

	Invitation for Bids IFB# 260-03042024-461900
Direct all inquiries to:	Invitation for Bids:
Greg Parret	Bid due date: March 12, 2024
Email: gtparret@wsfcs.k12.nc.us	Commodity: Emergency/Fire Gear

NOTICE TO BIDDERS

Bids, subject to the conditions made a part hereof, will be received at this office 475 Corporate Square Drive, Winston Salem, NC, until March 12, 2024, at **10:00 AM EDT** on the day of opening for furnishing and delivering the commodity as described herein. Bids may be submitted via email to gtparret@wsfcs.k12.nc.us. Please included IFB# in the subject line.

EXECUTION

In compliance with this Invitation for Bids (IFB), and subject to all the conditions herein, the undersigned Vendor offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein. By executing this bid, the undersigned Vendor certifies that this bid is submitted competitively and without collusion (G.S. 143-54), that none of its officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and that it is not an ineligible Vendor as set forth in G.S. 143-59.1. False certification is a Class I felony. Furthermore, by executing this bid, the undersigned certifies to the best of Vendor's knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State department or agency. As required by G.S. 143-48.5, the undersigned Vendor certifies that it, and each of its sub- Contractors for any Contract awarded as a result of this IFB, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system.

Failure to execute/sign bid prior to submittal shall render bid invalid and it WILL BE REJECTED.
Late bids will not be accepted.

BIDDER:		FEDERAL ID OR SOCIAL SECURITY NO.	
STREET ADDRESS:		P.O. BOX:	ZIP:
CITY & STATE & ZIP:		TELEPHONE NUMBER:	FAX NUMBER:
TYPE OR PRINT NAME & TITLE OF PERSON SIGNING:		TITLE	
AUTHORIZED SIGNATURE:	DATE:	E-MAIL:	

Offer valid for 60 days from date of bid opening, unless otherwise stated. After this time, any withdrawal of offer shall be made in writing, effective upon receipt by the agency issuing this IFB.

1.0 PURPOSE AND BACKGROUND

WSFCS is soliciting bids from qualified vendors to provide Fire Resistant Kevlar Coats and Pants (Emergency Gear) for Walkertown High School.

2.0 GENERAL INFORMATION

This IFB is comprised of the base bid document, any attachments, and any addenda released before contract award. All attachments and addenda released for this IFB in advance of any Contract award are incorporated herein by reference. Bids shall be submitted in accordance with the terms and conditions of this IFB and any addenda issued hereto.

TAXES

WSFCS is **NOT** tax-exempt. Unless otherwise indicated, tax must be computed and added to your bid. Any itemized shipping charges are also subject to tax. When invoiced, tax should be invoiced as a separate line item.

MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE (MWBE)

The Board of Education awards public contracts without regard to race, religion, color, creed, national origin, sex, age or handicapped condition as defined by North Carolina General Statutes, 168A-3. WSFCS Board of Education promotes full and equal access to business opportunities with Forsyth County Schools. Minority businesses are encouraged to submit bids for this project. All vendors shall have a fair and reasonable opportunity to participate in WSFCS business opportunities.

INSURANCE

Certificate of Insurance

Each vendor shall furnish WSFCS a certificate of insurance showing that the required workmen's compensation and public liability insurance are carried by the Contractor. The certificate of insurance should show that it is issued to or at the request of the Forsyth County Board of Education, Winston Salem, North Carolina. All insurance carriers shall be licensed to do business in North Carolina or approved to issue insurance coverage by the Commission of Insurance of North Carolina.

The certificate of insurance shall include substantially the following provision: The insurance policies to which this certificate refers shall not be altered or canceled until after ten (10) days' written notice of such cancellation or alteration has been sent by certified mail to the Forsyth County Board of Education, Winston Salem, North Carolina.

Public Liability Insurance

The vendor shall maintain public liability insurance covering his liability for bodily injury and property damage which may arise from his operations, contractual obligations, products and completed operations, as well as operations performed by independent contractors, in not less than the following amounts:

1. A combined single limit (CSL) of \$1,000,000 each occurrence, or
2. A \$1,000,000 limit for Bodily Injury Liability, and \$1,000,000 limit for Property Damage Liability.

An occurrence form of policy will be required, and the certificate of insurance submitted by the Contractor must be personally signed by a resident licensed agent of each of the companies listed on that form.

Worker's Compensation Insurance

The Contractor shall maintain during the life of his contract all such workmen's compensation insurance as is or may be required by the laws of North Carolina.

Terms and Conditions

It shall be the vendor's responsibility to read the instructions, terms and conditions, all relevant exhibits and attachments, and any other components made a part of this IFB and comply with all requirements and specifications herein. Vendors also are responsible for obtaining and complying with all Addenda and other changes that may be issued relating to this IFB.

All bidders are hereby notified that they must have the proper license as required under the North Carolina laws. The award of a contract under this solicitation may be paid with federal funding. Funding is contingent upon compliance with all terms and conditions of funding award. All prospective contractors shall comply with all applicable federal laws, regulations, executive orders, FEMA requirements and the terms and conditions of the funding award. In addition, contractors providing submittals shall be responsible for complying with state law and local ordinances.

3.0 SPECIFIC INFORMATION

BID SUBMITTAL:

Sealed bids, subject to the conditions made a part hereof and the receipt requirements described below, shall be received at the address indicated below, as described herein. It is the responsibility of the bidder to have the bid in the WSFCS Purchasing office by the specified time and date of opening.

Bids shall be marked on the outside of the sealed envelope with the vendor's name, bid number and date and time of opening. If vendor is submitting more than one bid, each bid shall be submitted in separate sealed envelopes and marked accordingly. For delivery purposes, separate sealed bids from a single vendor may be included in the same outer package.

Attempts to submit a bid via facsimile (FAX) machine or telephone in response to this Invitation for bids will **not** be accepted. Bids are subject to rejection unless submitted with the information above included on the outside of the sealed bid package.

Attempts to submit a bid via facsimile (FAX) machine, telephone or delivery, in response to this Invitation for Bids will **not** be accepted.

MAILING INSTRUCTIONS

DELIVERED BY US POSTAL SERVICE OR ANY OTHER MEANS:

IFB No. 260-03042024-461900

John Mann

Director of Procurement Services

WSFCS

475 Corporate Square Drive

Winston Salem, NC 27105

BRAND NAME

Unless otherwise indicated, manufacturer names and model numbers specified are used for purposes of identifying and establishing general quality level desired. Such references are not intended to be restrictive and comparable products of other manufacturers will be considered. The specifications following are the minimum acceptable by WSFCS. Any deviations from the specifications shall be so stated in writing in the bidder's response. Please include in your response manufacturers' model numbers along with prices of items offered. Submit complete descriptive literature and specifications on all items offered. Bids which fail to comply may be subject to rejection.

REFERENCES

WSFCS reserves the right to require upon request a list of references from other school districts or similar service agencies for which the company has provided the services or goods solicited in this IFB. WSFCS may contact these users to determine quality level. Such information may be considered in the evaluation of the bid.

WARRANTY

The vendor warrants to the owner that all equipment furnished under these specifications will be new, of good material and workmanship, and agrees to replace promptly any part or parts which by reason of defective material or workmanship shall fail under normal use, free of negligence or accident, for a minimum period of 12 months from date put in operation. Such replacement shall include all parts, labor, and transportation cost to the location where equipment is down, free of any charge to the owner or his representative.

If applicable, please be sure to describe your best warranty offering, any special training or special benefits at no charge that may be available, and any unique benefits you may offer.

Award may be determined by best value analysis—not necessarily the lowest price received.

TRANSPORTATION CHARGES

Free on board (FOB) to designated sites in Forsyth County, NC, with all transportation charges prepaid and included in the bid price.

4.0 AWARD AND BID EVALUATION

REVIEW AND AWARD

It is the intent of Forsyth County Schools (WSFCS) to award this Invitation for Bids to the responsible bidder(s) who best matches the needs of Walkertown High School. WSFCS reserves the right to reject any or all bids presented and to waive any informalities and irregularities. The award of this bid may be in whole or in part deemed to be in the best interest of WSFCS. All projects are awarded contingent upon funding. No bid may be withdrawn after the scheduled closing time for the receipt of bids for a period of 120 days.

5.0 INVITATIONS FOR BID DOCUMENT

1) BID INVITATION AND GENERAL CONDITIONS

A. Sealed bid responses for furnishing the items and quantities listed in the attached specifications are hereby being requested from your company. You are asked to return the bid form page(s) with your response.

B. All bids or proposals are emailed to gtparret@wsfcs.k12.nc.us or sealed and delivered to:

IFB No. 260-03042024-461900

John Mann

Director of Procurement Services

Purchasing Department

475 Corporate Square Drive

Winston Salem, NC 27105

on or before **3/12/2024 @ 10:00 am EST**. **Late bids will not be accepted**. The envelope containing the bid should be marked on the outside “SEALED BID – Emergency Gear”.

Specifications:

1. General

We are looking for high protective fire resistant, heat insulating, water resistant and durable Coats, Pants and Boots for emergency situations.

2. Sizing

We are looking for the following sizes for each garment.

Kevlar Coat – 5 Small, 5 Medium, 5 Large, 3 XL, 2 XXL

Kevlar Pants – 5 Small, 5 Medium, 5 Large, 3 XL, 2 XXL

Fireproof Women's Boots – Size 8 (2 each), Size 8.5 (2 each), Size 9 (2 each), Size 9.5 (2 each), Size 10 (2 each).

Fireproof Men's Boots – Size 11 (1), Size 11.5 (1)

3. Brand:

Coats and Pants: Can be any brand that meets specifications such as Innotex, Lion, Morning Pride by Honeywell, Globe, Fire-Dex, MSA Safety, TenCate Protective Fabrics

Boots: Can be any brand that meets specifications such as Haix, Danner, Thorogood, Redback, Bates, Rocky, Wesco etc.

Walkertown High School

Walkertown, NC

BID FORM

The bidder certified he has familiarized himself with your specifications, has carefully read them and understands their contents. Any emergency gear furnished by us will be in the style and quality requested.

QUANTITY	ITEM	UNIT PRICE	TOTAL PRICE
20	Innotex Kevlar Coats QTY/Sz (5-S,5-M,5-L,3-XL,2-2XL)		
20	Innotex Kevlar Pants QTY/Sz (5-S,5-M,5-L,3-XL,2-2XL)		
10	Haix Fireproof Boots (w) QTY/Sz (2-8, 2-8.5, 9, 9.5, 10)		
2	Haix Fireproof Boots (m) QTY/Sz (1-11, 1-11.5)		
		Bid Total:	

Signature: _____
Email: _____

Date: _____

ATTACHMENT I: SUPPLEMENTAL VENDOR INFORMATION

HISTORICALLY UNDERUTILIZED BUSINESSES

Historically Underutilized Businesses (HUBs) consist of minority, women and disabled business firms that are at least fifty-one percent owned and operated by an individual(s) of the categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled.

Pursuant to G.S. 143B-1361(a), 143-48 and 143-128.4, THE STATE invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and nonprofit work centers for the blind and severely disabled. This includes utilizing subcontractors to perform the required functions in this RFP. Any questions concerning NC HUB certification, contact **the North Carolina Office of Historically Underutilized Businesses** at (919) 807-2330. The Vendor shall respond to question #1 and #2 below.

A) Is Vendor a Historically Underutilized Business? ☐ Yes ☐ No

B) Is Vendor Certified with North Carolina as a Historically Underutilized Business?

☐ Yes ☐ No If so, state HUB classification: _____

INSTRUCTIONS TO BIDDERS

1. **READ, REVIEW AND COMPLY:** It shall be the bidder's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements specified herein.
2. **NOTICE TO BIDDERS:** All bids are subject to the provisions of the Instructions to Bidders, special terms and conditions specific to this Invitation for Bids, the specifications, and the North Carolina General Contract Terms and Conditions. The Forsyth County Schools (WSFCS) objects to and will not evaluate or consider any additional terms

and conditions submitted with a bidder response. This applies to any language appearing in or attached to the document as part of the bidder's response. **DO NOT ATTACH ANY ADDITIONAL TERMS AND CONDITIONS.** By execution and delivery of this document, the bidder agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect.

3. **DEFINITIONS:**

- **BIDDER:** Company, firm, corporation, partnership, individual, etc., submitting a response to an Invitation for Bids.
- **TERM CONTRACT:** A contract generally intended to cover all normal requirements for a commodity for a specified period of time based on estimated quantities only.
- **STATEWIDE TERM CONTRACT:** A term Contract for all agencies, unless exempted by statute, rule, or special term and condition specific to this bid.
- **AGENCY SPECIFIC TERM CONTRACT:** A Term Contract for a specific agency.
- **OPEN MARKET CONTRACT:** A contract for the purchase of a commodity not covered by a term contract.

4. **EXECUTION:** Failure to sign under EXECUTION section will render bid invalid.

5. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this bid, the order of precedence shall be (1) special terms and conditions specific to this bid, (2) specifications, (3) North Carolina General Contract Terms and Conditions, and (4) Instructions to Bidders.

6. **TIME FOR CONSIDERATION:** Unless otherwise indicated on the first page of this document, bidder's offer shall be valid for 45 days from the date of bid opening. Preference may be given to bids allowing not less than 45 days for consideration and acceptance.

7. **PROMPT PAYMENT DISCOUNTS:** Bidders are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it will not be considered in the award of the contract except as a factor to aid in resolving cases of identical prices.

8. **SPECIFICATIONS:** Any deviation from specifications indicated herein must be clearly pointed out; otherwise, it will be considered that items offered are in strict compliance with these specifications, and bidder will be held responsible, therefore. Deviations shall be explained in detail. **The bidder shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable.**

9. **INFORMATION AND DESCRIPTIVE LITERATURE:** Bidder is to furnish all information requested and, in the spaces, provided in this document. Further, if required elsewhere in this bid, each bidder must submit with their bid sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous bid will not satisfy this provision. Bids which do not comply with these requirements will be subject to rejection.

10. **RECYCLING AND SOURCE REDUCTION:** It is the policy of this State to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective. We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will protect the commodity and contain it for its intended use. Companies are strongly urged to bring to the attention of the purchasers in the Division of Purchase and Contract those products or packaging they offer which have recycled content and that are recyclable.

11. CLARIFICATIONS/INTERPRETATIONS: Any and all questions regarding this document must be addressed to the purchaser named on the cover sheet of this document. Do not contact the user directly. Any and all revisions to this document shall be made only by written addendum from the Division of Purchase and Contract. The bidder is cautioned that the requirements of this bid can be altered only by written addendum and that verbal communications from whatever source are of no effect.

12. ACCEPTANCE AND REJECTION: WSFCS reserves the right to reject any and all bids, to waive any informality in bids and, unless otherwise specified by the bidder, to accept any item in the bid. If either a unit price or extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.

13. REFERENCES: WSFCS reserves the right to require a list of users of the exact item offered. WSFCS may contact these users to determine acceptability of the bid. Such information may be considered in the evaluation of the bid.

14. TAXES:

- **FEDERAL:** All agencies participating in this contract are exempt from Federal Taxes, such as excise and transportation. Exemption forms submitted by the contractor will be executed and returned by the using agency.
- **OTHER:** Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.
- Any applicable taxes shall be invoiced as a separate item.

15. AWARD OF CONTRACT: As directed by statute, qualified bids will be evaluated and acceptance may be made of the lowest and best bid most advantageous to WSFCS as determined upon consideration of such factors as: prices offered; the quality of the articles offered; the general reputation and performance capabilities of the bidders; the substantial conformity with the specifications and other conditions set forth in the bid; the suitability of the articles for the intended use; the related services needed; the date or dates of delivery and performance; and such other factors deemed by WSFCS to be pertinent or peculiar to the purchase in question. Unless otherwise specified by WSFCS or the bidder, WSFCS reserves the right to accept any item or group of items on a multi-item bid.

In addition, on TERM CONTRACTS, WSFCS reserves the right to make partial, progressive or multiple awards: where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service, geographical areas; other factors deemed by WSFCS to be pertinent or peculiar to the purchase in question.

All contracts are awarded contingent upon the availability of funds.

16. HISTORICALLY UNDERUTILIZED BUSINESSES: Pursuant to General Statute 143-48 and Executive Order #150, WSFCS 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.

17. CONFIDENTIAL INFORMATION: As provided by statute and rule, the WSFCS will consider keeping trade secrets which the bidder does not wish disclosed confidential. Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the bidder. Cost information shall not be deemed confidential. In spite of what is labeled as a trade secret, the determination whether it is or not will be determined by North Carolina law.

18. SAMPLES: Sample of items, when required, must be furnished as stipulated herein, free of expense, and if not destroyed will, upon request be returned at the bidder's expense. Request for the return of samples must be made within 10 days following date of bid opening. Otherwise the samples will become WSFCS property. Each individual sample must be labeled with the bidder's name, bid number, and item number. A sample on which an award is made, will be retained until the contract is completed, and then returned, if requested, as specified above.

19. PROTEST PROCEDURES: When an offeror wants to protest a contract awarded pursuant to this solicitation, that is over \$10,000, they must submit a written request to the WSFCS Purchasing Officer at the address given in the solicitation document entitled "Mailing Instructions". This request must be received in the Purchasing Department within (5) consecutive business days of the e-mail notification to the offeror of

WSFCS' intent to maintain the original award. The offeror must submit a written protest letter to the WSFCS Purchasing Officer. This letter must contain specific reasons and any supporting documentation for the protest.

20. MISCELLANEOUS: Masculine pronouns shall be read to include feminine pronouns, and the singular of any word or phrase shall be read to include the plural and vice versa.

21. DEFAULT AND PERFORMANCE BOND: In case of default by the contractor, Forsyth County Schools (WSFCS) may procure the articles or services from other sources and hold the contractor responsible for any excess cost occasioned thereby. WSFCS reserves the right to require performance bond or other acceptable alternative guarantees from successful bidder without expense to WSFCS.

22. SPECIAL REQUIREMENTS REGARDING CRIMINAL BACKGROUND

A. Criminal Background Investigations of individuals working on school property (sites occupied with students and sites not occupied with students).

B. At a minimum, the contractor shall obtain a complete North Carolina statewide criminal background investigation for all employees and subcontractors who will work on this project, covering a period for the last seven (7) years. If the contractor or subcontractor is from out of state, the criminal background investigation shall be broadened to include their home state, as well as the state of North Carolina as outlined above. The company providing such information must be recognized by local law enforcement agency as qualified to do so. All costs associated with these criminal background checks is the responsibility of the contractor.

Each prime contractor will be responsible for all their employees and all of their subcontractors working under them.

On sites that are occupied with students and staff, a daily sign-in sheet will be presented by each prime contractor to the principal and SRO – Student Resource Officer by 9:00 a.m. each morning. If there is no SRO – provide to the Principal. This list will contain the name of each person on site and the company they work for.

C. Any individual with the following criminal convictions or pending charges will NOT be permitted on any school project or property.

1. Child Molestation or Abuse or indecent liberties with a child;
2. Rape;
3. Any Sexually Oriented Crime;
4. Drugs: Felony use, possession or distribution;
5. Murder, manslaughter or other death related charge; or 6. Assault with a deadly weapon or assault with intent to kill.

D. Any individual with a prior conviction or pending charges contained in the aforementioned list, shall be banned (not allowed) from any school project or property.

E. Each person on site must wear a plastic laminated identification badge that identifies the name of the company and the person's name. These badges are to be computer produced at a font large enough to be clearly visible. All costs associated with these criminal background checks is the responsibility of the contractor. The ID badge template will be made available to the successful prime contractors at the PreConstruction Meeting.

F. Forsyth County Schools, may, at any time, request verification of criminal background investigation for any employee or subcontractor on school property.

GENERAL CONTRACT TERMS AND CONDITIONS

1. DEFAULT AND PERFORMANCE BOND: In case of default by the contractor, Forsyth County Schools (WSFCS) may procure the articles or services from other sources and hold the contractor responsible for any excess cost occasioned thereby. WSFCS reserves the right to require performance bond or other acceptable alternative guarantees from successful bidder without expense to WSFCS.

2. 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 contractor to notify, in writing, the issuing purchasing office at once, indicating the specific regulation which required such alterations. WSFCS reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the contract.

3. AVAILABILITY OF FUNDS: Any and all payments to the contractor are dependent upon and subject to the availability of funds to the agency for the purpose set forth in this agreement. No goods or services should be shipped or provided prior to issuance of a Purchase Order to the vendor/contractor by Forsyth County Schools.

4. TAXES: Any applicable taxes shall be invoiced as a separate item.

S. 143-59.1 bars the Secretary of Administration from entering into contracts with vendors if the vendor or its affiliates meet one of the conditions of G. S. 105-164.8(b) and refuse to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the bid document the vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.

5. SITUS: The place of this contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.

6. GOVERNING LAWS: This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina.

7. INSPECTION AT CONTRACTOR'S SITE: WSFCS 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 WSFCS 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.

8. PAYMENT TERMS: Payment terms are Net 30 days after receipt of correct invoice or acceptance of goods. The using agency is responsible for all payments to the contractor under the contract. Payment by some agencies may be made by procurement card and it shall be accepted by the contractor for payment if the contractor accepts that card (Visa, Mastercard, etc.) from other customers. If payment is made by procurement card, then payment may be processed immediately by the contractor.

9. AFFIRMATIVE ACTION: The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability.

10. 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.

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

12. PATENT: The contractor shall hold and save WSFCS, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, on account of any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this contract, including use by the government.

13. ADVERTISING: Contractor agrees not to use the existence of this contract or the name of the State of North Carolina as part of any commercial advertising.

14. ACCESS TO PERSONS AND RECORDS: The State Auditor and the using agency's internal auditors shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7 and Session Law 2010-194, Section 21 (i.e., the State Auditors and internal auditors may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees or performance).

15. ASSIGNMENT: No assignment of the contractor's obligations nor the contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority and solely as a convenience to the contractor, may:

a. Forward the contractor's payment check directly to any person or entity designated by the contractor, and

b. Include any person or entity designated by contractor as a joint payee on the contractor's payment check.

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

16. INSURANCE COVERAGE: - During the term of the contract, the contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the contractor shall provide and maintain the following coverage and limits:

a. Worker's Compensation - The contractor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$150,000.00, covering all of contractor's employees who are engaged in any work under the contract. If any work is sublet, the contractor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under the contract.

b. Commercial General Liability - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)

c. Automobile - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the contract. The minimum combined single limit shall be \$150,000.00 bodily injury and property damage; \$150,000.00 uninsured/under insured motorist; and \$1,000.00 medical payment.

REQUIREMENTS: Providing and maintaining adequate insurance coverage is a material obligation of the contractor and is of the essence of this contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The contractor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the contractor shall not be interpreted as limiting the contractor's liability and obligations under the contract.

17. GENERAL INDEMNITY: The contractor shall hold and save the State, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses, with the exception of consequential damages, accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the contractor in the performance of this contract and that are attributable to the negligence or intentionally tortuous acts of the contractor provided that the contractor is notified in writing within 30 days that the State has knowledge of such claims. The contractor represents and warrants that it shall make no claim of any kind or nature against the State's agents who are involved in the delivery or processing of contractor goods to the State. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.

18. THE SUCCESSFUL BIDDER(S) SHALL PAY A TRANSACTION FEE OF 1.75% (.0175) ON THE TOTAL DOLLAR AMOUNT (EXCLUDING SALES TAXES) OF EACH PURCHASE ORDER ISSUED THROUGH THE STATEWIDE E-PROCUREMENT SERVICE

This applies to all e-procurement purchase orders, regardless of the quantity or dollar amount of the purchase order. This transaction fee shall neither be charged to nor paid by WSFCS. The transaction fee shall not be stated or included as a separate item in the proposed contract or invoice. There are no additional fees or charges to the contractor for the services rendered by WSFCS under this contract.

19. CANCELLATION (TERM CONTRACTS ONLY): All contract obligations shall prevail for at least 180 days after the effective date of the contract. After that period, in addition to the provisions of the paragraph entitled Price Adjustments, for the protection of both parties, this contract may be canceled in whole or in part by either party by giving 30 days prior notice in writing to the other party. Such notice of cancellation, as required herein, shall be transmitted via U.S. MAIL, Certified, Return Receipt Requested. The 30 days' notice for cancellation shall begin on the day the return receipt is signed and dated.

20. QUANTITIES (TERM CONTRACTS ONLY): The award of a term contract neither implies nor guarantees any minimum or maximum purchases thereunder.

21. PRICE ADJUSTMENTS (TERM CONTRACTS ONLY): Any price changes, downward or upward, which might be permitted during the contract period must be general, either by reason of market change or on the part of the contractor to other customers.

a. **Notification:** Must be given to WSFCS, in writing, concerning any proposed price adjustments. Such notification shall be accompanied by copy of manufacturer's official notice or other acceptable evidence that the change is general in nature. b.

Decreases: WSFCS shall receive full proportionate benefit immediately at any time during the contract period.

c. **Increases:** All prices shall be firm against any increase for 180 days from the effective date of the contract. After this period, a request for increase may be submitted with WSFCS reserving the right to accept or reject the increase or cancel the contract. Such action by WSFCS shall occur not later than 15 days after the receipt by WSFCS of a properly documented request for price increase. Any increases accepted shall become effective not later than 30 days after the expiration of the original 15 days reserved to evaluate the request for increase.

d. **Invoices:** It is understood and agreed that orders will be shipped at the established contract prices in effect on dates orders are placed. Invoicing at variance with this provision will subject the contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item.