



Board of Education of Prince George's County  
13300 Old Marlboro Pike, RM 20  
Upper Marlboro, MD 20772

**INVITATION FOR BID  
BOTTLED WATER SERVICE  
010-19**

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**ISSUED BY:** Purchasing & Supply Services  
Attention: Dariya Jackson

**IFB NUMBER:** 010-19

**RELEASE DATE:** August 15, 2018

**PRE-BID MEETING:** N/A

**BID DUE DATE:** September 6, 2018 @ 2:00 p.m., Room 20

**DIRECT INQUIRIES TO:** [Dariya.Jackson@pgcps.org](mailto:Dariya.Jackson@pgcps.org)  
[Diane.Forde@pgcps.org](mailto:Diane.Forde@pgcps.org)

**BID DOCUMENTS**

The bid documents may be obtained by:

1. Downloading the document from the Board's website at: [www1.pgcps.org](http://www1.pgcps.org) or clicking on the following link: <http://www1.pgcps.org/purchasing/bidsnew.aspx>
2. Access solicitations on eMaryland Marketplace @ <https://ebidmarketplace.com/>
3. Contact the Purchasing Department at 301-952-6560
4. Visiting the Purchasing Department between the hours of 9:00 AM and 4:00 PM, Monday through Friday, excluding holidays. The Purchasing Department is located at 13300 Old Marlboro Pike, Room 20, Upper Marlboro, MD 20772-9983.

Bidders are cautioned not to make changes to any of the terms and conditions or specifications in this solicitation. Doing so may render a Bidder's bid unacceptable and subject to rejection.

Questions and inquires may be addressed as outlined in Part II, Item 4 of this solicitation. **ALL questions** must be directed to the Buyer specified above. Failure to adhere to this requirement may subject the bidder to immediate disqualification.

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## **PART I: SCOPE OF WORK**

### **1.0 INTRODUCTION**

This Invitation for Bid (IFB) is soliciting bids for **Bottled Water Service**.

### **2.0 BACKGROUND**

The Board Of Education of Prince George's County (The Board) serves the needs of public education in Prince George's County, covering approximately 1,789 square miles, with a residential population of more than 904,430. It is the second largest public school system in the State of Maryland. The Board operates 240 facilities over a ten-mile radius, which includes Pre-k, elementary, middle, and high schools as well as special education centers and alternative schools. The Central administration headquarters is located at 14201 School Lane, Upper Marlboro, Maryland.

The Board currently has approximately 129,000 students, 18,000 employees and an annual operating budget of \$1.839 billion.

### **3.0 SCOPE OF WORK**

The BOARD requests bids for **Bottled Water Service**. The specifications are contained in the Invitation for Bid. Responses submitted must meet or exceed all requirements. Bids that do not meet or exceed all requirements will be considered non-responsive. All exceptions must be noted.

### **4.0 NON-EXCLUSIVE**

The intent of this contract is to provide the Board with an expedited means of procuring supplies and/or services at the lowest cost. This contract is for the convenience of the Board and is considered to be a "Non-Exclusive" use contract. The Board does not guarantee any usage. The Board will not be held to purchase any particular Brand, in any groups, prices or discount ranges, but reserves the right to purchase any item/items listed in the price schedule submitted.

## **CONTRACTORS IN LEGAL PROCEEDINGS WITH PGCPS**

**PGCPS recognizes the significant costs and imposition on the time of personnel associated with legal proceedings. Accordingly, PGCPS has adopted a process stating that:**

**“One factor, among others, that are to be considered when awarding a contract or purchase order is the existence of a pending legal dispute – whether in court or an alternative dispute forum – with any contractor or vendor which has submitted a bid or proposal. Before including consideration of the legal dispute as a factor, the Procurement Officer shall seek the advice of the Office of General Counsel regarding the legal dispute and shall obtain the concurrence of the CEO or his designee.”**

## **PART II: GENERAL TERMS AND CONDITIONS**

### **1.0 STATEMENT OF CONFIDENTIALITY**

It is understood and agreed that all information pertinent to this solicitation may contain trade secrets, which are confidential and proprietary. The selected vendor agrees not to disclose or knowingly use any confidential or proprietary information of the Board and/or third party participant.

Bid submissions are subject to the Maryland Public Information Act (Education Article, Maryland Annotated Code, §10-611, et seq.). In accordance with the Act, certain information is subject to public disclosure. Please be advised that should you deem any portion of your bid as confidential or proprietary, it must be conspicuously indicated on those portions so deemed. However, and in accordance with the Act, you are hereby notified that every portion may still be subject to disclosure under the Act.

### **2.0 TERM OF AGREEMENT**

The anticipated terms of this contract shall be **three (3) years**.

The bidder warrants that prices for the bid under this IFB are not higher than prices currently extended to any other governmental agency for the same product or service.

Upon satisfactory service and by mutual agreement the BOARD OF EDUCATION OF PRINCE GEORGE'S COUNTY reserves the right to renew the contract. The term of renewal shall not exceed two (2 ) additional one (1) year periods.

### **3.0 PRE-BID MEETING (N/A)**

A pre-bid meeting is scheduled for xxxxxxxx, xxxxxxxx, 2018 at x: xx p.m. local time, PGCPs Facilities Administration Building, 13300 Old Marlboro Pike, Upper Marlboro, MD 20772.

While attendance at the pre-bid meeting is not mandatory, the information presented is informative. All interested bidders are encouraged to attend in order to be better able to prepare an acceptable bid.

### **4.0 QUESTIONS AND INQUIRIES**

No interpretation of the meaning of the specifications or other documents will be made to any Supplier orally. Questions shall be submitted in writing to the Point of Contact – [Dariya.Jackson@pgcps.org](mailto:Dariya.Jackson@pgcps.org) and [Diane.Forde@pgcps.org](mailto:Diane.Forde@pgcps.org). To be given consideration, the questions must be received **NO LATER THAN 1:00 p.m., EST**. Questions that are deemed to be substantive in nature will be responded to in the form of an addendum and posted on PGCPs website [www1.pgcps.org/Purchasing](http://www1.pgcps.org/Purchasing) and [www.emarylandmarketplace.com](http://www.emarylandmarketplace.com). Please do not submit question in PDF format.

Questions Due	<b>August 27, 2018</b>
Addendum Posted	<b>August 29, 2018</b>

## 5.0 POINT OF CONTACT

**Dariya Jackson**, Buyer  
Purchasing Office  
E-mail: [Dariya.Jackson@pgcps.org](mailto:Dariya.Jackson@pgcps.org)

## 6.0 CONTRACT MONITOR/BOARD SUPERVISION

The Contractor's performance will be under the direction of the Buyer/Requesting Department who will be responsible for ensuring contractor's compliance with the requirements of this contract to include managing the daily activities of the contract, providing guidance to the contract, and coordination. The Contractor shall be accountable to the end users on all matters relating to the scope of work.

## 7.0 CONTRACT TYPE

The contract resulting from this solicitation will be a fixed-price contract.

## 8.0 PAYMENT TERMS

The Contractor shall submit an invoice detailing the product or services provided and the actual costs incurred. Payment shall be in accordance with line item price on the purchase order and made within Net 30 days upon receipt of invoice.

The Board reserves the right to reduce or withhold contract payment in the event the Contractor does not provide the Department with all required deliverables within the timeframe specified in the contract or in the event that the Contractor otherwise materially breaches the terms and conditions of the contract.

## 9.0 INVITATION FOR BID (IFB) REVISIONS

Should it become necessary to revise any part of this IFB, addenda will be posted on PGCPs [www.1pgcps.org/purchasing](http://www.1pgcps.org/purchasing) and [www.emarylandmarketplace.com](http://www.emarylandmarketplace.com). All addenda, amendments or changes issued shall be deemed received by offeror provided they are posted to eMaryland Marketplace or the Board website. Failure of any offeror to receive or acknowledge receipt of such addenda or interpretation shall not relieve any offeror from any obligations under this IFB as amended by all addenda. All addenda so issued shall become part of the award.

## 10.0 SUBMISSION DEADLINE

In order to be eligible for consideration, bids must be received in the Purchasing Office no later than **2:00 p.m., September 6, 2018, in Room 20**. Vendors mailing bids shall allow sufficient carrier delivery time to ensure timely receipt of their bid in the Office of Purchasing & Supply Services prior to the deadline. Any bid received in the Purchasing Office after the submission deadline, no matter what the reason, will be returned unopened. **Bids responses delivered to any other location shall not constitute delivery to the Purchasing Office located at 13300 Old Marlboro Pike, Room 20 , Upper Marlboro, MD 20772.**

## 11.0 BID OPENING

The Board shall receive sealed bids until the bid due date indicated on the bid front cover sheet and Section II.10. At the time of the bid opening (as directed on the front cover sheet and in Section II.10), the Buyer or designee shall open all bids received, read publicly, and record the responses. A copy of the bid tabulations will be made available upon written request via MPIA. The Board shall then review all responses and analyze the results of the bidding process. A final recommendation(s) shall be prepared for review and approval by the Director of Purchasing & Supply Services. Upon acceptance and approval of the bid(s) by the Director of Purchasing, the Director may grant its approval subject to such conditions as it may deem appropriate.

All bids shall be publicly opened at the Facilities Administrative Building, 13300 Old Marlboro Pike, RM 20, Upper Marlboro, Maryland 20772 on the date specified on the bid cover. In the event of inclement weather on the due date of a bid and The Board is closed, the bid will be due and opened on the next business day at the same time as specified in the bid or applicable addendum.

## 12.0 DURATION OF BID

A bid submitted in response to this solicitation is binding upon the bidder and is considered irrevocable for a minimum of 120 days following the closing date for receipt of initial bids.

## 13.0 MINORITY BUSINESS ENTERPRISE PROGRAM

**A.** The Board of Education of Prince George's County Administrative Procedure No. 3325 (attached) is applicable and will be part of the bid requirements. Forms to be used by all respondents for the applicable procedure will be attached to each response. The "Minority Business Enterprise Utilization Affidavit, Attachment 1" **MUST BE submitted AT THE TIME OF BID OPENING**. Failure to adhere to the guidelines outlined in this procedure, may result in your firm being ruled non-responsive and may jeopardize any future awards.

**B.** The contractor or supplier who provides materials, supplies, equipment, service and construction for this project shall attempt to achieve the **overall MBE goal of 15%** of the total dollar value of the contract for this project from certified minority business enterprises (MBE), either directly or indirectly. The respondent agrees that this amount of the contract will be performed by certified minority business enterprises.

**C.** Only those businesses registered in the Purchasing I-Supplier database and listed in the Minority Business Enterprise Office directory for the Board of Education of Prince George's County as a certified minority vendor at the time of any respective proposal opening, shall be recognized as a "Certified Minority Business." If not listed, evidence of acceptable certification from the Maryland Department of Transportation (MDOT), Prince George's County Government (PGCG) and Washington Metropolitan Area Transit Authority (WMATA) must be provided to the Board's Purchasing Office prior to any respective proposal opening.

**D.** The Board of Education of Prince George's County strongly encourages its Contractors to maximize the use of qualified locally based minority and women-owned business within the geographical boundaries of Prince George's County. The respondent or proposer should be able to verify, through documentation that good faith efforts were engaged to maximize the use of qualified local minority and women-owned businesses in Prince

George's County. Documentation of good faith efforts may be required to be submitted in the sealed proposal or proposal packet on the date and at the time due for the respective proposal or proposal submittal.

Prime Contractor may be prosecuted if they fail to comply with the law. The Board is required under the law to report the violation.

#### **14.0 E- COMMERCE**

The eMaryland Marketplace (<https://ebidmarketplace.com>) and PGPCS Purchasing Website are the primary sites for Prince George's County Public Schools to post solicitations over \$25,000. This website also serves to publish any addenda, associated materials, bidder/offeree questions and the Board's responses, and other solicitation related information. Notices of solicitations are also posted on our website [www1.pgcps.org/purchasing](http://www1.pgcps.org/purchasing) in accordance with State Finance and Procurement Article 13-103 Competitive Sealed Bids, Article 13-104 Competitive Sealed Proposals, and Article 13-107 Sole Source Procurements.

The eMaryland Marketplace law became effective on June 1, 2008 and requires units of State government, including those otherwise exempt from State procurement law, and all local government entities, to publish notices of procurement on the State's e-commerce website eMaryland Marketplace (eMM). All bidders are required to register with eMaryland Marketplace, so that the award notice can be properly published.

Bidders wishing to do business with the BOARD are asked to register with the Purchasing Department. The successful bidder must be an active vendor in Oracle to receive Purchase Orders and Payment. Instructions on how to register are detailed on the Purchasing website @ <http://www1.pgcps.org/isupplier/>.

Prince George's County Public Schools does not discriminate in educational programs, activities or employment on the basis of race, color, national origin, sex, age, religion or disability. Respondents will be required to comply with all applicable requirements pertaining to fair labor, state and local government

#### **15.0 INSURANCE**

Failure to provide the required insurance coverage by either of the two (2) methods described in Appendix E when the bid is submitted may result in rejection of your bid as being non-responsive.

#### **16.0 LIQUIDATED DAMAGES**

The successful respondent accepts this contract with the understanding that should they fail to complete the work/delivery in an acceptable manner and in the time stated, shall be subject to the payment of liquidated damages as stated in the bid document.

#### **17.0 FINGERPRINTING AND CRIMINAL BACKGROUND CHECKS**

**Employees Having Direct Contact with and/or Uncontrolled Access to Students:**

- A. Any and all current and future employees of the Vendor who have direct contact with students must have a fingerprinting criminal background check conducted by the Maryland Criminal Justice Information System (CJIS) and the FBI, a Child Protective Services clearance conducted by the Prince George's County Department of Social Services, and complete the SafeSchools training module – *Prince George's County Child Abuse: Mandatory Reporting* and any other required training as appropriate.
- B. All background checks must be completed 15 business days prior to beginning work in and around PGCPS property or engaging in any authorized activities involved PGCPS students. The background checks must be completed by the Fingerprinting Office in the Sasscer Administrative Building or by the PGCPS satellite fingerprinting offices located in Prince George's County. No person may begin working in PGCPS until 15 days after completing the background clearance process (fingerprint and CPS) and required online training through SafeSchools.
- C. Prior to initiating any work at a school building, current and future employees, contractors, subcontractors, agents, volunteers, outsourced temporary staff, consultants and instructors of the Vendor must sign in and sign out via the Raptor Visitor Management System, which requires a copy of their government issued identification.

**Restrictions on Employee Assignments:**

Vendors are prohibited from assigning the following persons from working at a PGCPS location:

- A. Registered sex offenders (Maryland Code, Criminal Procedure Article Section 11-722)
- B. Individuals convicted of a crime involving third or fourth degree sexual offence under sections 3-307 or 3-308 of the Criminal Law Article; child sexual abuse under Section 3-602 of the Criminal Law Article; a crime of violence as defined in Section 14-101 of the Criminal law Article; or comparable offenses in another state. (Annotated Code of Maryland, Education Article Section 6-113)
- C. Individuals identified as an alleged abuse or neglecter following completion of a Child Protective Services investigation with a finding of "indicated" child abuse or neglect.

**17.1 CRIMINAL BACKGROUND CHECKS**

**1. GENERAL PROVISIONS**

- A. It is the responsibility of the Vendor to make certain that its employees, contractors, subcontractors, agents, volunteers, outsourced temporary staff, consultants and any instructors meet the background check and training requirements specified below.



- B. The Vendor agrees to provide the designated PGGPS representative with a list of all current employees and an immediate update of changes in personnel, employees, contractors, subcontractors, agents, volunteers, outsourced temporary staff and any instructors. All correspondence should include the following information as applicable:
- i. title of the project
  - ii. school/office
  - iii. solicitation number
  - iv. contract number; and
  - v. PGGPS representative/project manager
- C. An Executed Contract will not be issued by the PGGPS Purchasing Department until proof has been provided that the background check and training requirements below have been completed 15 days following the issuance of Notice of Award.

## 18.0 BONDING (N/A)

Respondents **may be required** to submit a bid bond in the amount of five percent (5%) as determined by the BOARD and specified in the IFB, to ensure the satisfactory completion of the work for which a contract or purchase order is awarded that may exceed \$100K. (COMAR21.06.07.02)

The Bond must be made in favor of the **BOARD OF EDUCATION OF PRINCE GEORGE'S COUNTY, UPPER MARLBORO, MARYLAND 20772-9983.**

### **PERFORMANCE AND LABOR BOND**

The successful respondent **may be required** to submit a performance and/or labor bond, Cashier's or Certified Check in the amount of one hundred percent (100%) as determined by the BOARD and specified in the IFB, of all phases of the contract to ensure the satisfactory completion of the work for which a contract or purchase order is awarded that exceeds 100K. (COMAR 21.06.07.10) The Board reserves the right to request performance and labor bond.

The Bond, Cashier's or Certified Check must be made in favor of the **BOARD OF EDUCATION OF PRINCE GEORGE'S COUNTY, UPPER MARLBORO, MARYLAND 20772-9983.**

Checks in the amounts stated above will be accepted in lieu of the performance bond and payment bond only upon prior approval of the Purchasing Director. If checks are approved for acceptance in lieu of either bond, they should be in the same amount as these bonds, they should be separate checks, and they should clearly designate the purpose (i.e.; performance or labor). Checks, if submitted, will be deposited in the Board non-interest bearing bank account(s). Upon successful completion of the contract, check(s) will be drawn upon the Board's bank account(s) for the full amounts of both checks. This requirement may be modified in General Conditions attached to a bid. Bonds must be approved by surety companies that are in the most current Circular 570, Surety Companies Acceptable on Federal Bonds as issued by the U.S. Treasury, Bureau of Government Finance Operations, Division of Banking and Cash Management, Washington, D.C. 20011. If a bonding company is used that

is not on the most current Circular 570, the vendor will be contacted to obtain a bond from an approved surety company, and resubmit it to the Purchasing Director within ten (10) working days after the approval of the bid by the Board. Upon receipt and approval of the performance bond and/or payment bond or the checks, an official purchase order will be issued and a contract initiated where appropriate.

## **19.0 TERMS AND CONDITIONS**

Any contract entered in connection with this solicitation shall be subject to these General Terms and Conditions except as otherwise modified herein.

It shall be the Contractor's sole responsibility to insure they are compliant with all applicable federal, state, and county laws, rules, ordinances, statutes, etc., that may impact this contract. The Board shall bear no responsibility for monitoring the Contractor's compliance with said legal requirements. If the Contractor fails to maintain legal compliance, The Board may find said Contractor in default.

In the event of conflict between the General Terms and Conditions and any part or portion of the Special Conditions (Appendix A), these General Conditions shall take precedence.

In the event of conflict between this solicitation any of the General Terms and Conditions proposed by any bidder, or incorporated in any acknowledgement of contract awarded to the successful bidder, then, and in such event, the terms and conditions stated herein shall take precedence unless modified in writing by the Director of Purchasing & Supply Services, Prince George's County Public Schools.

## **20.0 BASIS OF AWARD**

Contract(s) shall be awarded to the qualified, lowest responsible and responsive bidder(s) offering the lowest bid price on the total lump sum for **three (3)** year contract term.

Pricing shall remain firm for the initial term of the agreement.

### **20.1 OPTION TO RENEW CONTRACT PERIOD**

- A. Upon satisfactory service and by mutual agreement the BOARD OF EDUCATION OF PRINCE GEORGE'S COUNTY reserves the right to renew the contract. The term of renewal shall not exceed two (2) additional one (1) year periods.
- B. The Board expects all vendors to provide year over year cost reductions recommendations.
- C. Price decreases are acceptable at any time, need not be verifiable, and are required should the contractor/producer/processor/manufacture experience a decrease in costs associated with the execution of the contract.
- D. Price adjustments from the contractor/producer/processor/manufacture for any/all items may be considered at renewal. The request is subject to approval by the Contracting Officer. The request must be submitted in writing at least sixty (90) days prior to the renewal term and shall be accompanied by supporting documentation.

- E. Should the awarded vendor, at any time during the life of the contract, sell materials of similar quality to another customer, or advertise special discounts or sales, at a price below those quoted within the contract, the lowest discounted prices shall be offered to Prince George's County Public Schools.

## **21.0 STATE OF MARYLAND CERTIFICATE OF GOOD STANDING**

Bidder shall submit a State of Maryland Certificate of Good Standing or other State of Maryland issued documentation verifying the bidder is in Good Standing with the Department of Assessment and Taxation of Maryland and/or registered to do business in the State of Maryland.

**Certificates of Status may be obtained on line at <http://www.dat.state.md.us>.**

This requirement applies to both Domestic and Foreign (out of state) Bidders. Foreign entities should contact the State Department of Assessments and Taxation, 301 West Preston Street, Baltimore, Maryland 21201, to determine and apply for the appropriate documentation.

## PART III: BID SUBMISSION REQUIREMENTS

### 1.0 GENERAL FORMAT

- A. Bidders shall submit one (1) original, and **two (2)** copies of the bid submission. An electronic version of the Bid shall also be submitted with the original. Electronic media must be a CD or USB and shall bear a label on the outside containing the IFB number and name as well as the name of the Bidder and include all requested information and documents.
- B. Bid submission shall be labeled on the outside of each submitted package with the following:
1. Bidder's name and business address;
  2. Bid Due Date/Time for receipt of Bids, and
  3. Invitation for Bid (IFB) number and Title
- C. Each bid must include a Transmittal Letter and Table of Contents. All pages must be numbered consecutively from beginning to end and separated by tabs as described below:
1. **TRANSMITTAL LETTER (TAB A):** Bids are to be accompanied by a brief transmittal letter prepared on the bidder's letterhead, and signed by an individual who is authorized to commit the Offeror to the services and requirements in the IFB. This transmittal letter shall include:
    - a. The name, title, address, telephone number, and electronic mail address of the person authorized to bind the bidder to the contract, who will receive all official notices concerning this IFB.
    - b. The bidder's Federal Tax Identification Number or Social Security Number.
    - c. Acknowledgement of all Addenda to this IFB. (Appendix G)
  2. **FISCAL INTEGRITY (TAB B):** Bidder shall submit a State of Maryland Certificate of Good Standing or other filing verifying the bidder is in Good Standing with the Department of Assessments and Taxation of Maryland. Certificates of Status may be obtained on line at <http://www.dat.state.md.us>. This requirement applies to both Domestic and Foreign Bidders (out of state). Foreign entities should contact the State Department of Assessments and Taxation, 301 West Preston Street, Baltimore, Maryland 21201, to determine and apply for the appropriate documentation.
  3. **FORMS (TAB C): (include the following)**
    - a. Certificate of Status (State of Maryland Certificate of Good Standing with the Department of Assessments and Taxation)

- b. Completed Non-Collusion Certificate (Notarized) (Appendix B)
- c. Completed Debarment Affidavit (Notarized) (Appendix C)
- d. Completed Anti-Bribery Affidavit (Notarized) (Appendix D)
- e. Completed Certificate of Insurance (Appendix E)
- f. Completed Pricing Confirmation (Appendix F) (If Applicable)
- g. Completed Addenda Acknowledgement form (Appendix G)
- h. Completed MBE Documents (Appendix H) (If Applicable)
- i. Bid Bond (If Applicable)

**Failure to provide any of the requested information or documents in this solicitation may render the bid non-responsive.**

## **PART IV SCOPE OF WORK**

The purpose of this solicitation is to procure Bottled Water Services for all 208 schools, offices, and PGCPS activities for the requirements identified in this solicitation. The successful bidder is required to supply, maintain and deliver bottled drinking water and dispensing equipment throughout the Board of Education.

The contractor shall be responsible for replenishing water on an as needed basis within 24 hours of order notification. The contractor shall replace or repair, at no additional charge, all equipment that fails in operation during the term of this contract.

### **WATER**

Water supplied must be pure, free of objectionable odors or taste, meet EPA requirements for drinking water, free of harmful levels of minerals or chemicals and uncontaminated by biological agents. Water shall be supplied in sealed, refillable, non-breakable containers of approximately five gallons. Containers shall remain the property of the contractor and shall be permanently marked to identify ownership. Water shall be classified as drinking water intended for human consumption.

### **DELIVERIES**

Deliveries shall be made between the hours of 8:30 A.M. through 3:00 P.M. on days when schools are in session. On each visit, the delivery person shall immediately report to the main office or department point of contact. New water deliveries will be delivered to the designated storage point(s) and empty bottles will be collected. Before leaving, a signed copy of the itemized delivery ticket must be left with the ordering office.

The frequency of deliveries will depend upon the volume consumed by location. Deliveries shall be at least once per month and/or otherwise frequent enough to provide for the site's needs in accordance with the storage space available at that location.

### **BOTTLE DEPOSIT**

Under no circumstances will PGCPS be subject to deposits. Bidders shall waive all deposit fees on 5 gallon bottles.

### **BOTTLED WATER DISPENSERS**

All bottled dispensers shall be provided by the bidder at no cost to PGCPS. No rental fee shall be charged to PGCPS for dispensers. The bidder must supply dispensers that dispense ROOM/COLD or HOT/COLD water. No HOT/COLD water dispensers shall be placed in a location accessible by students. Dispensers are subject to removal or re-location if deemed unsafe by the PGCPS Safety Officer.

**PART V  
BID FORM**

<b>SECTION 1: WATER, 5 GALLON</b>			
Item No	Item Description	UOM	Unit Price
1	Purified Water, 5 gallon	Each	
2	Spring Water, 5 gallon	Each	
3	Distilled Water, 5 gallon	Each	

<b>SECTION 2: WATER, CASES</b>			
Item No	Item Description	UOM	Unit Price
4	Half Pint, 8 oz., 48 count	Case	
5	.5 LTR/16.9 oz., 24 count	Case	

<b>SECTION 3: CUPS</b>			
Item No	Item Description	UOM	Unit Price
6	Cone Cup, 4.25 oz., 200/sleeve, 25/case	Case	
7	Plastic Cup, 9 oz., 50/sleeve, 20/case	Case	

<b>SECTION 4: CARBON FILTRATION COOLERS</b>			
Item No	Item Description	UOM	Unit Price
8	Room/Cold <b>(Rental Price) * Provide Monthly Rental Price</b>	Each	
9	Room/Cold <b>(Purchase Price)</b>	Each	
10	Hot / Cold <b>(Rental Price) * Provide Monthly Rental Price</b>	Each	
11	Hot / Cold <b>(Purchase Price)</b>	Each	

<b>SECTION 5: 5 GALLON COOLERS (DISPENSERS)</b>			
Item No	Item Description	UOM	Unit Price
12	Room/Cold	Each	No Charge
13	Hot/Cold	Each	No Charge

<b>ADDITIONAL PRODUCT LINE DISCOUNTS OFFERED</b>		
Item No	Item Description	% Discount Offered
14		
15		
16		
17		
18		

## **PART VI: APPENDICES**



## APPENDIX A - SPECIAL TERMS AND CONDITIONS FOR SEALED BIDS

These Terms and Conditions shall apply unless otherwise noted in General Terms and Conditions attached to individual bid request. It shall be the Contractor's sole responsibility to insure they are compliant with all applicable federal, state, and county laws, rules, ordinances, statutes, etc., that may impact this contract. The Board shall bear no responsibility for monitoring the Contractor's compliance with said legal requirements. If the Contractor fails to maintain legal compliance, The Board may find said Contractor in default.

### 1. INVITATION TO BID

- a. The Board of Education of Prince George's County ("The Board") invites all interested and qualified vendors to submit sealed bids for the procurement of goods and services in accordance with directions specified in the attached General Terms and Conditions and these Special Terms and Conditions
- b. **DEFINITIONS:** For the purpose and clarity of this document only, "The Board" will mean the Board of Education of Prince George's County. Also, for the purpose and clarity of this document, "Bidder" will mean any reliable and interested broker, vendor, contractor, and/or manufacturer that want to bid on this contract.

### 2. GENERAL BID REQUIREMENTS

- a. **AUTHORIZED DEALERS:** Only authorized dealers may bid on requested equipment. At the discretion of The Board, a certificate, executed by the manufacturer, may be requested stating that the Bidder is an authorized agent of the manufacturer and is duly authorized to service and maintain the equipment.
- b. **INSPECTIONS:** After Bid award, The Board reserves the right to have inspectors on the premises of the manufacturer during the process of manufacture of any products being furnished under this bid for as long as may be considered necessary by The Board. All expenses of the inspectors shall be borne by The Board. The presence of the inspectors at the site of manufacture of the products shall not relieve the Awarded Bidder of responsibility for faulty workmanship of materials that may be discovered at any time after delivery and prior to final acceptance in accordance with the specifications. In case of factory inspection of items being manufactured for The Board, every facility shall be afforded inspectors by the manufacturers for the pursuance of their work.
- c. **TYPES OF PURCHASES:** These specifications are intended to cover the various types of purchases of equipment, materials, supplies, or services as shown to any or to each of the various public schools, offices, or to any designated warehouse or warehouses in Prince George's County, Maryland, whichever is specified, in quantities to be determined subsequent to the bid opening. There are approximately 240 schools and offices in The Board.
- d. **SINGLE PRICE:** The Bidder will not be allowed to offer more than one price on each item even though the Bidder may feel that it has two or more types or styles that will meet specifications. Bidder must determine which to offer. If said Bidder should submit more than one price on any item, all prices for that item will be rejected.
- e. **AGGREGATE BIDS:** Where provision is made on the proposal form for bidding items on an individual, group or aggregate basis, the award will be made on whichever basis is in the best interest of the Board. When an aggregate bid is requested, the unit prices for each item shall

be identified in the bid response. The unit prices in an aggregate bid should be consistent with the total quoted price for an aggregate bid. No bid or a combination of items will be permitted except as noted in the General Terms and Conditions.

- f. **MINIMUM REQUIREMENTS:** Whenever mention is made of any article, material, or workmanship to be in accordance with laws, ordinances, building codes, underwriter's code, A.S.M.E. regulations, or similar expressions, the requirements of these laws, ordinances, etc., shall be construed as to the minimum requirements of these specifications. In case of any apparent conflict between the specifications and such laws, ordinances, etc., the Awarded Bidder shall call the attention of the Board Director of Purchasing & Supply Services to such conflict for a decision before proceeding with any work.
- g. **USE OF BRAND NAMES:** Brand name and model numbers are offered as a reference for Bidders as to the style, size, weight, and other characteristics of the item(s) in the specifications. The use of such brand names should not be interpreted to be the exclusive brand desired unless so stated. The determination of the acceptability and/or the criteria for acceptability of an alternate is solely the responsibility of the Board. (Refer to General Conditions.)
- h. **PRODUCT OFFERED BY THE BIDDER:** The product offered by the Bidder shall be new, not used, and the latest version of the product. Should a product be discontinued and/or upgraded during the course of the contract, the Bidder shall offer to The Board a new alternate product that meets and/or exceeds the established specifications, under the same terms, conditions, and prices as the originally offered item.
- i. **COMPLIANCE WITH SPECIFICATIONS:** The awarded Bidder shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully complete every part as the true intent and meaning of the drawings and specifications, as decided by the Director, Purchasing & Supply Services. Where the requirements of the specifications call for higher grade and are not in conflict with the laws, ordinances, etc., the specifications shall govern. Where the requirements of the laws, ordinances, etc., are mandatory, they shall govern. The successful bidder, after award and before manufacture and/or shipment, may be required to submit working drawings or detailed descriptive data identified as acceptable to The Board, which would provide sufficient data to enable The Board to judge the bidder's compliance with the specifications.
- j. **DEVIATIONS TO SPECIFICATIONS:** Any deviation from the specifications must be noted in detail by the Bidder, in writing, as an attachment to the bid response. Bidders are fully aware that any deviations may render their bid as non-responsive. The absence of a written list of specification deviations attached to the bid response will hold the Bidder strictly accountable to The Board to the specification as written. After Bid award, any deviation by the Awarded Bidder from the specifications, without prior documented approval, will be grounds for rejection of the goods and/or equipment when delivered.
- k. **SUB-CONTRACTORS:** The Awarded Vendor shall give its constant personal attention to the faithful execution of this contract, shall keep the same under its own control, and shall not assign by power of attorney or otherwise, the work or any part thereof without the previous written consent of the Board. The Awarded Bidder shall provide the name of the sub-contractor(s) it intends employing, the portion of the materials/labor to be furnished, their place of business, and such other information as requested by the bid specifications. The information may be used in considering the potential performance capabilities of the sub-contractor(s). The Awarded Vendor shall not, without prior written consent of The Board, assign any of the monies payable under the contract.

- I. **COOPERATIVE PURCHASING:** The Board reserves the right to extend the terms and conditions of this solicitation to any and all other agencies within the state of Maryland as well as any other federal, state, municipal, county, or local governmental agency under the jurisdiction of the United States and its territories. This shall include but not limited to private schools, parochial schools, non-public schools such as charter schools, special districts, intermediate units, non-profit agencies providing services on behalf of government, and/or state, community and/or private colleges/universities that require these goods, commodities and/or services. This is conditioned upon mutual agreement of all parties pursuant to special requirements, which may be appended thereto. The supplier/contractor agrees to notify the issuing body of those entities that wish to use any contract resulting from this bid and will also provide usage information, which may be requested. A copy of the contract pricing and the bid requirements incorporated in this contract will be supplied to requesting agencies.

Each participating jurisdiction or agency shall enter into its own contract with the Awarded Bidder(s) and this contract shall be binding only upon the principals signing such an agreement. Invoices shall be submitted in duplicate "directly" to the ordering jurisdiction for each unit purchased. Disputes over the execution of any contract shall be the responsibility of the participating jurisdiction or agency that entered into that contract. Disputes must be resolved solely between the participating agency and the Awarded Bidder. The Board does not assume any responsibility other than to obtain pricing for the specifications provided.

- m. **E-COMMERCE:** The Board has entered into an agreement with Eschool Mall (ESM, a third party provider of an e-commerce system. The Awarded Vendor shall provide and maintain an electronic catalog of all applicable supplies and materials during the term of the contract on the ESM portal. **(N/A)**
- n. **VISA CREDIT CARD ACCEPTANCE:** The Board of Education of Prince George's County (the Board) is engaged in a Visa Purchasing Card Program to procure product. The Board reserves the right to use, the Visa Card in addition to purchase orders for purchases made under any contract resulting from this solicitation.

### 3. BID PRICES

- a. **UNIT PRICES:** Unit Prices must be rounded off to no more than two (2) decimal places, unless so specified in the General Terms and Conditions included with the bid request. All unit prices on items bid shall be completed on the proposal sheet(s). A NO BID notation must be completed for each item not being bid. In case of error in extension of prices in the bid, the unit price shall govern.
- b. **UNITS OF MEASURE:** Wherever The Board indicates the unit of measure required for bidding purposes and the Bidder's price(s) is based on a different unit of measure than that indicated in the bid proposal, it shall be at the sole discretion of The Board to determine whether the Bidder's price will be recalculated. The Board will not accept any bids with bidder escalator clauses, unbalanced figures, or irregular features.
- c. **CASH DISCOUNTS:** Cash discounts will not be taken into consideration in determining a contract award. All discounts, other than prompt payment, are to be included in the bid price.
- d. **PRICE REDUCTIONS:** The Board reserves the right to accept price reductions from the Awarded Bidder during the term of this contract.

- e. **TAXES:** The Board is exempt from the payment of the Maryland Sales Tax (Tax Exempt Number 30002539) and Federal Excise Tax (Tax Identification Number 52-2064-235). Prices quoted shall not include State Sales and Use Tax or Federal Excise Tax.

#### 4. ITEM DELIVERY

- a. **GENERAL DELIVERY REQUIREMENTS:** All materials, supplies, and equipment for The Board shall be delivered F.O.B. Destination. All deliveries must be inside the building. Delivery hours shall be Monday through Friday with the exception of holidays, to offices - between **8:30 a.m. and 2:30 p.m.**; to schools – between **9:00 a.m. and 2:30 p.m.** The Awarded Vendor(s) shall be held responsible for clean-up and removal of all packing cartons, boxes, crates, packing materials, etc., from the premises after delivery and set up of any furniture and equipment. Drivers must be bonded, have a clean driving record and have the appropriate training to handle hazardous items. Vendor will have the ability (including all applicable permits and licenses) to handle all types of shipments ranging from letters to multi-carton shipments, including bulky and fragile items. Delivery must include a current MSDS for each hazardous chemical or chemical compound delivered or used by the Vendor at a The Board worksite. The Awarded Vendor shall be liable for the full replacement value of any delivery item lost or damaged.
- b. **SPECIAL DELIVERY INSTRUCTIONS:** Special Instructions for delivery dates, delivery of heavy equipment, materials or machinery requiring special handling, to schools/sites under construction and/or renovation, or refrigerated goods will be defined in the General Terms and Conditions.
- c. **PACKING:** All materials must be securely packed in accordance with accepted trade practices. The Board purchase order number must be plainly visible on the exterior of each container. A packing slip and/or delivery ticket shall be included in each shipment. This ticket shall contain the following information: Purchase Order Number, Vendor Name, Name of the Article, Item Number, Quantity, and Delivery Location, (Example: ABC Elementary School Library). Failure to comply with this condition may be considered sufficient reason to refuse to accept the goods.
- d. **SAFETY REQUIREMENTS:** The Awarded Vendor shall provide all equipment and machinery furnished and delivered to The Board complying with the Safety regulations as required by the Occupational Safety and Health Administration (OSHA) and the Maryland State Safety Health Act known as MOSHA. The Vendor shall sign the safety section, if attached in the bid proposal, certifying the regulations for the type equipment furnished shall meet all regulations applying to this type equipment meeting the CFR-1910 MOSHA Standard. The Vendor shall submit Material Safety Data Sheets (MSDS) for all items awarded to that vendor provided under the terms of this proposal in accordance with OSHA Communication Standard 29 CFR 1910.101, 29 CFR 1910.1200 and 29 CFR 1926.58 or any other applicable state, federal, or local regulation. Prior to delivery of the items awarded, the vendor must submit MSDS sheets to: Prince George's County Public Schools Director of Safety, 13300 Old Marlboro Pike, RM 20, Upper Marlboro, MD 20772
- e. **LIQUIDATED DAMAGES:** In the event the Awarded Bidder fails to deliver the goods or services of the contract in accordance with the specifications, The Board reserves the right to purchase the goods/services on the open market in sufficient quantities to assure the continued operation of The Board. Liquidated damages may be assessed at the rate of 2% of the value for work not completed in accordance with the contract specifications, terms and conditions for each calendar day of delinquency beyond the contracted delivery date.

## 5. GUARANTEE AND WARRANTIES

- a. **GENERAL REQUIREMENTS:** Payment shall be based upon acceptance of goods or services by The Board. Vendor expressly warrants that: (a) The merchandise to be furnished and services performed will be free from defects in material and workmanship and will be in full conformity with the specifications, drawings, representation, or sample; that this warranty shall survive acceptance and payment of the merchandise; and that the Vendor will bear the cost of inspection of all goods and services rejected. (b) The Vendor hereby provides a warranty of authorization as to all goods and services. (c) The goods or services furnished must be or have been mined, manufactured, or produced in full compliance with at least the minimum conditions required under the Fair Labor Standards Act of 1938, as amended, and all other applicable local state and federal laws, rules, and regulations to include Department of Transportation (DOT), Food and Drug Administration (FDA) regulations, and the Equal Opportunity Clause contained in Executive Order 11246, as amended. If applicable to the goods or services purchased herein, vendor must also be in full compliance with the Workplace Hazardous Materials Information System (WHMIS) legislation and maintain a written Hazard Communication Plan.
- b. Awarded Vendor, its employees, agents, volunteers, and contractors who may have contact with students must be in compliance with Title 5, Subtitle 5, Part VI, of the Family Law Article of the Maryland Code. All costs thereof shall be borne by the Vendor.
- c. **GUARANTEE PERIOD:** The Vendor shall unconditionally guarantee all services, materials, and workmanship of all furniture, goods, and equipment furnished by it for a period of one year from the date of acceptance, i.e., delivery and installation, unless a longer period of warranty is specified in the General Terms and Conditions attached to the Bid Request.
- d. **FURNITURE AND EQUIPMENT:** If, within the guaranteed period, any defects or signs of deterioration are noted, which in the opinion of The Board are due to faulty design and installation, workmanship or materials, upon notification, the Vendor, at its expense, shall repair or adjust the equipment or parts to correct the condition, or it shall replace the part or entire unit to the complete satisfaction of The Board. These repairs and/or replacements shall be made at such times as will be designated by The Board to avoid any interruption to the instructional programs.
- e. **OFFICE EQUIPMENT:** Vendor agrees to provide on-site service of equipment within eight (8) hours of notification by school system personnel. Loaner equipment shall be supplied free of charge, during the warranty period if the office equipment cannot be repaired within three (3) working days.
- f. **OTHER EQUIPMENT:** Certain pieces of equipment, machinery, and refrigeration will require guarantees other than detailed above. Refer to General Conditions for requirements on specific equipment.
- g. **MANUFACTURER'S AGENT:** The Vendor shall act as the manufacturer's agent for all warranty claims.

## 6. BONDING

- a. Bidders may be required to provide any Bid Bonds, Performance Bonds, or Payment Bonds. Refer to General Terms and Conditions.

## 7. STABILITY OF FIRM

- a. Bids will not be considered from companies who are currently involved in official financial reorganization or bankruptcy proceedings.

## 8. BID SUBMISSION

- a. **KNOWLEDGE OF TERMS AND CONDITIONS:** Bidders, or their authorized representatives, are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting bids. Failure to do so will be at the Bidder's own risk and Bidder cannot secure relief on the plea of error. Neither law nor regulations make allowance for errors of omission or commission on the part of Bidders.
- b. **SUBMISSION:** Bids shall be delivered to the Purchasing Department, 13300 Old Marlboro Pike, RM 20, Upper Marlboro, Maryland 20772 detailed in the General Terms and Conditions.
- c. **BIDDER ADDRESS:** Each bid must show the full business address, telephone number, email and fax number of the Bidder and be signed by the person or persons legally authorized to sign contracts. All correspondence concerning the bid and contract, including Notice of Award, copy of Contract, and Purchase Order, will be mailed or delivered to the address shown on the bid in the absence of written instructions from the Bidder to the contrary.
- d. **PARTNERSHIPS:** Bids by partnerships shall be signed with the partnership name by one of the members of the partnership or by an authorized representative, followed by the signature and designation of the person signing, who shall also state the names of the individuals composing the partnership.
- e. **CORPORATIONS:** Bids by corporations shall be signed with the name of the corporation, followed by the signature and designation of the officer having authority to sign. When requested, satisfactory evidence of authority of the officer signing in behalf of the corporation shall be furnished. Anyone signing the bid as agent shall file satisfactory evidence of authorization to do so.
- f. **CERTIFICATES AND AFFIDAVITS:** All Bidders shall be required to complete the certificates and/or affidavits that are incorporated into the proposal pages of this specification. Such documents are required by local, state, or federal funding agencies of The Board as part of the bidding process. The documents may include: Anti-Bribery Affidavit, Debarment Certificate, Sales Tax Certification, Minority Business Enterprise affidavit, Small Business Enterprise affidavit, and when applicable, Asbestos Free Certification.
- g. **SPECIAL SAMPLES WITH CERTIFIED APPROVAL:** Bidders may be required to submit two (2) samples of each product awarded with an affidavit stating that the chemical composition of the sample submitted is identical with the composition tested prior to the bid and all remain unchanged during the period of the contract. This requirement shall be part of the specifications of the product or products requested.
- h. **BID PREPARATION FEES:** The Board will not be responsible for any costs incurred by a Bidder in preparing and submitting a proposal in response to a bid.
- i. **BID OPENINGS:** The Board shall receive sealed bids until the date and time indicated on the bid cover sheet. At the time of the bid opening, the Buyer shall open all bids received, read publicly, and record the responses. The Board shall then review all responses and

analyze the results of the bidding process. Upon acceptance and approval of the bid(s) by the Board, the Board may grant its approval subject to such conditions as it may deem appropriate. All bids shall be publicly opened at the Facilities Administrative Building, 13300 Old Marlboro Pike RM 20, Upper Marlboro, Maryland 20772 on the date specified on the bid cover sheet. In the event of inclement weather on the due date of a bid and the Board is closed, the bid will be due and opened on the next business day at the same time as specified in the bid or applicable addendum.

- j. **BID EVALUATION:** While these specifications are intended to describe the principal features of the items bid, Bidders are notified that the proposed items will be evaluated for compliance with detailed specifications. The bid specifications shall vary with each individual bid issued, and the award shall be made in accordance with the General Terms and Conditions, which identify an individual line item, group bid or an aggregate basis. Bids shall be awarded to the lowest responsive and responsible Bidder with consideration given to the quantities, time required for delivery, purpose of the goods/services, competency and responsibility of the Bidder, and the ability of the Bidder to perform satisfactorily. Evaluation may also be made for other factors such as serviceability, functional suitability, workmanship, safety in use, and overall product quality, where acceptability may be determined on the basis of professional judgment and educational application. The Board will consider the Bidder's record and performance of any prior contracts with The Board, federal departments or agencies, or with other public bodies.
- k. **TIE BIDS:** In the event of tie bids, where all other factors such as past performance on purchases/contracts or Bidder's service or delivery record are considered comparable, the selection of the successful Vendor shall be made by the Director Purchasing & Supply Services via a coin toss.
- l. **BID AWARD:** Bids will be awarded to the lowest responsive and responsible Bidder with consideration given to the quantities, time required for delivery, purpose of the goods/services, competency and responsibility of the Bidder, and the ability of the Bidder to perform satisfactorily. The award may be subject to final review and approval by the Board. Upon acceptance and approval of the bid(s) by the Board, the Board may grant its approval subject to such conditions as it may deem appropriate. In such cases, a Notice of Award will not be issued until the award has been approved by the Board.
- m. **RIGHT TO PROTEST:** The Director of Purchasing and Supply Services shall attempt to resolve informally all protest of bid award recommendations. Vendors are encouraged to present their concerns promptly to the Buyer and/or Purchasing Supervisor for consideration and resolution. Open dialogue is helpful for all parties and disputes are often only a misunderstanding of the evaluation and recommendation process.
  - 1. An interested party (bidding of standing or offeror) may protest to the Director of Purchasing and Supply Services a proposed award of a contract for supplies, equipment, services, or maintenance. A bidder of standing is a bidder who would be directly next in line for an award should the protest be supported.
    - a. The protest shall be in writing addressed to the Purchasing Supervisor with a copy to the Director and shall include the following:
      - i. The name address and telephone number(s) of the protester.
      - ii. Identification of the solicitation
      - iii. Statement of reasons for the protest
      - iv. Supporting documentation to substantiate the claim
      - v. The remedy sought

2. The protest must be filed with the Purchasing Office within five (5) calendar days of the recommendation of award or notification to the bidder or offeror that their bid or proposal will be rejected.
3. A vendor who does not file a timely protest before the contract is executed by the Board is deemed to have waived any objection.
4. The Director of Purchasing shall inform the Chief Financial Officer (CFO) upon receipt of the protest.
5. The Director of Purchasing shall confer with the general counsel prior to issuance of a decision regarding disputes of contracts or awards.

**n. APPEAL OF CONTRACT AWARD DECISION**

1. The Director of Purchasing shall issue a decision in writing. Any decision of a bid award protest may be appealed to the CFO within two (2) days of issuance of the decision by the Director of Purchasing.
2. Any decision of a bid award protest may be appealed to the Board of Education within thirty (30) days of issuance of the decision by the CFO.
3. A vendor who remains unsatisfied after following the procedures may contest a contract awarded by the Board by filing an appeal to the Maryland State Board of Education as provided by Maryland's public school law.
4. The Board reserves the right to award during protest and or during an appeal, if a determination that execution of the contract without delay is necessary to protect substantial State and Board interest.
5. The Bidder shall refer to the General Terms and Conditions attached to the bid for details regarding the Term of Contract for this bid.

**9. COMMENCEMENT OF SERVICES**

- a. The Board shall have no obligation to pay for services performed before the Notice of Award is executed; Board approves the contract or after the contracts ends. The Board shall have no obligation to pay for services in excess of the monetary amount of the award. The Board shall have no obligation to pay for services before a purchase order is issued.

**10. ADDENDA**

- a. **QUESTIONS/INQUIRIES:** No interpretation of the meaning of the specification or other documents will be made to any Supplier orally. To be given consideration, inquiries must be received as outlined in Part II Item 4.0. Inquiries are to be sent in writing via email to the Buyer. The subject field of the e-mail must include "INQUIRY" and the Bid name and number.
- b. **ISSUANCE:** Any changes to the bid specifications will be made through the appropriate addenda. Failure of any Bidder to receive such addenda or interpretation shall not relieve any Bidder from any obligations under this bid as amended by all addenda. All addenda so issued shall become part of the award.



## 11. ANNULMENTS AND RESERVATIONS

- a. **RIGHT TO REJECT:** The Board reserves the right to exercise its statutory option to reject any or all bids and re-advertise for other bids. The Board reserves the right to order the said equipment, materials, supplies or services as described within the specifications, and the Board also reserves the right not to order any items(s) within the specification.
- b. **WAIVER OF TECHNICAL DEFECTS:** The Board reserves the right to waive minor technical defects or minor irregularities, if in its judgment the interest of The Board shall so require.
- c. **CONTRACT RESERVATIONS:** The Board reserves the right to annul any contract if, in its opinion, there shall be a failure, at any time, to perform faithfully any of its stipulations, or in case of any willful attempt to impose upon The Board materials, products and/or workmanship inferior to that required by the Vendor, and any action taken in pursuance of this latter stipulation shall not affect or impair any rights or claims of The Board to damages for the breach of any covenant of the contract by the Vendor(s). Should the Vendor(s) fail to comply with the conditions of this contract or fail to complete the required work within the time stipulated in the contract, except for circumstances beyond its control, including but not limited to Acts of GOD, war, flood, governmental restrictions, or the inability to obtain transportation, The Board reserves the right to purchase the required articles in the open market, or to complete the required work at the expense of the Vendor(s). Should the Vendor be prevented from furnishing any item or items, or from completing the required work included in the contract, by reason of such failures caused by circumstances beyond its control, including but not limited to Acts of GOD, war, flood, governmental action, or the inability to obtain transportation, The Board reserves the right to withdraw such items or required work from the operation of this contract without incurring further liabilities.
- d. **AUTHORITY TO DEBAR OR SUSPEND:** The Purchasing Director shall have the authority to debar a person or company for cause from consideration for award of contracts.

## 12. TERMINATION OF CONTRACT

- a. **TERMINATION FOR NON-APPROPRIATION OF FUNDS:** The Board may terminate this contract, in whole or in part, due to insufficient funding or non-appropriation of funds with written notice to the Vendor. The Board shall pay for all of the purchases, if any, incurred up to the date of the termination notice.
- b. **TERMINATION FOR DEFAULT:** When the Vendor has not performed or has unsatisfactorily performed the contract, payment shall be withheld at the discretion of The Board. Failure on the part of a Vendor to fulfill contractual obligations shall be considered just cause for termination of the contract, and the Vendor is not entitled to any costs incurred up to the date of termination. In the event of a default by the vendor, this Contract may be terminated.
- c. **TERMINATION FOR CONVENIENCE:** The Board has the right to withdraw from the terms of the contract, without liability or showing cause, by providing ten (10) calendar days written notice to the Vendor. The Vendor shall be compensated for services rendered prior to the date of termination.

### 13. GOVERNING LAW

- a. The bid shall be construed in accordance with, and interpreted under, the laws of the State of Maryland. Any lawsuits arising out of such bid shall be filed in the Circuit Court of Prince George's County, Maryland.

### 14. CONTRACT TERMS AND CONDITIONS

- a. **SUBMISSION OF INVOICES:** Supplier agrees to accept the line item price on the purchase order as final payment. The Board reserves the right to short-pay any line item invoice price on the invoice that does not agree with the line item price shown on the purchase order. All invoices are to be submitted promptly showing Purchase Order number, and name and address of recipient and shall be mailed to Prince George's County Public Schools, Accounts Payable Office, 14201 School Lane, RM 130, Upper Marlboro Maryland 20772 (unless otherwise noted). A second copy (Delivery Ticket) shall be sent with the material to the appropriate location at the time of delivery.
- b. **INCORRECT INVOICES:** Invoices will be returned for correction unless they contain the following information: Item Numbers, Description of Item, Quantity, Unit Price extensions, and total. Each invoice shall reflect the Board Purchase Order Number, Ship to Location, and all the items on the invoice shall be listed in the same sequence as listed on the Purchase Order.
- c. **PARTIAL PAYMENTS:** Payment in full will only be made upon final acceptance of items as shown on Purchase Order. Partial payments may be paid if partial shipments have been made.
- d. **LATE SUBMISSION OF INVOICES:** The parties acknowledge and agree that the Vendor's invoices are to be submitted in a timely manner, per the terms of the purchase order, after the services have been provided or the goods and materials have been provided. If invoices are submitted after one calendar year after the Vendor's services have been rendered or the last date when goods and materials were accepted by the Board, then the Board shall have no obligation to pay for the stale invoices.
- e. **CONFIDENTIALITY:** Vendor acknowledges and agrees to hold all Confidential Information in the strictest confidence as a fiduciary and will not make any press release or public announcement, or voluntarily sell, transfer, publish, disclose, display or otherwise make available to any third persons such Confidential Information or any portion thereof without the express written consent of the Board. Vendor and its employees, agents, volunteers and contractors shall maintain the confidentiality of all medical, psychological, and student records in compliance with federal and state laws. Additionally, Vendor shall procure from the parent or guardian of each student receiving services hereunder a written consent in favor of Vendor and The Board for the mutual disclosure of such records by and among the Vendor, The Board and The Board' employees, agents, volunteers and contractors.
- f. **INDEMNIFICATION:** Vendor shall indemnify, defend, and hold harmless the Board of Education and their respective elected/appointed officials, employees, departments, agencies, agents and volunteers from any and all claims, demands, suits, and actions, including attorneys' fees, litigation expenses and court costs, connected therewith, brought against the Board, the Board and their respective elected/appointed officials, employees, departments, agencies, agents, and volunteers, arising as a result of any direct or indirect, willful, or negligent act or omission of the Consultant or its employees, agents, or volunteers.

## 15. INSURANCE:

- a. The contractor must maintain and pay for Comprehensive Business Insurance to protect their claims under the Workers' Compensation Act, from claims or damages because of bodily injury to others, including employees of the BOARD, damage to the property of others, including the BOARD, claims for damages arising out of the operation of motor vehicles, which may arise during the performance of the contract whether caused by themselves or by any sub-contractor or anyone directly or indirectly employed by either of them, and Product Liability Insurance. Said insurance is to cover the duration of the contract under an express or implied warranty.
- b. The following coverages and limits are required of all vendors:
  1. Worker's Compensation and Employer's Liability in the amount required by statutory regulations.
  2. Automobile Liability Insurance (covering all owned, hired and non-owned vehicles with personal and property protection insurance including residual liability insurance under Maryland Insurance Law) at not less than One Million Dollars (\$1,000,000) per occurrence for all claims arising out of bodily injuries or death and property damages. The insurance shall apply to any owned, non-owned, leased, or hired automobiles used in the performance of this Contract.
  3. Commercial General Liability Insurance in the amount of not less than \$1,000,000 per occurrence for claims arising out of bodily injuries or death, and property damages, subject to a minimum limit of and \$3,000,000 aggregate. Such insurance shall include contractual liability insurance.
  4. Professional Liability, Errors and Omissions Insurance at a limit of not less than One Million Dollars (\$1,000,000) in the event the service delivered pursuant to this Contract, either directly or indirectly, involves or requires professional services. "Professional Services" for the purpose of this Contract shall mean any services provided by a licensed, certified or otherwise documented professional.
- c. The certificate on this insurance shall be made in favor of the **BOARD OF EDUCATION OF PRINCE GEORGE'S COUNTY, UPPER MARLBORO, MARYLAND 20772-9983** and indicate paid up coverage for the term of the contract.
- d. The certificate of insurance **TO BE SUBMITTED** to the PURCHASING OFFICE, FACILITIES ADMINISTRATION BUILDING, 13300 OLD MARLBORO PIKE, ROOM 20, UPPER MARLBORO, MARYLAND 20772-9983.
- e. It will be the responsibility of the successful bidder(s) to ensure that a **current** Certificate of Insurance is on file in the Purchasing Office during the entire period of the contract.
- g. The cost of the above insurance shall be considered an overhead or operating expense to the Contractor, similar to rental costs, utilities, automobile liability insurance, and other business related expenses. **The premiums or costs to provide the above insurance shall not be directly related to the cost of the work or services specified in this Invitation for Bid.**

**16. NON-ASSIGNABILITY**

- a. This contract shall not be assigned, or services subcontracted in whole or in part without the written consent of the Board. Any attempt to do so without such written consent shall be null and void of no effect.

**17. INDEPENDENT VENDOR**

- a. Vendor is furnishing its goods and/or services hereunder as an independent Vendor, and nothing herein shall create any association, partnership or joint venture between the parties hereto or any employer-employee relationship.

**18. GENERAL RECORDS CLAUSE**

- a. The Vendor shall agree that in accordance with Section 952 of the Omnibus Budget Reconciliation Act of 1980, its contracts, files, accounts, records, and other documents related to this Contract shall be open to examination and/or audit by The Board and made available by the Vendor to the Board and/or its designated agents at any time upon reasonable prior notice, during performance under this Contract and for a period of five (5) years after final payment or such longer period of time as required by law or rule or regulations.

**19. SOLE AGREEMENT**

- a. This Contract constitutes the sole agreement between the parties hereto and no amendment, modification or waiver of any of the terms and conditions hereof shall be valid unless in writing and executed by both parties. Any prior verbal agreements or bids shall not be considered a part of this Contract.

**20. PROTECTION OF PROPERTY**

- a. Vendor will use reasonable care to avoid damaging existing buildings, equipment, and property at The Board sites and all material furnished by The Board. If the Vendor's failure to use reasonable care causes damage to any property, Vendor must replace or repair the damage at no expense to the Board as directed by the Contracting Officer. If the Vendor fails or refuses to make such repair or replacement, the Vendor will be liable for the cost, which may be deducted from payments due Vendor.

**21. PUBLIC STATEMENTS**

- a. Vendor shall not use or reference the Name or Emblem of the Prince George's County Public Schools in issuing any press releases or otherwise making any public statement with respect to this Contract (unless such press release or statement is required by applicable law regulation or the requirements of any listing agreement with any applicable stock exchange), without the prior written consent of The Board, whose consent will not be unreasonably withheld. Purchase by the Board of any articles, material, merchandise, or service does not imply that the Board has either adopted or endorsed the product of service, and the use by any manufacturer, Vendor, merchant or other person of the name or emblem of the Board in any advertisement that they are furnishing products or services is not authorized. The unauthorized use of the name or emblem of the Board is prohibited by the United States Criminal Code - Section 706.

**22. BID FORM**

- a. All pricing submitted shall be prepared and submitted using the enclosed Bid Form and not using other forms or formats. Bidders, who modify the Bid Form or include supplemental pricing or conflicting cost information, will be considered non-conforming and the bid will be rejected.

**23. SENSITIVE INFORMATION**

- a. The bidder shall not publish or otherwise disclose, except to the board and except matters of public record, any information or data obtained hereunder from private individuals, organizations, or public agencies, in publications whereby the information or data furnished by or about particular person or establishment can be identified, except with the consent of such person or establishment.
- b. The parties shall not use or disclose any information about a recipient receiving services from, or otherwise rerolled in, a PGCPs program affected by or benefiting from services under this bidder for any purpose not connected with the parties' Contract responsibilities except with the written consent of such recipient, recipient's attorney, or recipient's parent or guardian pursuant to applicable state and federal law and regulations.

**24. NON-HIRING OF EMPLOYEES**

- a. No employee of the Board shall be employed or encouraged to become employed by the bidder.

**25. RELATIONSHIP TO THE BOARD**

- a. The bidder will be legally considered as an independent contractor and neither the firm nor its employees will, under any circumstances, be considered an employee or agent of the Board. The Board will not be legally responsible for any negligence or other wrong doing of the contractor, its servants or agents.

**26. AVAILABILITY OF FUNDS**

- a. BOARD for the purchase of such articles. The obligation of the BOARD on all contracts, including those which envision funding through current and successive fiscal years, shall be contingent upon actual Board appropriations for the fiscal year(s) involved.

**27. INFRINGEMENT OF PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET, OTHER INTEREST**

- a. The following terms apply to any infringement, of claim or infringement, of any patent, trademark, copyright, trade secret or other proprietary interest based on the manufacture, normal use or sale of any material, equipment, programs or services furnished by Respondent to the Board, unless such infringement or claim results from the Respondent following written instruction or directions of The BOARD. Respondent shall indemnify the Board, for any loss, damage, expense, or liability that may result by reason of any such infringement or claim. Respondent shall defend or settle, at Respondent's own expense, any action or suit for which Respondent is responsible hereunder. The Board shall notify Respondent promptly of any claim or infringement for which Respondent is responsible and shall cooperate with Respondent in every way to facilitate the defense of any such claim.

**28. NON-DISCRIMINATION**

- a. The Contractor is to conduct business in a non-discriminatory manner prohibiting discrimination in any manner against any employee or applicant for employment because of sex, race, creed, color, age, mental or physical disability, sexual orientation or national origin.

**29. LEGAL COMPLIANCE**

- A. Contractor shall comply in all respect with Federal, State (including Maryland Motor Vehicle laws) and Local Regulations, including laws regarding eligibility to work in the United States. The provisions of this Contract shall be governed by the laws of Maryland. Any disputes, legal cases or other controversies shall be pursued in Maryland Courts consistent with and subject to Maryland State Law. Additionally if applicable, all materials, supplies, equipment, or services supplied, as a result of this Contract shall comply with the applicable U.S. and Maryland Occupational Safety and Health Act Standards.
- B. Specifically, contractor shall comply with all applicable laws and regulations relating to the employment of aliens, such failure, shall constitute a material breach of contract. It is a mandatory requirement of this contract that employees of contractor and contractor's subcontractors are screened through the Federal Government's E-Verify system, found at [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify) . This is a "no fee" service.

**30. EPA COMPLIANCE**

Materials, supplies, equipment, or services shall comply in all respects with the Federal Noise Control Act of 1972, where applicable.

APPENDIX B - NON-COLLUSION CERTIFICATE  
(TO BE SUBMITTED WITH BID)

**IFB# 010-19**  
**BOTTLED WATER SERVICE**

I HEREBY CERTIFY that I am the \_\_\_\_\_ and the duly authorized

representative of \_\_\_\_\_

whose address is \_\_\_\_\_ and

THAT NEITHER I nor, to the best of my knowledge, information, and belief, the above firm nor any of its other representatives I here represent:

(a) Have agreed, conspired, connived or colluded to produce a deceptive show of competition in the compilation of the bid or offer being submitted herewith;

(b) Have in any manner, directly or indirectly, entered into any agreement, participated in any collusion to fix the bid price or price proposal of the bidder or offeror herein or any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the Contract for which the within bid or offer is submitted.

In making this affidavit, I represent that I have personal knowledge of the matters and facts herein stated.

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
PRINTED OR TYPED NAME)

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

x \_\_\_\_\_ Notary Public

My commission expires: \_\_\_\_\_

**APPENDIX C - DEBARMENT AFFIDAVIT**  
**(TO BE SUBMITTED WITH BID)**  
**IFB #-010-19**  
**BOTTLED WATER SERVICE**

\_\_\_\_\_, being first duly sworn deposes and says that he is an officer in the \_\_\_\_\_ and the party making a certain proposal or bid dated, \_\_\_\_\_20\_\_\_\_, to the Board of School of Education of Prince George's County Public:

I further affirm that: Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, or any of its employees directly involved in obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension):

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

I further affirm that:

- (1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
- (2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

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

Signature of:

x \_\_\_\_\_  
Bidder, if the bidder is an individual

x \_\_\_\_\_  
Officer, if the bidder is a corporation

x \_\_\_\_\_  
Partner, if the bidder is a partnership

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

x \_\_\_\_\_ Notary Public

My commission expires: \_\_\_\_\_



**APPENDIX D - ANTI-BRIBERY AFFIDAVIT**  
**(TO BE SUBMITTED WITH BID)**  
**IFB #-010-19**  
**BOTTLED WATER SERVICE**

\_\_\_\_\_, being first duly sworn deposes and says that he is an officer in the organization known as \_\_\_\_\_ and the party making a certain proposal or bid dated, \_\_\_\_\_ 20\_\_\_\_, to the Board of Education of Prince George's County:

I further confirm that: Neither I, nor to the best of my knowledge, information, and belief, the above business (as in defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, or any of its employees directly involved in obtaining or performing contracts with public bodies (as is defined in Section 16-101(f) of the State Finance and Procurement Article of the Annotated Code of Maryland), has been convicted of bribery, attempted bribery, or conspiracy to bribe in violation of Maryland Law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court or administrative body, sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

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

Signature of:

x \_\_\_\_\_  
Bidder, if the bidder is an individual

x \_\_\_\_\_  
Officer, if the bidder is a corporation

x \_\_\_\_\_  
Partner, if the bidder is a partnership

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

x \_\_\_\_\_ Notary Public

My commission expires: \_\_\_\_\_

**APPENDIX E - CERTIFICATE OF INSURANCE COVERAGE**  
 (TO BE SUBMITTED WITH BID)  
**IFB #-010-19**  
**BOTTLED WATER SERVICE**

CONTRACTOR NAME: \_\_\_\_\_

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

NAME OF SURETY: (TYPE OR PRINT) \_\_\_\_\_

NAME OF AGENT: (TYPE OR PRINT) \_\_\_\_\_

AGENT'S PHONE NO: \_\_\_\_\_

The below signed hereby certifies that the following information is true and correct.

<b>TYPE OF COVERAGE</b>	<b>MINIMUM REQUIRED LIMITS</b>	<b>POLICY OR BINDER NUMBER</b>	<b>ACTUAL LIMITS PROVIDED</b>	<b>EXPIRATION DATE</b>
COMMERCIAL GENERAL LIABILITY OCC	\$1,000,000			
COMMERCIAL GENERAL LIABILITY AGG	\$3,000,000			
BUSINESS AUTOMOBILE LIABILITY	\$1,000,000 PER OCCURRENCE			
WORKMAN'S COMP	MARYLAND STATE MINIMUM COMPENSATION STATUTORY			
EMPLOYERS LIABILITY	AS REQUIRED BY STATUTORY REGULATIONS			

LIMITS ON ABOVE POLICY WILL BE INCREASED       ABOVE POLICY NOW IN EFFECT

POLICY WILL BE OBTAINED/ISSUED ON \_\_\_\_\_

The following additional clauses will be considered a part of the above policy(s), the same as if specifically written therein, as pertains to the above stated contract.

- The Board of Education of Prince George’s County is hereby named as Additional Insured.
- The policy(s) cannot be reduced or cancelled without at least forty-five (45) days prior written notice to the Board of Education of Prince George’s County.
- The insurance company is prohibited from pleading government function in the absence of any specific written authority by the Board of Education of Prince George’s County.
- The policy(s) will be automatically included and cover all phases of work, equipment, persons, et cetera which are normally covered while performing work under the above contract, whether specifically written therein or not.
- The Board of Education of Prince George’s County is hereby granted authority to contact the agency directly to confirm information or obtain copies of certificates of insurance. The Board of Education of Prince George’s County bears no responsibility for premiums or other cost of insurance. If policy(s) is not currently in effect, it will be written immediately upon notice of award, and a copy of binder or certificate will be sent directly to the Board of Education of Prince George’s County. A properly executed copy of this document shall be legally binding as a Carrier Certificate of Insurance Form.

The successful bidder will be required to provide insurance coverage as shown in General Conditions of Bid and Contract, prior to beginning any work. This insurance coverage must be maintained throughout the life of the contract. This can be done by one of the two following methods:

1. Complete form “CERTIFICATION OF INSURANCE COVERAGE” or
2. Submit a Certificate of Insurance on a form provided by your Insurance Agent. This form must include the following clauses:

“The Board of Education of Prince George’s County is hereby named as Additional Insured.”

“The policy(s) cannot be reduced or canceled without at least forty-five (45) days’ prior written notice to the Board Of Education of Prince George’s County.”

“The insurance company is prohibited from pleading government function in the absence of any specified written authority from the Board of Education of Prince George’s County.”

“The policy(s) will automatically include and cover all phases of work, equipment, persons, et cetera which are normally covered while performing work under the above contract, whether specifically written therein or not.”

Regardless of the method used, the form **MUST** be totally complete, **MUST** show that all Limits of Insurance are or will be met, and **MUST** be signed by the Agent.

Failure to provide the required insurance coverage by either of the two (2) methods described above when the bid is submitted may result in rejection of your bid as being non-responsive.

\_\_\_\_\_  
**(AUTHORIZED AGENT’S SIGNATURE)**

\_\_\_\_\_  
 (DATE)

**APPENDIX F – PRICING CONFIRMATION**  
(TO BE SUBMITTED WITH BID)

**IFB #-010-19**  
**BOTTLED WATER SERVICE**

CONTRACTOR NAME: \_\_\_\_\_

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

\_\_\_\_\_

TO: BOARD OF EDUCATION OF PRINCE GEORGE'S COUNTY

We propose to provide **BOTTLED WATER SERVICE** to the Board of Education of Prince George's County in accordance with Scope of Work, General Terms and Conditions, and Special Terms and Conditions of IFB-010-19.

**Instructions:**

Each vendor shall provide a fixed price for each cost item listed on the Bid Form. *Bidders must bid on all items listed or no bid. Price shall be fixed for the initial contract award year(s).*

The undersigned agrees to furnish all labor, materials, and services necessary to provide **BOTTLED WATER SERVICE** for Board of Education of Prince George's County in accordance with the attached specifications, and other related contract documentation.

**Vendors must complete all cost items on the included Bid Form or insert NO BID**

Name \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Email Address \_\_\_\_\_

**APPENDIX G - ADDENDA ACKNOWLEDGEMENT  
IFB # 010-19  
BOTTLED WATER SERVICE**

**(If applicable) Please complete and return with your bid response.**

**I the undersigned acknowledge the receipt of the following addenda to this solicitation**

**Addendum #1- Date Received \_\_\_\_\_**

**Addendum #2 - Date Received \_\_\_\_\_**

**Addendum #3 - Date Received \_\_\_\_\_**

**Addendum #4 - Date Received \_\_\_\_\_**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Vendor Name**

\_\_\_\_\_  
**Email**

\_\_\_\_\_  
**Contact Phone Number**

**APPENDIX H- MBE DOCUMENTS  
IFB #-010-19  
BOTTLED WATER SERVICE**

***This document must be completed, signed in blue ink by an authorized company official & submitted with your bid response.***

***In addition to Appendix H, please submit a completed MBE Utilization Affidavit – 3325. See attachment.***

Contractor \_\_\_\_\_ Bid No. \_\_\_\_\_

Address \_\_\_\_\_

City, State and Zip \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

**FOR MINORITY USE ONLY  
Prime Contractor's information ONLY**

LOCALLY BASED MINORITY BUSINESS: PGC MBE\_\_\_\_ PGC MWE \_\_\_\_\_ MD MBE\_\_\_\_  
MD MWE\_\_\_\_\_

INDICATE IF YOU ARE A MINORITY BUSINESS CERTIFIED BY:

P.G. COUNTY GOVERNMENT: Certification No.: \_\_\_\_\_

MD. STATE DEPT. OF TRANSPORTATION: Certification No.: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title- Authorized Official

If a corporation, it was organized under the laws of the state of, in the year \_\_\_\_\_ a  
partnership, list names of partner \_\_\_\_\_.





## ADMINISTRATIVE PROCEDURE

### MINORITY BUSINESS ENTERPRISE PROCUREMENT PROCEDURES

3325

Procedure No.

Ju.y 1, 2004

Date

- I. **PURPOSE:** To establish a resolution that a goal of 30 percent be attempted on all contracts with a minimum of 15 percent requirement of the total dollar value for all Prince George's County Public Schools' contracts for materials (other than materials of instruction), supplies, equipment, services and construction, as entered into during any fiscal year, be purchased directly or indirectly from Minority Business Enterprises (MBEs).
- II. **POLICY:** As set forth in state law and county ordinance, the Prince George's County Public Schools' Minority Business Enterprise Program must meet certain statutory and regulatory requirements. In recognition of existing state and county statutes, rules, regulations, and resolutions, and consistent with statutory provisions related to bidding proposals and awards thereon by local boards of education, the Board of Education of Prince George's County adopted a minority business Administrative Procedure on April 21, 1986. This procedure, revised on July 1, 2004, supersedes the procedure of June 30, 1998.
- III. **BACKGROUND:** The following regulations all seek to achieve certain minimum percentages of total contract expenditures for minority business enterprises, as hereafter defined, where state or county funds are involved.
  - A. Annotated Code of Maryland, State Finance and Procurement, Article 14-301.
  - B. Annotated Code of Maryland, Education, Article Section 5-301.
  - C. Annotated Code of Maryland, Education, Article Section 4-125.
  - D. Code of Maryland Regulations, Title 21, Subtitle 11, Chapter 3.
  - E. Prince George's County Code, 10-A, Subdivision 10A-136, Assistance to Minority Business Enterprise.
  - F. Interagency Committee Rules, Regulations and Procedures for the Administration of the School Construction Program, Section 15 (approved by Board of Public Works, October 6, 1993).
- IV. **DEFINITIONS:**
  - A. Minority Person: A member of a socially or economically disadvantaged minority group that for the purposes of this procedure includes African Americans, American Indians/Native Americans, Asians, Hispanics, Women, Physically or Mentally challenged individuals, and Not-for-Profit





## ADMINISTRATIVE PROCEDURE

### MINORITY BUSINESS ENTERPRISE PROCUREMENT PROCEDURES

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entities organized to promote the interests of physically or mentally disabled individuals.

- B. Minority Business Enterprise (MBE): Any legal entity, other than a joint venture, that is at least 51 percent owned and controlled by one or more minority person(s), organized to engage in commercial transactions.
- C. Ownership:
1. For a sole proprietorship to be deemed a minority business enterprise, the sole proprietor must be a minority person. If the ownership interest held by a minority person is subject to formal or informal restrictions such as options, security interests, agreements, etc., held by a non-minority person or business entity, the options, security interests, agreements, etc., held by the non-minority person or business entity must not significantly impair the minority person's ownership interest.
  2. For a partnership to be deemed a minority business enterprise, at least 51 percent of the partnership's assets or interests must be owned by a minority person or minority persons. If the ownership interest held by a minority person is subject to formal or informal restrictions such as options, security interests, agreements, etc., held by a non-minority person or business entity, the options, security interests, agreements, etc., held by the non-minority person or business entity must not significantly impair the minority person(s) ownership interest.
  3. For a corporation to be deemed a minority business enterprise, legal and equitable ownership of at least 51 percent of the aggregate of all classes of stocks, bonds, or other securities issued by the corporation must be owned by a minority person(s). If an ownership interest held by a minority person is subject to formal or informal restrictions such as options, security interests, agreements, etc., held by a non-minority person(s) or business entity, the options, security interests, agreements, etc., held by the non-minority person(s) or business entity may not significantly impair the minority person(s)' ownership interest. (Note: stock held in trust is not considered as stock held by the disadvantaged business persons when computing the business person(s)' ownership).
- D. Control: Minority owners shall either collectively or individually possess the working knowledge of the technical requirements needed, power to



## ADMINISTRATIVE PROCEDURE

### MINORITY BUSINESS ENTERPRISE PROCUREMENT PROCEDURES

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direct or cause the direction of management, policies and objectives and to make all substantive, day-to-day decisions on applicant's major and/or essential operations. In addition, the applicant must demonstrate technical knowledge of the firm's major areas of work. No formal or informal restrictions of any kind shall exist which limit the customary discretion necessary for actual business control by the minority owners.

- E. Certification: The determination that a legal entity is a minority business enterprise consistent with the provisions of Subtitle 3 (13-301b) of the State Finance and Procurement Article.
- F. Certified Minority Business Enterprise: A minority business that holds a certification issued by Maryland Department of Transportation (MDOT) or recertification issued by Prince George's County Government.
- G. Race Neutral Measure: Means a method that is or can be used to assist small businesses.
- H. Minority Business Enterprise Coordinator: The employee designated to administer the Board of Education's Minority Business Enterprise Program.
- I. Buyer: Purchasing agent-handling solicitations.

#### V. MINORITY BUSINESS ENTERPRISE PROGRAM RESPONSIBILITIES:

- A. A roster of MBEs, listing each firm by commodity and service provided, certification, minority business code, location, and current certification status, shall be maintained in Purchasing Services.
- B. The MBE Coordinator, who shall be an employee assigned to Purchasing Services, shall have the direct responsibility for maintaining said roster.
- C. Any MBE on a current listing of Maryland Department of Transportation or Prince George's County Government list of certified MBEs shall, upon furnishing evidence of such, be automatically deemed eligible for placement on the roster of MBEs of Prince George's County Public Schools.

#### VI. CERTIFICATION: The determination that a legal entity is an MBE consistent with the intent of Subtitle 3 of the State Finance and Procurement Article.

#### VII. TECHNICAL ASSISTANCE-OUTREACH-TRAINING EFFORTS: The MBE Coordinator shall have the direct responsibility for implementing a



## ADMINISTRATIVE PROCEDURE

### MINORITY BUSINESS ENTERPRISE PROCUREMENT PROCEDURES

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"Technical Assistance-Outreach-Training Program" for small and minority vendors. Said program may cover any and all factors necessary to enable small and minority firms to do business with Prince George's County Public Schools.

- VIII. **SOLICITATION OF BIDS:** All Invitations for Bid (IFB) and Requests For Proposal (RFP) will be reviewed and may, at the discretion of the Board of Education's representative, require a percentage equal to 30 percent but a minimum of 15 percent participation by minority businesses as defined herein in supply, service, construction, moveable equipment, and architectural and engineering services contracts.
- IX. **ADVERTISING INVITATIONS FOR BID:** Prior to advertising an Invitation for Bid (IFB), a Prince George's County Public Schools' representative from the appropriate division responsible for the contract, a Purchasing agent, and the MBE Coordinator will jointly identify all subcontractable opportunities in the IFB. All bids will include the following information:
- A. The Prince George's County Public Schools does not discriminate on the basis of race, color, sex, or national origin in consideration for award. **Minority businesses are encouraged to submit bids in response to this notice.**
  - B. Minority business firms will be considered as minority business contractor or subcontractor, if certified by any of the following: Prince George's County Government and the Maryland Department of Transportation.
  - C. The certified minority business goal for each IFB will be noted on the front cover of the IFB under "Special Note" and identified as a **deliverable in the contract.**
- X. **SOLICITATION PROCESS FOR PHONE AND WRITTEN QUOTES.**  
**THIS PROCESS INCLUDES PROFESSIONAL SERVICES (Architects, Engineers, Non-Instructional Services Consultants, Contractual Services, etc.)**
- A. For contracts less than \$5,000, solicitations from more than one vendor are not required. Users and buyers are **strongly** encouraged to solicit from MBEs in addition to other prospective bidders.
  - B. If contracts are estimated to be between \$5,001 - \$10,000, a minimum of three (3) qualified firms shall be solicited for quotations. Two (2) firms are to be a certified minority. If three (3) firms cannot be solicited, or if pricing is obtained directly from the manufacturer or its direct distributor, a note of explanation shall be made on the quotation worksheet. Current



## ADMINISTRATIVE PROCEDURE

### MINORITY BUSINESS ENTERPRISE PROCUREMENT PROCEDURES

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catalog prices and prior bid prices may, if confirmed by the supplier, serve in lieu of quotations. Certified minority business enterprises (MBEs) should always be contacted in addition to other prospective bidders.

- C. A request for written quotations shall be solicited when the estimated dollar value of the request exceeds \$10,001 but is less than \$15,000. A written specification shall be prepared and mailed to a minimum of three (3) firms requesting written quotations of pricing. **A minimum of two (2) minority firms shall be sent the solicitation.**
- D. Formal bids are required for procurements over \$15,000.
- E. Local MBE firms within Prince George's County should be contacted first for telephone and written solicitations. If there are less than 3 MBE firms available in Prince George's County, a broader search of the MDOT MBE Central Directory at [www.marylandtransportation.com](http://www.marylandtransportation.com) (click on MBE/DBE Program and proceed to the Directory) shall be contacted.
- F. In the event the buyer/user department is unable to locate a minority firm for a specific service, the MBE Coordinator shall be contacted as an additional resource.
- G. Evaluation and selection of professional services - The contract process for these services will involve Purchasing Services.

#### XI. **SOLICITATION PROCESS FOR FORMAL BIDS:**

- A. To be considered a responsive bidder, contractors are required, when specified in bid documents, to subcontract with MBEs for the stated percentage of the total dollar value of the contract price. (The percentage of MBE participation is based on the anticipated value of the contract.) Should MBE participation be required, MBE forms 1 through 5 must be completed and submitted within ten (10) days after notification of being low bidder.
- B. Bonus Points:
  - Minority Business Enterprise (10%)
  - Prince George's County Based Minority Business Enterprise (15%)
- 1. During the evaluation process the Buyer shall determine the eligibility of any participating certified MBE to match the bid of the lowest responsible bidder by application of bonus points.



## ADMINISTRATIVE PROCEDURE

### MINORITY BUSINESS ENTERPRISE PROCUREMENT PROCEDURES

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2. In determining if a certified MBE is entitled to match the competitively bid price of the lowest responsible bidder, the Buyer shall adjust the bid price submitted by an MBE (for the purpose of evaluation and offer to match only) by reducing the bid price of such firm by the product of: (1) the bid price of the apparent lowest responsible bidder; and: (2) the bonus factor applicable to the MBE (as stated above).
3. Once it has been determined through the application of the bonus points as aforementioned that the bid price submitted by an MBE, after adjustment, was lower than or equal to the bid price of the lowest responsible bidder, such MBE shall be given the opportunity to accept the bid at the lowest bid price.
4. If said lowest responsible bidder is a minority firm not located in Prince George's County or Maryland, a Prince George's County-based or Maryland-based firm will be awarded bonus points. Once the bonus points are applied, the Prince George's County-based or Maryland-based minority firm will be afforded the opportunity to match the bid of the lowest responsible bidder, if so justified.
5. The Buyer shall notify the MBEs, that by virtue of the application of the bonus points, the **minority** business enterprise is entitled to match the bid of the lowest responsible bidder. Qualifying MBEs will be given a period of five (5) business days from the issuance of such notifications by the Buyer the opportunity to match the bid originally submitted by the lowest responsible bidder.
6. As a result of such notifications, if more than one MBE proposes to reduce its previous bid to that of matching the bid of the original lowest responsible bidder, the contract shall be awarded with preferences given in the following order: first, Prince George's County-based MBE; and second, Maryland-based MBE.
7. If two or more MBEs qualify for the same preference contract award and are prepared to match the bid of the original lowest responsible bidder, the Buyer shall, by toss of a coin, select the party to whom the contract will be awarded.
8. If the MBE entitled to match a bid indicates to the MBE Coordinator that it can only match the bid of the otherwise lowest responsible bidder if relieved from the necessity of furnishing a bond from a recognized surety guaranteeing the total performance under any contract to be awarded, the Chief Financial Officer may,



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upon a finding that the MBE has demonstrated adequate performance on prior contracts with the state, county, any of its agencies, municipal corporations, or any local boards of education, waive such requirement.

9. If the MBE determines that it cannot match the lowest responsible bidder after being offered an opportunity to do so, **the MBE will not be penalized.**

C. Composition of Minority Subcontractors:

1. It is the intent of Prince George's County Public Schools (PGCPS) that the contractor includes fair representation of all minority groups in the required percentage of MBE subcontracting participation.
2. If the successful bidder is an MBE firm, it shall be the obligation of the contractor to maintain its status as a certified MBE or to maintain the required subcontracting percentage with certified MBE firms, whichever may be applicable, throughout the term of the contract or any extension thereof. In the event that any of the representations or circumstances of the contractor change with respect to the MBE status, the contractor shall notify the Board of Education immediately. The contractor shall also report any change in minority business usage if different than information submitted at the time contract is signed.

D. Pre-Bid Conference:

1. At each Pre-Bid Conference, the Prince George's County Public Schools representative will explain the MBE subcontracting requirement, MBE provisions of the solicitation, documentation required, and its relationship to the bidder's responsiveness.
2. Prime contractors must request price quotes from MBE subcontractors at least five (5) working days prior to the bid opening. However, this may be adjusted at the discretion of the Board of Education.
3. Bidders may use the services offered by the MBE Program Coordinator to develop its MBE participation requirement.



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4. When MBE subcontracting is required, each bid or offer submitted in response to a solicitation must be accompanied by a completed Minority Business Enterprise Utilization Affidavit (MBE Form #1) which has been duly notarized.
5. After the review of responsive bids, the apparent low bidder will be notified. Final approval of contract award will not be made until a list of all MBEs and other related documents from the contractor are received and reviewed.

E. Contract Award:

1. The following documentation must be furnished by the apparent low bidder within ten (10) working days from notification when subcontracting is required:
  - a. A completed Schedule for Participation of Minority Business Enterprise (MBE Form #2);
  - b. A Statement of Intent (MBE Form #5); and
  - c. A copy of the current acceptable certification letter attached to each Statement of Intent.

Each document will show the agreed prices to be paid to each certified MBE for the work and identify in detail the contract items to be performed by the certified minority business and the proposed timetable for such performance. All documents must be signed by an authorized representative from both the prime and subcontracting firms.

The bidder will certify in writing that there is an existing subcontract for all work that has been sublet.

2. The Prince George's County Public Schools' MBE Program Coordinator will conduct a preliminary evaluation of the apparent low bidder's submission to determine whether the proposed MBE participation is in compliance with the outlined requirements.
3. Based on the evaluation of contract documents submitted, the Prince George's County Public Schools' representative will determine if the low bidder is in compliance with the MBE participation requirements and may recommend to make the final award or require additional information.



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#### F. Request For Waiver of Minority Business Enterprise Goal:

1. A waiver of the MBE contract requirement may be granted by the Board of Education **only** upon receipt of a written request with supporting documentation which presents a reasonable demonstration by the bidder that MBE participation was impossible to obtain or was not obtainable at a reasonable price, and that the public interest is served by a waiver. Any request for a waiver should be submitted on a Request for Waiver (MBE Form #4) and contain the following:
  - a. A detailed statement of the efforts made to contact and negotiate with certified minority businesses including: names, addresses, dates, and telephone numbers of certified minority businesses contacted;
  - b. A description of the information provided to MBEs regarding plans, specifications, and anticipated time schedule for portions of the work to be performed;
  - c. A detailed statement of efforts made to select portions of work proposed to be performed by certified minority businesses in order to increase the likelihood of achieving the stated requirement;
  - d. A detailed statement of reasons for a contractor's conclusion that a certified minority business is not qualified to perform the work needed; and
  - e. A list of minority subcontractors found to be unavailable. (This list should be accompanied by the Minority Subcontractor Unavailability Certificate (MBE Form #5) signed by the MBE or a statement from the apparent low bidder that the certified business did not provide the Minority Subcontractor Unavailability Certificate.)
2. A waiver exception to the MBE requirement will be granted upon determination by the Prince George's County Public Schools' representative that qualified MBEs are not available to participate in a contract or at a reasonable price consistent with the stated MBE contract requirement and the total contract award. Upon consideration of all the waiver documents submitted in accordance with this provision, the Prince George's County Public Schools' MBE Coordinator may approve or deny any request for a waiver.





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3. The low bidder's failure to participate in any of these proceedings or failure to furnish information after written request may result in rejection of the bid on the basis of non-responsiveness.
- G. Contractor Responsibility and Compliance: The contractor shall perform the contract in accordance with the representations made in the Minority Business Enterprise Utilization Affidavit submitted as part of the bid proposal and on the Schedule for Participation of Certified Minority Business Enterprise (MBE) submitted after the bid proposal (MBE Form #2). All compliance monitoring of certified MBE participation will be in accordance with the following:
1. The contractor shall structure operations for the performance of the contract to attempt to achieve the purpose of this procedure.
  2. The contractor agrees to apply the firm's best efforts to carry out these requirements consistent with the efficient performance of the project.
  3. The contractor must assure that MBEs shall have the maximum practical opportunity to compete for subcontract work under the contract, even after award of contract.
  4. The contractor shall cooperate in any reviews of the contractor's procedures and practices with respect to MBEs that the Board of Education may, from time to time, conduct.
  5. The contractor shall maintain such records as may be necessary to confirm compliance with its MBE utilization obligations. These records shall indicate the identity of minority subcontractors employed on the contract, type of work performed by each, dollar amount proposed, actual monies paid during the reporting period to date, and any services and procurements achieved.
  6. All records concerning MBE participation must be retained by the contractor for a period of three (3) years after final completion of the contract and will be available for inspection by the Board of Education.
  7. It shall be the obligation of the contractor to maintain its status as a certified MBE or to maintain the required subcontracting percentage with certified MBE firms, whichever may be applicable, throughout the term of the contract or any extension.



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8. Any desired changes in the Schedule for Minority Business Enterprise Participation must be approved in advance by the Board of Education and shall indicate the contractor's efforts to substitute another MBE subcontractor to perform the work. Additionally, if changes to the contract require additional work resulting in a cost increase, the MBE participation should be adjusted to reflect this change.
  9. Failure to notify the Board of Education of any changes of representations or circumstances of the contractor with respect to the MBE status of the contractor or the percentage of MBE participation, may cause the contractor to be subject to disqualification from the award of any PGCPSS system contracts for a period of three (3) years. In addition, the contractor shall be subject to such other actions as may be provided under applicable county ordinances and/or state law.
  10. The agreed MBE goal identified in the IFP and RFP is a deliverable. Failure to comply shall be subject to such other actions applicable to county ordinances and /or State law.
- H. Amendment For Unforeseen Circumstances: If, at any time before award, an apparent low bidder believes or has reason to believe that a certified minority business listed in the Prince George's County Public Schools' Schedule of Minority Business Enterprise Participation has become unqualified or unavailable, the bidder will immediately notify the Prince George's County Public Schools' MBE Coordinator. Within five (5) working days, the apparent low bidder must make every reasonable effort to achieve the stated requirement for the minority participation. Failure to make such efforts may result in a determination that the apparent low bidder is not eligible for award of the contract.
- I. Emergency: If the Prince George's County Public Schools' Chief Financial Officer determines that a project is an emergency (e.g., hazard to the health and welfare of students), the Chief Financial Officer may waive requirements for MBE documentation.
- J. Filing of Reports:
1. The Chief Executive Officer (CEO) shall report to the members of the Board of Education of Prince George's County, at least semi-annually, commencing January 2005, regarding progress being made in attainment of requirements established by the Resolution of



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- the Board of Education revised, concerning the awarding of contracts to MBEs.
2. The Minority Business Office is required to submit to the CEO on a semi-annual basis a report of MBE participation. Each year two reports will be issued: an interim report covering the period July 1 through December 31, and an annual report detailing activity from July 1 through June 30. Each report will include:
    - a. Total dollar value of contracts and purchases, by category; and
    - b. Total dollar value of contracts and purchases, by category, awarded to MBEs.
- K. Records, Reports and Subcontractor Payments: The prime contractor agrees to pay subcontractors within five (5) working days of receipt of payment from Prince George's County Public Schools. If payments are not made, the Board reserves the right to withhold the amount owed to subcontractor(s) from the prime contractor's next payment requisition.
- L. Monitoring:
1. The Board of Education will carry out reviews as deemed necessary to monitor compliance with MBE participation requirements. Such reviews may include site visitations to ensure compliance with MBE requirements.
  2. The Board of Education and contractors will maintain appropriate records and, upon request, assist in on-site or post-audit reviews.

## XII. BONDING:

- A. The Director of Purchasing and Supply may, upon finding that an MBE has demonstrated adequate performance on prior contracts with the state, county, or any of its agencies, municipal corporations, or any local boards of education, waive bonding requirement on certain projects.
- B. At the discretion of the Buyer, unless otherwise required by state or federal law or regulations as a condition to state, federal or county assistance, no bid bond, performance or payment bonds shall be required if the contract price is less than \$50,000.
- C. Bonds on construction projects over \$50,000 must be provided by prime. However, at the discretion of the Prince George's County Public Schools'



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representative, bonds may be waived. Additional documents may be required.

#### XIII. **NON-DISCRIMINATION:**

- A. No contract may be awarded to any contractor or subcontractor unless the contract, subcontract or agreement contains the following non-discrimination clause:

"The contractor is to conduct business in a non-discriminatory manner prohibiting discrimination in any manner against any employee or applicant for employment because of sex, race, creed, color, age, mental or physical disability, sexual orientation or national origin."

- B. If the non-discrimination clause is omitted from a contract or subcontract subject to this Section, the Board of Education may declare the contract void. In that event, the contractor is entitled to the reasonable value of work that has been performed and materials that have been provided.
- C. If the contractor willfully fails to comply with the requirements of the non-discrimination clause and the contract is partially completed, the Board of Education may compel the contractor to continue to perform under the contract; however, the Board:
1. Is liable for no more than the reasonable value of work performed and materials provided after the date on which the breach of contract was or should have been discovered; and
  2. Shall deduct any money that has been paid under the contract from the money that became due.
- D. If a subcontractor willfully fails to comply with the requirements of a non-discrimination clause, the contractor may void the subcontract. In that event, the contractor is liable for no more than the reasonable value of work performed or materials provided.

- XIV. **RELATED PROCEDURES:** Administrative Procedure 7419, Minority Business Enterprise Procedures For State Funding Public School Construction Projects.

- XV. **MAINTENANCE AND UPDATE OF THESE PROCEDURES:** These procedures originate with the Department of Purchasing and Supply and will be updated as necessary.



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- XVI. **CANCELLATIONS AND SUPERSEDURES:** This Administrative Procedure cancels and supersedes Administrative Procedure 3325, dated June 30, 1998.
- XVII. **EFFECTIVE DATE:** July 1, 2004.

APPROVED BY:

André J. Hornsby  
Chief Executive Officer

Attachments:

- 1 - Minority Business Enterprise Utilization Affidavit
- 2 - Minority Subcontractor Unavailability Certificate
- 3 - Request for Waiver
- 4 - Statement of Intent
- 5 - Schedule For Participation of Minority Business Enterprise

Distribution: Lists 1, 2, 3, 4, 5, 6, 10, and 11

**PART V  
REVISED BID FORM – 8.1.18**

<b>SECTION 1: WATER, 5 GALLON</b>			
Item No	Item Description	UOM	Unit Price
1	Purified Water, 5 gallon	Each	
2	Spring Water, 5 gallon	Each	
3	Distilled Water, 5 gallon	Each	

<b>SECTION 2: WATER, CASES</b>			
Item No	Item Description	UOM	Unit Price
4	Half Pint, 8 oz., 48 count	Case	
5	.5 LTR/16.9 oz., 24 count	Case	

<b>SECTION 3: CUPS</b>			
Item No	Item Description	UOM	Unit Price
6	Cone Cup, 4.25 oz., 200/sleeve, 25/case	Case	
7	Plastic Cup, 9 oz., 50/sleeve, 20/case	Case	

<b>SECTION 4: CARBON FILTRATION COOLERS</b>			
Item No	Item Description	UOM	Unit Price
8	Room/Cold <b>(Rental) * Provide Monthly Rental Price</b>	Each	
9	Room / Cold <b>( Purchase)</b>	Each	
10	Hot/Cold <b>(Rental ) * Provide Monthly Rental Price</b>	Each	
11	Hot / Cold <b>(Purchase)</b>	Each	

<b>SECTION 5: 5 GALLON COOLERS (DISPENSERS)</b>			
Item No	Item Description	UOM	Unit Price
12	Room/Cold	Each	No Charge
13	Hot/Cold	Each	No Charge

<b>ADDITIONAL PRODUCT LINE DISCOUNTS OFFERED</b>		
Item No	Item Description	% Discount Offered
14		
15		
16		
17		
18		



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- I. **PURPOSE:** To establish a resolution that a goal of 30 percent be attempted on all contracts with a minimum of 15 percent requirement of the total dollar value for all Prince George's County Public Schools' contracts for materials (other than materials of instruction), supplies, equipment, services and construction, as entered into during any fiscal year, be purchased directly or indirectly from Minority Business Enterprises (MBEs).
  
- II. **POLICY:** As set forth in state law and county ordinance, the Prince George's County Public Schools' Minority Business Enterprise Program must meet certain statutory and regulatory requirements. In recognition of existing state and county statutes, rules, regulations, and resolutions, and consistent with statutory provisions related to bidding proposals and awards thereon by local boards of education, the Board of Education of Prince George's County adopted a minority business Administrative Procedure on April 21, 1986. This procedure, revised on July 1, 2004, supersedes the procedure of June 30, 1998.
  
- III. **BACKGROUND:** The following regulations all seek to achieve certain minimum percentages of total contract expenditures for minority business enterprises, as hereafter defined, where state or county funds are involved.
  - A. Annotated Code of Maryland, State Finance and Procurement, Article 14-301.
  - B. Annotated Code of Maryland, Education, Article Section 5-301.
  - C. Annotated Code of Maryland, Education, Article Section 4-125.
  - D. Code of Maryland Regulations, Title 21, Subtitle 11, Chapter 3.
  - E. Prince George's County Code, 10-A, Subdivision 10A-136, Assistance to Minority Business Enterprise.
  - F. Interagency Committee Rules, Regulations and Procedures for the Administration of the School Construction Program, Section 15 (approved by Board of Public Works, October 6, 1993).
  
- IV. **DEFINITIONS:**
  - A. Minority Person: A member of a socially or economically disadvantaged minority group that for the purposes of this procedure includes African Americans, American Indians/Native Americans, Asians, Hispanics, Women, Physically or Mentally challenged individuals, and Not-for-Profit



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entities organized to promote the interests of physically or mentally disabled individuals.

- B. Minority Business Enterprise (MBE): Any legal entity, other than a joint venture, that is at least 51 percent owned and controlled by one or more minority person(s), organized to engage in commercial transactions.
- C. Ownership:
1. For a sole proprietorship to be deemed a minority business enterprise, the sole proprietor must be a minority person. If the ownership interest held by a minority person is subject to formal or informal restrictions such as options, security interests, agreements, etc., held by a non-minority person or business entity, the options, security interests, agreements, etc., held by the non-minority person or business entity must not significantly impair the minority person's ownership interest.
  2. For a partnership to be deemed a minority business enterprise, at least 51 percent of the partnership's assets or interests must be owned by a minority person or minority persons. If the ownership interest held by a minority person is subject to formal or informal restrictions such as options, security interests, agreements, etc., held by a non-minority person or business entity, the options, security interests, agreements, etc., held by the non-minority person or business entity must not significantly impair the minority person(s) ownership interest.
  3. For a corporation to be deemed a minority business enterprise, legal and equitable ownership of at least 51 percent of the aggregate of all classes of stocks, bonds, or other securities issued by the corporation must be owned by a minority person(s). If an ownership interest held by a minority person is subject to formal or informal restrictions such as options, security interests, agreements, etc., held by a non-minority person(s) or business entity, the options, security interests, agreements, etc., held by the non-minority person(s) or business entity may not significantly impair the minority person(s)' ownership interest. (Note: stock held in trust is not considered as stock held by the disadvantaged business persons when computing the business person(s)' ownership).
- D. Control: Minority owners shall either collectively or individually possess the working knowledge of the technical requirements needed, power to





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direct or cause the direction of management, policies and objectives and to make all substantive, day-to-day decisions on applicant's major and/or essential operations. In addition, the applicant must demonstrate technical knowledge of the firm's major areas of work. No formal or informal restrictions of any kind shall exist which limit the customary discretion necessary for actual business control by the minority owners.

- E. Certification: The determination that a legal entity is a minority business enterprise consistent with the provisions of Subtitle 3 (13-301b) of the State Finance and Procurement Article.
- F. Certified Minority Business Enterprise: A minority business that holds a certification issued by Maryland Department of Transportation (MDOT) or recertification issued by Prince George's County Government.
- G. Race Neutral Measure: Means a method that is or can be used to assist small businesses.
- H. Minority Business Enterprise Coordinator: The employee designated to administer the Board of Education's Minority Business Enterprise Program.
- I. Buyer: Purchasing agent-handling solicitations.

#### V. MINORITY BUSINESS ENTERPRISE PROGRAM RESPONSIBILITIES:

- A. A roster of MBEs, listing each firm by commodity and service provided, certification, minority business code, location, and current certification status, shall be maintained in Purchasing Services.
- B. The MBE Coordinator, who shall be an employee assigned to Purchasing Services, shall have the direct responsibility for maintaining said roster.
- C. Any MBE on a current listing of Maryland Department of Transportation or Prince George's County Government list of certified MBEs shall, upon furnishing evidence of such, be automatically deemed eligible for placement on the roster of MBEs of Prince George's County Public Schools.

#### VI. CERTIFICATION: The determination that a legal entity is an MBE consistent with the intent of Subtitle 3 of the State Finance and Procurement Article.

#### VII. TECHNICAL ASSISTANCE-OUTREACH-TRAINING EFFORTS: The MBE Coordinator shall have the direct responsibility for implementing a



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"Technical Assistance-Outreach-Training Program" for small and minority vendors. Said program may cover any and all factors necessary to enable small and minority firms to do business with Prince George's County Public Schools.

- VIII. **SOLICITATION OF BIDS:** All Invitations for Bid (IFB) and Requests For Proposal (RFP) will be reviewed and may, at the discretion of the Board of Education's representative, require a percentage equal to 30 percent but a minimum of 15 percent participation by minority businesses as defined herein in supply, service, construction, moveable equipment, and architectural and engineering services contracts.
- IX. **ADVERTISING INVITATIONS FOR BID:** Prior to advertising an Invitation for Bid (IFB), a Prince George's County Public Schools' representative from the appropriate division responsible for the contract, a Purchasing agent, and the MBE Coordinator will jointly identify all subcontractable opportunities in the IFB. All bids will include the following information:
- A. The Prince George's County Public Schools does not discriminate on the basis of race, color, sex, or national origin in consideration for award. **Minority businesses are encouraged to submit bids in response to this notice.**
  - B. Minority business firms will be considered as minority business contractor or subcontractor, if certified by any of the following: Prince George's County Government and the Maryland Department of Transportation.
  - C. The certified minority business goal for each IFB will be noted on the front cover of the IFB under "Special Note" and identified as a **deliverable in the contract.**
- X. **SOLICITATION PROCESS FOR PHONE AND WRITTEN QUOTES.**  
**THIS PROCESS INCLUDES PROFESSIONAL SERVICES (Architects, Engineers, Non-Instructional Services Consultants, Contractual Services, etc.)**
- A. For contracts less than \$5,000, solicitations from more than one vendor are not required. Users and buyers are **strongly** encouraged to solicit from MBEs in addition to other prospective bidders.
  - B. If contracts are estimated to be between \$5,001 - \$10,000, a minimum of three (3) qualified firms shall be solicited for quotations. Two (2) firms are to be a certified minority. If three (3) firms cannot be solicited, or if pricing is obtained directly from the manufacturer or its direct distributor, a note of explanation shall be made on the quotation worksheet. Current



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catalog prices and prior bid prices may, if confirmed by the supplier, serve in lieu of quotations. Certified minority business enterprises (MBEs) should always be contacted in addition to other prospective bidders.

- C. A request for written quotations shall be solicited when the estimated dollar value of the request exceeds \$10,001 but is less than \$15,000. A written specification shall be prepared and mailed to a minimum of three (3) firms requesting written quotations of pricing. **A minimum of two (2) minority firms shall be sent the solicitation.**
- D. Formal bids are required for procurements over \$15,000.
- E. Local MBE firms within Prince George's County should be contacted first for telephone and written solicitations. If there are less than 3 MBE firms available in Prince George's County, a broader search of the MDOT MBE Central Directory at [www.marylandtransportation.com](http://www.marylandtransportation.com) (click on MBE/DBE Program and proceed to the Directory) shall be contacted.
- F. In the event the buyer/user department is unable to locate a minority firm for a specific service, the MBE Coordinator shall be contacted as an additional resource.
- G. Evaluation and selection of professional services - The contract process for these services will involve Purchasing Services.

#### XI. **SOLICITATION PROCESS FOR FORMAL BIDS:**

- A. To be considered a responsive bidder, contractors are required, when specified in bid documents, to subcontract with MBEs for the stated percentage of the total dollar value of the contract price. (The percentage of MBE participation is based on the anticipated value of the contract.) Should MBE participation be required, MBE forms 1 through 5 must be completed and submitted within ten (10) days after notification of being low bidder.
- B. Bonus Points:
  - Minority Business Enterprise (10%)
  - Prince George's County Based Minority Business Enterprise (15%)
- 1. During the evaluation process the Buyer shall determine the eligibility of any participating certified MBE to match the bid of the lowest responsible bidder by application of bonus points.



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2. In determining if a certified MBE is entitled to match the competitively bid price of the lowest responsible bidder, the Buyer shall adjust the bid price submitted by an MBE (for the purpose of evaluation and offer to match only) by reducing the bid price of such firm by the product of: (1) the bid price of the apparent lowest responsible bidder; and: (2) the bonus factor applicable to the MBE (as stated above).
3. Once it has been determined through the application of the bonus points as aforementioned that the bid price submitted by an MBE, after adjustment, was lower than or equal to the bid price of the lowest responsible bidder, such MBE shall be given the opportunity to accept the bid at the lowest bid price.
4. If said lowest responsible bidder is a minority firm not located in Prince George's County or Maryland, a Prince George's County-based or Maryland-based firm will be awarded bonus points. Once the bonus points are applied, the Prince George's County-based or Maryland-based minority firm will be afforded the opportunity to match the bid of the lowest responsible bidder, if so justified.
5. The Buyer shall notify the MBEs, that by virtue of the application of the bonus points, the **minority** business enterprise is entitled to match the bid of the lowest responsible bidder. Qualifying MBEs will be given a period of five (5) business days from the issuance of such notifications by the Buyer the opportunity to match the bid originally submitted by the lowest responsible bidder.
6. As a result of such notifications, if more than one MBE proposes to reduce its previous bid to that of matching the bid of the original lowest responsible bidder, the contract shall be awarded with preferences given in the following order: first, Prince George's County-based MBE; and second, Maryland-based MBE.
7. If two or more MBEs qualify for the same preference contract award and are prepared to match the bid of the original lowest responsible bidder, the Buyer shall, by toss of a coin, select the party to whom the contract will be awarded.
8. If the MBE entitled to match a bid indicates to the MBE Coordinator that it can only match the bid of the otherwise lowest responsible bidder if relieved from the necessity of furnishing a bond from a recognized surety guaranteeing the total performance under any contract to be awarded, the Chief Financial Officer may,



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upon a finding that the MBE has demonstrated adequate performance on prior contracts with the state, county, any of its agencies, municipal corporations, or any local boards of education, waive such requirement.

9. If the MBE determines that it cannot match the lowest responsible bidder after being offered an opportunity to do so, **the MBE will not be penalized.**

C. Composition of Minority Subcontractors:

1. It is the intent of Prince George's County Public Schools (PGCPS) that the contractor includes fair representation of all minority groups in the required percentage of MBE subcontracting participation.
2. If the successful bidder is an MBE firm, it shall be the obligation of the contractor to maintain its status as a certified MBE or to maintain the required subcontracting percentage with certified MBE firms, whichever may be applicable, throughout the term of the contract or any extension thereof. In the event that any of the representations or circumstances of the contractor change with respect to the MBE status, the contractor shall notify the Board of Education immediately. The contractor shall also report any change in minority business usage if different than information submitted at the time contract is signed.

D. Pre-Bid Conference:

1. At each Pre-Bid Conference, the Prince George's County Public Schools representative will explain the MBE subcontracting requirement, MBE provisions of the solicitation, documentation required, and its relationship to the bidder's responsiveness.
2. Prime contractors must request price quotes from MBE subcontractors at least five (5) working days prior to the bid opening. However, this may be adjusted at the discretion of the Board of Education.
3. Bidders may use the services offered by the MBE Program Coordinator to develop its MBE participation requirement.



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4. When MBE subcontracting is required, each bid or offer submitted in response to a solicitation must be accompanied by a completed Minority Business Enterprise Utilization Affidavit (MBE Form #1) which has been duly notarized.
5. After the review of responsive bids, the apparent low bidder will be notified. Final approval of contract award will not be made until a list of all MBEs and other related documents from the contractor are received and reviewed.

E. Contract Award:

1. The following documentation must be furnished by the apparent low bidder within ten (10) working days from notification when subcontracting is required:
  - a. A completed Schedule for Participation of Minority Business Enterprise (MBE Form #2);
  - b. A Statement of Intent (MBE Form #5); and
  - c. A copy of the current acceptable certification letter attached to each Statement of Intent.

Each document will show the agreed prices to be paid to each certified MBE for the work and identify in detail the contract items to be performed by the certified minority business and the proposed timetable for such performance. All documents must be signed by an authorized representative from both the prime and subcontracting firms.

The bidder will certify in writing that there is an existing subcontract for all work that has been sublet.

2. The Prince George's County Public Schools' MBE Program Coordinator will conduct a preliminary evaluation of the apparent low bidder's submission to determine whether the proposed MBE participation is in compliance with the outlined requirements.
3. Based on the evaluation of contract documents submitted, the Prince George's County Public Schools' representative will determine if the low bidder is in compliance with the MBE participation requirements and may recommend to make the final award or require additional information.



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#### F. Request For Waiver of Minority Business Enterprise Goal:

1. A waiver of the MBE contract requirement may be granted by the Board of Education **only** upon receipt of a written request with supporting documentation which presents a reasonable demonstration by the bidder that MBE participation was impossible to obtain or was not obtainable at a reasonable price, and that the public interest is served by a waiver. Any request for a waiver should be submitted on a Request for Waiver (MBE Form #4) and contain the following:
  - a. A detailed statement of the efforts made to contact and negotiate with certified minority businesses including: names, addresses, dates, and telephone numbers of certified minority businesses contacted;
  - b. A description of the information provided to MBEs regarding plans, specifications, and anticipated time schedule for portions of the work to be performed;
  - c. A detailed statement of efforts made to select portions of work proposed to be performed by certified minority businesses in order to increase the likelihood of achieving the stated requirement;
  - d. A detailed statement of reasons for a contractor's conclusion that a certified minority business is not qualified to perform the work needed; and
  - e. A list of minority subcontractors found to be unavailable. (This list should be accompanied by the Minority Subcontractor Unavailability Certificate (MBE Form #5) signed by the MBE or a statement from the apparent low bidder that the certified business did not provide the Minority Subcontractor Unavailability Certificate.)
2. A waiver exception to the MBE requirement will be granted upon determination by the Prince George's County Public Schools' representative that qualified MBEs are not available to participate in a contract or at a reasonable price consistent with the stated MBE contract requirement and the total contract award. Upon consideration of all the waiver documents submitted in accordance with this provision, the Prince George's County Public Schools' MBE Coordinator may approve or deny any request for a waiver.



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3. The low bidder's failure to participate in any of these proceedings or failure to furnish information after written request may result in rejection of the bid on the basis of non-responsiveness.
- G. Contractor Responsibility and Compliance: The contractor shall perform the contract in accordance with the representations made in the Minority Business Enterprise Utilization Affidavit submitted as part of the bid proposal and on the Schedule for Participation of Certified Minority Business Enterprise (MBE) submitted after the bid proposal (MBE Form #2). All compliance monitoring of certified MBE participation will be in accordance with the following:
1. The contractor shall structure operations for the performance of the contract to attempt to achieve the purpose of this procedure.
  2. The contractor agrees to apply the firm's best efforts to carry out these requirements consistent with the efficient performance of the project.
  3. The contractor must assure that MBEs shall have the maximum practical opportunity to compete for subcontract work under the contract, even after award of contract.
  4. The contractor shall cooperate in any reviews of the contractor's procedures and practices with respect to MBEs that the Board of Education may, from time to time, conduct.
  5. The contractor shall maintain such records as may be necessary to confirm compliance with its MBE utilization obligations. These records shall indicate the identity of minority subcontractors employed on the contract, type of work performed by each, dollar amount proposed, actual monies paid during the reporting period to date, and any services and procurements achieved.
  6. All records concerning MBE participation must be retained by the contractor for a period of three (3) years after final completion of the contract and will be available for inspection by the Board of Education.
  7. It shall be the obligation of the contractor to maintain its status as a certified MBE or to maintain the required subcontracting percentage with certified MBE firms, whichever may be applicable, throughout the term of the contract or any extension.





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8. Any desired changes in the Schedule for Minority Business Enterprise Participation must be approved in advance by the Board of Education and shall indicate the contractor's efforts to substitute another MBE subcontractor to perform the work. Additionally, if changes to the contract require additional work resulting in a cost increase, the MBE participation should be adjusted to reflect this change.
  9. Failure to notify the Board of Education of any changes of representations or circumstances of the contractor with respect to the MBE status of the contractor or the percentage of MBE participation, may cause the contractor to be subject to disqualification from the award of any PGCPSS system contracts for a period of three (3) years. In addition, the contractor shall be subject to such other actions as may be provided under applicable county ordinances and/or state law.
  10. The agreed MBE goal identified in the IFP and RFP is a deliverable. Failure to comply shall be subject to such other actions applicable to county ordinances and /or State law.
- H. Amendment For Unforeseen Circumstances: If, at any time before award, an apparent low bidder believes or has reason to believe that a certified minority business listed in the Prince George's County Public Schools' Schedule of Minority Business Enterprise Participation has become unqualified or unavailable, the bidder will immediately notify the Prince George's County Public Schools' MBE Coordinator. Within five (5) working days, the apparent low bidder must make every reasonable effort to achieve the stated requirement for the minority participation. Failure to make such efforts may result in a determination that the apparent low bidder is not eligible for award of the contract.
- I. Emergency: If the Prince George's County Public Schools' Chief Financial Officer determines that a project is an emergency (e.g., hazard to the health and welfare of students), the Chief Financial Officer may waive requirements for MBE documentation.
- J. Filing of Reports:
1. The Chief Executive Officer (CEO) shall report to the members of the Board of Education of Prince George's County, at least semi-annually, commencing January 2005, regarding progress being made in attainment of requirements established by the Resolution of



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- the Board of Education revised, concerning the awarding of contracts to MBEs.
2. The Minority Business Office is required to submit to the CEO on a semi-annual basis a report of MBE participation. Each year two reports will be issued: an interim report covering the period July 1 through December 31, and an annual report detailing activity from July 1 through June 30. Each report will include:
    - a. Total dollar value of contracts and purchases, by category; and
    - b. Total dollar value of contracts and purchases, by category, awarded to MBEs.
- K. Records, Reports and Subcontractor Payments: The prime contractor agrees to pay subcontractors within five (5) working days of receipt of payment from Prince George's County Public Schools. If payments are not made, the Board reserves the right to withhold the amount owed to subcontractor(s) from the prime contractor's next payment requisition.
- L. Monitoring:
1. The Board of Education will carry out reviews as deemed necessary to monitor compliance with MBE participation requirements. Such reviews may include site visitations to ensure compliance with MBE requirements.
  2. The Board of Education and contractors will maintain appropriate records and, upon request, assist in on-site or post-audit reviews.

## XII. BONDING:

- A. The Director of Purchasing and Supply may, upon finding that an MBE has demonstrated adequate performance on prior contracts with the state, county, or any of its agencies, municipal corporations, or any local boards of education, waive bonding requirement on certain projects.
- B. At the discretion of the Buyer, unless otherwise required by state or federal law or regulations as a condition to state, federal or county assistance, no bid bond, performance or payment bonds shall be required if the contract price is less than \$50,000.
- C. Bonds on construction projects over \$50,000 must be provided by prime. However, at the discretion of the Prince George's County Public Schools'



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representative, bonds may be waived. Additional documents may be required.

#### XIII. **NON-DISCRIMINATION:**

- A. No contract may be awarded to any contractor or subcontractor unless the contract, subcontract or agreement contains the following non-discrimination clause:

"The contractor is to conduct business in a non-discriminatory manner prohibiting discrimination in any manner against any employee or applicant for employment because of sex, race, creed, color, age, mental or physical disability, sexual orientation or national origin."

- B. If the non-discrimination clause is omitted from a contract or subcontract subject to this Section, the Board of Education may declare the contract void. In that event, the contractor is entitled to the reasonable value of work that has been performed and materials that have been provided.
- C. If the contractor willfully fails to comply with the requirements of the non-discrimination clause and the contract is partially completed, the Board of Education may compel the contractor to continue to perform under the contract; however, the Board:
1. Is liable for no more than the reasonable value of work performed and materials provided after the date on which the breach of contract was or should have been discovered; and
  2. Shall deduct any money that has been paid under the contract from the money that became due.
- D. If a subcontractor willfully fails to comply with the requirements of a non-discrimination clause, the contractor may void the subcontract. In that event, the contractor is liable for no more than the reasonable value of work performed or materials provided.

- XIV. **RELATED PROCEDURES:** Administrative Procedure 7419, Minority Business Enterprise Procedures For State Funding Public School Construction Projects.

- XV. **MAINTENANCE AND UPDATE OF THESE PROCEDURES:** These procedures originate with the Department of Purchasing and Supply and will be updated as necessary.



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XVI. **CANCELLATIONS AND SUPERSEDURES:** This Administrative Procedure cancels and supersedes Administrative Procedure 3325, dated June 30, 1998.

XVII. **EFFECTIVE DATE:** July 1, 2004.

APPROVED BY:

André J. Hornsby  
Chief Executive Officer

Attachments:

- 1 - Minority Business Enterprise Utilization Affidavit
- 2 - Minority Subcontractor Unavailability Certificate
- 3 - Request for Waiver
- 4 - Statement of Intent
- 5 - Schedule For Participation of Minority Business Enterprise

Distribution: Lists 1, 2, 3, 4, 5, 6, 10, and 11