

RFP-2501KM

Purchase of School Buses and Related Accessories, Supplies and Parts

Introduction/Background

Gwinnett County Public Schools (GCPS) Board of Education is soliciting competitive sealed proposals from original equipment manufacturers for the **Purchase of School Buses and Related Accessories, Supplies and Parts** for use by public agencies. Gwinnett County Public Schools (GCPS) is the largest school district in the State of Georgia. Additional information regarding GCPS may be obtained by logging on to www.gcpsk12.org.

GCPS, as the Lead Public Agency (defined in the section titled “**Role of Equalis Group**”), has come together with Equalis Group to make the resultant contract(s) (each known as a “**Master Agreement**”) from this request for competitive sealed proposal available to other public agencies, including county, city, state, special district, local government, school district, private K-12 school, higher education institution, other government agency or non-profit organization across the country (“**Public Agencies**”), for the public benefit through the Equalis Group’s cooperative purchasing program. GCPS will serve as the contracting agency for any other Public Agency that elects to access the resulting Master Agreement.

The use of the Master Agreement by any public agency is preceded by registration with Equalis Group and by using the Master Agreement (a “**Program Participant**”), any such Program Participant agrees that it is registered with Equalis Group, whether pursuant to the terms of a Master Intergovernmental Purchasing Cooperative Agreement, that can be accessed at <https://equalisgroup.org/member-registration/>, or as otherwise agreed to. Under applicable state statutes, public sector entities nationwide that join Equalis Group can purchase products and services through the resulting Master Agreement without having to conduct their own formal procurement process, thereby saving both themselves significant time and money.

Program Participants benefit from pricing based on aggregate spending and the convenience of a contract that has already been advertised and competitively awarded. The awarded supplier(s) benefits from a contract that allows Participating Public Agencies to directly purchase goods and services without the Supplier’s need to respond to multiple competitive solicitations.

Role of Equalis Group

Equalis Group works with “**Lead Public Agencies**”, such as Gwinnett County Public Schools, that are legally empowered to conduct formal procurement processes, enter into Master Agreements, and make those Master Agreements available to public sector organizations such as: municipalities, K-12 school districts, counties, higher education institutions, special districts, tribal nations, and state and federal agencies as well as non-profit and for-profit organizations across the country.

The awarded Supplier(s) and Equalis Group will also enter into a separate management agreement (the “**Administration Agreement**”) which defines i) the roles and responsibilities of both parties relating to

marketing and selling the program to current and prospective Members and ii) the financial terms between the parties. The Winning Supplier and Equalis Group will work closely together to develop and implement marketing and sales strategies to drive program adoption with current and future Members across the country.

Equalis Group, is committed to actively engage with the Winning Suppliers to grow profitable public sector revenue by:

- **Training Supplier Partners' sales representatives** on the pricing, terms, and conditions of the Master Agreement and how to sell their products and services through this already procured contract vehicle.
- **Developing sales tools** that address common legal, procurement and compliance questions.
- **Creating, implementing, and managing marketing and sales** campaigns to jointly identify public sector prospects across the country.
- **Supporting the sales process** by providing subject matter expertise to prospective Members on the legitimacy of the procurement process that established the Master Agreement.

General Information

Communication – Gwinnett County Public Schools Personnel: Individuals, firms, and businesses seeking an award of a Gwinnett County Public Schools contract may not initiate or continue any verbal or written communications regarding a solicitation. **RFP submissions will be received digitally until 10:00 a.m. on Tuesday, March 18, 2025**, through the Bonfire Interactive online portal located at www.gwinnett.bonfirehub.com or by visiting the GCPS Purchasing website at <https://publish.gwinnett.k12.ga.us/gcps/home/public/about/business-and-finance/p-and-p>. A list of submitting firms will be available the following business day on our website. All communications concerning the Proposal must be submitted in writing to the Gwinnett County Public School's Purchasing Department. Email to Kim Murphy, NIGP-CPP, CPPB at kim.murphy@gcpsk12.org. **Only written questions submitted via Bonfire under the Questions section will be accepted.** No response other than written communication by the Purchasing Department will be binding upon Gwinnett County Public Schools. Violations will be reviewed by the Purchasing Director. If determined that such communication has compromised the competitive process, the offer submitted by the individual, firm, or business may be disqualified from consideration for award. The Purchasing Department, in its discretion, may call upon user departments for clarification in their area of expertise. A Pre-Proposal Microsoft Teams meeting will be held on **Tuesday, March 4, 2024, at 10:00AM EST**. Respondents are encouraged to attend to learn more about this project. **All questions or commentary must be received no later than 10:00 am, Wednesday, March 5, 2025, to allow for appropriate and timely responses.**

Contract Term

This contract is effective **April 18, 2025 through April 17, 2028** or upon award with annual price reviews. GCPS reserves the right to extend this proposal up to two (2) additional 12-month periods for a total potential term length of five (5) years with the approval of the Gwinnett County Board of Education. Proposal extensions will be approved in one-year increments. Pursuant to O.C.G.A. Section 50-5-64, this contract shall not be deemed to create a debt of The Board for the payment of any sum beyond the fiscal year of execution or, in the event of a renewal, beyond the fiscal year of such renewal.

Invoicing

- All invoices shall note the proposal number RFP-2501KM and associated purchase order number and be broken out in such a manner that GCPS will have no difficulty verifying proper billing.
- Failure to comply with the terms of the contract after a written notice has been issued by GCPS to the vendor stating that the service provider is failing to meet such terms will result in GCPS terminating the contract.

Contract Requirements and Scope

This RFP and contract award process is a solutions-based solicitation; meaning that Gwinnett County Public Schools is seeking equipment, and products that meet the general requirements of the scope of this RFP and that are commonly desired or are required by law or industry standards.

A. REQUESTED EQUIPMENT, PRODUCTS, SUPPLIES OR PARTS

1. Gwinnett County Public Schools is seeking proposals for School Buses with Related Accessories, Supplies, and Parts, including, but not to be limited to:
 - i. School buses as classified by type: Type A; Type B; Type C; and, Type D (see Attachment A)
 - ii. A wide range of school buses by:
 1. engine type, to include conventional internal combustion, natural gas or propane autogas, hybrid or alternative fuel, and electric powered solutions;
 2. Seating configurations; and,
 3. Optional equipment offerings.
2. Proposers may include multifunction school activity buses provided that they are complementary to Proposer's offering of Type A, Type C, and Type D school buses.
3. Proposers may include related accessories, supplies, and parts.
4. This solicitation should NOT be construed to include:
 - i. Prison, mass transit or commercial buses.

Proposers may include related equipment, accessories, supplies and parts to the extent that these solutions are complementary to the equipment and products being proposed.

Generally, the solutions for Program Participants are turn-key solutions, providing a combination of equipment, products and services, delivery and installation that result in proper operating status.

For this contract, GCPS prefers vendors that provide a sole source of responsibility for the products and services provided under a resulting contract. If Proposer requires the use of dealers, resellers, or subcontractors to provide the products or services, the Proposal should address how the products or services will be provided to Program Participants and describe the network of dealers, resellers, and/or subcontractors that will be available to serve Program Participants under a resulting contract.

GCPS desires the broadest possible selection of equipment and products being proposed over the largest possible geographic area and to the largest possible cross-section of Program Participants.

B. REQUIREMENTS

It is expected that Proposers have knowledge of all applicable industry standards, laws, and regulations and possess an ability to market and distribute the equipment and/or products to Program Participants.

1. Safety Requirements. All items proposed must comply with current national and applicable state and local safety or regulatory standards or codes.
2. Deviation from Industry Standard. Deviations from industry standards must be identified with an explanation of how the equipment and products will provide equivalent function, coverage, and/or performance.
3. New Equipment and Products. Proposed equipment and products must be for new, current model; however, Proposer may offer certain close-out equipment or products if it is specifically noted in the Pricing proposal.
4. Delivered and operational. Unless clearly noted in the proposal, equipment and products must be delivered to the Program Participant as operational.
5. Warranty. All equipment, products and supplies must be covered by a warranty that is the industry standard or better.

C. ESTIMATED CONTRACT VALUE AND USAGE

It is anticipated a substantial number of current and future Equalis Group members will enter into contracts resulting from this solicitation, including GCPS; however, GCPS and Equalis Group make no guarantee or commitment of any kind concerning quantities or usage of contracts resulting from this solicitation nor assert any public funds have been allocated to purchase the products and services that will be available through this Program.

The total annual volume of business generated by Equalis Group Members, including GCPS ("**Spend**") for this contract category is estimated to be **USD \$70 Million** annually by year three (3) of the contract. The volume of Spend generated by each Awarded Supplier may vary based on their geographic reach and capabilities. This information is provided solely as an aid to Respondents preparing proposals only and performance will be determined by other factors such as Awarded Supplier's competitiveness, overall performance, and support of the contract. The Awarded Supplier(s) discount and pricing schedule shall apply regardless of the volume of business under the contract.

D. MARKETING PLAN

Proposer's sales force will be the primary source of communication with Program Participants. The Proposer's Marketing Plan should demonstrate Proposer's ability to deploy a sales force or dealer network to Program Participants, as well as Proposer's sales capabilities. It is expected that Proposer will promote and market any contract award in cooperation with Equalis Group.

E. ADDITIONAL CONSIDERATIONS

1. Contracts will be awarded to Proposers able to best meet the need of Program Participants. Proposers should submit their complete line of equipment and products that are applicable to the scope of this RFP.
2. Proposers should include all relevant information in its proposal, since GCPS cannot consider information that is not included in the Proposal. GCPS reserves the right to verify Proposer's information and may request clarification from a Proposer, including samples of the proposed equipment or products.
3. Depending upon the responses received in a given category, GCPS may need to organize responses into subcategories in order to provide the broadest coverage of the requested equipment, products, or services to Program Participants. Awards may be based on a subcategory.

PROPOSAL FORMAT AND CONTENT

The submitted proposal package should be responsive to the specific range of scope elaborated in this request. Submission of excessive "boiler plate" information is discouraged. In an effort to ensure our ability to evaluate and choose a successful processor(s) for this contract, respondents are encouraged to organize their proposal as follows:

Section 1 – Introduction and Executive Summary

Section 2 – Experience and Past Performance

Section 3 – Project Approach

Section 4 – References

Section 5 – Fee Structure/Cost Proposals

Section 6 – Additional Information

Proposals should include the following:

Section 1 – Introduction and Executive Summary

An executive summary should be prepared describing the major facts or features of the proposal, including any conclusions, assumptions, and your approach to reach the objectives for the **Purchase of School Buses and Related Accessories, Supplies and Parts**. The provider should include a Company profile detailing financials, the number of employees, and indicate how long it has been in business. List the person(s) who are authorized to make representations for your firm. Include their titles, addresses, and phone numbers.

Section 2 – Experience and Past Performance

The Respondent will provide a brief description of the company, its history, and how it relates to the Purchase of School Buses and Related Accessories, Supplies and Parts. The Respondent will provide examples of documentation from at least one (1) previous client that had a successfully implemented contract within the last three years, as well as a list of past contracts that qualifies them to undertake the Purchase of School Buses and Related Accessories, Supplies and Parts.

Section 3 – Project Approach

Provide a description of how your firm proposes to meet the needs of Program Participants as described in this RFP.

Section 4 – References

The respondent should provide GCPS, in their proposal, a total of three (3) references from your **largest** K-12 clients. All information provided should be current and verifiable and should be completed on the form that is provided. Please include the following valid information for each referenced project:

Company Name:

Contact Name:

Address:

City:

State:

Zip:

Telephone Number:

E-mail Address:

Provide a description of any special experience, capabilities, and technical resources that can be attributed to this contract by the respondent. Please verify contact information prior to submission (especially the phone number and E-mail). Failure to verify contact information may result in a significant reduction in your firm's reference scoring if we are unable to contact the reference firm.

Section 5 – Cost Proposal

All proposed pricing must be:

1. Either Line-Item Pricing or Percentage Discount from Catalog Pricing, or a combination of these:
 - a. **Line-item Pricing** is pricing based on the base cost of each bus type, and the delivery fee as indicated on the bid table (BT-27IS). Each line must indicate the Vendor's published "List Price," as well as the "Contract Price."
 - b. **Percentage Discount from Catalog or Category** is based on a percentage discount for parts, accessories, and supplies from a catalog or list price, defined as a published Manufacturer's Suggested Retail Price (MSRP) for the products or services. Individualized percentage discounts can be applied to any number of defined product groupings. Proposers will be responsible for providing and maintaining current published MSRP, and this pricing must be included in its proposal and provided throughout the term of any Contract resulting from this RFP.
2. The Proposer's ceiling price (Ceiling price means that the proposed pricing will be considered as the highest price for which equipment, products, or services may be billed to a Program Participants). However, it is permissible for vendors to sell at a price that is lower than the contracted price.
3. Administrative Fee. Pricing provided shall include the administrative fee paid to Equalis Group. The administrative fee is calculated as a percentage of the total Spend for program participants accessing products and services through the Master Agreement. The proposed Admin Fee is 1%
4. Clearly understood, complete, and fully describe the total cost of acquisition (e.g., the cost of the proposed equipment, products, and services delivered and operational for its intended

purpose in the Program Participant’s location).

Proposers should clearly identify any costs that are **NOT** included in the proposed product or service pricing. This may include items such as installation, set up, mandatory training, or initial inspection. Include identification of any parties that impose such costs and their relationship to the Proposer. Additionally, Proposers should clearly describe any unique distribution and/or delivery methods or options offered in the Proposal.

Pricing should be submitted under the “Pricing” section in Bonfire. Scoring for cost will be calculated using the formula below:

$$\frac{\text{Lowest Responsive Price Offered}}{\text{Price of Offer being Evaluated}} = \% \text{ Factor X Maximum Available Points} = \text{Points Assigned}$$

Section 6 – Additional Information

Note additional information here. If there is no additional information, please note: “There is no additional information to present”.

Miscellaneous Requirements & Information

The Respondent will provide a clear and complete description of the proposed items in direct response to the requirements set forth in this RFP. The description will be enough to enable the evaluation committee to determine that the proposal satisfies the RFP requirements and meets the needs of GCPS and prospective Program Participants.

Proposals submitted are not publicly available until after the award by Gwinnett County Board of Education. All proposals and supporting materials as well as correspondence relating to this RFP become property of Gwinnett County Public Schools when received. Any **proprietary information** contained in the proposal **should be so indicated**. However, a general indication that the entire contents, or a major portion, of the proposal is proprietary will not be honored.

Proposals must be signed in ink by a company official that has authorization to commit company resources and shall contain the firm’s full business address.

Addenda & Opening of Proposals

It is the ultimate responsibility of the supplier to ensure that they have all applicable addenda prior to submitting a response. Addenda will be posted on the Bonfire website: <https://gwinnett.bonfirehub.com/portal/?tab=openOpportunities> or by visiting the GCPS Purchasing website <https://www.gcpsk12.org/about-us/divisions-and-teams/budgets-and-financial-reporting/bids-purchasing-opportunities>.

The Opening of solicitations will be conducted electronically through the Bonfire Procurement Portal. Only the names of the submitting companies will be made publicly available by the close of business the following business day on our website.

To view the list of respondents, suppliers must log-into the Bonfire Interactive online portal located at <https://gwinnett.bonfirehub.com/portal/?tab=openOpportunities> or by visiting the GCPS Purchasing website at <https://www.gcpsk12.org/about-us/divisions-and-teams/budgets-and-financial-reporting/bids-purchasing-opportunities>, click “Solicitations/Annual Contrats List/F&O Contracts

(Bonfire) and then select the “Past Public Opportunities” tab. The solicitation status will automatically change to “Closed” after the solicitation Due Date and Time.

SELECTION PROCEDURES

Respondents should not assume that the Proposal Review Team is familiar with current or past work activities of any Respondent. The proposal package will be evaluated based on the responsiveness to the criteria described below with values weighted as shown below. **(MAXIMUM 1200 POINTS)**

Phase I	Maximum Score
Introduction and Executive Summary: Information on the company, demonstrated experience, and information related to the capacity to perform the stated needs and requirements, financial viability and marketplace success. Maximum Points will be given for a submission containing a description of the organizations level of experience and capacity to best perform the terms of the contract required in the proposal specifications.	175 Points
Project Approach: Extent in which the information submitted describes how the Respondent is proposing to accomplish the needs outlined in the proposal. This should include but is not limited to the marketing plan, value-added attributes, warranties, and the depth and breadth of offered equipment and products. <i>Maximum Points will be given for submission that clearly outlines how the respondent plans to best accomplish the needs outlined in the solicitation.</i>	200 Points
Experience and Past Performance: The extent to which the information submitted describes how the respondent’s background, industry experience and past performance support the goals outlined in the proposal. Maximum Points will be given for submission that clearly outlines how the Respondent background, industry experience and past performance support the goals outlined in the proposal.	150 Points
References: Provide three (3) references where similar equipment were offered. Each response is worth a maximum of 25 points. Favorable responses will receive full points.	75 Points
Total Phase 1 Points	600 Points
Phase II	
Cost: Cost of Line-item Pricing offered as listed on the Bid Table. Points will be assigned per weighted formula under Section 6, page 11.	300 Points
Cost: Cost of Percentage Discount from Catalog or Category as listed on the Catalog Discount Information sheet. Points will be assigned per weighted formula under Section 6, page 11.	100 Points
Total Phase 1 & Phase 2 Points	1000 Points
Phase III	
Interview (method TDB): This is an opportunity for the Service Provider to present and introduce their company to GCPS and further explain their capabilities as a service provider. Maximum Points will be given for presentations that demonstrate value, professionalism, a clear picture of their organization and what was specified in the proposal.	200 Points
GRAND TOTAL	1200 Points

Phase I: The proposal evaluation team will evaluate responses according to the criteria as described above in Phase 1 and score and rank the proposals. The evaluation team will short list the proposers receiving at least 80% (480 points out of a possible 600 points) of the available points on Phase I and then evaluate the cost as stated in Phase II.

Phase II: Cost proposals will then be opened and scored and the results will be combined with the results of Phase I scoring. After this scoring, proposers totaling at least 80% (800 points out of a possible 1000) will be short listed.

Phase: III: The decision to request an interview is at the sole discretion of the Evaluation Team. All costs associated with this interview (if required) will be at the expense of the proposing firms. If Gwinnett County Public Schools exercises this right to conduct interviews, a maximum of 200 additional points may be assigned. Based upon the final scores, GCPS reserves the right to negotiate with the selected proposer for rates and concessions in the best interest of GCPS. If negotiations with the highest ranked proposer are unsuccessful, Gwinnett County Public Schools may negotiate with the second ranked firm and so on until a satisfactory agreement has been reached and then awarded by the Gwinnett County Board of Education.

Award

It is the intent to award one or more contracts to responsive and responsible Proposer(s) offering the best overall quality, selection of equipment, products, and services, and price that meet the commonly requested specifications. The award(s) will be limited to the number of Proposers that are determined necessary to meet the needs of the contract. Factors to be considered in determining the number of contracts to be awarded in any category may include the following:

- The number of and geographic location of:
 - Proposers necessary to offer a comprehensive selection of equipment, products, or services for Program Participants' use.
 - A Proposer's sales and service network to assure availability of product supply and coverage to meet Program Participants' anticipated needs.
- Total evaluation scores.
- Information submitted as part of a proposal should be as specific as possible when responding to the RFP. Do not assume GCPS's knowledge about a specific vendor or product.

The GCPS may make such investigations as it deems necessary to determine the ability of the proposer to perform, and the proposer shall furnish to GCPS all such information and data for this purpose as the GCPS may request. GCPS reserves the right to reject any proposal if the evidence submitted by, or investigation of, such proposer fails to satisfy GCPS that such proposer is properly qualified to carry out the obligations of the contract.

GCPS reserves the right to reject or accept any or all proposals and to waive technicalities, informalities and minor irregularities in the proposals received.

GCPS reserves the right to make an award as deemed in its best interest and the interest of program participants, which may include awarding a proposal to a single proposer or multiple proposers; or to award the whole proposal, only part of the proposal, or none of the proposal to single or multiple proposers, based on its sole discretion of its best interest.

In the event scores rounded to the nearest whole number result in a tie score, the award will be based on lowest cost.

Proposal Award Dispute

Any dispute resulting from an award of this contract must be submitted to the Director of Purchasing in writing no later than 10 days after notice of award has been issued.

Rejection of Proposals

All proposals will be reviewed for completeness of the submission requirements. If a proposal fails to meet a material requirement in the RFP, or is incomplete or contains irregularities, the proposal may be rejected. A deviation is material to the extent that a response is not in substantial accord with the requirements in the RFP.

Immaterial deviations may cause a proposal to be rejected. District may or may not waive an immaterial deviation or defect in a proposal. District's waiver of an immaterial deviation or defect shall in no way modify the RFP or excuse Service provider from full compliance with solicitation document specifications.

District reserves the right to reject all proposals or proposals when the proposed costs are not considered reasonable. District reserves the right to eliminate any individual service contained in the proposal.

Request for Clarification or Additional Information

GCPS's reserves the right to request clarification of information provided and to request additional information required to assist in the evaluation process. GCPS's reserves the right to reject all proposals, to negotiate changes in the scope of work or services to be provided, and to otherwise waive any technicalities.

Right to Re-Solicit

Gwinnett County Board of Education reserves the right to reject any and all proposals. The school system may waive any informalities or minor technicalities.

Termination For Cause

GCPS may terminate this agreement for cause upon ten days prior written notice to the contractor of the contractor's default in the performance of any term of this agreement. Such termination shall be without prejudice to any of GCPS's rights or remedies by law.

Termination For Convenience

GCPS may terminate this agreement for its convenience at any time upon 30 days written notice to the contractor. In the event of GCPS's termination of this agreement for convenience, the contractor will be paid for those services actually performed. Partially completed performance of the agreement will be compensated based upon a signed statement of completion to be submitted by the contractor, which shall itemize each element of performance.

Attachment A

<p style="text-align: center;">Small School Bus Type A</p> 	<p>A Type “A” school bus is a conversion or body constructed upon a van-type or cutaway front-section vehicle with a left side driver’s door, designed for carrying more than 10 persons. Sixteen designed seating capacity or less may be single rear wheeled; 17 designed seating capacity and larger shall have dual rear wheels. This definition shall include two classifications: Type A-1, with a Gross Vehicle Weight Rating (GVWR) less than 14,500 pounds; and Type A-2 with a GVWR greater than 14,500 pounds and less than 21,500 pounds.</p>
<p style="text-align: center;">Metropolitan School Bus Type B</p> 	<p>A Type “B” school bus is constructed utilizing a body on a stripped chassis, with the entrance door behind the front wheels. This definition includes two classifications: Type B-1, with a GVWR of 10,000 pounds or less, designed for carrying more than 10 persons and Type B-2, with a GVWR greater than 10,000 pounds. The engine is beneath and/or behind the windshield and beside the driver’s seat. Both Type B-1 and Type B-2 must be equipped with dual rear tires.</p>
<p style="text-align: center;">Conventional School Bus Type C</p> 	<p>A Type “C” school bus is a body installed upon a chassis with a hood and fenders. This definition shall include two classifications: Type C-1, with a Gross Vehicle Weight Rating (GVWR) range from 16,000 to 17,500 pounds with a designed seating capacity range from 24 to 30 persons; and Type C-2 with a GVWR of more than 21,500 pounds, designed for carrying more than 30 persons. This type also includes the cutaway truck chassis or truck chassis with cab, with or without a left side door. The entire engine is in front of the windshield and the entrance door is behind the front wheels. Both Type C-1 and C-2 must be equipped with dual rear tires.</p>
<p style="text-align: center;">Transit School Bus Type D</p> 	<p>A Type “D” or “Transit Style” school bus is a body installed upon a stripped chassis, with the engine mounted in the front or rear, and has a GVWR of more than 21,500 pounds, designed for carrying more than 10 persons. The engine may be beside the driver’s seat or it may be at the rear of the bus, behind the rear wheels. The entrance door is ahead of the front wheels.</p>

RFP-25001KM

Purchase of School Buses and Related Accessories, Supplies and Parts

When in the school system's best interest, Gwinnett County Public Schools reserves the right to quote individual items contained within the catalog listed below.

Supplier: _____

Contact Person: _____

Phone #: _____ Email Address: _____

Website Address: _____

Minimum Percent Discount: _____

Email to obtain quotes: _____

1. Does your company charge shipping? Yes _____ No _____

If yes, shipping charges are: _____

2. Does your company have a website to locate pricing? Yes _____ No _____

If yes, website is: _____

3. Does your company offer an additional discount for web orders? Yes _____ No _____

If yes, discount is: _____

4. Does your company accept Purchase Orders? Yes _____ No _____

5. Does your company accept P-Card purchases? Yes _____ No _____

**Gwinnett County Public Schools
W-9 Substitute – Supplier Information Form**

This form is used to establish or update supplier information and is to be completed in lieu of the Federal W-9 form. International suppliers should complete page 1 of this form and submit the appropriate Federal W-8 form.

1. Completion of this form does not authorize the supplier to provide goods or services to Gwinnett County Public Schools until the supplier is approved by the Division of Business and Finance.
2. The information collected in this packet will allow us to confirm that our records contain the official name of your business, the Tax Identification Number (TIN) that the IRS has on file for your business, and the DUNS number on file with SAM (System for Award Management).
 - For more information on how to obtain a Tax Identification Number (TIN), please visit: <https://www.irs.gov/>.
 - For more information on how to obtain a DUNS number, please visit: <https://dandb.com/>.
3. Applicable documents regarding the Georgia Security and Immigration Compliance Act must be submitted by suppliers who are providing a physical performance of service.
 - For more information on the Georgia Security and Immigration Compliance Act, please visit the Frequently Asked Questions page of the Georgia Department of Audits and Accounts website: <http://www.audits.ga.gov>.
 - For more information on E-Verify, please visit: <http://www.uscis.gov/e-verify>.
4. Suppliers handling, maintaining or performing activities on behalf of GCPS pertaining to criminal history records must complete the Outsourcing Noncriminal Justice Administrative Function Agreement page.
 - For more information on Security and Management Control Outsourcing Standard for Non-Channelers, please visit: <http://publish.gwinnett.k12.ga.us/gcps/home/public/about/business-and-finance/p-and-p/content/osnc>.
5. The preferred method of payment from Gwinnett County Public Schools to suppliers is via Automated Clearing House (ACH). Review the Supplier ACH Enrollment page, complete the Supplier ACH Enrollment Form and include a letter on bank letterhead or a void check. Information provided on the Supplier ACH Enrollment Form is subject to additional verification.

Please return completed pages of the GCPS W-9 Substitute – Supplier Information Form to:

GCPS Employee Name: _____

Phone Number: _____

GCPS Email: _____

School/Department: _____

Anticipated Spend \$: _____

Gwinnett County Public Schools
W-9 Substitute – Supplier Information Form

Business Classification (Required - check one)

- Construction Consultant/Speaker Professional Services (type _____)
- Equipment/Product (type _____) Software/Applications Refund/Reimbursement

Primary Information

Legal Name – *must match Tax ID #* _____ DBA Name – ***check will be made payable to*** _____

Full Address (PO Box or street, city, state, 9-digit zip) _____

Phone # _____ Fax # _____

Other Data:

- Gwinnett County Firm
 Women/Minority Owned

Purchasing Information

Does Supplier Accept Purchase Orders? Yes No

E-Mail Address for PO Delivery _____
(All PO's are delivered electronically - email address required)

Remittance Information *(required if different from Primary Information)*

Full Address (PO Box or street, city, state, 9-digit zip) _____

Phone # _____ E-Mail Address _____

GCPS School/Department Use Only

Supplier # _____ New Supplier Supplier Update

Purchasing Office Only – Supplier On-Demand? Yes/No _____

Date to Purchasing	_____	→	Purchasing Reviewed	_____	Date	_____
Date to TIN Matching	_____	→	TIN Matching Completed	_____	Date	_____
Date to FST	_____	→	Supplier Created/Updated	_____	Date	_____

**Gwinnett County Public Schools
W-9 Substitute – Supplier Information Form**

SUPPLEMENTAL INFORMATION – REQUIRED FOR ALL SUPPLIERS

**The information below is requested under U.S. Tax Laws.
Failure to provide this information may prevent you from being able to do business with Gwinnett County Public Schools,
and will result in payments being withheld until supplier information is provided and confirmed.**

Federal Tax Classification (Required)

- Individual/sole proprietor Partnership C Corporation S Corporation Trust/estate Government
 LLC – enter tax classification (C=Corporation, S=S corporation, P=Partnership) ▶ _____ Other _____

U.S. Taxpayer Identification Number (select one):

- Employer Identification Number (EIN)
 Social Security Number (SSN)

Tax ID Number: _____

Work Status (please check Yes or No):

- | | | |
|---|------------------------------|-----------------------------|
| 1. Are you currently an employee of Gwinnett County Public Schools (GCPS)? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. Are you currently receiving retirement benefits from any State of Georgia retirement system? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3. Do you offer services exclusively to GCPS? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 4. Does GCPS set your work hours and schedule of work? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 5. Does GCPS provide all of your equipment, supplies and materials? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

DUNS Number: Please provide DUNS Number if applicable. The DUNS Number will be verified with SAM (System for Award Management) to confirm that the supplier has not been suspended or debarred.

DUNS Number: _____

Registered in System for Award Management (SAM) Yes No

CERTIFICATIONS

Under penalties of perjury, I certify by signing below that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding.
3. I am a U.S. person (including a U.S. resident alien).
4. My firm is not currently debarred, suspended or proposed for debarment by any federal entity and I agree to notify Gwinnett County Public Schools Division of Business and Finance of any change in status.

Signature: _____

Date: _____

**Gwinnett County Public Schools
W-9 Substitute – Supplier Information Form**

AFFIDAVIT OF NO EMPLOYEES

Must be completed if supplier is providing a physical performance of service and has NO employees.

The undersigned, in connection with a proposed contract or subcontract with Gwinnett County Public Schools for the physical performance of service in the State of Georgia, hereby affirms and certifies under penalties of perjury that:

- (a) I am a sole proprietor.
- (b) I do not employ any other persons.
- (c) I do not intend to hire any employees to perform the Contract.
- (d) A true, correct and complete copy of my driver's license, issued by a state that verifies lawful immigration status prior to issuance, is attached hereto.
- (e) If at any time hereafter I determine that I will need to hire employees to satisfy or complete the physical performance of services under the Contract then before hiring any employee, I will:
 - (i.) Immediately notify the Gwinnett County Public Schools in writing; and
 - (ii.) register with, participate in an use, a federal work authorization program operated by the United States Department of Homeland Security or any equivalent federal work program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91, and as amended: and
 - (iii.) Provide Gwinnett County Public Schools with all affidavits required by O.C.G.A. § 13-10-90 *et seq.* and Georgia Department of Labor Rule 300-10-1-.02, 300-10-1-.03, 300-10-1-.07 and 300-10-1-.08.

Company Name/Name of Sole Proprietor: _____

Signature: _____ Date: _____

NOTARIZATION REQUIRED (NOTARY SEAL MUST BE CLEARLY VISIBLE):

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE _____ DAY OF _____ /20__

Notary Public Signature: _____

My Commission Expires: _____

NOTE: PLEASE INCLUDE A LEGIBLE COPY OF DRIVER'S LICENSE

**Gwinnett County Public Schools
W-9 Substitute – Supplier Information Form**

Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1)

Must be completed if supplier is providing a physical performance of service and has one or more employees.

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of Gwinnett County Public Schools has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and dates of authorization are as follows:

E-Verify Company ID Number: _____
(4-8 numerical characters)

Date of Authorization: _____

Name of Contractor: _____

Name of Project: _____

Name of Public Employer: **Gwinnett County Public Schools**

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, 20__ in _____ (city), _____ (state).

Signature: _____ Title: _____

NOTARIZATION REQUIRED (NOTARY SEAL MUST BE CLEARLY VISIBLE):

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE _____ DAY OF _____ /20__

Notary Public Signature: _____

My Commission Expires: _____

For more information on E-Verify, please visit: <http://www.uscis.gov/e-verify>. Click the E-Verify Home Page on the far right under Tools > E-Verify: Ensure Eligibility of your Workforce.

**Gwinnett County Public Schools
W-9 Substitute – Supplier Information Form**

Outsourcing Noncriminal Justice Administrative Function Agreement

Must be completed if supplier handles, maintains or performs activities or functions on behalf of GCPS pertaining to criminal history record information.

This agreement is entered into between Gwinnett County Public Schools (“Authorized Recipient”) and _____ (“Contractor”), under the terms of which the Authorized Recipient is outsourcing the performance of noncriminal justice administrative functions involving the handling of criminal history record information (“CHRI”) pursuant to Title 28, Code of Federal Regulations, Part 906 and the Security and Management Control Outsourcing Standard for Non-Channelers (“Outsourcing Standard”). The most current version of the Outsourcing Standard is incorporated by reference into this agreement and appended hereto.

The Authorized Recipient’s authority to submit fingerprints for noncriminal justice purposes and obtain the results of the fingerprint search, which may contain CHRI, falls under O.C.G.A. § 20-2-211.1 and Public Law 92-544. These laws authorize fingerprint-based background checks of employees of Authorized Recipient.

Please describe the specific noncriminal justice administrative function to be performed by the Contractor that involves access to CHRI on behalf of the Authorized Recipient:

Contractor hereby agrees to comply with the Outsourcing Standard requirements and other applicable legal authorities to ensure adequate privacy and security of personally identifiable information (“PII”), CHRI, and criminal history record check results related to this agreement and to ensure that all such data is returned to the Authorized Recipient as soon as no longer needed for the performance of contractual duties.

Signature of Authorized Office/Agent

Date

Company Address (PO Box or street, city, state, 9-digit zip)

GCPS School/Department Use Only

Supplier # _____



Supplier ACH Enrollment Form

Gwinnett County Public Schools offers the option of receiving payments via Electronic Funds Transfer (EFT) to all Suppliers. Payments will be electronically deposited into the Supplier's designated bank account through ACH (Automated Clearing House). An ACH payment remittance advice will be delivered via email.

Signing up for Vendor ACH payments provides several benefits to Suppliers:

- ACH payments are a quicker method of payment and eliminate the need for paper checks.
- ACH payments are credited to the designated account in 1-2 business days. Payment made by check can take 7-10 business days to be received through the postal service.
- Funds received via ACH payment are available immediately upon credit to the designated account.
- ACH payments cannot be lost in the mail or delayed due to a forwarding address.
- Payment notification and remittance advice for each ACH payment received via email.

If you have any questions about the Supplier ACH payment program, please contact the GCPS Accounts Payable Team at 678-301-6222.



Supplier ACH Enrollment Form

- This form is used for Automated Clearing House (ACH) payments to provide payment related information to your financial institution. (Note: this likely will not be the same information for receiving payment via wire transfer; Gwinnett County Public Schools is not offering a wire transfer option at this time.)
- Supplier must check with their financial institution to confirm funds have been deposited.
- Information provided on this form is subject to additional verification.
- Allow 14 business days to process initial enrollment requests or subsequent banking updates.

New Request Change Request

SUPPLIER INFORMATION (REMIT ADDRESS)

SUPPLIER NAME		TAXPAYER ID (Required)	
ADDRESS	CITY	STATE	ZIP
ACCOUNTING CONTACT NAME	TELEPHONE NUMBER	FAX NUMBER	
EMAIL ADDRESS (PRINT CLEARLY) – *Required to receive remittance.			

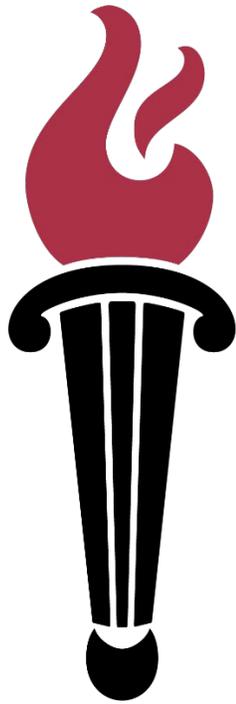
FINANCIAL INSTITUTION INFORMATION – attach voided check or letter from bank (required for processing)

BANK NAME			
ADDRESS	CITY	STATE	ZIP
ACCOUNT NAME	ACH ROUTING NUMBER (9 Digits)	ACCOUNT NUMBER	
ACCOUNT TYPE	<input type="checkbox"/> CHECKING <input type="checkbox"/> SAVINGS		

Certification:

- I certify that I am responsible for notifying Gwinnett County Public Schools of any changes to information previously provided.
- I certify that I agree to immediately return any erroneous payments that may occur as a result of payment via ACH.
- I certify the information provided on this form is true and correct, and that I, as an authorized representative for the above named company, hereby authorize Gwinnett County Public Schools to electronically deposit payments to the designated bank account. This authority remains in full force until written notice of change or cancellation is received by Gwinnett County Public Schools. Gwinnett County Public Schools reserves the right to cancel or suspend this authorization at any time.

Authorized Official Name Signature Title Date



**GWINNETT
COUNTY
PUBLIC
SCHOOLS**

**DEPARTMENT OF PURCHASING
& PROPERTY MANAGEMENT**

General Instructions & Conditions

**Gwinnett County Public Schools
General Instructions & Conditions**

The following General Instructions and Conditions are standard to all Gwinnett County Public County (GCPS) Invitation for Bids (IFB), Request for Proposals (RFP), and Request for Information (RFI) documents. **If more specific instructions are given in the individual bid package, those instructions should prevail.** Taking exceptions to these terms and conditions or submitting conflicting language may cause the vendor's response to be rejected.

1.0 PREPARATION OF RESPONSES

- 1.1 GCPS cannot guarantee that all vendors will be sent an announcement each time a solicitation is released. Invitation for Bids and Request for Proposals issued by GCPS are advertised on the GCPS Bonfire Interactive Portal located on the Purchasing and Property Management website (www.gcps.org) and the Georgia Procurement Registry if applicable. It is the vendor's responsibility to review the GCPS Bonfire Interactive Portal frequently for a listing of open solicitations. To view it on the internet, go to www.gcpsk12.org. From this screen, select Quick Links, then select Purchasing/Property Management. Under Purchasing Bids, find the link to the Bonfire Interactive Portal on the page's right side.
- 1.2 **All responses must be entered into Bonfire.** Each bidder shall furnish all information required by the solicitation form or document. An authorized agent of the company must sign bids. The firm's name and telephone number must be shown, and obligations assumed by such signature must be fulfilled.
- 1.3 Individuals, firms, and businesses seeking an award of a Gwinnett County Public School's (GCPS) contract may not initiate or continue any verbal or written communications regarding a solicitation with any School Board Member, employee, or other GCPS representative without permission of the Buyer named in the solicitation between the date of the issuance of the solicitation and the date of the final contract award by the Board of Education. The Director of Purchasing will review violations. If it is determined that such communication has compromised the competitive process, the offer submitted by the individual, firm, or business may be disqualified from consideration for the award.
- 1.4 Each vendor is responsible for having knowledge and understanding of any Federal laws and regulations, Georgia laws, Department of Education regulations or policies, and GCPS policies and/or regulations pertaining to GCPS procurement.
- 1.5 Each bidder shall examine the drawings, specifications, schedule, and all instructions. Failure to do so will be at the bidder's risk, as the bidder will be held accountable for their bid response.
- 1.6 An electronic price worksheet will be provided online to prospective bidders through the solicitation link and should be completed by an authorized agent of the company. Unit price should not exceed two decimal points and should include freight charges.

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Prices submitted on the electronic price worksheet should be in number format. Other prices in the Bid should be stated in words and numbers. In the event of a conflict, the word version will prevail.

- 1.7 Time of delivery is part of the bid and must be adhered to. If it is impossible to meet the delivery specified in the bid, the bidder shall state the best delivery possible in the space provided on the Bid Request. Words such as “immediate,” “as soon as possible,” etc shall not be used. Time shall be stated in days, and days shall mean “calendar days” (Saturday, Sunday, and holidays are to be included in that number).
- 1.8 GCPS assumes no responsibility or obligation to the vendors. GCPS will not pay for any costs associated with preparing or submitting a response. This provision applies whether or not a dispute arises.
- 1.9 Bidder, Contractor, Offeror, Supplier, and/or Vendor are synonymous in this document and refer to the person, entity, or firm that submits a response to a solicitation.
- 1.10 GCPS reserves the right to revise processes as needed during extenuating circumstances. Processes may include but not be limited to pre-bid/pre-proposal conferences and bid submittal/ proposal submittal.
- 1.11 When responding to a GCPS solicitation, if an item is to be bid at “zero cost” to the district, supporting documentation must be provided under the “Additional Supplier Information –If needed” section within Bonfire.
- 1.12 Alterations of GCPS documents are strictly prohibited and will result in automatic disqualification of the firm’s solicitation response. If there are “exceptions” or comments to any of the solicitation requirements or other language, then the firm may make notes to those areas but may not materially alter any document language.

2.0 AUTHORITY

Each party warrants that such party has full power and authority to enter into and perform this contract. The person signing on behalf of each party represents that such person is duly authorized to enter into this contract on behalf of such party.

Signatures on bids are binding for pricing and all terms and must be signed by an authorized agent of the company.

3.0 SPECIFICATIONS

- 3.1 Each bid shall be submitted online in Bonfire before the cutoff date and time as indicated in the solicitation. **Please note: All required documentation MUST be**

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uploaded and confirmed before the bid due date and time for your submission to be accepted/completed within Bonfire. Please keep in mind this is a web-based program, and your firm should allow sufficient time to upload all required documents within the system. Once your submission is completed, a confirmation code and a confirmation email to the address on file are provided. A video tutorial is also available under the "Submission" section within Bonfire.

Sealed hard copies/telephone/faxed bids will not be considered. Any addenda should be submitted with the electronic bid response.

- 3.2** For Goods: Manufacturers listed as "Model Equivalent" or "GCPS Approved Equivalent" in the solicitation documents are set forth to establish the general quality required. Items from other manufacturers of equal or better specifications may be considered. GCPS will be the sole determiner of whether the substituted item is an equal or better specification.
- 3.3** The vendor must clearly identify Any deviation from the appropriate response form(s) specifications. If the vendor wishes to provide additional detail regarding the variations in an accompanying letter, it should be noted on the proper response form(s). The furnishing of cuts, catalogs, or printed descriptions will not relieve the vendor of this requirement. GCPS shall determine at its sole discretion whether substitutions or modifications of the requested specifications are comparable to those contained within these solicitation documents. If GCPS determines that the modifications or deviations from the specifications are not compliant, the response may be rejected.
- 3.4** An awarded vendor's failure to deliver any items/services according to specifications outlined in their response may result in cancellation of the purchase without liability to GCPS and suspension or disqualification from doing business with GCPS. If any item(s) does (do) not meet these specifications, the item(s) will be picked up and removed from the premises of GCPS at the sole cost of the vendor.
- 3.5** If there is an error in the description or specifications contained in this solicitation documents, GCPS reserves the right to notify each vendor separately from this solicitation documents of such specification or description change and may require all responses to comply with such modification. In the case of an error in the specifications or the descriptions, GCPS further reserves the right to cancel this solicitation and re-issue.
- 3.6** If an awarded brand/model is discontinued during the award period, the awarded vendor may offer a replacement item. The replacement brand/model must meet or exceed the minimum specifications listed in the awarded vendor's response as well as current industry standards. The item must be offered at the same or better discount/fee structure level as the originally awarded item or a lower price than the original item. Replacement units must be made available to GCPS for review and approval before the awarded model's end of life. GCPS reserves the right to accept or reject the proposed replacement item and to negotiate with the awarded vendor to purchase different

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brands/models when in the District's best interest.

- 3.7** Items offered must meet required specifications and must be of a quality that will adequately serve the use and purpose for which they are intended.
- 3.8** The awarded vendor's assigned project team must be available to communicate in real-time during the hours of 7:00 a.m. to 5:00 p.m. Eastern Standard Time.
- 3.9** GCPS reserves the right to require that the vendor must be presently using and/or providing the requested products and/or services.
- 3.10** The bidder must certify that the items to be furnished are new and that the quality has not deteriorated so as to impair its usefulness.

4.0 APPROXIMATE ANNUAL QUANTITIES

Most bids are "demand usage" contracts, and the estimated quantities listed on the attached pricing schedules are an approximate amount based on prior, or current, or next year's usage. The quantities during the bid term may change as the district needs to change, and in some instances, GCPS will have under or overestimated quantities or amounts of items to be purchased. Please note all prices quoted should be firm until the last order within the term, and any price increase may affect renewal options for the bid. Estimates in this bid are not a commitment to purchase the same amount as originally specified.

5.0 SAMPLES

- 5.1** When required, samples must be furnished at the vendor's expense and at no cost to GCPS within the times specified.
- 5.2** Samples are to be tagged or labeled with the bidder's name and Bid number as directed in the solicitation information.
- 5.3** Samples not used or destroyed during testing will be available for return to the vendor at the vendor's request and expense. If the vendor does not arrange for the pick-up of samples as defined in the solicitation information, samples will become the property of GCPS.
- 5.4** GCPS will assume no responsibility for items lost or destroyed when being inspected or tested.

6.0 VENDOR'S EVIDENCE OF RESPONSIBILITY

GCPS reserves the right to require a financial statement and/or Dun and Bradstreet rating from any vendor who submits a response. The vendor must submit a current financial statement and/or Dun and Bradstreet rating within 48 hours after notification of such requirement.

7.0 DEBARRED, SUSPENDED, AND INELIGIBLE STATUS

- 7.1** Vendor certifies that the vendor and/or any of its subcontractors (if applicable) have not been debarred, suspended, or declared ineligible by an agency of the

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State of Georgia or as defined in the 2 CFR 200.214 which states “Non-federal entities are subject to the non-procurement debarment and suspension regulations, implementing Executive Orders 12549 and 12689, 2 CFR part 180.” The vendor will immediately notify GCPS in writing if the vendor is debarred by the State of Georgia or placed on a Consolidated List of Debarred, Suspended, and Ineligible Contractors by a federal entity.

- 7.2** 2 C.F.R. Section 180.300 requires that when the School District enters into a covered transaction with an entity at a lower tier, the School District must verify that the entity is not suspended, debarred, or otherwise excluded or disqualified. “Covered transactions” include those procurement contracts for goods and/or services awarded under a grant or cooperative agreement that are expected to equal or exceed \$25,000. Furthermore, grantees and sub-grantees must not make any award or permit any award at any tier to any party that is debarred or suspended or is otherwise excluded or disqualified. By signing this contract, you affirm that neither you, the vendor, nor any principal of the vendor is suspended, debarred, or otherwise excluded or disqualified at the date of your signature.

8.0 **NON-COLLUSION**

The vendor, by affixing its signature to a solicitation, certifies that the vendor’s response is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, or equipment and is in all respects fair and without collusion or fraud. The vendor understands that collusive bidding violates State and Federal law and can result in fines, prison sentences, and civil damage awards.

9.0 **OBLIGATION TO MAINTAIN CONFIDENTIALITY**

- 9.1** Vendor acknowledges that some material and information which may come into its possession or knowledge in connection with the solicitation documents or in connection with its performance under any resulting contract may consist of confidential information of GCPS, its students, or employees, the disclosure of which to, or use by, third parties may be damaging to GCPS, its students or employees and/or may violate applicable law(s). Vendor accordingly agrees to hold all such confidential information, together with all material containing confidential information, in strictest confidence, not to make use thereof other than as reasonably necessary to respond to this solicitation and/or to perform under any resulting contract, and not to release or disclose any confidential information to any other person or entity except as may be required by law. The vendor shall inform and instruct all employees, subcontractors, or other agents or representatives of this obligation of confidentiality. The vendor shall immediately remove any of its employees, subcontractors, or other agents or representatives from performing work in connection with any contract resulting from a solicitation upon request of notice from GCPS that GCPS reasonably believes such person or entity has failed to comply with the confidentiality obligations hereunder. Any employee, subcontractor, or other agent or representative so removed shall be replaced as provided for in the staffing requirements of this solicitation and/or the resulting contract.

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- 9.2** For the purposes hereof, "Confidential Information" includes, without limitation, all educational records, student data, student personally identifiable data, trade secrets, copyrighted material, and other confidential and proprietary information not subject to disclosure or use, as such terms may be respectively defined in O.C.G.A. § 10-1-761, O.C.G.A. § 20-2-662, O.C.G.A. § 50-18-72, 34 C.F.R. § 5b.9, 20 U.S.C. § 1232g, 34 C.F.R. §99.3, 45 C.F.R. §164.524, 45 C.F.R. § 84.14(d) and 20 U.S.C. §§ 1400-1482. "Confidential Information" further includes, without limitation, all employee data, personnel records, health records, physician and provider notes, medical bills, claims, and other written information of a personal nature.
- 9.3** Vendor acknowledges and agrees that vendor's response hereto, the terms of any contract awarded according to this solicitation, and information concerning the goods and/or services provided in connection with any contract awarded according to this solicitation are generally subject to the requirements of the Georgia Open Records Act, O.C.G.A. §50-18-70 *et seq.*
- 9.4** Should vendor contend that it has submitted any records to GCPS which constitute "trade secrets" (as such term is defined in O.C.G.A. § 10-1-761) and desires to exempt such trade secrets from the requirements of the Open Records Act according to O.C.G.A. §50-18-72(a) (34), vendor shall submit and attach to any such records it contends constitute trade secrets an affidavit affirmatively declaring that specific information in the records constitutes trade secrets. Should the vendor attach such an affidavit, GCPS shall notify the vendor at least ten (10) days before disclosing such information, should GCPS determine that such information does not rise to the level of a "trade secret" (again, as such term is defined in O.C.G.A. § 10-1-761). Should the vendor fail to move for an appropriate court order within such ten (10) day period, or should the vendor fail to provide an affidavit as required by O.C.G.A. §50-18-72(a) (34), GCPS may disclose such information as it deems appropriate.

10.0 ORIGINALITY AND TITLE TO CONCEPTS, MATERIALS AND GOODS PRODUCED

The vendor represents and warrants that all the concepts, materials, goods, and services produced or provided to GCPS shall be wholly original with the vendor or that the vendor has secured all applicable interests, rights, licenses, permits, or other intellectual property rights in such concepts, materials, and works. The vendor represents and warrants that the concepts, materials, goods, and services provided by the vendor to GCPS and GCPS's use of same shall not infringe upon any other work or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm or corporation and that the concepts, materials, and works will not infringe upon the copyright, trademark, trade name, trade dress patent, literary, dramatic, statutory, common law or any other rights of any person, firm or corporation or other entity.

11.0 RECORDS

- 11.1 Retention** - The vendor must retain all books, records, and documents per generally accepted accounting principles and procedures and which sufficiently and adequately document and calculate all charges billed to GCPS throughout the term of the contract and for at least five (5) years following the date of final payment or completion of any required audit, whichever is later. Records to be maintained include both financial

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records and service records.

- 11.2 Access** - The vendor shall permit GCPS or any duly authorized representative from the Department of Education, United States Department of Agriculture (USDA), and/or where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronically or optically stored and created records or other records of the vendor relating to orders, invoices or payments or any other documentation or materials about the contract where such records may be located during normal business hours. The vendor shall not impose a charge for auditing or examining the vendor's books and records. If an audit discloses incorrect billings or improprieties, GCPS reserves the right to charge the vendor for the cost of the audit and appropriate reimbursement.

12.0 CIVIL RIGHTS AND ASSURANCE

- 12.1** GCPS hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.); Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); Title II and Title III of the Americans with Disabilities Act (ADA) of 1990 as amended by the ADA Amendment Act of 2008 (42 U.S.C. § 12131-12189); Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." (August 11, 2000); all provisions required by the implementing regulations of the Department of Agriculture (USDA) (7 CFR Part 15 et seq.); Department of Justice Enforcement Guidelines (28 CFR Part 35, 42 and 50.3); and Food and Nutrition Services (FNS) directives and guidelines, to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the Program applicant receives Federal financial assistance from USDA; and hereby gives assurance that it will immediately take measures necessary to effectuate this Agreement.
- 12.2** The USDA non-discrimination statement that in accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).
- 12.3** This assurance is given in consideration of and for the purpose of obtaining any Federal financial assistance, grants, and loans of Federal funds, reimbursable expenditures, grants, or donation of Federal property and interest in the property, the detail of Federal personnel, the sale, and lease of, and the permission to use Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the

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recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Program applicant by USDA. This includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food and cash assistance for the purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance.

- 12.4** By accepting this assurance, GCPS agrees to compile data, maintain records, and submit records and reports as required to permit the effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review and copy such records, books, and accounts, access such facilities and interview such personnel as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on Gwinnett County Public Schools, its transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA.

13.0 **AWARDS**

- 13.1** GCPS reserves the right to award by line item to more than one vendor and/or to award by group or any combination thereof. The award will be made in the best interest of GCPS.
- 13.2** In case of a tie and subject to compliance with state and federal regulations and guidelines, the award will be made as follows:
- 13.2.1** The award will be to the in-county vendor.
 - 13.2.2** The award will be to the in-state vendor.
 - 13.2.3** If applicable, the award will be to the vendor with goods made in Georgia.
 - 13.2.4** If applicable, the award will be to the vendor with the lesser total dollar volume within this solicitation.
 - 13.2.5** If these preferences are insufficient for resolution, drawing lots in a public forum will resolve the tie.
- 13.3** GCPS reserves the right to negotiate a lower price than the award price on any line item with the successful vendor. If GCPS is unable to negotiate an acceptable price, it reserves the right to re-solicit the item(s)/service(s) involved.
- 13.4** GCPS reserves the right to review and accept or deny requests for price changes due to extenuating circumstances in the economy, marketplace, or acts of God. This option will only be exercised if it is deemed in the District's best interest.
- 13.5** GCPS reserves the right to purchase related items/services from the awarded vendor(s) when necessary, provided the pricing granted is in accordance with the cost structure awarded for similar items/services.

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- 13.6** Purchases by GCPS are not subject to Federal Excise Tax or State and Local Sales Tax. Tax Exemption Certificates will be furnished upon request.
- 13.7** Awards will be posted on the internet on the GCPS Bonfire Interactive Portal. Go to www.gcpsk12.org. From this screen, select **Quick Links**, then select **Purchasing/Property Management**. Under Purchasing Bids, find the link to the **Bonfire Interactive Portal** on the page's right side.
- 13.8** If, after the award, there is a decrease in the price of a product or a rebate from the manufacturer, the successful vendor will pass that price decrease and/or rebate onto GCPS.

14.0 **CONTRACT**

- 14.1** The Acknowledgement and Agreement Form must be completed and returned with the vendor's response to a bid, proposal, or quote.
- 14.2** Vendor must fully comply with all applicable federal and state security and immigration laws, including, without limitation, the Georgia Security and Immigration Compliance Act. The vendor must affirm the vendor's compliance by completing and returning the Georgia Security and Immigration Compliance Documents with the bid, proposal, or quote.
- 14.3** **Entirety of Contract** – The contract between GCPS and the vendor shall include but not be limited to the original solicitation, GCPS General Terms and Conditions, subsequent addenda, clarifications, vendor questions/answers, the purchase order (if any), and award letter, as well as all GCPS accepted documents submitted in response to this solicitation, including any attachments and appendices. The entire agreement between the parties supersedes all prior oral and written agreements and understandings between the parties concerning the subject matter hereof. If any language of the response submitted by the vendor conflicts with the language of the solicitation, GCPS General Terms and Conditions, or any addenda, the language of the solicitation, GCPS General Terms and Conditions, or any addenda shall govern and control for all purposes unless consented to and agreed to by GCPS in writing.
- 14.4** If the vendor has additional terms and conditions, including but not limited to a vendor-drafted contract or purchase order that it is proposing, then the vendor must disclose and submit those terms and conditions in writing for evaluation by GCPS with its initial solicitation response. If the vendor objects to any term or condition in this solicitation, then any such objection shall be clearly indicated in writing. If any of the vendor's proposed contract terms conflict with any of GCPS's terms and conditions. In that case, every term the conflicting vendor proposes must be identified separately from the contract in writing. GCPS is not under any obligation to consider any terms or conditions proposed by the vendor that are not included in the vendor's initial response and not disclosed in the manner outlined in this paragraph. Further, unless expressly agreed to in writing, GCPS will not be bound by any terms and conditions in any vendor contract, packaging, service catalog, brochure, technical data sheet, or any other document that attempts to impose any conditions at variance with or in addition to the terms and

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conditions contained in the GCPS solicitation and the GCPS purchase order related to this solicitation or contract. Submitting terms and conditions that GCPS considers to conflict with GCPS terms and conditions may result in a vendor being deemed non-responsive.

14.5 This Agreement and all other contracts or agreements entered into between the Parties shall be governed, construed, and enforced according to the laws of the State of Georgia without regard to the principles of conflicts of laws. The Parties agree that this Agreement will be performed in the State of Georgia. The Parties consent to exclusive jurisdiction and venue in the State of Georgia and agree that all disputes between the parties regarding any Contract or Agreement the Parties entered into during the term shall be brought in the state courts of Gwinnett County or the federal court for the Northern District of Georgia, Atlanta Division.

15.0 SHIPPING

15.1 All prices are to include delivery to the location(s) specified in the solicitation documents or the purchase order. All delivery for goods must be FOB Destination, unless specified otherwise in the solicitation, with delivery to the location specified by the GCPS.

15.2 Inside delivery is required for all goods. At no time should goods be left outside of any building. Vendors are asked to be mindful of school arrival and dismissal times and avoid attempting delivery during those times. For large, heavy items, vendors are encouraged to call ahead to the delivery location to give prior notice and ascertain any delivery details particular to that location (i.e., loading dock availability, which entrance provides access to the loading dock, etc.).

15.3 All merchandise will be received in our warehouse on weekdays between the hours of 7:00 A.M. and 3:00 P.M. Where two or more items are packaged together, their combined weight shall be no more than two thousand (2,000) pounds.

15.4 **MARKING:** Include a packing list in each shipment. The packing list must show the GCPS Purchase Order Number, Contents, and Shipper's Name and Address; mark the packing list and Invoices covering the final Shipment "Order Completed." If no packing list accompanies the shipment, the Buyer's count will be accepted. Mark (upper left corner) or each package (box, crate, barrel, bundle, piece) clearly with (1) the Shipper's name and address, (2) Contents, (3) Board of Education Purchase Order Number, and (4) Bill of Lading or Express Receipt and on every package the marking specified above, will obligate Shipper for any and all extra cost incurred, including drayage or demurrage.

15.5 If the goods/services have not been delivered/completed by the specified delivery date, and GCPS has granted no written extension of such delivery date, GCPS reserves the right to cancel the purchase of the items/services and/or any other pending purchase orders to the same vendor. Suppose delivery of goods or services is not complete within the time specified. In that case, GCPS may, without liability and in addition to any other rights or remedies, terminate the agreement by notice effective when received as to goods or services not yet delivered or rendered. GCPS may purchase substitute goods or services elsewhere and charge the awarded vendor for any additional expense incurred.

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16.0 INVOICING

- 16.1** GCPS will make payment after the final delivery and acceptance of all items/services. However, final acceptance will not be made until after inspection and approval by the GCPS authorized representative. Acceptance of any part of the order shall not bind GCPS to accept any future shipments nor deprive it of any right to return goods already accepted.
- 16.2** All invoices must show the purchase order number and the item number and should be mailed to GCPS, Finance Department, 437 Old Peachtree Road, NW, Suwanee, Georgia 30024-2978.
- 16.3** Prompt payment discounts offered for payment up to thirty (30) days will be taken.
- 16.4** No invoice will be processed for payment until all contractual obligations have been met and/or items ordered have been received and approved by the GCPS authorized representative.

17.0 PAYMENT

PAYMENT IN FULL will be made by the Board of Education when an invoice is received indicating that the goods and/or services have been delivered. The Board of Education will also make **PARTIAL PAYMENT** when partial shipment is received, as long as an invoice is received indicating partial delivery.

18.0 COMPLIANCE

GCPS will make final inspection of all products/services for acceptance or rejection. Final inspection resulting in acceptance or rejection of the products/services will be made as soon as practicable. Still, failure to inspect shall not be construed as a waiver by GCPS of its rights to reject such products/services or to claim reimbursement or damages for such products/services that are later found to be defective, not in conformance with the required specifications, or not to perform as claimed by the vendor.

19.0 RIGHTS AND REMEDIES

- 19.1** As permitted by law, in lieu of canceling the purchase order, GCPS may levy a charge if the successful vendor fails to deliver the item(s). Such a charge is not a penalty; instead, it is the agreed-upon liquidated damages representing the estimated damages that GCPS will incur due to the vendor's failure to deliver the item(s) as required.
- 19.2** GCPS does not waive any of its rights under contract law. Vendor acknowledges and agrees that if the vendor breaches this agreement, GCPS may cover such goods by contracting to purchase goods in substitution for those due from the seller. GCPS may recover from the vendor as damages the difference between the cost of cover, the contract price, and any incidental or consequential damages. Failure of GCPS to effect cover does not bar it from any other remedy. In such circumstances that GCPS is not able to cover or chooses not to cover the goods purchased under this solicitation, then the vendor acknowledges and agrees that GCPS can recover the difference between the

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market price of the goods at the time GCPS learned of the breach and the contract price of the goods, including any incidental and consequential damages. Suppose GCPS has accepted non-conforming goods purchased under this solicitation. In that case, the vendor acknowledges and agrees that GCPS can recover the value of the goods promised by the vendor and the value of the non-conforming goods provided. The preceding remedies are not exclusive of any other remedies permitted to GCPS under Georgia law. The vendor acknowledges and agrees that GCPS is owed its reasonable attorney's fees and costs incurred by exercising GCPS's rights in connection with the foregoing remedies.

19.2.1 Partial completion of a purchase order will not exempt a vendor from this charge. GCPS further has the right, after assessing such charge, after the continuing failure of the vendor to complete, to terminate the purchase order.

19.3 Warranty and Support Requirements – GCPS is not waiving, amending, or abridging any warranty rights/contractual rights provided to GCPS under state or federal law. GCPS is not bound by any terms or conditions in any vendor's contract, packaging, invoices, service catalog, brochure, technical datasheet, or another document that attempts to impose any conditions that waive, amend, abridge, abrogate, are in conflict with or are in addition to GCPS's contractual rights as provided under state or federal law. In addition to the foregoing warranty and contractual rights of GCPS, the vendor further warrants and agrees as follows:

19.3.1 Any good(s) purchased under this contract will be defect-free in materials and workmanship and be of the quality, size, and dimensions ordered. The packaging, packing, marking, and shipping of such goods will conform to the requirements of the solicitation documents and as outlined in the vendor's response. This express warranty shall not be waived because of acceptance of the goods or payment thereof by GCPS.

19.3.2 For Goods: Upon request by GCPS, the vendor further agrees to immediately correct, without charge to GCPS, any defects in the goods which develop during the life of the warranty after acceptance and payment by GCPS. The vendor further agrees to indemnify GCPS against damages of any sort resulting from faulty workmanship or materials by the vendor while performing any warranty or guarantee work hereunder (or by any third party performing such work for and on behalf of the vendor). Any goods or parts thereof, corrected or furnished in replacement under this clause, shall also be subject to the terms of this clause to the same extent as goods initially delivered.

19.3.3 For Goods: Vendor is fully aware of GCPS's business requirements and intended uses of the product(s) and warrants that the product(s) shall be fit for such intended uses.

19.3.4 GCPS shall give written notice to the vendor of any breach of warranties in this section, and such notice shall contain information concerning the deficiencies found, the location of the nonconforming good(s), and the quantity involved, including GCPS's notification of the remedy for the non-conforming or defective

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good(s).

20.0 TERMINATION

20.1 If GCPS wishes to cancel this contract or any purchase order following the award, GCPS will provide written notice thirty (30) days in advance. GCPS reserves the right to terminate the contractual relationship with the vendor at any time without cause and penalty on thirty (30) days' written notice to the vendor. GCPS shall pay the vendor for the work performed before the date of notice of termination. The vendor shall not be paid for any work performed or incurred after the receipt of the notice of termination nor for costs incurred by its vendors. In addition, GCPS may terminate the contract with the vendor in the event the vendor breaches any of its duties and obligations under this contract, and the vendor fails to cure such breach within ten (10) days after receiving notice from GCPS specifying the breach.

20.2 The rights and remedies of GCPS, as stated above, shall not be exclusive and are in addition to any other rights and remedies provided by law or under the contract.

20.3 Any purchase orders which result from this contract must be issued prior to the expiration of the contract; however, Bidder performance, GCPS payment obligations, and any applicable warranty periods or other Bidder or GCPS obligations may extend beyond the term of the contract unless said purchase order is terminated in writing pursuant to Section 20.1 above.

20.4 **Multi-year Awards** – As provided in O.C.G.A. § 20-2-506, any contract awarded pursuant to this solicitation shall be deemed to obligate GCPS only for those sums payable during the calendar year of its execution or, in the event of renewal by GCPS, for those sums payable in the calendar year in which the renewal occurs. In no event shall any contract awarded pursuant to this solicitation be deemed to create a debt of GCPS for the payment of any sum beyond the calendar year of its execution or, in the event of renewal by GCPS, for those sums payable in the calendar year in which the renewal occurs.

20.4.1 The contract awarded pursuant to this solicitation shall terminate absolutely and without further obligation on the part of GCPS at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed as provided herein unless earlier terminated as provided in this contract or renewed as provided herein. If GCPS wishes to terminate pursuant to O.C.G.A. § 20-2- 506, GCPS will provide thirty (30) days' notice prior to the close of the calendar year. If GCPS does not provide such notice, the contract will automatically renew January 1 for the following calendar year during the term unless otherwise terminated or non-renewed in accordance with the contract.

20.4.2 The contract awarded pursuant to this solicitation shall state the total obligation of GCPS for the calendar year in which it was executed and for each calendar year for which it may be renewed as provided herein.

20.4.3 The contract awarded pursuant to this solicitation shall not exceed seven and

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one-half percent (7.5%) of the total local revenue collected for the maintenance and operation of GCPS in its most recently completed fiscal year.

- 20.5** The contract awarded pursuant to this solicitation will terminate immediately and absolutely at such time as appropriated and otherwise unobligated funds are no longer available to satisfy the obligations of GCPS, pursuant to O.C.G.A. § 20-2-506. In the event GCPS determines that appropriated funds no longer exist or are insufficient to fulfill GCPS's obligations hereunder, GCPS may terminate the contract awarded pursuant to this solicitation by providing thirty (30) days' written notice of termination to the vendor. Notice of any such termination shall include a certification by GCPS of the unavailability or insufficiency of funds, and such certification shall constitute an agreement by GCPS not to replace the services covered hereunder in whole or in part with any service obtained from a provider other than the vendor before the end of the calendar year in which the notification of such termination is provided. GCPS shall make payments to the vendor through the date of termination.
- 20.6 Termination for Cause** – The occurrence of any one or more of the following events shall constitute cause for GCPS to declare the vendor in default of its obligations under the contract:
- 20.6.1** The vendor fails to deliver or has delivered nonconforming goods or services or fails to perform, to GCPS's satisfaction, any material requirement of the contract or is in violation of a material provision of the contract, including, but without limitation, the express warranties made by the vendor;
 - 20.6.2** GCPS determines that the satisfactory performance of the contract is substantially endangered or that a default is likely to occur;
 - 20.6.3** The vendor fails to make substantial and timely progress toward the performance of the contract;
 - 20.6.4** The vendor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law, including bankruptcy laws; the vendor terminates or suspends its business, or GCPS reasonably believes that the vendor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
 - 20.6.5** The vendor has failed to comply with applicable federal, state, and local laws, rules, ordinances, regulations, and orders when performing within the scope of the contract;
 - 20.6.6** The vendor has engaged in conduct that has or may expose the GCPS to liability, as determined in GCPS's sole discretion, or
 - 20.6.7** The vendor has infringed on a third party's patent, trademark, copyright, trade dress, or any other intellectual property rights.

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- 20.7 Notice of Default** – If the vendor causes a default event, GCPS shall provide written notice to the vendor requesting that the breach or non-compliance be remedied within the period of time specified in GCPS's written notice to the vendor. If the breach or non-compliance is not remedied within the period of time specified in the written notice, then GCPS may:
- 20.7.1** Immediately terminate the contract without additional written notice and/or;
 - 20.7.2** Procure substitute goods or services from another source and charge the difference between the contract and the substitute contract to the defaulting vendor, including without limitation offsetting amounts owed by GCPS to the vendor by such charges and/or
 - 20.7.3** Enforce the terms and conditions of the contract and seek any legal or equitable remedies.
- 20.8** Termination upon Assignment or Change in Control. In the event that the vendor attempts to assign this contract to a third party, or in the event the vendor changes control, GCPS shall have the right, at its sole discretion, to terminate the contract immediately upon written notice.
- 21.0 NO ASSIGNMENT, DELEGATION, OR SUBCONTRACT WITHOUT DISTRICT CONSENT**
- 21.1** Except as may be specifically permitted by the solicitation, the vendor shall not delegate, subcontract, assign, or otherwise permit anyone other than vendor personnel to perform any of the work and/or provide any of the services required of the vendor under this contract or assign any of its rights or obligations hereunder, without the prior written consent of GCPS, which consent may be withheld by GCPS in its sole discretion.
 - 21.2** No subcontract, which the vendor enters into with respect to the performance of work and/or provision of services under this contract, shall in any way relieve the vendor of any responsibility for any performance or obligation required of it by this contract. The vendor hereby accepts responsibility for ensuring that all subcontractors who perform any of the services under this contract also comply with the terms and conditions of this contract. Vendor expressly agrees to indemnify and hold harmless GCPS from any and all claims, demands, liabilities, losses, damages, costs, and expenses which result from any failure by any such subcontractor to comply with any of the terms and conditions of this contract. The vendor shall give GCPS immediate notice in writing by registered or certified mail of any claim, action, or suit filed against the vendor by any subcontractor and prompt notice of any claim made against the vendor or any subcontractor, which may result in litigation, related in any way to this contract.
 - 21.3** Vendor must notify GCPS of all subcontractors used to fulfill this contract, including those contracted by their agents (such as delivery services). GCPS reserves the right to require that a subcontractor be removed from the contract.
 - 21.4** A completed Subcontractor E-Verify Affidavit form must be submitted for each subcontractor that will be used to fulfill this contract.

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22.0 TAXES

The vendor will timely pay all taxes lawfully imposed upon the vendor with respect to this Contract. The vendor makes no representation whatsoever regarding any tax liability of the vendor nor regarding any exemption from tax liability related to this contract.

23.0 FORCE MAJEURE

Neither party shall be liable or responsible to the other party, nor deemed to have defaulted under or breached the contract awarded pursuant to this solicitation, for any failure or delay in fulfilling or performing any term of such contract, when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's reasonable control including, without limitation, Acts of God, flood, fire, earthquake, explosion, global pandemic, war, invasion, hostilities, terrorist threats or acts, riots or other civil unrest, governmental order or law, actions, embargoes or blockades, strikes, labor stoppages or slowdowns. The impacted party shall promptly give notice to the other party within five (5) days of the occurrence of any such event, which shall identify the period of time the occurrence is expected to continue. The impacted party shall use diligent efforts to end the failure or delay and ensure the effects of such an event are minimized. The party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. GCPS may revise/stop services and/or deliveries while school(s) are closed and will not be held responsible for any payment for services not provided or items not delivered.

24.0 SURVIVAL OF REPRESENTATIONS

The provisions, representations, and warranties contained in this contract shall survive the delivery of all components procured hereunder and the payment of fees, therefore, and any termination of this contract in accordance with their respective terms and conditions.

25.0 RELATIONSHIP OF PARTIES

This contract is not intended by the parties to constitute or create a joint venture, pooling arrangement, partnership, or formal business organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth herein. The vendor shall be deemed an independent contractor, and the employees and agents of the vendor shall not be deemed to be the employees or agents of GCPS. GCPS is not responsible for the payment of any taxes, insurance, or benefits on behalf of the vendor's employees.

26.0 SEVERABILITY

Any section, subsection, paragraph, term, condition, provision, or other parts of this contract which is held, found, or declared to be voidable, void, invalid, illegal, or otherwise not fully enforceable shall not void any other section, subsection, paragraph, term, condition, provision, or part of this contract, and the remainder of this contract shall continue to be of full force and effect. Any agreement of the parties to amend, modify, eliminate, or otherwise change any section, subsection, paragraph, term, condition, provision, or other terms of this contract shall not affect any other section, subsection, paragraph, term, condition, provision, or part of the contract, and the remainder of this contract shall continue to be of full force and effect.

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27.0 BIDDERS EVIDENCE OF RESPONSIBILITY

Bidders may be required to furnish evidence in writing that they maintain permanent places of business and have adequate equipment, finances, and personnel to furnish the items offered satisfactorily and expeditiously and that they are authorized dealers and can provide necessary services and warranties for items they propose to furnish.

28.0 WAIVERS

The failure of either party to assert any claim or right against the other party regarding its obligations hereunder, in any one or more instances, shall not constitute a waiver of such claim or right with respect to the future performance of such obligations and other obligations under this contract.

29.0 PUBLICITY

The vendor shall not prepare or disseminate any publicity relating to this contract, products sold or licensed, or the services performed under this contract without the express written prior consent of GCPS. As used in this section, the term “publicity” includes but is not limited to advertisements, flyers, public announcements, pamphlets, press releases, reports, books, broadcasts, signs, social media, and similar public information.

30.0 USE BY OTHER AGENCIES

So long as such additional use of this Agreement does not interfere in the fulfillment of obligations to GCPS by the Bidder, and only upon the consent of the Bidder, this bid is available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities; to buy off this bid at the same prices quoted during the effective term.

Charter Schools – Selected GCPS contracts and pricing have been made available for use by GCPS Charter Schools. Sales to GCPS Charter Schools by the Contractor will be optional and not be considered when determining the award, i.e., allowing other agencies to participate is not mandatory. It is to be understood, however, that GCPS shall not be responsible for any problems that may arise between a GCPS Charter School and the contractor as a result of any sales. Any resulting contract is solely between the bidder and third-party GCPS Charter School. Billings for items purchased under this agreement shall be directed to the agency making the purchase.

31.0 VENDOR’S EMPLOYEES ON GCPS PROPERTY

31.1 All vendor’s employees, agents, and subcontractors working on GCPS property must wear an ID, preferably a photo ID, be neat and clean in appearance, and must comply with all of the policies and procedures related to on-campus work that are in effect at the school or administrative site, as the case may be. The vendor shall provide and institute necessary security measures to prevent **unauthorized** access to all computer networks and proprietary information, trade secrets, or student information of GCPS by any of its employees or agents. The vendor shall be liable and responsible to GCPS for all security breaches by its employees or agents. All vendor employees shall conduct themselves in a professional manner and shall not give the appearance of fraternizing with the students and teachers.

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31.2 GCPS is a drug-free workplace - By submission of a response to the solicitation, the GCPS vendor certifies that employees, agents, and subcontractors will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of controlled substances or drugs while on the GCPS property during the performance of the contract.

31.3 GCPS is a tobacco-free workplace - By submission of a response to the solicitation, the vendor certifies that employees, agents, and subcontractors will not use tobacco products or electronic nicotine delivery systems while on GCPS property at any time during the performance of the contract. The use of electronic nicotine delivery systems (e.g., e-cigarettes, e-cigars, e-hookahs, e-pipes, and other forms of what is commonly referred to as “vaping”) shall be prohibited at all times. GCPS reserves the right to request the removal of any vendor employees, agents, or subcontractors from GCPS property.

32.0 BACKGROUND CHECKS

32.1 GCPS requires the vendor, at the vendor’s expense, to perform background checks on any employee or subcontractor who will be working on GCPS property (delivery personnel excluded). A comprehensive criminal history background check, including both the Georgia Crime Information Center (GCIC) and National Crime Information Center (NCIC), is required on each applicant assigned to GCPS. Minimum findings that warrant exclusion include:

32.1.1 Any felony conviction

32.1.2 Any misdemeanor drug offense within the past seven (7) years

32.1.3 Any crime against children

32.1.4 Any sex-related conviction

32.1.5 Regardless of ultimate disposition, the total number of arrests exceeds four (4)

32.1.6 Regardless of ultimate disposition, more than two (2) arrests for crimes of similar nature (e.g., assault, shoplifting, DUI)

32.1.7 Pending Charges – Any applicant out on bond and awaiting disposition for any offense

32.1.8 Failure to disclose any criminal history (regardless of how long ago) on application

32.2 Once employed by the vendor, the employee has the obligation to self-report any arrest to the vendor within twenty-four (24) hours. The vendor should contact Gwinnett County Public Schools' designated representative within twenty-four (24) hours of the report.

32.3 Background checks must be provided to the GCPS designated representative upon request by the GCPS. Please note: It is required that all necessary background checks be completed prior to the employee beginning work.

33.0 AMENDMENTS IN WRITING

No amendment of any term or condition contained in this contract, including the solicitation

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documents and vendor's response, shall be effective unless it is in writing and signed by duly authorized representatives of the parties. No representation, request, instruction, directive, or order made or given by any official, employee, or agent of GCPS, whether verbal or written, shall be effective to amend this agreement or excuse or modify performance hereunder unless reduced to a formal amendment and executed as set forth above. The vendor shall not be entitled to rely on any such representation, request, instruction, directive, or order and shall not, under any circumstances whatsoever, be entitled to additional compensation, delay in performance, or other benefit claimed for relying upon or responding to any such representation, request, instruction, directive, or order.

If necessary, addendums to the Bid will be posted up to seventy-two (72) hours before the Bid opening time.

34.0 PARTIES BOUND

The contract of which these General Terms and Conditions are a part shall be binding on and inure to the benefit of the parties to this contract and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

35.0 RELEASE, WAIVER AND INDEMNIFICATION

35.1 Vendor hereby waives, releases, relinquishes, discharges and agrees to indemnify, protect, and hold harmless members of the GCPS Board of Education (BOE), GCPS and its officers, agents, and employees (hereinafter collectively referred to as "Indemnitees"), of and from any and all claims, demands, liabilities, loss, costs, or expenses for any loss or damage (including but not limited to reasonable attorneys' fees) growing out of, or otherwise occurring in connection with this contract, due to any act or omission on the part of vendor, its agents, employees, subcontractors, or others working at the direction of vendor or on its behalf; or due to any breach of this contract by vendor; or due to the application or violation of any pertinent Federal, State, or local law, rule, or regulation by vendor, its agents, employees, subcontractors, or others working at the direction of vendor or on its behalf.

35.2 As permitted by Georgia law, this indemnification shall apply notwithstanding the fact that the Indemnitees may be partially responsible for the situation giving rise to the claim. This indemnification shall apply notwithstanding the fact that a claim results in a monetary obligation that exceeds any contractual commitment. This indemnification shall not apply if the situation giving rise to the claim results solely from the negligence or willful acts of Indemnitees.

35.3 This indemnification extends to the successors and assigns of the vendor, and this indemnification and release survives the duration of this contract, the termination of this contract, and the dissolution or, to the extent allowed by law, the bankruptcy of the vendor.

35.4 Vendor shall, at its expense, be entitled to and shall have the duty to participate in the defense of any suit against the Indemnitees. No settlement or compromise of any claim, loss, or damage asserted against Indemnitees shall be binding upon Indemnitees unless expressly approved by the Indemnitees.

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36.0 COMPLIANCE WITH LAWS

- 36.1** Vendor shall, at its own expense, obtain all necessary permits, give all notices, pay all license fees and taxes, and comply with all applicable local, State, and Federal Laws, ordinances, rules, and regulations in connection with its performance under this contract.
- 36.2** Vendor further agrees that in the performance of the contract, it will comply with all laws, regulations, rules, and policies that may apply to public education in general and the operation of GCPS in particular.
- 36.3** Notwithstanding or in limitation of the foregoing, the vendor acknowledges and agrees that it shall, at all times during this solicitation process and in the performance of any contract resulting therefrom (if any), comply with the provisions of the Georgia Student Data Privacy and Transparency Act, O.C.G.A. §20-2-660 *et seq.*

37.0 COMPLIANCE WITH FEDERAL LAWS

All vendors must comply with all applicable federal laws and regulations, including, without limitation:

- 37.1** Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. §7606), section 508 of the Clean Water Act (33 U.S.C. §1368), Executive Order 11738, and Environmental Protection Agency regulations 40 C.F.R Part 35 (Contracts, subcontracts, and sub-grants of amounts in excess of \$100,000).
- 37.2** Mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871). (Contracts, subcontracts, and sub-grants of amounts in excess of \$100,000.)
- 37.3** BOYCOTT OF ISRAEL - Bidder certifies that Bidder is not currently engaged in, and agrees for the duration of this Contract not to engage in, a boycott of Israel, as defined in O.C.G.A. § 50-5-85.
- 37.4** Buy American Policy – The Federal “Buy American” Policy mandates that the District/State agency/Territory participates in the National School Lunch Program and School Breakfast Program and is required to use the nonprofit food service funds, to the maximum extent practicable, to buy domestic commodities or products for Program meals. A “domestic commodity or product” is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. as provided in 7 CFR 210.21 (d).” Additionally, vendors must be able to provide documentation verifying the domestic origin of products as defined in 7 CFR 210.21 (d) if requested.

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37.4.1 Exceptions to the Buy American provision are very limited; however, an alternative or exception may be approved upon request. An alternative or exception may be considered if the request is submitted in writing to a designated official a minimum of 10 days in advance of delivery. The request must include the following: (1) Alternative substitute(s) that are domestic and meet the required specifications: (a) Price of the domestic food alternative substitute(s); and (b) Availability of the domestic alternative substitute(s) in relation to the quantity ordered. (2) Reason for exception: limited/lack of availability or price (include price): (a) Price of the domestic food product; and (b) Price of the non-domestic product that meets the required specification of the domestic product.

38.0 BIDDER CODE OF CONDUCT:

GCPS aims to operate in a manner that reflects high ethical standards and is committed to complying with all applicable laws, regulations, and other legal requirements. Accordingly, GCPS seeks to conduct business with bidders who share our commitment to high ethical standards and operate in a responsible and ethical manner.

All GCPS employees are expected to act at all times in accordance with good business judgment for the benefit of the District and to avoid activities that could create a conflict of interest or the appearance of such a conflict. Bidders, when doing business with GCPS, in turn, are expected to conduct their business in an ethical manner and act with integrity.

Bidder's employees may be required to perform work at government owned facilities, including schools. Bidder's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with GCPS policies and procedures, and all applicable laws.

Acceptance of Entertainment & Gifts:

Bidders may neither offer nor give any gift to any GCPS employee or contracted staff who conduct business for GCPS except those items of nominal value, which may then be subject to disclosure by the receiving party to an immediate supervisor and/or the GCPS Department of Internal Audit. For purposes of this Procedure, a "gift" shall mean anything of value that shall include, but is not limited to, goods, loans, money, personal services, gratuities, entertainment, etc. Any prohibited activity or gift may result in the termination of existing contracts. Any activity or gift is strictly forbidden where it is being given under circumstances where it can be reasonably inferred that it was intended to influence GCPS employees in the performance of his or her official duties or during the solicitation and award process of a bid.

Bidder Submittals:

GCPS expects all bidders to be forthcoming and always submit true and accurate information in response to a GCPS Purchasing solicitation or in regard to an existing business relationship. If the GCPS Purchasing Department determines that the bidder has intentionally omitted or failed to provide pertinent information and/or falsified or misrepresented material information submitted to the Purchasing Department, the Department shall act in accordance with applicable GCPS policies and procedures and applicable State of Georgia

**Gwinnett County Public Schools
General Instructions & Conditions**

Law.

Information and Communication During the Solicitation:

All bidding information received, including pricing, remains confidential until an award is made so as not to compromise the competitive bid process. Likewise, to protect the integrity of the solicitation process, any communication with GCPS, including clarification of a quote, bid, or proposal, must go through the assigned Purchasing Department Senior Buyer.

By accepting our bid “Instructions and Conditions” terms and agreeing to do business with GCPS, all bidders are agreeing to comply with this Code of Conduct.

**Gwinnett County Public Schools
General Instructions & Conditions**

BID PROTEST PROCEDURE

This bid protest procedure applies to challenges to the awarding of bids or contracts by the Purchasing Department of the Gwinnett County Public Schools. This procedure applies to electronically submitted bids, RFPs, quotes, and contracts.

If the protesting party does not submit a completed bid, proposal, quote, or contract, the protest must be submitted prior to the date and time of the solicitation opening or prior to the date on which the Bid, RFP, Quote, or Contract is due to be received by the Board. Any protests received after those dates will not be reviewed and considered and will be dismissed as untimely.

For those protestors who did submit a completed and confirmed bid, RFP, quote, or contract response, their protests must be filed within seven calendar days after the protesting party knew or should have known of the facts giving rise to the protest. However, no protest that is filed more than seven calendar days after the date the notice of award of the contract is posted on the Purchasing Department of the GCPS website will be accepted. Untimely protests will be dismissed.

The date of filing is the date the Purchasing Department receives the protest. A protest must be in writing and must be sent to GCPS, Purchasing Department, 437 Old Peachtree Road, NW, Suwanee, Georgia 30024, Attn: Director of Purchasing.

Each protest must specify the reasons the protesting party believes that the solicitation or award was improper. Issues not raised in the written protest are deemed waived and may not be raised on appeal. The protesting party may submit any documents or information deemed relevant to the protest. If the contract has been awarded, the Purchasing Department shall notify the successful bidder or contractor of the protest. If the protest is received before the contract is awarded and the protest raises substantial issues, all bidders and offerors who appear to have a substantial and reasonable prospect of winning the award shall be notified of the protest and the reasons for the protest and they may file their position on the issues with the Purchasing Department, in writing, within five days after receipt of notice of the protest.

Upon the filing of a protest, further action on the solicitation or award shall be stayed, or if the protest is timely received after the award, the performance of the contract should be suspended until the protest is resolved. The Purchasing department may, however, determine that the protest is clearly without merit or that the award of the contract without delay is necessary to protect the substantial interests of the Board. In such case, if the Director of Purchasing determines that the protest is clearly without merit or will substantially harm the Board and does not stay the procurement, he shall immediately issue the decision.

Within 15 days of receiving a protest, the Purchasing Department will issue a response. The response may include any documents or information that the contracting officer or Director of Purchasing deems

**Gwinnett County Public Schools
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relevant to the protest. If additional time is required to investigate the protest, he shall inform the protesting party of the additional time needed to render a determination and obtain the protesting party's consent. Unless an extension of time has been agreed to, the Director of Purchasing shall issue a final written determination stating the reasons for the decision within 60 days of the date the protest was filed.

The Purchasing Department shall send a copy of the decision to the protesting party and any other person determined to be affected by the decision. If the protest is denied, the decision shall inform the protesting party of its right to file an appeal. The appeal will need to be sent to GCPS, Business and Finance Division, 437 Old Peachtree Road, NW, Suwanee, Georgia 30024, Attn: Chief Financial Officer, and received within 15 days of the mailing date of the decision.



SOLICITATION TITLE:

RFP-2501KM

SOLICITATION #:

RFP-2501KM

ISSUED BY:

Gwinnett County Public Schools

On Behalf of Equalis Group

437 Old Peachtree Road NW

Suwanee, Georgia, 30024-2978

***REQUIRED DOCUMENTATION FOR NATIONAL COOPERATIVE
CONTRACT PROCUREMENT***

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ATTACHMENT A

The following documents are required for a national cooperative contract to be administered by Equalis Group and are included for the Respondent's review and response

REQUIRED PROPOSAL FORMS:

- Proposal Form 1: RESPONSE TO EQUALIS GROUP NATIONAL COOPERATIVE CONTRACT
- Proposal Form 2: DEALER, RESELLER, AND DISTRIBUTOR AUTHORIZATION
- Proposal Form 3: EQUALIS GROUP SAMPLE ADMINISTRATION AGREEMENT
- Proposal Form 4: EQUALIS GROUP ADMINISTRATION AGREEMENT DECLARATION

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PROPOSAL FORM 1: RESPONSE TO EQUALIS GROUP NATIONAL COOPERATIVE CONTRACT

1. Voluntary Use of Master Agreement

Utilization of the Master Agreement by a Member will be at the discretion of the individual member.

2. Supplemental or Customer Agreements

Certain terms of the Master Agreement specifically applicable to the Lead Public Agency (e.g., governing law) are subject to modification for each Program Participant as the Winning Supplier and the Program Participant agree without being in conflict with the Master Agreement. Program Participants may request to enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in the Master Agreement (i.e., invoice requirements, order requirements, specialized delivery, diversity requirements such as minority and woman owned businesses, historically underutilized business, governing law, etc.).

3. Term & Survivability of Customer Agreements

Upon mutual agreement by the Winning Supplier and Program Participant any supplemental agreement agreed to between the Program Participant and the Winning Supplier through this Master Agreement may have its contract term extend past the then current expiration date of the Master Agreement.

Upon termination of the Master Agreement by mutual consent or for a material uncured breach by a Lead Public Agency or Equalis Group, all Customer Agreements entered into with Program Participant shall remain in effect until their completion, natural expiration, or termination thereof, and Winning Supplier shall immediately cease all marketing and sales of Products & Services to any Program Participant under and through the terms of this Master Agreement.

Upon termination of this Agreement for Winning Supplier's uncured material breach, all Customer Agreements entered into with Program Participant shall immediately terminate, and Winning Supplier shall immediately cease all marketing and sales of Products & Services to any Program Participant under and through the terms of the Master Agreement. Following the date of termination, the Lead Public Agency, Equalis, and Winning Supplier shall not be precluded from transitioning individuals, businesses, and entities that were Program Participants when this Master Agreement was in effect to another agreement or other Equalis Group supplier partner.

4. Award Basis

The basis of any contract award resulting from this solicitation made by Gwinnett County Public Schools will, at Equalis Group's option, be the basis of award on a national level through Equalis Group. If multiple Suppliers are awarded by Gwinnett County Public Schools under the Master Agreement, those same Suppliers will be required to extend the Master Agreement to Participating Public Agencies through Equalis Group.

PROPOSAL FORM 2: DEALER, RESELLER, AND DISTRIBUTOR AUTHORIZATION

GCPA allows Suppliers to authorize dealers, distributors, and resellers to sell the products and services made available through, and consistent with the Terms and Conditions set forth in, the Master Agreement. If Supplier intends to authorize their dealers, distributors, or resellers access to the Master Agreement in the event of a contract award Supplier must provide a list, either in the form of a document or a weblink, to identify those organizations who are being authorized access to the Master Agreement.

Will the Supplier authorize dealers, distributors, resellers access to Master Agreement?

- Yes**
- No**

If yes, how will Supplier disclose which organization(s) will have access to the Master Agreement? This list can be updated from time to time upon GCPA's approval.

Bidder Response: Click or tap here to enter text.

PROPOSAL FORM 3: EQUALIS GROUP SAMPLE ADMINISTRATION AGREEMENT

The Equalis Group Sample Administration Agreement has been attached for reference only. Do not edit, mark-up, or redline the agreement. Contracting with Equalis Group and the Winning Supplier will occur after contract award by the lead agency.

THIS ADMINISTRATION AGREEMENT (this "**Agreement**"), effective as of **Month Day, Year** (the "**Effective Date**"), is entered into by and between **Winning Supplier**, a **State** corporation with its principal place of business at **street address, City, State Zip** ("**Winning Supplier**") and Equalis Group LLC, a Delaware limited liability company with its principal place of business at 5540 Granite Parkway, Suite 200, Plano, Texas 75024 ("**Equalis**"). Throughout this Agreement, Winning Supplier and Equalis are referred to interchangeably as in the singular "**Party**" or in the plural "**Parties**."

SECTION 1. RECITALS

- A.** Gwinnett County Public Schools ("**GCPS**") serves as a lead public agency (a "**Lead Public Agency**") for Equalis Group ("**Equalis Group**"), a national cooperative purchasing organization, by publicly procuring master cooperative purchasing agreements for products and services to be made available to Equalis Group members ("**Equalis Group Member**" or "**Member**").
- B.** GCPS issued request for proposal ("**RFP**") # RFP-2501KM dated **Month Day, Year** for contracting on behalf of Equalis Group Members for **School Buses and Related Accessories, Supplies and Parts** and awarded a contract to Winning Supplier for the products and services included in their submitted proposal ("**Products & Services**").
- C.** GCPS, Equalis, and Winning Supplier entered into that certain master cooperative purchasing agreement (the "**Master Agreement**") # **contract number** effective as of the Effective Dates to provide Products & Services to Equalis Group Members.
- D.** Equalis serves as the Contract Administrator of the Master Agreement on behalf of GCPS.
- E.** Equalis actively promotes Master Agreements to current and prospective Equalis Group Members (collectively "**Prospective Participants**") through a range of marketing, prospecting, and sales strategies, including, but not limited to, marketing and sales collateral development, direct mail, web marketing, electronic communications, attendance at events, Winning Supplier sales representative training, and Winning Supplier field sales support (collectively, "**Equalis Services**") as more fully defined in **Appendix B**.
- F.** Any Prospective Participant who purchases Products & Services from Winning Supplier subject to the Master Agreement shall be considered a "**Program Participant**".
- G.** Winning Supplier desires to promote and expand its operations and increase the sales of its Products & Services to public sector, private sector, and non-profit organizations through Equalis Group.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree to the following terms and conditions:

SECTION 2. BUSINESS TERMS

2.1. Defined Terms. Any capitalized terms contained herein not defined in this Agreement shall have the same meaning as defined in the Master Agreement.

2.2. Appendices. Winning Supplier agrees to provide Products & Services to Program Participants as may be agreed to by the Parties in accordance with the specific terms and conditions set forth in the Master Agreement, this Agreement, and the appendices attached hereto and made a part of this Agreement (if one, an “**Appendix**” or more, “**Appendices**”).

- (i) **Appendix A** defines Winning Supplier’s reporting requirements.
- (ii) **Appendix B** sets forth the roles and responsibilities of the Parties.
- (iii) **Appendix C** defines the financial terms between the Parties.

2.3. Terms in Appendices. In all cases where the terms of this Agreement and any Appendices disagree, the terms in the Appendix shall control.

2.4. Publicity & Joint Marketing.

(a) **Publicity.** A Party may only issue press releases or other public announcements with respect to this Agreement with the prior, written consent of the other Party.

(b) **Joint Marketing / Logo & Name Use.** Winning Supplier authorizes Equalis to use Winning Supplier’s trademarks, names, and logos as provided by Winning Supplier to Equalis. Equalis authorizes Winning Supplier to use Equalis’ trademarks, names, and logos as provided by Equalis to Winning Supplier. Each Party’s use of the other Party’s trademarks, names, and logos will be limited to standard communication, including correspondence, newsletters, and website material, and joint marketing efforts, including, but not limited to, utilizing the same on correspondence, collateral, agreements, websites, newsletters, or other marketing materials promoting the Products & Services pursuant to the Master Agreement and this Agreement. Notwithstanding the foregoing, the Parties understand and agree that except as provided herein, neither Party shall have any right, title, or interest in the other Party’s trademarks, names, and logos. Upon termination of this Agreement, each Party shall immediately cease use of the other Party’s trademarks, names, and logos.

SECTION 3. TERMS & CONDITIONS

3.1. Express Limitation of Equalis Liability. With respect to any purchases of Products & Services by GCPS or any Program Participant pursuant to the Master Agreement, Equalis shall not be: (i) construed as a dealer, re-marketer, representative, partner, or agent of any type of the Winning Supplier, GCPS, or any Program Participant; (ii) obligated by, liable for, or in any way responsible for any order of Products & Services made by GCPS or any Program Participant or any employee thereof under the Master Agreement or for any payment required to be made with respect to such order for Products & Services; and (iii) obligated by, liable for, or in any way responsible for any failure by GCPS or any Program Participant to comply with procedures or requirements of applicable law or the Master Agreement or to obtain the due authorization and approval necessary to purchase Products & Services under the Master Agreement. Equalis makes no representation or guaranty with respect to any minimum purchases by GCPS or any Program

Participant, whether individually or collectively, or any employee thereof under this Agreement or the Master Agreement. The terms of this section shall survive the termination of this Agreement.

3.2. Term & Termination. The Term of this Agreement is the same as the Term of the Master Agreement. This Agreement shall only be terminated, and shall be terminated, if and when the Master Agreement is terminated. Upon termination of the Master Agreement for any reason, Winning Supplier shall continue making Administrative Fee and other payments, as set forth in **Appendix C**, to Equalis that are generated by individual Program Participant's purchase of Products & Services through the term of the then current Customer Agreement to the extent that Winning Supplier continues to generate revenue from each Program Participant's purchase of Products & Services following the termination of the Master Agreement.

3.3. Audit of Winning Supplier. Equalis, whether directly or through an independent auditor or accounting firm, shall have the right to perform audits, including inspection of books, records, and computer data relevant to Winning Supplier's provision of Products & Services to Program Participants and payment of Administrative Fees to Equalis pursuant to the Master Agreement and this Administration Agreement, to ensure that pricing, inventory, quality, process, and business controls are maintained; provided, however, that such inspections and audits will be conducted upon reasonable notice to Winning Supplier and so as not to unreasonably interfere with Winning Supplier's business or operations.

3.4. Force Majeure. This Agreement will be temporarily suspended during any period to the extent that either Party during that period is unable to carry out its obligations under this Agreement or the Appendices by reason of an Act of God or the public enemy, act of terrorism, pandemic or epidemic, fire, flood, labor disorder not caused by Winning Supplier, civil commotion, closing of the public highways not caused by Winning Supplier, government interference, government regulations, or any other event or occurrence beyond the reasonable control of the affected Party ("**Event of Force Majeure**"). Neither Party will have any liability to the other Party for a delay in performance nor failure to perform to the extent this Agreement or any Appendix is so temporarily suspended; provided that nothing contained herein shall apply to payment obligations with respect to obligations which have already been performed under this Agreement.

3.5. Notices. All notices, claims, certificates, requests, demands, and other communications required or permitted hereunder ("**Notice**") must be in writing and will be deemed given to the addresses set forth herein (a) when delivered personally to the recipient, (b) upon delivery by reputable overnight courier service (charges prepaid), or (c) upon delivery or refusal of delivery by certified or registered mail, return receipt requested, and addressed to the intended recipient. The Parties agree that day-to-day business communications, including notification of a change of address or revisions to any Appendix, may be made via electronic communication, including email.

3.6. Addresses for Notices. This section may be modified at any time by either Party providing the other Party with written Notice, including via email, of a change of address or addition or deletion to the individuals who will be copied on all Notices.

(The rest of this page is intentionally left blank)

a. If to **Winning Supplier:**

and with copy to:

Company Name

Attn: Name, Title

Street Address 1

Street Address 2

City, State Zip

b. if to EQUALIS

Equalis Group LLC
Attn: Eric Merkle, SVP
5540 Granite Parkway,
Suite 200
Plano, Texas 75024

3.7. Waiver. Other than the rights and obligations with respect to payment provided by this Agreement, waiver by either Party of or the failure of either Party hereto to enforce at any time its rights with regard to any breach or failure to comply with any provision of this Agreement by the other Party may not be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other future breach of or failure to comply with the same provision or any other provision of this Agreement.

3.8. Governing Law; Invalidity. This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of Ohio without regard to rules of conflict of laws. If any provision of this Agreement is declared unlawful or unenforceable by judicial determination or performance, then the remainder of this Agreement shall continue in force as if the invalidated provision did not exist. Any suits filed by either Party pursuant to this Agreement shall be brought in a court of competent jurisdiction located in Cuyahoga County, Ohio. In the event either Party initiates a suit, and that suit is adjudicated by a court of competent jurisdiction, the prevailing Party shall be entitled to reasonable attorney's fees and costs from the non-prevailing Party in addition to any other relief to which the court determines the prevailing Party is entitled or awarded.

3.9. Modification. No release, discharge, abandonment, waiver, alteration, or modification of any of the provisions of this Agreement, or any of the Appendices incorporated herein, shall be binding upon either Party unless set forth in a writing signed by authorized representatives of the Parties.

3.10. Assignment. This Agreement and the rights and obligations hereunder may not be assignable by either Party hereto without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed, provided, however, that either Party may assign its respective rights and obligations under this Agreement without the consent of the other Party in the event either Party shall hereafter effect a corporate reorganization, consolidation, merger, merge into, sale to, or a transfer of all or substantially all of its properties or assets to another entity. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and assigns. Any instrument purporting to make

an assignment in violation of this section shall be null and void. This Agreement may be extended to additional entities affiliated with either Party upon the agreement of the other Party. No such extension will relieve the extending Party of its rights and obligations under this Agreement.

3.11. No Third-Party Beneficiaries; Survival of Representations. This Agreement is made solely for the benefit of the Parties to it, and no other persons will acquire or have any right under or by virtue of this Agreement. Except as otherwise provided herein, all representations, warranties, covenants, and agreements of the Parties shall remain in full force and effect regardless of any termination of this Agreement, in whole or in part.

3.12. Entire Agreement. The Master Agreement and this Agreement, together with all attachments, appendices, and exhibits hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral or written representations and agreements with regard to the same subject matter. The Parties acknowledge that this Agreement has been negotiated and incorporates their collective agreement as to the provisions to be contained herein. Therefore, no presumption will arise giving benefit of interpretation by virtue of authorship of any provision of this Agreement, and any ambiguity may not be construed for or against any Party.

3.13. Execution in Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original. For purposes of this Agreement, a facsimile, scanned, or electronic signature will be deemed an original signature.

3.14. Titles, Headings & Recitals. The Preamble to this Agreement is hereby incorporated herein and made part of this Agreement. The Recitals stated within this Agreement are deemed to be a part of this Agreement. The titles and headings of the sections and paragraphs of this Agreement are inserted for convenience only and shall not constitute a part hereof or affect in any way the meaning or interpretation of this Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

WINNING SUPPLIER

EQUALIS GROUP LLC

By: _____

By: _____

Name: _____

Name: Eric Merkle

As: _____

As: EVP, Procurement & Operations

Date: _____

Date: _____

APPENDIX A: WINNING SUPPLIER REPORTING REQUIREMENTS

This Appendix may be modified at any time with the mutual written consent of the Parties, including via email.

Winning Supplier shall electronically provide Equalis with a detailed line-item monthly report showing the dollar volume of all member Products & Services sales under the contract for the previous month. Reports shall be sent via e-mail to Equalis offices at Reporting@EqualisGroup.org. Reports are due on the **fifteenth (15th)** day after the end of the previous month. It is the responsibility of Winning Supplier to collect and compile all sales under the Master Agreement from Program Participants and submit one (1) monthly report. Fields below marked as ***required** indicate a required field. All other fields are preferred, but not required:

Member Data	Equalis Member ID
	Vendor Customer Number *required (or Equalis Member ID)
	Customer Name *required
	Customer Street Address *required
	Customer City *required
	Customer Zip Code *required
	Customer State *required
Distributor Data	Distributor Name
	Distributor ID
	Distributor Street Address
	Distributor City
	Distributor Zip Code
	Distributor State
Product Data	Product Category level 1
	Product Category level 2 <i>(Where available or applicable)</i>
	Product Category level 3 <i>(Where available or applicable)</i>
	Distributor Product Number
	Manufacturer Product Number
	Product Description
	Product Brand Name
	Product packaging Unit of Measure level 1
	Product packaging Unit of Measure level 2
	Product packaging Unit of Measure level 3
Spend Data	Purchase Unit of Measure
	Purchase Quantity
	Distributor Landed Cost Total \$ (without deviations)
	Distributor Landed Cost Total \$ (with mfr deviations)
	Customer Purchase Total \$ *required
	Admin Fee % *required
	Admin Fee \$ *required

APPENDIX B: ROLES & RESPONSIBILITIES

This Appendix defines the roles and responsibilities of Equalis and Winning Supplier under this Agreement. This Appendix may be modified at any time with the mutual written consent of the Parties, including via email.

1. Equalis Services.

- 1.1. **Winning Supplier Sales Representative Training.** Equalis will develop, as appropriate and subject to Winning Supplier approval, various sales training materials, sales tools, and marketing collateral to promote the Master Agreement and Winning Supplier's Products & Services. Equalis, as appropriate, will i) conduct periodic sales trainings with Winning Supplier sales representatives assigned to sell Products & Services, ii) provide sales representatives with marketing collateral and sales tools to utilize with sales prospects, with particular focus on the procurement process that led to the establishment of the Master Agreement, the legal ability for sales prospects in any state to purchase Products & Services through the Master Agreement without having to conduct their own bid or RFP process, and the key differentiators in the design of this program with Winning Supplier, and iii) attend at least one Winning Supplier company-wide sales and/or leadership meeting per year.
- 1.2. **Sales Support.** Equalis will engage in Winning Supplier sales efforts as agreed by the Parties through participating in i) individual sales calls, ii) joint sales calls, iii) communications and customer service, iv) discussions and communication with sales prospects during the sales process to address questions relating to the procurement process, legal authority to purchase through the Master Agreement, and program design, v) trainings for Equalis Members' teams, vi) regular business reviews to monitor Program success, and vii) general contract administration.
- 1.3. **Marketing.** Equalis will incorporate information about the Products & Services into Equalis Group's website and general collateral materials. Equalis and Winning Supplier will jointly develop and approve marketing materials to promote Products & Services, such as website content, brochures and collateral, talking points, press releases, and correspondence. Equalis will market the Products & Services to Prospective Participants as part of Equalis' ongoing marketing activities through Equalis Group; these marketing efforts may consist of a combination of i) general marketing of all of Equalis Group's Master Agreements, including the Master Agreement and Winning Supplier's Products & Services, ii) marketing of Winning Supplier's Products & Services specifically and/or as part of a package of selected Master Agreements to targeted Prospective Participants, and iii) attending trade shows, conferences, and meetings.

2. Winning Supplier Roles & Responsibilities.

As a condition to Winning Supplier entering into the Master Agreement, which is available to all Public Sector Entities, Winning Supplier must make certain representations, warranties, and covenants to Equalis designed to ensure the success of the Master Agreement for all Prospective Participants, sales prospects, and Winning Supplier.

- 2.1. **Equalis Group Membership Agreement.** Winning Supplier will make available the Equalis Group Master Intergovernmental Cooperative Purchasing Agreement (whether in hard copy, electronically, or via www.EqualisGroup.org) and request any Prospective Participants subject to the Master Agreement who have

not already joined Equalis Group to join Equalis Group in conjunction with executing Winning Supplier's Customer Agreements and/or beginning to purchase Products & Services from Winning Supplier to ensure that Winning Supplier and each Program Participant are in full compliance with applicable state procurement statutes.

2.2. Corporate Commitment. Winning Supplier commits that i) the Master Agreement has received all necessary corporate authorizations and support of Winning Supplier's executive management, ii) the Master Agreement will be promoted to Public Sector Entities, and iii) Winning Supplier will identify an executive corporate sponsor and a separate national account manager that will be responsible for the overall management of the Master Agreement and this Agreement.

2.3. Sales Commitment. Winning Supplier commits to market the Master Agreement as a market strategy in the public sector and that its sales force will be trained, engaged, and committed to offering the Master Agreement to Public Sector Entities through Equalis Group in the geographies defined in the Master Agreement. Winning Supplier commits that all sales under the Master Agreement will be accurately and timely reported to Equalis. Winning Supplier also commits that its sales force will be compensated, including sales incentives, for sales to Program Participants under the Master Agreement in a consistent or better manner compared to sales to Public Sector Entities if Winning Supplier were not awarded the Master Agreement. Winning Supplier will make available to interested Prospective Participants such price lists or quotes as may be necessary for such Prospective Participants to evaluate potential purchases of Products & Services under the Master Agreement.

2.4. Marketing Commitment. As mutually agreeable, Winning Supplier commits to work with Equalis to develop a sales and marketing plan ("**Plan**") within the first ninety (90) days of the Master Agreement Effective Date. The Plan may include, but is not limited to, the following:

2.4.1. Issuing co-branded press release

2.4.2. Publishing Master Agreement details and contact information on both Equalis Group and Winning Supplier's websites

2.4.3. Scheduling and holding training on the Master Agreement for the sales teams of both Equalis Group and Winning Supplier

2.4.4. Jointly participating in national and regional conferences

2.4.5. Jointly attending national and regional Equalis Group Member networking events

2.4.6. Designing, publishing, and distributing co-branded marketing materials

2.4.7. Engaging in ongoing marketing and promotion of the Master Agreement for the entire Term of the Master Agreement (e.g., developing and presenting case studies, collateral pieces, and presentations)

APPENDIX C: FINANCIAL TERMS

This Appendix may be modified at any time with the mutual written consent of the Parties.

1. Administrative Fee.

On or before the fifteenth (15th) of each month, Winning Supplier shall remit to Equalis an administrative fee payment (the “**Administrative Fee**”) of one percent (1%) of the total Winning Supplier revenue (the “**Equalis Group Spend**” or “**Spend**”) invoiced to Program Participants during the prior calendar month. “Spend” shall mean the cumulative purchases of Products & Services by Program Participants under the Master Agreement net of taxes, shipping costs, returns, and credits. All Administrative Fees not paid when due shall bear interest at a rate equal to the lesser of one-and one-half percent (1.5%) per month or the maximum rate permitted by law until paid in full.

2. Case-by-Case Administrative Fee Adjustments.

The Parties understand and acknowledge that Winning Supplier may have to provide aggressive deviated pricing on a case-by-case basis to win certain opportunities with Prospective Participants when those opportunities represent a sufficiently large Spend and/or are highly competitive. In such situations, Winning Supplier may request Equalis accept a reduced Administrative Fee. The Parties agree to evaluate each such situation as it arises and utilize best efforts to establish an adjusted Administrative Fee rate upon mutual written agreement (including via email) of the Parties.

3. Rebates or Other Payments.

Insert rebate or other payment language as agreed.

(The rest of this page is intentionally left blank)

PROPOSAL FORM 4: EQUALIS GROUP ADMINISTRATION AGREEMENT DECLARATION

Sample Administration Agreement of this solicitation is for reference only. Contracting with Equalis Group and the Winning Supplier will occur after contract award is made by the lead agency.

Execution of the Administration Agreement is required for the Master Agreement to be administered by Equalis Group. **Proposal Form 6** includes the **Sample Administration Agreement** which defines i) the roles and responsibilities of Equalis Group and the Winning Supplier relating to marketing and selling of the Program to current and prospective Members, and ii) the financial terms between Equalis Group and Winning Supplier.

Redlined copies of this agreement should not be submitted with the response. Should a respondent be recommended for award, this agreement will be negotiated and executed between Equalis Group and the Winning Supplier. Respondents must select one of the following options for submitting their response.

- Bidder agrees to all terms and conditions outlined in the **Sample Administration Agreement**.
- Bidder wishes to negotiate directly with Equalis Group on terms and conditions outlined in the Sample Administration Agreement. Negotiations will commence after GCPA has completed contract award.

(The rest of this page is intentionally left blank)