating to a CMBE Contract. When Seller has grounds to believe that a violation of this clause may have occurred, Seller shall promptly report to CMBE in writing the possible violation.

32. Monitoring and Evaluation. Seller shall cooperate with CMBE, or with any other person or agency as directed by CMBE, in monitoring, inspecting, auditing or investigating activities related to the Contract. Seller shall permit CMBE to evaluate all activities conducted under the Contract. CMBE has the right at its sole discretion to require that Seller remove any employee of Seller from CMBE Property and from performing services under the Contract following provision of notice to Seller of the reasons for CMBE's dissatisfaction with the services of Seller's employee.

33. Financial Responsibility. Seller is financially solvent and able to perform under the Contract. If requested by CMBE, Seller agrees to provide a copy of its latest audited annual financial statements or other financial statements as deemed acceptable by CMBE's Finance Officer. In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Seller, the inability of Seller to meet its debts as they become due or in the event of the appointment, with or without Seller's consent, of an assignee for the benefit of creditors or of a receiver, then CMBE shall be entitled, at its sole option, to cancel any unfilled part of the Contract without any liability whatsoever.

34. 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 Seller to notify, in writing, the issuing purchasing office at once, indicating the specific regulation which required such alterations. CMBE reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract.

35. Inspection at Seller's Site. CMBE reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective contractor prior to Contract award, and during the Contract term as necessary for CMBE 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.

36. Confidential Information. Student Information: If, during the course of Seller's performance of the Contract, Seller should obtain any information pertaining to the students' official records, Seller agrees to keep any such information confidential and to not disclose or permit it to be disclosed, directly or indirectly, to any person or entity. The Contract shall not be construed by either party to constitute a waiver of or to in any manner diminish the provisions for confidentiality of students' records. Additionally, pursuant to N.C.G.S. 115C-401.1, it is unlawful for a person who enters into a contract with a local board of education to sell personally identifiable information that is obtained from a student as a result of that person's performance under the Contract. Employee Personnel Information: If, during the course of Seller's performance of the Contract, Seller should obtain any information pertaining to employees of CMBE's personnel records, Seller agrees to keep any such information confidential and to not disclose or permit it to be disclosed, directly or indirectly, to any person or entity. Other Confidential Information: (a) Seller agrees that it will at all times hold in confidence for CMBE all designs, know-how, techniques, devices, drawings, specifications, patterns, technical information, documents, business plans, item requirements, forecasts and similar data, oral, written or otherwise, conveyed by CMBE to Seller in connection herewith or procured, developed, produced, manufactured or fabricated by Seller in connection herewith or procured, developed, produced, manufactured or fabricated by Seller in connection with Seller's performance hereunder (collectively, "Information"). Seller shall exercise the same degree of care to prevent disclosure of any Information to others as it takes to preserve and safeguard its own proprietary information, but in any event, no less than a reasonable degree of care. Seller shall not, without the prior written consent of CMBE, reproduce any Information; nor disclose Information to any party; nor use any Information for any purpose other than performance for the benefit of Seller hereunder. (b) Any technical knowledge or information of Seller which Seller shall have disclosed or may hereafter disclose to CMBE in connection with the Goods or other performance covered by the Contract shall not, unless otherwise specifically agreed upon in writing by CMBE, be deemed to be confidential or proprietary information and shall be acquired by CMBE free from any restrictions as part of the consideration of the Contract.

37. Intellectual Property. Seller agrees, at its own expense, to indemnify, defend and save CMBE harmless from all liability, loss or expense, including costs of settlement and attorney's fees, resulting from any claim that CMBE's use, possession or sale of the Goods or Services infringes any copyright, patent or trademark or is a misappropriation of any trade secret.

38. No Pre-Judgment or Post-Judgment Interest. In the event of any action by Seller for breach of contract in connection with the Contract, any amount awarded shall not bear interest either before or after any judgment, and Seller specifically waives any claim for interest.

39. Background Checks. At the request of CMBE's Project Coordinator, Seller (if an individual) or any individual employees of Seller shall submit to CMBE criminal background check and drug testing procedures.

40. Mediation. If a dispute arises out of or relates to the Contract, or the breach of the Contract, and if the dispute cannot be settled through negotiation, the parties agree to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to litigation.

41. No Third Party Benefits. The Contract shall not be considered by Seller to create any benefits on behalf of any third party. Seller shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third party benefits.

42. Force Majeure. If CMBE is unable to perform its obligations or to accept the services or goods because of Force Majeure (as hereinafter defined), the time for such performance by CMBE or acceptance of services will be equitably adjusted by allowing additional time for performance or acceptance of services equal to any periods of Force Majeure. "Force Majeure" shall mean any delays caused by acts of God, riot, war, terrorism, inclement weather, labor strikes, material shortages and other causes beyond the reasonable control of CMBE.

43. Ownership of Documents. All documents created pursuant to the Contract shall, unless expressly provided otherwise in writing, be owned by CMBE. Upon the termination or expiration of the Contract, any and all finished or unfinished documents and other materials produced by Seller pursuant to the Contract shall, at the request of CMBE, be turned over to CMBE. Any technical knowledge or information of Seller which Seller shall have disclosed or may hereafter disclose to CMBE shall not, unless otherwise specifically agreed upon in writing by CMBE, be deemed to be confidential or proprietary information and shall be acquired by CMBE free from any restrictions as part of the consideration of the Contract.

44. Strict Compliance. CMBE may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.

45. General Provisions. CMBE's remedies as set forth herein are not exclusive. Any delay or omission in exercising any right hereunder, or any waiver of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default. If action be instituted by Seller hereunder, CMBE shall be entitled to recover costs and reasonable attorney's fees. Seller may not assign, pledge, or in any manner encumber Seller's rights under this Order, or delegate the performance of any of its obligations hereunder, without CMBE's prior, express written consent.

46. Contract Situs. All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of the Contract, will be determined in Mecklenburg County, North Carolina. North Carolina law will govern the interpretation and construction of the Contract.