



Request for Proposal - Title Page One

Arlington Public Schools Procurement Office

Request for Proposal 27FY20

Request for Proposal Title:	Executive Search Services
Request for Proposal Number:	27FY20
Request for Proposal Issue Date:	September 23, 2019
Proposal Due Date and Time:	October 11, 2019, Prior to 2:00 P.M. (Local Prevailing Time)
Pre-Proposal Conference:	October 1, 2019 (Refer to Request Title Page 2)
Procurement Office Representative:	Kim Young, Senior Procurement Specialist (703) 228-7643, kimberly.young@apsva.us

This is Arlington County School Board, operating as Arlington Public Schools (“APS” or “Owner”) Request for Proposal (RFP) #27FY20 for the establishment of a Contract for Executive Search Services (“Work”). Sealed Proposals must be received in hand and time stamped, or signed in, by a member of the APS Procurement Office (“Procurement Office”) prior to the due date and time stated above (collectively the “Proposal Due Date”). Offerors are responsible for ensuring that the Procurement Office receives their Proposal submission prior to the Proposal Due Date. The Procurement Office is located on the 4th Floor of the Syphax Education Center, 2110 Washington Boulevard, Arlington, VA 22204 (“Syphax”). Offerors may be asked to sign in at the 4th Floor reception center before being allowed to proceed to the Procurement Office. Offerors must allow sufficient time to clear the sign in process to complete the Proposal submission process prior to the Proposal Due Date. Visitor parking is available on Levels B1 and B2 of the parking garage.

Delivery to, or receipt by, any office other than the Procurement Office shall not be deemed receipt by the Procurement Office until actually received in hand by a member of the Procurement Office. The Offeror assumes all risk of delivery to the correct office. The 4th Floor reception center serves more than one APS department and receipt by the 4th Floor reception center shall not be deemed receipt by the Procurement Office.

The time a Proposal is received in the Procurement Office shall be determined by the time stamped on the Proposal receipt by the time clock in the Procurement Technician’s work station. In the event this time clock is not functioning, the time shall be determined by the time displayed on the atomic clock located in the Procurement Technician’s work station. The time on the atomic clock will be written on the Proposal receipt by hand by Procurement Office personnel. **Proposals received after the Proposal Due Date shall not be considered.** If Syphax is closed for any reason at the scheduled time on the Proposal Due Date, the Proposal Due Date shall automatically be extended to the same time as originally stated on the next business day Syphax is open.

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Pre-Proposal Conference:

A non-mandatory pre-Proposal conference (“Conference”) will be held for this RFP on Tuesday, October 1, 2019, at 2:00 P.M. (Local Prevailing Time). The Conference will take place in Room 402, located on the 4th Floor at Syphax, to discuss the Work and answer general questions. Attendance at the Conference is encouraged. Offerors seeking to attend the Conference remotely should contact Kimberly Young at kimberly.young@apsva.us reasonably in advance to request the dial-in information.

Minutes of the Conference, including but not limited to questions and answers presented at the Conference, will be issued in writing by the Procurement Office as an Information Item and distributed in the same manner as an Addenda, as set forth below

Questions:

All questions regarding this RFP, other than those submitted at the Conference, must be submitted in writing via email addressed to: Kimberly Young, Senior Procurement Specialist, kimberly.young@apsva.us and Leslie Peterson, APS Project Manager, via email: leslie.peterson@apsva.us and **must be received by 3:00 PM (Local Prevailing Time) on October 2, 2019**. The Procurement Office will issue written responses to questions received as an Information Item, in the same manner as an Addenda, as set forth below.

Proposal Submission Address:

Proposals are to be submitted by mail, hand delivered or express carrier to:

Arlington Public Schools,
Syphax Education Center
Procurement Office, 4th Floor,
Attn: Kimberly Young
2110 Washington Blvd.
Arlington, VA 22204

Refer to Section III, Instructions to Offerors, for additional instructions and requirements.

Addenda:

Changes to this RFP will be made only by written Addenda issued by the Procurement Office and designated as “Addendum No. ____.” No other form of communication shall modify this RFP.

Addenda will be posted on <https://www.apsva.us/Procurement-office/current-solicitations> (“APS website”), on a public bulletin board in Syphax, and on the Commonwealth of Virginia’s on-line e-procurement system, at www.eva.virginia.gov (“eVA”).

Offerors shall ascertain prior to submitting a Proposal that all Addenda issued have been received and shall acknowledge receipt and inclusion of all Addenda by marking here, or by including a signed copy of all Addenda with the Proposal:

Addendum #. ____ Date: _____ Addendum #. ____ Date: _____
Addendum #. ____ Date: _____

Information Items:

Questions received timely in response to this RFP, including those at the Conference, will be answered by written Information Items issued by the Procurement Office. This RFP shall not be modified by an Information Item.

Information Items will be posted on the APS website, on a public bulletin board in Syphax, and on eVA.

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Trade Secrets or Proprietary Information:

Each Offeror shall confirm whether their Proposal contains any information the Offeror deems proprietary or a trade secret. Information considered to be proprietary or a Trade Secret is to be included in the Proposal response at Tab 6. See Section IV. Proposal Requirements, D., Submission of Proprietary Information, for additional information.

Please mark one:

- () Yes, My Proposal contains information deemed to be proprietary or a trade secret. The information deemed to be proprietary or a trade secret can be located under Tab #6
- () No, My Proposal does not contain information deemed to be proprietary or a trade secret.

Acceptance of Work:

By submitting a Proposal, Offeror confirms that it can deliver all of the Work contained in the RFP.

State Corporation Commission (SCC) Identification Number: Mandatory Requirement:

Under subsection C.8. of Section III, Instructions to Offerors, subsection 35 of Section VI., Contract Terms and Conditions, and the Virginia Public Procurement Act ("VPPA"), Va. Code § 2.2-4311.2, the Offeror shall be authorized to "transact business" in the Commonwealth of Virginia as a domestic or foreign business entity if so required by Virginia Code Titles 13.1 or 50, or as otherwise required by law. The Offeror shall include in its Proposal the identification number issued to it by the State Corporation Commission ("SCC"). For more information on how the SCC can expedite a request for an identification number, please contact the SCC at (www.scc.virginia.gov) or the Clerk's office at 1-804-371-9733.

Please complete the following by checking the appropriate line that applies and providing the requested information:

1. ___ Offeror is a Virginia business entity organized and authorized to transact business in Virginia by the SCC. The Offeror's identification number issued by the SCC is _____. (*The SCC number is NOT your federal tax Identification number nor your eVA registration number*).
2. ___ Offeror is an out-of-state (foreign) business entity that is authorized to transact business in Virginia by the SCC and such Offeror's identification number issued to it by the SCC is _____.
3. ___ Certain limited business activities, however, are specifically excluded from the definition of "transacting business", in which case the Offeror is not required to have an identification issued to it by the SCC and such Offeror is not required to be authorized to "transact business" in Virginia. These exclusion(s) can be found at <https://www.scc.virginia.gov/clk/befaq/forinva.aspx#a2>.

Please attach additional sheets to explain in further detail why such Offeror is not required to be authorized to transact business in Virginia in accordance with option 3 above. Proposals that fail to submit supporting details regarding option 3 above may be considered non-responsive by APS.

Debarment:

If you answer yes to any part of the following, on a separate attachment, state the person or entity against whom the debarment was entered, give the location/jurisdiction and date of the debarment, describe the project involved, and explain the circumstances relating to the debarment, including the names, addresses and phone numbers of persons who may be contacted for additional information

1. Is your organization or any officer, director, project manager, procurement manager, chief financial officer, partner or owner currently debarred from doing federal, state or local government work for any reason?
Yes ___ No ___

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2. Has your organization or any current officer, director, project manager, procurement manager, chief financial officer, partner or owner ever been debarred from doing federal, state or local government work for any reason?
Yes ___ No ___

Type of Business:

Please check the following information relevant to your firm:

Minority Owned Business:	YES _____	NO _____
Small Business:	YES _____	NO _____
Woman Owned Business:	YES _____	NO _____
Service Disabled Veteran Owned Business:	YES _____	NO _____
Employment Service Organization:	YES _____	NO _____
None of the Above:	YES _____	

Ethics in Public Contracting/Certification of Non-Disclosure:

Any Contract awarded as a result of this RFP will incorporate by reference Article 9 of the APS Procurement Resolution (“Procurement Resolution”), which is located at <https://www.apsva.us/purchasing-office/>, as well as any state or federal law related to ethics, conflicts of interest, or bribery, including by way of illustration and not limitation, the Virginia State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.), and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The undersigned certifies that its offer is made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other person (as defined in Code of Virginia Section 59.1-68.6 et seq.) and that it has not conferred on any public employee having official responsibility for this purchase any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

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In compliance with this RFP and all the conditions imposed therein, the undersigned offers and agrees to furnish the Work in accordance with the attached Proposal or as mutually agreed upon by subsequent negotiations. By my signature below, I certify that I am authorized to bind the Offeror in this Proposal, and in any and all negotiations and/or contractual matters relating to this RFP. (Sign in blue ink and type or print requested information).

My signature certifies that the Offeror has no business or personal relationships with any other companies or persons that could be considered as a conflict of interest or potential conflict of interest to APS, and that there are no principals, officers, agents, employees, or representatives of this firm that have any business or personal relationships with any other companies or person that could be considered as a conflict of interest or a potential conflict of interest to APS, pertaining to any and all Work to be performed as a result of this RFP and any resulting Contract with APS.

This Proposal is Submitted By:

Full Legal Name of Offeror: (to be used for Award): _____

Mailing Address:

Remittance Address (If Different):

Phone: () _____

Fax: () _____

Email Address: _____

Contact Person: _____

Tax Identification (FIN/SSN#): _____

Title: _____

Typed/Printed Name: _____

Signature: _____

Date: _____

(Person signing must be authorized to bind the Offeror in contractual matters)

A W-9 Form should be attached showing correct Full Legal name for award of contract.

Include Pages 1 - 5 of this RFP as the first 5 Pages of the Proposal Response Under Tab 1

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I. Introduction to RFP 27FY20

A. Background

As of September 2019, Arlington Public Schools (“APS”) APS will have 41 schools and programs. In addition, through its adult education program, the school division serves over 12,000 non-school age students and other community members. Presently, APS employs 2,725 teachers; 957 maintenance, custodial, bus driver, food and nutrition services and before and after care staff; 280 clerical staff; 699 paraprofessionals, 376 administrative/technical staff, and 2,427 hourly staff including 897 substitutes.

APS has the following Departments responsible for overseeing its operations: Administrative Services, School & Community Relations, Facilities and Operations, Finance and Management Services, Information Services, Teaching and Learning, and Human Resources.

B. General Information

The Superintendent of APS has announced his retirement effective September 1, 2019.

Arlington, Virginia, located across the Potomac River from Washington, D.C., is a county of 26 square miles with a population of approximately 226,400. The overall Arlington community is highly educated, affluent, and has a history of strongly supporting the public schools.

A nationally recognized school district, APS has experienced a significant increase in enrollment over the past ten years. The current enrollment of the APS is 27,436 students. Generally, APS is urban/suburban with a diverse school population of 46.9% White students, 27.6% Hispanic students, 9.7% Black students, 9.0% Asian students, 6.4% Multiple race students, 0.3% American Indian/Alaskan Native, and 0.1% Native Hawaiian/Other. Only about 18% of the population has school-age children.

APS has a seven-year Strategic Plan (“Strategic Plan”) that was adopted in June 2018. The 2018-24 Strategic Plan has five goals: student success; student well-being; engaged workforce; operational excellence; and, partnerships. Much progress has been made in reaching these goals, and it is expected that the next Superintendent will build upon this progress and will propel APS and its students to their next levels.

The governing body of APS is the Arlington County School Board (“School Board”). Five School Board members are elected for four-year terms on a staggered basis; all members serve at large. The Superintendent serves at the pleasure of the School Board and carries out the policies established by the School Board. Virginia state law requires that a division superintendent “serve for an initial term of not less than two years and not more than four years.” Subsequent terms may be up to four years (Virginia Code 22.1-60(A)).

<https://law.lis.virginia.gov/vacode/title22.1/chapter6/section22.1-60/>

The Superintendent is responsible for the management and administration of APS, and the education, health and safety of its students. The School Board is seeking a highly qualified individual who has the training, experience and education appropriate to the Arlington community to serve in that position. The successful applicant should possess skills that will ensure continued progress and innovation to achieve the goals of the Strategic Plan and continued improvement of APS.

C. Contract Period

Any resulting Contract shall commence on the date the Contract is fully executed by the Procurement Director/Procurement Agent and shall expire twelve (12) months following the date the successful applicant takes up the position of Superintendent of APS.

II. Scope of Work

1. Scope of Work:

- 1.1. The purpose of this Request for Proposal (“RFP”) is to solicit competitive negotiable proposals (“Proposals”) for Executive Search Services for assistance with the recruitment and selection of applicants for the position of Superintendent for Arlington Public Schools (“APS”) (the “Work”) in accordance with the terms and conditions herein.
- 1.2. Executive Search Services firms (“Offerors”) with extensive and proven experience in assisting school boards in recruitment, screening and employment of school superintendents are invited to submit a Proposal in compliance with the specifications described in this RFP.
- 1.3. It is not possible to provide an exact number of meetings the Contractor will be expected to attend. However, for the purposes of preparing a Proposal, Offerors should anticipate attending twenty-five (25) meetings. Meetings can occur both during normal working hours and during the evenings.

2. Contract Objectives:

- 2.1. Establish the characteristics and qualities desired in the Superintendent through input from the School Board, APS staff, the community, and other relevant sources.
- 2.2. Maximize the number, quality, and diversity of applicants.
- 2.3. Assist with the evaluation of applicants based on the criteria established in conjunction with the School Board.
- 2.4. Assist in the selection process.

3. Tasks to be Performed:

At a minimum, the successful Offeror shall perform the tasks listed below. Offerors are required to provide an estimated start date and completion date for each task. The anticipated Contract Award date is not known. To help evaluate Proposals, Offerors are to use a **hypothetical** Contract Award date of January 6, 2020. **This date has been selected solely for the purposes of making it easier to conduct a side-by-side comparison of the Proposals received.**

- 3.1. Identify how interested community members, to include all APS stakeholders, staff, parents, students, parent organizations, key elected officials and business leaders can be involved in developing the criteria for selecting the new Superintendent including desired skills, characteristics and qualifications. The successful Offeror will be required to meet with each School Board member and others who may be identified, to assess School Board priorities, goals and objectives to assist the School Board in determining and outlining criteria, desired skills, characteristics, and qualifications necessary for selecting the Superintendent.
- 3.2. The successful Offeror, in consultation with the School Board, will develop recruitment information about Arlington County, APS and the position itself for prospective applicants and provide a suggested format for the interview process and develop a list of potential interview questions. This information will become the property of APS at the expiration of any resulting Contract.
- 3.3. Work with School Board and APS staff to provide a detailed work plan and schedule/timeline that meets our hiring timeline objective for the search that includes community involvement while balancing the need for confidentiality of applicants. This plan should include the anticipated involvement of the School Board as a whole.

- 3.4. Identify and propose all steps/aspects of the recruitment process.
- 3.5. Identify support needed from School Board, APS departments and others to include the Department of Human Resources. This shall include an estimate of the number of meetings, individually and as a group, and the timing of site visits required of the School Board.
- 3.6. Nationally advertise, prepare and distribute materials, and, from an array of talent sources, actively recruit a diverse pool of highly-effective individuals to become applicants.
- 3.7. Conduct thorough and appropriate background checks, coordinate and facilitate the interview process, arrange all site visits, and include the results as part of the information provided to the School Board for those recommended for consideration.
- 3.8. Assist in arranging visits to final applicants' current work sites by School Board members if determined to be advisable.
- 3.9. Assist in the evaluation of the applicants in accordance with the criteria established in conjunction with the School Board.
- 3.10. Maintain strict confidentiality throughout the search process as directed by the School Board, including but not limited to communications, verbal or in writing, with any party outside the School Board. This communication channel will be established by the School Board Chair, APS staff point of contact, and the Contractor.
- 3.11. Prepare reports and recommendations to the School Board, as requested.
- 3.12. Provide any other assistance to the School Board as necessary to facilitate its final selection of the Superintendent for a term to begin on or before July 1, 2020.
- 3.13. Reinitiate additional searches, at no fee to APS, if the successful applicant leaves, via resignation or termination with or without cause, the employment of APS within one (1) year of commencing the position. There will be one (1) additional search repeated at no fee to APS.

4. Technical Proposal Instructions:

The Offeror must submit the following information. This information will be considered the minimum content of the Proposal. Proposal contents shall be arranged in the same order and identified with headings as presented herein.

4.1. Organization Background:

- a) Name of Offeror submitting Proposal; main office address; number of years the Offeror has been in continuous operation providing similar Work. The Offeror must provide a profile of its organization and any subcontractors who will be providing services through a subcontracting arrangement with the Offeror. At a minimum, the Offeror will provide the following information on a single page:
 - Number of years in business
 - Number of years involved in the Work described above
 - Total number of employees
 - Number of clients to which you are providing similar Work
 - Number of clients of similar size as APS
 - Number of signed contracts in progress for providing similar Work
 - Diversity of applicants placed in the past five years

- b) Offeror’s technical narrative should address separately each of the objectives and tasks described in Section 2—Contract Objectives and Section 3—Tasks to be Performed. Responses should be keyed to appropriate paragraph numbers. **Responses to 4.1. b) – 4.2 respectively are to be provided under Tabs 2 and 3)**
- c) Understanding of the Work and technical approach:
 - 1. Statement and discussion of the Tasks to be Performed as they are analyzed by the Offeror.
 - 2. Offeror's proposed definitive Scope of Work with explanation of technical approaches and a detailed outline of the proposed program for executing the Tasks to be Performed and achieving the Contract Objectives.
 - 3. Offeror should demonstrate an awareness of any challenges in the completion of this undertaking, and a plan for surmounting them, including staying within budget and the schedule/timeline. Special attention should be given to methodological challenges that will be encountered in performing the Work.

4.2. Preliminary Work Plan:

The Offeror must present a description of the phases or segments into which the Work can logically be divided and performed. The technical narrative should address separately each of the Tasks to be Performed and responses should be keyed to appropriate paragraph numbers. This section should also contain a discussion of any changes proposed by the Offeror that substantially differ from the Work described in the Scope of Work.

This section should include detailed descriptions of activities that are to occur, significant milestones, and anticipated deliverables.

4.3. Treatment of the Issues:

In this Section the Offeror may also comment, if deemed appropriate, on any aspect of the RFP, including suggestions of possible alternative approaches to the coverage, definition, development, and organization of the issues presented in the “Tasks to be Performed” section, and may propose additional or alternative approaches, services, and information.

4.4. Statement of Qualifications:

The Statement of Qualifications must include a description of organizational and employee experience, and resumés of the Offeror’s proposed employees, both full-time and part-time, and of the proposed consultant’s and sub-contractor’s employees.

- a) Organizational Experience: Offerors must describe their qualifications and experience to perform the Work described in this RFP. The successful Offeror must have experience in conducting a successful search (selection of an applicant and acceptance of a position, facilitated by the Offeror’s firm, where the applicant remained in employment for a period of not less than twelve months following the date employment commenced) for a Superintendent of Schools for a K-12 school district with at least 20,000 students in the past five (5) years. Offerors without such experience will not be considered.
- b) References: Special notation must be made of Superintendent searches performed within the past five (5) years and must include organization names, addresses, names of contact persons, email addresses, and telephone numbers for at least three (3) references.

- c) Personnel: Full-time and part-time employees, proposed consultants and subcontractors who may be assigned direct work on this project should be identified. Information is required which will show the composition of the task or work group, its specific qualifications, and recent relevant experience. The character and extent of participation by any subcontractor or consultant activity must be indicated and the anticipated sources will be identified.

Resumés of employees and proposed consultants are required indicating education, background, and recent relevant experience with the subject matter of the project. Current telephone numbers and email addresses must be included.

- d) An employee plan is required which describes the Offeror's proposed employee distribution to accomplish this work. The employee plan should indicate a chart that partitions the time commitment of each professional employee member across the proposed tasks and a timeline for the project. It is mandatory that this section identify the key personnel who are assigned to the Work, their relationship to the Offeror, and amount of time to be devoted to the Work. This includes consultants and/or subcontractors as well as regular employees of the Offeror, if relevant.

Offerors shall describe the ability of their employees to work with and be responsive to APS Staff Point of Contact. The Offeror's employees must be available for consultation by phone, email, or Skype with the School Board or APS staff on an as-needed basis between 8:00 AM and 5:00 PM, Eastern Time, Monday through Friday.

- e) Financial Statements: The Offeror shall provide an audited income statement and balance sheet from the most recent annual reporting period.

4.5. Personnel:

The personnel named in the technical proposal will remain assigned to the Work throughout the period of any resulting Contract. No diversion or replacement may be made without submission of a resumé of the proposed replacement with final written approval being granted in advance by the Procurement Director/Procurement Agent.

III. Instructions to Offerors

A. Information Requests

All questions relating to this RFP shall be submitted in writing to Kimberly Young, Procurement Office at kimberly.young@apsva.us and Leslie Peterson, APS Project Manager, via email: leslie.peterson@apsva.us. For a question to be considered, the subject line of the email must state the following: "RFP #27FY20 Questions". Questions should be succinct and must include the submitter's name, title, company name, company address, and telephone number. Prior to the award of a Contract resulting from this solicitation, Offerors and prospective Offerors are prohibited from contacting APS staff other than Kimberly Young.

B. Tentative Schedule for RFP #27FY20

RFP Issuance	September 23, 2019
Pre-Proposal Conference	October 1, 2019
Question Deadline	October 2, 2019, Prior to 3:00 PM, EST
Information Item/Addendum 1 Issuance	October 4, 2019
Proposal Due Date	October 11, 2019, Prior to 2:00 PM, EST
Shortlist Interviews	TBD
Negotiations Stage	TBD
Contract Award	TBD
Contract Starts	Upon execution of the Procurement Agent

Questions may not be considered if they are received after 3:00 PM on October 2, 2019, Eastern Standard Time. Any questions related to the answers provided in Addendum #1 may be addressed in an additional addendum.

If any questions or responses require revisions to this RFP as it was originally published, such revisions will be by formal amendment only. Offerors are cautioned that any written, electronic, or oral representations made by any APS representative or other person that appear to change materially any portion of the RFP shall not be relied upon unless subsequently ratified by a written amendment to this RFP issued by the Office of the Procurement Agent.

C. Additional Information

1. Debarment Status

The Offeror shall indicate, in the space provided on Title Page 3, whether or not it, or any of its principals, is/are currently debarred from submitting bids or proposals to APS, or any other state or political subdivision, and whether or not it is an agent of any person or entity that is currently debarred from submitting proposals to APS, Virginia, or any other state or political subdivision. An affirmative response may be considered grounds for rejection of the proposal. This statement shall also apply to any subcontractor(s) the Offeror intends to use in the performance of a resulting contract.

2. Conflict of Interest Statement

The Offeror must provide a statement regarding potential conflict of interest. The certification shall be in the form provided in this solicitation, signed by an authorized agent and principal of the Offeror and notarized. The completed Conflict of Interest Statement (Appendix B) shall be provided in Tab #1 of the Proposal.

3. Expenses Incurred in Preparing Proposal

APS accepts no responsibility for any expense incurred by any Offeror in the preparation and presentation of a Proposal. All expenses related to an offer are the sole responsibility of the Offeror.

4. Incomplete Documents

Each Offeror is responsible for having determined the accuracy and/or completeness of the RFP upon which it relied in making its Proposal, and has an affirmative obligation to notify the Procurement Agent immediately upon discovery of an apparent or suspected inaccuracy, error in, or omission of any pages, drawings, sections, or addenda whose omission from the documents was apparent from a reference or page numbering or other indication in the RFP.

If a potential Offeror downloaded an electronic version of the RFP, that potential Offeror is responsible for determining the accuracy and/or completeness of the electronic documents.

If the successful Offeror proceeds with any activity that may be affected by an inaccuracy, error in, or omission in the solicitation documents of which it is aware but has not notified the Procurement Agent, the Offeror hereby agrees to perform any work described in such missing or incomplete documents at the Offeror's sole expense and at no additional cost to APS.

Failure to acknowledge all Addenda issued during the solicitation process on the Request for Proposal Title Page 2, or by including a signed copy of all Addenda with the Proposal, is considered an incomplete Proposal document.

5. Offeror Investigations

Before submitting a Proposal, each Offeror shall make all investigations and examinations necessary to ascertain all conditions and requirements affecting the full performance of the contract and to verify any representations made by APS that the Offeror will rely upon. No pleas of ignorance or mistake, inaccuracy, misrepresentation of such conditions and requirements resulting from failure to make such investigations and examinations will relieve the successful Offeror from its obligation to comply in every detail with all provisions and requirements of the contract documents, or will be accepted as a basis for any claim whatsoever for any monetary compensation on the part of the successful Offeror.

6. Competitive Negotiation for Non-Professional Services

This RFP is let under the procedure for "Competitive Negotiation for Goods and Services Other Than Professional Services" as defined in the Procurement Resolution. Under this procedure, the content of the Proposals, and the identity of the Offerors are not public record until an award determination has been made. Because of this restriction, the opening of Proposals is not public.

7. Arlington County Business Licenses

The successful Offeror must comply with the provisions of Chapter 11 ("Licenses") of the Arlington County Code, if applicable. For information on the provisions of that Chapter and its applicability to this solicitation, prospective offers should contact the Arlington County Business License Division, Office of the Commissioner of the Revenue, 2100 Clarendon Blvd., Suite 200, Arlington, Virginia, 22201, telephone number (703) 228-3060.

8. Authority to Transact Business

Any Offeror organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, or as otherwise required by law. The proper and full legal name of the firm or entity and the identification number issued to the Offeror by the Virginia State Corporation Commission must be written in the space provided on the Proposal Form. Any Offeror that is not required to be authorized to transact business in the Commonwealth shall include in its Proposal a statement describing why the Offeror is not required to be so authorized. APS may require a firm to provide documentation prior to award which: (1) clearly identifies the complete name and legal form of the firm or entity (i.e. corporation, limited partnership, etc.), and (2) establishes that the firm or entity is authorized by the State Corporation Commission to transact business in the Commonwealth of Virginia. Failure of a prospective and/or successful Offeror to provide such documentation shall be grounds for rejection of the Proposal or cancellation of the award. For further information prospective Offerors should refer to the Commonwealth of Virginia State Corporation Commission website at: www.scc.virginia.gov.

9. Insurance Requirements

Each Offeror must review the insurance requirements section carefully with its insurance agent or broker prior to submitting a Proposal to ensure they can provide the specific coverage requirements and limits applicable to this solicitation. If the Offeror is not able to meet the insurance requirements of the solicitation, alternate insurance coverage satisfactory to APS may be proposed by the Offeror and considered by the APS. Written requests for consideration of alternate coverage must be received by the Procurement Agent at least ten (10) calendar days prior to the date set for receipt of Proposals. If APS denies the request for alternate coverage, the coverage required by the Insurance Requirements or Checklist section must be provided. If APS permits alternate coverage, an amendment to the Insurance Checklist will be issued prior to the time and date set for receipt of Proposals. The Insurance Checklist can be found at Appendix D.

10. Interest in More Than One Proposal, and Collusion

If more than one Proposal is received in response to this RFP from an individual, firm, partnership, corporation, affiliate, or association under the same or different names, all Proposals will be rejected. Reasonable grounds for believing that an Offeror is interested in more than one (1) Proposal for a RFP both as an Offeror and as a subcontractor for another Offeror, will result in rejection of all Proposals in which the Offeror is interested. However, a firm acting only as a subcontractor may be included as a subcontractor for two (2) or more Offerors submitting a Proposal for the Work. Any or all Proposals may be rejected if reasonable grounds exist for believing that collusion exists among any Offerors. Offerors rejected under the above provisions shall be disqualified if they respond to a new RFP for the same work.

11. Proposal Withdrawal

No Proposal may be withdrawn after it is filed unless the Offeror makes a request in writing to the Procurement Agent prior to the time and date set for the receipt of Proposals or unless APS fails to award or issue a notice of intent to award a Contract within ninety (90) calendar days after the date and time set for receipt of Proposals with the successful Offeror.

12. Parking

Where parking is not provided at an APS location, the Contractor is responsible for the payment of any parking charges or fines resulting from parking at any worksite(s).

13. Contract Award is in the Best Interest

APS reserves the right to accept or reject Proposals, to cancel this solicitation, to waive any informalities or irregularities therein, (an informality is a minor defect or variation of a Bid or Proposal from the exact requirements of the ITB or RFP, which does not affect the prices, quantity or delivery schedule for the goods, services or construction being procured), and to contract as the best interests of APS may require in order to obtain the firms that best meet the needs of APS, as expressed in this RFP. Selection of a Proposal does not mean that all aspects of the Proposal are acceptable to APS. APS reserves the right to negotiate the modification of terms and conditions with the Offeror offering the best value to APS in conjunction with the evaluation criteria contained herein prior to the execution of a Contract, to ensure a satisfactory Contract.

14. Notice of Intent to Award

APS will post a written Notice of Intent to Award on a public bulletin board in Syphax, 2110 Washington Blvd., Arlington, Virginia, 22204, stating the date the award will be made, and identifying the name(s) of the awardee(s).

15. Replacement or Augmentation of Key Personnel and Subcontractors

The key personnel and subcontractors submitted by the Offeror in its Proposal in order to qualify, are considered essential to the Offeror's qualifications and may not be replaced, substituted or augmented after qualification of the Offeror's Proposal without prior written approval of APS. A request to replace or substitute any key personnel or subcontractor must be submitted to and approved by APS prior to substitution or augmentation.

16. Contractor Certification Regarding Criminal Convictions

All Contracts with APS, where the Contractor or its employees, or its Subcontractors or their employees, will have direct contact with students on school property during regular school hours, or during school-sponsored activities, shall require the Contractor to certify that neither it nor any of its employees nor any of its Subcontractors' nor any of its Subcontractors' employees, who will have direct contact with students, have been:

- (1) convicted of a felony or of a sexually violent offense as defined in Va. Code Ann. § 9.1-902 as mandated by Va. Code Ann. § 18.2-370.5,
- (2) convicted of an offense occurring on or after July 1, 2006, where the offender was more than three years older than the victim involving:
 - (a) the rape of a child under age 13 pursuant to Va. Code Ann. § 18.2-61.A(iii),
 - (b) forcible sodomy of a child less than 13 years of age pursuant to Va. Code Ann. § 18.2-67.1.A.1,

- (c) object sexual penetration of a child under 13 years of age pursuant to Va. Code Ann. § 18.2-67.2.A.1, or
- (d) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof.

This requirement is applicable without exception for a person convicted of a felony or of a sexually violent offense as defined in Va. Code Ann. § 9.1-902, but for all other offenses set forth above this requirement does not apply unless the qualifying offense was done in the commission of, or as a part of the same course of conduct of, or as part of a common scheme or plan as a violation of:

- (a) abduction or kidnapping in violation of Va. Code Ann. § 18.2-47.A,
- (b) abduction with intent to extort money or for immoral purpose in violation of Va. Code Ann. § 18.2-48,
- (c) burglary in violation of Va. Code Ann. § 18.2-89,
- (d) entering a dwelling house with intent to commit murder, rape, robbery or arson in violation of Va. Code Ann. § 18.2-90,
- (e) aggravated malicious wounding in violation of Va. Code Ann. § 18.2-51.2, or
- (f) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof.

The Contractor certification covers its employees, its Subcontractors and the employees thereof. (Submit completed Appendix A).

The Contractor certification shall also cover its employees, its Subcontractors and employees thereof, assigned to the Work after Contract award. The Contractor, upon demand from APS, shall provide all information which allowed for the Contractor's certification

17. Cooperative Contract for Use by Other Public Bodies:

This procurement is being conducted by APS not only for its benefit but for the benefit of any other public body eligible to participate in use of the services herein solicited by means of cooperative procurement as provided by, and to the extent permitted by the Virginia Public Procurement Act, at Va. Code § 2.2-4304.

18. Contractor Prohibited in Assisting Person for New Job if Engaged in Misconduct with Minor

As a condition of awarding a Contract, or Contract Renewal, the Contractor acknowledges it is prohibited from assisting the elected and appointed officials of APS, its officers, current and former employees, agents, departments, agencies, boards, and commissions employee, and contractors, including all levels of subcontractors, in obtaining a new job if the Contractor knows or has probable cause to believe that the elected and appointed officials of APS, its officers, current and former employees, agents, departments, agencies, boards, and commissions employee, and contractors, including all levels of subcontractors, engaged in sexual misconduct regarding a minor or student in violation of law.

19. Request for Comments:

Following the award of any Contract or Contracts, or the cancellation of this RFP, all Offerors or potential Offerors are invited to provide to APS written comments regarding the manner in which this RFP was conducted and any suggested modifications to that process which might make future RFPs by APS more efficient, more productive, and more attractive to potential Offerors.

IV. Proposal Requirements

A. General Requirements

One (1) original hard copy Proposal in a binder, and one (1) electronic copy of the original hard copy Proposal, both with a completed Pricing Schedule & Milestone Payment Plan, so marked; and five (5) individual hard copies, in binders, of the original Proposal, **without** the completed Pricing Schedule & Milestone Payment Plan, for a total of seven (7) individual copies of the Proposal. The Offeror's Proposal shall address the below areas, not exceeding the stated page limitations. The Proposal shall be limited to a page size of 8 ½" x 11", single spaced with at least one-inch margins, and type size shall not be less than ten (10) point font for each response item. Note: for page-counting purposes, a page equals a one-sided sheet. If a page limit is not noted within the section below there is no page limit.

Proposals shall be submitted in sealed package, with the RFP number, title, Proposal Due Date on the outside of the sealed package. Offerors are responsible for having their Proposal received by Procurement Office staff prior to the Proposal Due Date. APS will not assume responsibility for reproduction where an insufficient number of copies have been supplied. APS will notify the Offerors of the deficiency and request that the appropriate number of copies are delivered by the end of the second (2nd) business day following the request. Failure to comply with this or other requirements of this RFP may be grounds for APS to reject such Proposals.

Emailed or facsimile submission of Proposals are not acceptable and any such Proposals will not be considered. Nothing herein is intended to exclude any responsible Offeror or in any way restrain or restrict competition. All responsible Offerors are encouraged to submit Proposals. Only the original hard copy of the Proposal and the electronic copy of the original hard copy of the Proposal should contain pricing information. The five (5) individual hard copies of the Proposal should not contain or make any reference to pricing information.

Proposals shall be submitted with the required information in the order listed below. Additional instructions are in the Instructions to Offerors (Section III) of this solicitation.

Modification of or additions to any portion or terms of the RFP by the Offeror may be cause for rejection of the Proposal; however, APS reserves the right to decide, on a case by case basis, in its sole discretion, whether or not to reject such a Proposal as nonresponsive.

Mandatory provisions of this RFP are indicated by the inclusion of the words "shall" or "must" to identify the Offeror's obligations. Failure to comply with these requirements or with any other requirements stated as mandatory either in this RFP or in the Instructions to Offerors shall result in rejection of the Offeror's Proposal as not responsive, except to the extent the failure or omission either is not a mandatory statutory requirement and does not affect price, quantity, quality or time.

APS proposed Contract Documents and this RFP contain terms and conditions APS favors and intends to use for the resultant Contract. If the Offeror wishes APS to consider any changes to these documents, such changes must be submitted in writing in the Proposal, and such exceptions shall be considered during negotiation. Any Offeror receiving a Contract award shall be required to execute a Contract in substantial compliance with APS standard Agreement and will be required to furnish all other required Contract Documents including tax identification or social security number within fifteen (15) days after receipt of notification that the Contract is ready for signature; otherwise, APS may award the Contract to another Offeror.

Proposals having any erasures or corrections must be initialed by the Offeror in blue ink.

An Offeror may request in writing to withdraw its Proposal at any time. In the event an Offeror discovers an error in their Proposal and desires to make a correction after the Proposal Due Date, the Offeror shall submit in writing the requested correction, along with a written explanation and justification for the change, no later than one (1) business day following the Proposal Due Date. If APS is satisfied that the identified error was the result of a clerical or mathematical error, APS may permit the correction. APS shall issue its written

decision to the requesting Offeror within three (3) business days of receipt of the correction request. If the request is approved, the Proposal shall be deemed modified by incorporation of the correction requested. If the requested correction is denied, the Proposal shall be considered as originally submitted. APS may request additional information or clarifications from an Offeror at any time after the review process has begun.

B. Unnecessarily Elaborate Responses

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this RFP are not desired and may be construed as an indication of the Offeror's lack of cost consciousness. Elaborate or expensive art work, paper, bindings, and visual and other presentations are neither necessary at this time nor desired by APS.

C. Use of Information and Documents

APS and its officials, employees and agents will copy and use the response of the Offeror and documents included with the response, for various purposes related to analysis, evaluation, and decision to award a contract. Proposals shall be the property of APS. Following award APS may be required to allow inspection and copying of documents, and may also use the Offeror's documents in connection with any resulting contracts with that Offeror. The Offeror is responsible for obtaining any necessary authorizations for all such use of the documents and information, and for assuring that such copying and use is in conformance with laws related to trademarks and copyrights. Any documents or information for which the Offeror has not obtained such authorization, or for which such copying and use is not authorized, shall not be submitted. The undersigned Offeror agrees to indemnify, defend and hold APS, its officials, employees and agents harmless from any claims of any nature, including claims arising from trademark or copyright laws, related to use of information and documents submitted with the Offeror's response.

D. Submission of Proprietary Information

Trade secrets or proprietary information submitted by an Offeror in connection with this procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Offeror must invoke these protections upon submission of the data or the materials, and must identify the data or other materials to be protected and state the reason why protection is necessary. [Virginia Code Section 2.2-4342(F)]. **Offerors shall submit, under Tab 6 of the Proposal, any data or materials it considers to be a trade secret or proprietary information, or falls within the exceptions to the VFOIA and shall state the reason why protection is necessary. Offerors may not declare the entire Proposal proprietary nor may they declare proposed pricing to be proprietary.** References may be made within the body of the Proposal to proprietary or trade secret information; however, all information contained within the body of the Proposal not in the separate section labeled proprietary shall be public information. It is the Offeror's sole responsibility to defend such exemptions if challenged in a court of competent jurisdiction.

E. Format and Content

The Proposal should address the items included in the Scope of Services and in the Criteria for Proposal Evaluation. The content of the Proposal copies submitted on CD-ROM or memory stick should mirror the content of the original hard copy and should be in pdf format. Failure to do so will result in a lowered evaluation. Incomplete Proposals may be determined nonresponsive.

Offerors should organize their Proposals using the following tabular format:

Tab 1: Administrative

- A fully executed Request for Proposals Title Pages 1 - 5 of this RFP should be included as the first five (5) pages of your Proposal. The name stated on the Title Sheet on, page 5 must be the full legal names of the Offeror and the address must be that of the office which will have the responsibility for the services provided. The following forms should be completed and also provided in this section:
- The Contactor Certification Regarding Criminal Convictions at Appendix A
- The Conflict of Interest Statement at Appendix B
- The Non-Disclosure and Security Agreement at Appendix C
- The Insurance Checklist at Appendix D

Tab 2: Contract Objectives:

Offerors should address separately each of the Contract Objectives described in Section 2 of the Scope of Work. Responses should be keyed to appropriate paragraph numbers.

Offerors should provide an explanation of technical approaches and a detailed outline of the proposed program for achieving the Contract Objectives.

- 2.1. Establish the characteristics and qualities desired in the Superintendent through input from the School Board, APS staff, the community, and other relevant sources.
- 2.2. Maximize the number, quality, and diversity of applicants.
- 2.3. Assist with the evaluation of applicants based on the criteria established in conjunction with the School Board.
- 2.4. Assist in the selection process.

Tab 3: Tasks to be Performed:

Offerors must provide a narrative description of how it will address the Tasks to be Performed in Section 3 of the Scope of Work.

Understanding of the Work and technical approach:

Statement and discussion of the Tasks to be Performed as they are analyzed by the Offeror. Offerors are required to provide an estimated start date and completion date for each task. The anticipated Contract Award date is not known. To help evaluate Proposals, Offerors are to use a **hypothetical** Contract Award date of January 6, 2020. **This date has been selected solely for the purposes of making it easier to conduct a side-by-side comparison of the Proposals received.**

Offeror's proposed definitive Scope of Work with explanation of technical approaches and a detailed outline of the proposed program for executing the Tasks to be Performed. Responses should be keyed to appropriate paragraph numbers.

Offeror should demonstrate an awareness of any challenges in the completion of this undertaking, and a plan for surmounting them, including staying within budget and the schedule/timeline. Special attention should be given to methodological challenges that will be encountered in performing the Work.

At a minimum, the successful Offeror shall perform the following tasks:

- 3.1 Identify how interested community members, to include all APS stakeholders, staff, parents, students, parent organizations, key elected officials and business leaders, can be involved in developing the criteria for selecting the new Superintendent including desired skills, characteristics and qualifications. The successful Offeror will be required to meet with each School Board member and others who may be identified, to assess School Board priorities, goals and objectives to assist the School Board in determining and outlining criteria, desired skills, characteristics, and qualifications necessary for selecting the Superintendent.
- 3.2 The successful Offeror, in consultation with the School Board, will develop recruitment information about Arlington County, APS and the position itself for prospective applicants and provide a suggested format for the interview process and develop a list of potential interview questions. This information will become the property of APS at the expiration of any resulting Contract.

- 3.3 Work with School Board and APS staff to provide a detailed work plan and schedule/timeline that meets our hiring timeline objective for the search that includes community involvement while balancing the need for confidentiality of applicants. This plan should include the anticipated involvement of the School Board as a whole.
- 3.4 Identify and propose all steps/aspects of the recruitment process.
- 3.5 Identify support needed from School Board, APS departments and others to include the Department of Human Resources. This shall include an estimate of the number of meetings, individually and as a group, and the timing of site visits required of the School Board.
- 3.6 Nationally advertise, prepare and distribute materials, and, from an array of talent sources, actively recruit a diverse pool of highly-effective individuals to become applicants.
- 3.7 Conduct appropriate background checks, coordinate and facilitate the interview process, arrange all site visits, and include the results as part of the information provided to the School Board for those recommended for consideration.
- 3.8 Assist in arranging visits to final applicants' current work sites by School Board members if determined to be advisable.
- 3.9 Assist in the evaluation of the applicants in accordance with the criteria established in conjunction with the School Board.
- 3.10 Maintain strict confidentiality throughout the search process as directed by the School Board, including but not limited to communications, verbal or in writing, with any party outside the School Board. This communication channel will be established by the School Board Chair, APS staff point of contact, and the Contractor.
- 3.11 Prepare reports and recommendations to the School Board, as requested.
- 3.12 Provide any other assistance to the School Board as necessary to facilitate its final selection of the Superintendent for a term to begin on or before July 1, 2020.
- 3.13 Reinitiate additional searches, at no fee to APS, if the successful applicant leaves, via resignation or termination with or without cause, the employment of APS within one (1) year of taking up the position. There will be one (1) additional search repeated at no fee to APS.

Preliminary Work Plan:

The Offeror must present a description of the phases or segments into which the Work can logically be divided and performed. This section should also contain a discussion of any changes proposed by the Offeror that substantially differ from the Work described in the Scope of Work.

This section should include detailed descriptions of activities that are to occur, significant milestones, and anticipated deliverables.

Tab 4 Technical Proposal:

Offerors must submit the following information. This information will be considered the minimum content of the Proposal. Proposal contents shall be arranged in the same order and identified with headings as presented herein.

4.1. Organizational Background:

- a) Name of Offeror submitting Proposal; main office address; number of years the company has been in continuous operation providing similar services. The Offeror must provide a profile of its organization and any subcontractors who will be providing services through a subcontracting arrangement with the Offeror. At a minimum, the Offeror will provide the following information on a single page:

- Number of years in business
- Number of years involved in the services as described in Scope of Work
- Total number of employees
- Number of clients to which you are providing similar services
- Number of clients of similar size as APS
- Number of signed contracts in progress for providing similar services
- Diversity of candidates placed in the past five years

4.2. Preliminary Work Plan: Refer to Tab 3 Tasks to be Performed.

4.3. Treatment of the Issues:

In this Section the Offeror may also comment if deemed appropriate, on any aspect of the RFP, including suggestions of possible alternative approaches to the coverage, definition, development, and organization of the issues presented in the “Tasks to be Performed” section, and may propose additional or alternative approaches, services, and information.

4.4. Statement of Qualifications:

The statement of Qualifications must include a description of organizational and employee experience, and resumés of proposed employees, both full time and part-time, and of the proposed consultant’s and sub-contractors’ employees.

- a. Organizational Experience: Offerors must describe their qualifications and experience to perform the Work described in this RFP. The successful Offeror must have experience in conducting a successful search (selection of an applicant and acceptance of a position, facilitated by the Offeror’s firm, where the applicant remained in employment for a period of not less than twelve months following the date employment commenced) for a Superintendent of Schools for a K-12 school district with at least 20,000 students in the past five (5) years. Offerors without such experience will not be considered.
- b. References: Special notation must be made of Superintendent searches performed within the past five (5) years and must include organization names, addresses, names of contact persons, email addresses, and telephone numbers for at least three (3) references.
- c. Personnel: Full-time and part-time employees, proposed consultants and subcontractors who may be assigned direct work on this project should be identified. Information is required which will show the composition of the task or work group, its specific qualifications, and recent relevant experience. The character and extent of participation by any subcontractor or consultant activity must be indicated and the anticipated sources will be identified.

Resumés of employees and proposed consultants are required indicating education, background, and recent relevant experience with the subject matter of the project. Current telephone numbers must be included.

- d. An employee plan is required which describes the Offeror’s proposed employee distribution to accomplish this work. The employee plan should indicate a chart that partitions the time

commitment of each professional employee member across the proposed tasks and a timeline for the project. It is mandatory that this section identify the key personnel who are assigned to the Work, their relationship to the Offeror, and amount of time to be devoted to the Work. This includes consultants and/or subcontractors as well as regular employees of the Offeror, if relevant.

Offerors shall describe the ability of their employees to work with and be responsive to APS Staff Point of Contact. The Offeror's employees must be available for consultation by phone, email, or Skype with the School Board or APS staff Point of Contact on an as-needed basis between 8:00 AM and 5:00 PM, Eastern Time, Monday through Friday.

- e. Financial Statements: Refer to Tab 6: Trade Secrets or Proprietary Information.

4.5. Personnel:

The personnel named in the technical proposal will remain assigned to the Work throughout the period of any resulting Contract. No diversion or replacement may be made without submission of a resumé of the proposed replacement with final written approval being granted in advance by the Procurement Director/Procurement Agent.

Tab 5: Pricing Schedule & Milestone Payment Plan

- Fee shall include all services required under the Scope of Work
- The Offeror should complete the Milestone Payment Plan for each Task under the Scope of Work.

Tab 6: Trade Secrets or Proprietary Information

- Offerors are to provide information on the data or other materials sought to be protected and state the reasons why protection is necessary or falls within the exceptions of the Virginia Freedom of Information Act. It is the Offeror's sole responsibility to defend such exemptions if challenged in a court of competent jurisdiction.
- The Offeror shall provide an audited income statement and balance from the most recent annual reporting period.

Note: If, in the sole opinion of APS, the Offeror's last audited income statement and balance sheet do not demonstrate the Offeror's ability to generate sufficient income to meet its operating expenses and financial obligations, APS will reject the Offeror's Proposal and not consider it for Contract award.

Tab 7: Exceptions Taken to Any Provision of the Contract Documents

- Offerors are to provide any exceptions to any provision of the Contract Documents in accordance with Section V.A.

V. Proposal Evaluation Process, Method of Contract Award and Proposal Evaluation Criteria

A. Proposal Evaluation Process and Method of Contract Award

A Selection Advisory Committee (SAC) will review and evaluate all responsive Proposals received by the Procurement Office. The SAC will rely only on the information contained in the Proposals submitted in selecting Offerors deemed to be fully qualified and best suited among those submitting Proposals. Therefore, Offerors must emphasize specific information considered pertinent to the Work and submit all information requested. The SAC may seek clarification of any aspect of the Proposal from an Offeror during the Initial Evaluation Stage.

The Offeror shall state any exceptions to any provision of the Contract Documents in writing in its Proposal as a part of Tab 7, identifying with specificity the provision to which exception is taken, the exception, the rationale for the exception, and the proposed alternative provision. The SAC may, but is not required to, negotiate as it deems necessary any exceptions so submitted, but no negotiations shall occur prior to the Negotiations Stage as defined below. An Offeror shall be deemed to have waived all objections to, and accepted, all provisions of the Contract Documents to which no exception is included in its submitted Proposal and in such event no exceptions shall be considered during the Negotiation Phase. Provided, however, if APS makes a material change to the RFP after the Proposal Due Date which if it had been made prior to the Proposal Due Date would have resulted in the Offeror including an exception in its submitted Proposal, the Offeror may within five (5) days following issuance by APS of the material change submit in writing any exception to the material change. Any exception to the material change not submitted to APS in writing within such five (5) day period shall be deemed to have been waived and shall not be considered further during the Negotiation Stage or otherwise. Any industry standard documents the Offeror requests to have included in any resulting Contract shall be included in the Offeror's submitted Proposal. Any documents the Offeror asserts is an industry standard documents not provided by the Offeror in its submitted Proposal shall not be considered during the Negotiation Stage or otherwise and shall not be a part of any Contract awarded.

1. Upon completion of the Shortlist Interviews, but before making any decisions regarding which Offerors to consider further, the SAC may seek from any Offeror which participated in the Shortlist Interviews clarification of any aspect of the Proposal or of issues which arose during the Shortlist Interview. Selection shall be made of two (2) or more Offerors deemed to be fully qualified and best suited among those submitting Proposals, on the basis of the evaluation criteria stated in the RFP.

2. Negotiations shall then be conducted with each of the Offerors so selected. Price shall be considered, but need not be the sole determining factor. During the Negotiation Stage, the Procurement Office shall engage in discussions with any Offeror to gather information to assist the SAC in making its final determination regarding award of the Contract. Such individual information and discussions shall be shared with the entirety of the SAC.

3. After negotiations have been conducted with each Offeror so selected, APS shall select the Offeror which, in its opinion, has made the best Proposal and provides the best value, based on the evaluation criteria advertised in the RFP, and shall award the Contract to that Offeror. When the terms and conditions of multiple awards are so provided in the RFP, awards may be made to more than one Offeror. Should APS determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a Contract may be negotiated and awarded to that Offeror.

4. If at any time it is discovered that an Offeror's Proposal does not satisfy any mandatory requirement of this RFP or that the Offeror has misstated its minimum qualifications or experience, even if the Proposal initially appeared to satisfy such mandatory requirement or requirements or qualifications or

experience, the Proposal may be deemed to be nonresponsive and if deemed nonresponsive shall not be considered further.

B. Proposal Evaluation Criteria

The evaluation process involves three (3) stages. The first stage is the Initial Evaluation of all responsive Proposals submitted by responsible Offerors (“Initial Evaluation Stage”). The second stage is the evaluation of those Offerors selected for interviews (“Shortlist Interviews Stage”). The third stage is negotiations with those Offerors selected for negotiations (“Negotiations Stage”). The Evaluation Criteria set forth below will be used for purposes of scoring Proposals at each stage of the evaluation process. Scores from the Initial Evaluations will determine the Offerors to be selected for Shortlist Interviews, if Shortlist Interviews are conducted. When Shortlist Interviews are conducted, Offerors interviewed will be rescored based on the Shortlist Interviews Evaluation Criteria identified herein. Only scores resulting from the Shortlist Interviews Evaluation Criteria will determine the ranking of Proposals whereby APS will enter into negotiations as described in Section A above. Only scores resulting from the Negotiations Stage will determine the ranking of Offerors for purposes of Contract award. Although there may be overlap between the Initial Evaluation Criteria, the Shortlist Interview Evaluation Criteria, and the Negotiations Stage Evaluation Criteria, each stage of the evaluation process is intended to be a separate score and only that score will be used to determine the consequence of that evaluation stage. The Shortlist Interviews Evaluations and the Negotiations Stage Evaluations are, however, the result of cumulative impressions from all preceding stages.

Initial Evaluations Criteria:

Tab	<u>Initial Evaluation Criteria</u>	<u>Weight</u>
4	Qualification of Offeror, with appropriate and experience personnel (Refer to Scope of Work Section 4.4)	20%
2	Depth and quality of response to the Contract Objectives (Refer to Scope of Work Section 2)	15%
3	Depth and quality of response to the Tasks to be Performed (Refer to Scope of Work Section 3)	20%
4	Employee Plan (Refer to Scope of Work Section 4.4.d)	10%
4	Technical Proposal (Refer to Scope of Work Section 4)	15%
5	Fees for services	20%
	Total	100%

If Shortlist Interviews are conducted, Offerors selected will be asked to provide information that serves to clarify the Offeror’s Proposal. The Shortlist Interviews may include a presentation, a product/service demonstration, and a question-and-answer session. Offerors selected for Shortlist Interviews will be evaluated in accordance with the evaluation criteria listed below:

Shortlist Interviews Evaluation Criteria:

	<u>Shortlist Interview Evaluation Criteria</u>	<u>Weight</u>
1	Overall experience of Offeror and its personnel	30%
2	Offeror's methodology to perform the Scope of Services which demonstrates a clear understanding of the requirement	30%
3	Cohesion of the Offeror's team during the interview	20%
4	Fees for services	20%
	Total	100%

References will only be checked for Offerors selected for Shortlist Interviews. Information supplied by references on capabilities and past performance of an Offeror will be used in the scoring the Shortlist Interviews Evaluation Criteria

Negotiations Stage Evaluation Criteria:

The Negotiations Stage is for the purpose of further clarification of the selected Offerors' understanding of the performance requirements, its intended approaches to performance, and related information, and for negotiating with each selected Offeror the terms of any Contract award. The following Negotiation Stage Evaluation Criteria will be used in reviewing and evaluating the Proposals and the results of the negotiations for ranking Offerors for purposes of Contract award. Only scores resulting from the Negotiation Stage Evaluation Criteria will determine the ranking of Proposals whereby APS will determine to which Offeror to award the Contract.

	<u>Negotiations Evaluation Criteria</u>	<u>Weight</u>
1	Overall experience of Offeror and its personnel	30%
2	Offeror's methodology to perform the Scope of Services which demonstrate a clear understanding of the requirement	40%
3	Fees for services.	30%
	Total	100%

VI. Contract Terms and Conditions

The Contract with the successful Offeror (“Contractor”) will contain the following Contract terms and conditions, with incomplete information to be added based upon the final negotiations between APS and the successful Offeror. Offerors who propose to use additional or modified language must include such language with their Proposal. Arlington Public Schools is referred to herein as “APS”. Non-Negotiable, Mandatory Provisions Required by Virginia Law or the Procurement Resolution are Indicated by an Asterisk (“*”). The final agreement is subject to review by the APS Attorney prior to being submitted to the successful Offeror for signature.

1. Standard of Care

In the performance or furnishing of services hereunder, the Contractor and all its agents, shall exercise the highest degree of skill and care normally accepted as practices and procedures by members of the same profession for provision of the Work.

2. Responsibility of the Contractor

The Contractor shall be responsible for the quality, technical accuracy, and the coordination of all deliverables and other services furnished by the Contractor under this Contract. The Contractor shall, without additional compensation, correct, or revise any errors or deficiencies that significantly affect the production environment, as determined by the Project Officer, which are discovered within a twelve-month period of final completion of Work.

3. Responsibility for Claims and Liabilities

APS’ review, approval, or acceptance of, or payment for, any services or deliverables required under this Contract shall not be construed to operate as a waiver by APS of any rights or of any cause of action arising out of the Contract. The Contractor shall be and remains liable to APS for the accuracy and competency of deliverables, plans, specifications, or other documents.

4. Payment

Contractor will be paid upon acceptance of the submission of a complete invoice satisfactory to the Project Officer which meets the requirements of this section and other applicable provisions of the Contract.

Payment is on a milestone basis. Contractor will be paid upon Acceptance of the applicable milestone upon its submission of a complete invoice satisfactory to the Project Officer that meets the requirements of this section and other applicable provisions of the Contract. APS will pay the Contractor within thirty (30) calendar days after the date of a receipt of a correct (as determined by the Project Officer) invoice approved by the APS Project Officer. The number of the issued Purchase Order shall appear on all invoices.

5. Project Officer

The performance of the Contractor is subject to the review and approval of the APS Project Officer (“Project Officer”) who shall be appointed by the Director of the APS department requesting the Work under this Contract. However, it shall be the responsibility of the Contractor to manage the details of the execution and performance of its work under the Contract Documents.

6. Adjustments for Change in Scope

APS may order changes in the Work within the general scope of the Work consisting of additions, deletions or other revisions. No claim may be made by the Contractor that the scope of the Work or of the Contractor's services has been changed requiring adjustments to the amount of compensation due the Contractor unless such adjustments have been made by a written amendment to the Contract signed by APS and the Contractor. If the Contractor believes that any particular work is not within the scope of the Work or is a material change or otherwise will call for more compensation to the Contractor, the Contractor must immediately notify the Project Officer after the change or event occurs and within ten (10) calendar days thereafter must provide written notice to the Project Officer. The Contractor’s notice must provide to the Project Officer the amount of additional compensation claimed, together with the basis therefore and supportive documentation for the amount. The Contractor will not be compensated for performing any work unless a Proposal complying with this subsection has been submitted in the time specified above and a written amendment has been signed by APS and the Contractor and an APS Purchase Order is issued covering the cost of the services to be provided under the amendment.

7. Additional Services

The Contractor shall not be compensated for any goods or services provided except those included in the Contract Documents and included in the Contract Amount unless those goods or services are covered by a written amendment to this Contract signed by APS and the Contractor and an APS purchase order is issued covering the expected cost of such services.

APS may determine the need for additional work by the Contractor. Upon a request from APS, the Contractor shall prepare a cost Proposal for any such work. No Additional Services shall be performed unless a written amendment to this Contract has been executed by both parties.

8. Reimbursable Expenses

All expenses shall be included in the firm fixed price for provision of the Work for APS. APS shall not approve any request for reimbursement of travel-related expenses submitted by the Contractor.

9. Reimbursable Travel-Related Expenses

All travel-related expenses shall be included in the firm fixed price for provision of the Work for APS. APS shall not approve any request for reimbursement of travel-related expenses submitted by the Contractor.

Non-reimbursable Expenses: The following expenses are not allowable for reimbursement and should not be included in the firm fixed price:

1. Alcoholic beverages
2. Personal phone calls
3. Self-entertainment activities (i.e. pay TV, movies, night clubs, health clubs, theaters, bowling)
4. Personal expenses (i.e. laundry, valet, haircuts)
5. Personal travel insurance (i.e. life, medical, or property insurance) for air fare or rental cars.
6. Auto repairs, maintenance and insurance costs for personal vehicles
7. Travel expenses incurred to obtain or maintain training and/or certificates that are not associated with an employee's job requirements.

10. Payment of Subcontractors*

The Contractor is obligated to take one of the two following actions within seven (7) calendar days after receipt of amounts paid to the Contractor by APS for work performed by any subcontractor under this Contract:

- a. Pay the subcontractor for the proportionate share of the total payment received from APS attributable to the work performed by the subcontractor under this Contract; or
- b. Notify APS and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the Contractor that remain unpaid after seven (7) calendar days following receipt by the Contractor of payment from APS for work performed by the subcontractor under this Contract, except for amounts withheld as allowed in b., above. Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of one percent (1%) per month.

The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to the above provisions may not be construed to be an obligation of APS. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

11. Non-Appropriation*

All funds for payments by APS under this Contract are subject to the availability of an annual appropriation for this purpose by Arlington County School Board (School Board). In the event of non-appropriation of funds by the School Board for the goods or services provided under this Contract, or substitutes for such goods or services which are as advanced or more advanced in their technology, APS will terminate the Contract, without termination charge or other liability to APS, on the last day of the then current fiscal year or when the appropriation made for the then current year for the services covered by this Contract is spent, whichever event occurs first. If funds are not appropriated at any time for the continuation of this Contract, cancellation will be accepted by the Contractor on thirty (30) calendar days prior written notice, but failure to give such notice shall be of no effect and APS shall not be obligated under this Contract beyond the date of termination specified in APS's written notice.

12. APS Purchase Order Requirement*

APS purchases are authorized only if an APS Purchase Order is issued in advance of the transaction, indicating that the ordering school or department has sufficient funds available to pay for the purchase. Such a Purchase Order is to be provided to the Contractor by the order agency. APS will not be liable for payment for any purchases made by its employees without appropriate purchase authorization issued by APS Procurement Agent. Contractors providing goods or services without a signed APS Purchase Order do so at their own risk and expense.

13. Replacement or Augmentation of Key Personnel and Subcontractors

The key personnel and subcontractors submitted by the Contractor in its Proposal and thereafter accepted by APS are considered essential to the Contractor's qualifications. The Contractor may not replace, substitute or augment any key personnel or subcontractor without prior written approval of APS. A request to replace or substitute any key personnel or subcontractor for any reason, shall be provided to the APS Project Officer at least fifteen (15) calendar days in advance of such proposed replacement or substitution and the request shall contain sufficient justification, including identification of the proposed replacement or substitute and their qualifications, in sufficient detail to permit evaluation by APS.

Additionally, the Contractor shall not remove or replace the approved Project Manager without written approval of APS. In cases of the approved Project Manager's prolonged illness or other extended leave of absence, Contractor shall provide an interim Project Manager whose continued work on the Work shall be subject to approval by APS.

In the event of the Project Manager's resignation or termination from the Contractor's employment, the Contractor shall replace the Project Manager with an individual with similar qualifications and experience and only with APS' prior written approval.

14. Project Staff

APS has the right of reasonable rejection and approval of staff or subcontractors assigned to the Work by the Contractor. If APS reasonably rejects staff or subcontractors, the Contractor must provide replacement staff or subcontractors satisfactory to APS in a timely manner and at no additional cost to APS. The day-to-day supervision and control of the Contractor's employees, and employees of any of its subcontractors, shall be the sole responsibility of the Contractor.

15. Supervision by Contractor

The Contractor shall at all times enforce strict discipline and good order among the workers performing under this Contract, and shall only employ on the Work persons reasonably proficient in the work assigned.

16. Employment Discrimination by Contractor Prohibited*

During the performance of this Contract, the Contractor agrees as follows:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by state law related to discrimination in employment except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places,

available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- B. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an Equal Opportunity Employer.
- C. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- D. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in both publicly and privately provided services and activities.
- E. The Contractor will include the provisions of the foregoing subsections in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontract or vendor.

17. Employment of Unauthorized Aliens Prohibited*

In accordance with §2.2-4311.1 of the Virginia Code, the Contractor acknowledges that it does not, and shall not during the performance of this Contract for goods and/or services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

18. Drug-Free Workplace to be Maintained by Contractor*

During the performance of the Work pursuant to this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor by APS in accordance with the Procurement Resolution, the employees of which Contractor are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

19. Termination for Cause, Including Breach and Default; Cure

The Contract shall remain in force for the Initial Contract Term or any Renewal Contract Term(s) and until APS determines that all of the following requirements and conditions have been satisfactorily met: APS has accepted the Work, and thereafter until the Contractor has met all requirements and conditions relating to the Work under the Contract Documents, including warranty and guarantee periods. However, APS shall have the right to terminate this Contract sooner if the Contractor is in breach or default or has failed to perform satisfactorily the Work required, as determined by APS in its discretion.

If APS determines that the Contractor has failed to perform satisfactorily, then APS will give the Contractor written notice of such failure(s) and the opportunity to cure such failure(s) within at least fifteen (15) days before termination of the Contract takes effect ("Cure Period"). If the Contractor fails to cure within the Cure Period or as otherwise specified in the notice, the Contract may be terminated for the Contractor's failure to provide satisfactory Contract performance. Upon such termination, the Contractor may apply for compensation for Contract services satisfactorily performed by the Contractor, allocable to the Contract and accepted by APS prior to such termination unless otherwise barred by the Contract ("Termination Costs"). In order to be considered, such request for Termination Costs, with all supporting documentation, must be submitted to APS Project Officer within fifteen (15) calendar days after the expiration of the Cure Period. APS may accept or reject, in

whole or in part, the application for Termination Costs and notify the Contractor of same within a reasonable time thereafter.

If APS terminates the Contract for default or breach of any Contract provision or condition, then the termination shall be immediate after notice from APS to the Contractor (unless APS in its discretion provides for an opportunity to cure) and the Contractor shall not be permitted to seek Termination Costs.

Upon any termination pursuant to this section, the Contractor shall be liable to APS for all costs incurred by APS after the effective date of termination, including costs required to be expended by APS to complete the Work covered by the Contract, including costs of delay in completing the Work or the cost of repairing or correcting any unsatisfactory or non-compliant work performed or provided by the Contractor or its subcontractors. Such costs shall be either deducted from any amount due the Contractor or shall be promptly paid by the Contractor to APS upon demand by APS. Additionally, and notwithstanding any provision in this Contract to the contrary, the Contractor is liable to APS, and APS shall be entitled to recover, all damages to which APS is entitled by this Contract or by law, including, and without limitation, direct damages, indirect damages, consequential damages, delay damages, replacement costs, refund of all sums paid by APS to the Contractor under the Contract and all attorney fees and costs incurred by APS to enforce any provision of this Contract.

Except as otherwise directed by APS in the notice, the Contractor shall stop work on the date of receipt of notice of the termination or other date specified in the notice, place no further orders or subcontracts for materials, services, or facilities except as are necessary for the completion of such portion of the Work not terminated, and terminate all vendors and subcontracts and settle all outstanding liabilities and claims. Any purchases after the date of termination contained in the notice shall be the sole responsibility of the Contractor.

In the event any termination for cause, default, or breach shall be found to be improper or invalid by any court of competent jurisdiction then such termination shall be deemed to have been a termination for convenience.

20. Termination for the Convenience of APS

The performance of work under this Contract may be terminated by the Procurement Agent in whole or in part whenever the Procurement Agent shall determine that such termination is in APS' best interest. Any such termination shall be affected by the delivery to the Contractor of a written notice of termination at least fifteen (15) calendar days before the date of termination, specifying the extent to which performance of the Work under this Contract is terminated and the date upon which such termination becomes effective. The Contractor will be entitled to receive compensation for all Contract services satisfactorily performed by the Contractor and allocable to the Contract and accepted by APS prior to such termination and any other termination costs as negotiated by the parties, but no amount shall be allowed for anticipatory profits.

After receipt of a notice of termination and except as otherwise directed, the Contractor shall stop all work on the date of receipt of the notice of termination or other date specified in the notice; place no further orders or subcontracts for materials, services or facilities except as are necessary for the completion of such portion of the work not terminated; immediately transfer all documentation and paperwork for terminated work to APS; and terminate all vendors and subcontracts and settle all outstanding liabilities and claims.

21. Indemnification* (Note: Virginia does not permit local school boards such as APS to indemnify others). The Contractor covenants for itself, its employees, and subcontractor to save, defend, hold harmless, and indemnify APS, and all of their elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards, and commissions (collectively the "APS" for purposes of this section) from and against any and all claims made by third parties or by APS for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, demands or exposure, however caused, resulting from, arising out of, or in any way connected with the Contractor's acts or omissions or errors in performance or nonperformance of its work called for by the Contract Documents, whether such act or omission or error is attributable to Contractor, subcontractor, any material supplier, or anyone directly or indirectly employed by them, called for by the Contract Documents. This duty to save, defend, hold harmless and indemnify shall survive the termination of this Contract.

If any action or proceeding relating to the indemnification required by this section is brought against APS, then upon written notice from APS to the Contractor, Contractor shall at Contractor's expense, resist or defend such action or proceeding by counsel approved by APS in writing, such approval not to be unreasonably withheld, but no approval of counsel shall be required where the cause of action is resisted or defended by counsel of any insurance carrier obligated to resist or defend same.

If, after Notice by APS, the Contractor fails or refuses to save, defend, hold harmless and/or indemnify APS, the Contractor shall be liable for and reimburse APS for any and all expenses, including but not limited to, reasonable attorney's fees incurred and settlements or payments made. The Contractor shall pay such expenses upon demand by APS and failure to do so may result in such amounts being withheld from any amounts due to Contractor under this Contract.

Contractor understands and agrees that it is Contractor's responsibility to provide indemnification to APS pursuant to this section. The provision of insurance, while anticipated to provide a funding source for this indemnification, is in addition to any indemnification requirements and the failure of Contractor's insurance to fully fund any indemnification shall not relieve the Contractor of any obligation assumed under this indemnification.

22. Intellectual Property Indemnification*

The Contractor warrants and guarantees that no intellectual property rights (including, but not limited to, copyright, patent, mask rights and trademark) of third parties are infringed or in any manner involved in or related to the services provided hereunder.

The Contractor further covenants for itself, its employees, and subcontractors to save, defend, hold harmless, and indemnify APS, and all of its officers, officials, departments, agencies, agents, and employees from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, or exposure, however caused, for or on account of any trademark, copyright, patented or unpatented invention, process, or article manufactured or used in the performance of this Contract, including its use by APS. If the Contractor, or any of its employees or subcontractors, uses any design, device, work, or materials covered by letters patent or copyright, it is mutually agreed and understood, without exception, that the Contract Amount includes all royalties, licensing fees, and any other costs arising from the use of such design, device, work, or materials in any way involved with the Work. This duty to save, defend, hold harmless and indemnify shall survive the termination of this Contract. If, after Notice by APS, the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor shall be liable for and reimburse APS for any and all expenses, including but not limited to, reasonable attorney's fees incurred and any settlements or payments made. The Contractor shall pay such expenses upon demand by APS and failure to do so may result in such amounts being withheld from any amounts due to Contractor under this Contract.

23. Copyright

The Contractor hereby irrevocably transfers, assigns, sets over and conveys to APS all right, title and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to this Contract. The Contractor further agrees to execute such documents as APS may request to affect such transfer or assignment.

Further, the Contractor agrees that the rights granted to APS by this subsection are irrevocable. Notwithstanding anything else in this Contract, the Contractor's remedy in the event of termination of or dispute over the terms of this Contract shall not include any right to rescind, terminate or otherwise revoke or invalidate in any way the rights conferred pursuant to the provisions of this subsection. Similarly, no termination of this Contract shall have the effect of rescinding, terminating or otherwise invalidating the rights acquired pursuant to the provisions of this "Copyright" subsection.

The use of subcontractors or third parties in developing or creating input into any copyrightable materials produced as a part of this Contract is prohibited unless APS approves the use of such subcontractors or third parties in advance and such subcontractors or third parties agree to include the provisions of this subsection as part of any contract they enter into with the Contractor for work related to work pursuant to this Contract.

24. Ownership and Return of Records

This Contract confers no ownership rights to the Contractor nor any rights or interests to use or disclose APS' data or inputs.

The Contractor agrees that all drawings, specifications, blueprints, data, information, findings, memoranda, correspondence, documents or records of any type, whether written or oral or electronic, and all documents generated by the Contractor or its subcontractors as a result of APS' request for services under this Contract, are the exclusive property of APS ("Record" or "Records"), and all such Records shall be provided to and/or returned to APS upon completion, termination, or cancellation of this Contract. The Contractor shall not use, willingly allow, or cause such materials to be used for any other purpose other than performance of all obligations under the Contract without the written consent of APS. Additionally, the Contractor agrees that the Records are confidential records and neither the Records nor their contents shall be released by the Contractor, its subcontractors, or other third parties; nor shall their contents be disclosed to any person other than the Project Officer or his or her designee. The Contractor agrees that all oral or written inquiries from any person or entity regarding the status of any Record generated as a result of the existence of this Contract shall be referred to the Project Officer or his or her designee for response. At APS' request, the Contractor shall deliver all Records to the Project Officer, including "hard copies" of computer records, and at APS's request, shall destroy all computer records created as a result of APS' request for services pursuant to this Contract.

The Contractor agrees to include the provisions of this section as part of any contract or agreement the Contractor enters into with subcontractors or other third parties for work related to work pursuant to this Contract. No termination of this Contract shall have the effect of rescinding, terminating or otherwise invalidating this section of the Contract.

25. Confidential Information

The Contractor, and its employees, agents, and subcontractors, hereby agree to hold as confidential all APS information obtained as a result of its Work under this Contract. Confidential information includes, but is not limited to, nonpublic personal information, personally identifiable health information, social security numbers, proprietary systems, addresses, dates of birth, other contact information or medical information about a person's, information pertaining to products, operations, systems, customers, prospective customers, techniques, intentions, processes, plans, expertise and any information entrusted to any affiliate of the parties. The Contractor shall take reasonable measures to ensure that all of its employees, agents, and subcontractors are informed of, and abide by, this requirement.

All student data is considered to be confidential under any resulting Contract as well as under the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. §1232g *et seq.*, and any other federal or state statutes or regulations pertaining to student records, and will only be released in accordance with the applicable laws and regulations. Student data shall include all metadata, forms, logs, cookies, tracking pixels, user content, and Personally Identifiable Information (PII), Education Records as defined by the Family Educational Rights and Privacy Act ("FERPA"), and other non-public information relating directly to APS students. All student data received by the Contractor shall be maintained by the Contractor in a secure location, in accordance with the Student Data Usage and Privacy Agreement.

The Contractor also agrees that it will not directly or indirectly use or facilitate the use or dissemination of student data (whether intentionally or by inadvertence, negligence or omission verbally electronically, through paper transmission or otherwise), for any purpose other than that directly associated with its officially assigned duties pursuant to any resulting Contract. Contractor is aware that unauthorized use or disclosure of student data is prohibited and, in addition, may also constitute a violation of Virginia law (e.g., the Government Data Collection and Dissemination Practice Act, formerly called the Privacy Protection Act, Va. Code § 2.2-3800 *et seq.*, and the Secrecy of Information Act, Va. Code § 58.1-3, which may be punishable by a jail sentence of up to six (6) months and/or a fine of up to \$1,000,000.).

26. HIPAA Compliance

The Contractor shall comply with all applicable legislative and regulatory requirements of the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"). Pursuant to 45 C.F.R. §§ 164.502(e) and 164.504(e), the Contractor shall be designated a Business Associate pursuant and will be required to execute an

APS Business Associate Agreement. If Contractor engages a subcontractor or subcontractors in the performance of the Scope of Work under any resulting Contract, the Contractor shall enter into an agreement with each of its subcontractors pursuant to 45 C.F.R. § 164.3082(b) and the Health Information Technology for Economic and Clinic Health (HITECH) Act § 13401 that is appropriate and sufficient to require each subcontractor to protect the Protected Health Information (PHI) to the same extent required of Contractor under APS's Business Associate Agreement and in a form approved by APS. HITECH defines PHI as individually identifiable and maintained by a covered health care provider, health plan, or health care clearinghouse. See 45 C.F.R §§ 160.103 and 164.501. The Contractor shall ensure that its subcontractors notify the Contractor, immediately, of any breaches in security regarding the PHI.

The Contractor takes full responsibility for any failure to execute the appropriate agreements with its subcontractors to comply with the existing and/or future regulations of HIPAA and/or HITECH, and shall indemnify APS in accordance with the Indemnification clause in this section.

27. Data Security

The Contractor agrees that it shall hold all APS data obtained or accessed as a result of its work under this Contract confidential in accordance with the Nondisclosure and Data Security Agreement attached hereto. If individual employees or subcontractors of the Contractor are performing work under this Contract on APS-owned property, then such individual employees or subcontractors shall be required to sign a separate Nondisclosure and Data Security Agreement, which shall be incorporated by reference into this Contract, prior to performing any work or being allowed access to APS data.

The Contractor shall hold APS Information in the strictest confidence and comply with all applicable APS security and network resources policies as well as all local, state and federal laws or regulatory requirements concerning data privacy and security. The Contractor shall develop, implement, maintain, continually monitor and use appropriate administrative, technical and physical security measures to preserve the confidentiality, privacy, integrity and availability of all electronically-maintained or transmitted APS Information received from, created or maintained on behalf of APS and strictly control access to APS Information. For purposes of this provision, and as more fully described in this Contract and APS's Non-Disclosure and Data Security Agreement (NDA), "APS Information" (also referred to as "APS Data" or "data") includes, but is not limited to, electronic information, documents, data, images, and records including, but not limited to, financial records, personally identifiable information, Personal Health Information (PHI), personnel, educational, voting, registration, tax or assessment records, information related to public safety, APS networked resources, and APS databases, software and security measures which is created, maintained, transmitted or accessed to perform the Work under this Contract.

- (a) APS' Non-Disclosure and Data Security Agreement (NDA). The Contractor shall require that an authorized Contractor designee, and all key employees, agents or subcontractors working on-site at APS facilities or otherwise performing non-incident work under this Contract, sign the NDA (attached as an Attachment D) prior to performing any work or permitting access to APS networked resources, application systems or databases under this Contract. A copy of the signed NDAs shall be available to the APS Project Officer upon request.
- (b) Use of Data. The Contractor shall ensure that the use, distribution, disclosure or access ("use") to APS Information and APS-networked resources shall not occur in an unauthorized manner. Use of APS Information other than for as specifically outlined in this Contract is strictly prohibited, unless such other use is agreed to in writing by the parties. The Contractor will be solely responsible for any unauthorized use, reuse, distribution, transmission, manipulation, copying, modification, access or disclosure of APS Information and any non-compliance with this Data Security and Protection provision or any NDA.
- (c) Data Protection. The Contractor agrees that it will protect APS Information according to standards established by the National Institute of Standards and Technology, including 201 CMR 17.00, Standards for the Protection of Personal Information of Residents of the Commonwealth and the Payment Card Industry Data Security Standard (PCI DSS), as applicable, and no less rigorously than it protects its own

data, proprietary and/or confidential information. The Contractor shall provide to APS a copy of its data security policy and procedures for securing APS Information and a copy of its disaster recovery plan/s. The Contractor shall provide, if requested by APS, on an annual basis, results of an internal Information Security Risk Assessment provided by an outside firm.

- (d) Data Sharing. Except as otherwise specifically provided for in this Contract, the Contractor agrees that it shall not share, disclose, sell or grant access to APS Information to any third party without the express written authorization of the APS Chief Information Security Officer or designee.
- (e) Security Requirements. The Contractor shall maintain the most up to date anti-virus, industry-accepted firewalls and/or other protections on its systems and networking equipment. The Contractor certifies that all systems and networking equipment that support, interact or store APS Information meet the above standards and industry best practices for physical, network and system security requirements. Printers, copiers or fax machines that store APS Data into hard drives must provide data at rest encryption. Significant deviation from these standards must be approved by the APS Chief Information Security Officer or designee, the downloading of APS information onto laptops or other portable storage medium is prohibited without the express written authorization of the APS Chief Information Security Officer or designee.
- (f) Data Protection Upon Conclusion of Contract. Upon termination, cancellation, expiration or other conclusion of this Contract, the Contractor shall return all APS Information to APS unless APS requests that such data be destroyed. This provision shall also apply to all APS Information that is in the possession of subcontractors or agents of the Contractor. The Contractor shall complete such return or destruction not less than thirty (30) calendar days after the conclusion of this Contract and shall certify completion of this task, in writing, to APS Project Officer.
- (g) Notification of Security Incidents. The Contractor agrees to notify the APS Chief Information Officer and APS Project Officer within twenty-four (24) hours of the discovery of any unintended access to, use or disclosure of APS Information.
- (h) Subcontractors. To the extent the use of subcontractors is permitted under this Contract, the requirements of this entire section shall be incorporated into any subcontractor agreement entered into by the Contractor and any data sharing shall be compliant with these security and protection requirements and the NDA. In the event of data sharing, subcontractors shall provide to the Contractor a copy of their data security policy and procedures for securing APS Information and a copy of their disaster recovery plan/s.

28. Ethics in Public Contracting*

This Contract incorporates by reference Article 9 of the Procurement Resolution, as well as any state or federal law related to ethics, conflicts of interest, or bribery, including by way of illustration and not limitation, the Virginia State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 *et seq.*), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 *et seq.*), and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 *et seq.*). The Contractor certifies that its offer is made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other Offeror, supplier, manufacturer, or subcontractor and that it has not conferred on any public employee having official responsibility for this purchase any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

29. APS Employees*

No employee of APS Schools, Virginia, shall be admitted to any share in any part of this Contract or to any benefit that may arise there from which is not available to the general public.

30. Force Majeure

The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, acts of terrorism, or an act of God beyond control of the Contractor, and outside and beyond the scope of the Contractor's then current, by industry standards, disaster plan, that make performance impossible or illegal, unless otherwise specified in the Contract. APS shall not be held responsible for failure to perform its duties and responsibilities imposed by the Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, acts of terrorism, or an act of God beyond control of APS that make performance impossible or illegal, unless otherwise specified in the Contract.

31. Authority to Transact Business*

The Contractor shall, pursuant to Code of Virginia § 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the Initial Term and any Subsequent Contract Term(s) of this Contract. A contract entered into by a Contractor in violation of this requirement is voidable, without any cost or expense, at the sole option of APS.

32. Relation to APS*

The Contractor will be legally considered as an independent contractor and neither the Contractor nor its employees will, under any circumstances, be considered employees, servants or agents of APS. APS will not be legally responsible for any negligence or other wrongdoing by the Contractor, its employees, servants or agents. APS will not withhold payments to the Contractor for any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the Contractor. Furthermore, APS will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by APS for its employees.

33. Antitrust

By entering into this Contract, the Contractor conveys, sells, assigns and transfers to APS all rights, title, and interest in and to all causes of action the Contractor may now have or hereafter acquire under the antitrust laws of the United States or the Commonwealth of Virginia, relating to the goods or services purchased or acquired by APS under this Contract.

34. Report Standards

Reports or written material prepared by the Contractor in response to the requirements of this Contract or request of the Project Officer shall, unless otherwise provided for in the Contract, meet standards of professional writing established for the type of report or written material provided, shall be thoroughly researched for accuracy of content, shall be grammatically correct and not contain spelling errors, shall be submitted in a format approved in advance by the Project Officer, and shall be submitted for advance review and comment by the Project Officer. The cost of correcting grammatical errors, correcting report data, or other revisions required to bring the report or written material into compliance with these requirements shall be borne by the Contractor.

When submitting documents to APS, The Contractor shall comply with the following guidelines:

- All submittals and copies shall be printed on at least thirty percent (30%) recycled-content and/or tree-free paper;
- All submittals must be in the required tabular format in a binder.
- Report covers / binders shall be recyclable, made from recycled materials, and/or easily removable to allow for recycling of report pages (reports with glued bindings that meet all other requirements are acceptable);
- The use of plastic covers or dividers should be avoided; and
- Unnecessary attachments or documents not specifically asked for should not be submitted, and superfluous use of paper should be avoided.

35. Audit

The Contractor agrees to retain all books, records and other documents related to this Contract for at least five (5) years after final payment. APS or its authorized agents shall have full access to and the right to examine any of the above documents during this period and during the Initial Contract Term or any Renewal Contract Term. If the Contractor wishes to destroy or dispose of records (including confidential records to which APS does not have ready access) within five (5) years after final payment, the Contractor shall notify APS at least thirty (30) days prior to such disposal, and if APS objects, shall not dispose of the records.

36. Amendments

This Contract shall not be modified except by written amendment executed by persons duly authorized to bind the Contractor and APS

37. Arlington Public Schools Procurement Resolution and Policies*

Notwithstanding any provision to the contrary herein, no provision of the Procurement Resolution or any applicable APS policy is waived in whole or in part.

38. Dispute Resolution*

All disputes arising under this Contract, or its interpretation, whether involving law or fact, or extra work, or extra compensation or time, and all claims for alleged breach of Contract shall be submitted in writing to the Project Officer for decision at the time of the occurrence or beginning of the Work upon which the claim is based, whichever occurs first. Such claims shall state the facts surrounding it in sufficient detail to identify it together with its character and scope. Claims denied by the Project Officer may be submitted to APS Superintendent or designee in writing no later than sixty (60) days after final payment in accordance with the Procurement Resolution.

The time limit for final written decision by APS Superintendent or designee in the event of a contractual dispute, as that term is defined in the Procurement Resolution, is thirty (30) days. Procedures for considering contractual claims, disputes, administrative appeals, and protests are contained in the Procurement Resolution, incorporated herein by reference. A copy of the Procurement Resolution is available upon request from the Office of the Procurement Agent. The Contractor shall not cause a delay in the Work pending a decision of the Project Officer, APS Superintendent or designee, School Board, or a court of competent jurisdiction.

39. Applicable Law, Forum, Venue and Jurisdiction*

This Contract and the Work performed hereunder shall be governed in all respects by the laws of the Commonwealth of Virginia and the jurisdiction, forum, and venue for any litigation with respect thereto shall be in either the Circuit Court for Arlington County, Virginia, or in the United States District Court for the Eastern District of Virginia – Alexandria Division, and in no other court. In performing the Work under this Contract, the Contractor shall comply with applicable federal, state, and local laws, ordinances and regulations.

40. Arbitration

It is expressly agreed that nothing under the Contract shall be subject to arbitration, and any references to arbitration are expressly deleted from the Contract.

41. Nonexclusivity of Remedies

All remedies available to APS under this Contract are cumulative, and no such remedy shall be exclusive of any other remedy available to APS at law or in equity.

42. No Waiver

The failure of either party to exercise in any respect a right provided for in this Contract shall not be deemed to be a subsequent waiver of the same right or any other right.

43. Severability

The sections, subsections, paragraphs, sentences, clauses and phrases of this Contract are severable, and if any phrase, clause, sentence, paragraph, subsection, or section of this Contract shall be declared invalid by the valid judgment or decree of a court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, subsections, and sections of this Contract.

44. No Waiver of Sovereign Immunity*

Notwithstanding any other provision of this Contract, nothing in this Contract or any action taken by APS pursuant to this Contract shall constitute or be construed as a waiver of either the sovereign or governmental immunity of APS. The parties intend for this provision to be read as broadly as possible.

45. Survival of Terms

In addition to any numbered section in this Contract which specifically state that the term, paragraph or subsection survives the expiration of termination of this Contract, the following sections if included in this Contract also survive: Indemnification; Relation to APS; Ownership and Return of Records; Audit; Copyright; Intellectual Property Indemnification; Confidential Information, and Data Security and Protection.

46. Headings

The section headings in this Contract are inserted only for convenience and are not to be construed as part of this contract or a limitation on the scope of the particular section to which the heading refers.

47. Ambiguities

Each party and its counsel have participated fully in the review and revision of this Contract. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Contract. The language in this Contract shall be interpreted as to its fair meaning and not strictly for or against any party.

48. Non-Discrimination Notice*

APS does not discriminate against faith-based organizations.

49. Insurance Requirements

The Contractor shall provide to the Procurement Agent a Certificate of Insurance indicating that the Contractor has in force the coverage below prior to the start of any Work under this Contract and upon any contract extension. The Contractor agrees to maintain such insurance until the completion of this Contract or as otherwise stated in the Contract Documents. All required insurance coverages must be acquired from insurers authorized to do business in the Commonwealth of Virginia, rating of "B" or better and a financial size of "Class VII" or better in the latest edition of A.M. Best Co., and acceptable to APS. The minimum insurance coverage shall be:

- a. Workers' Compensation (if applicable)- Virginia Statutory Workers Compensation (W/C) coverage including Virginia benefits and employers' liability with limits of \$100,000/100,000/500,000.
- b. Commercial General Liability - \$500,000 combined single limit coverage with \$1,000,000 general aggregate covering all premises and operations and including Personal Injury and Independent Contractors. The general aggregate limit shall apply to this Contract.
- c. Automobile Liability - \$100,000 per person / \$300,000 per accident.
- d. Product Liability – (Intentionally Deleted)
- e. Professional Liability - Offeror shall purchase and maintain, at its own cost and expense: Professional Liability Insurance or Negligent Acts, Errors & Omissions insurance arising out of the rendering of, or failure to render professional services related to this Agreement with coverage limits of no less than \$2,000,000 per occurrence. Coverage shall include a professional services contractual liability coverage endorsement. Coverage shall be primary, and shall be non-contributing with any insurance which may be maintained by Owner or any affiliated companies. The insurance policy must provide the protection stated for two (2) years after completion of the service/work.

- f. Arlington Public Schools, its officers, elected and appointed officials, employees and agents, are to be named as additional insured under all coverages except Workers' Compensation and Automobile Liability, and the certificate of insurance, or the certified policy, if requested, must so state. Coverage afforded under this subsection shall be primary with respect to APS, its officers, elected and appointed officials, agents and employees. The following definition of the term "APS" applies to all policies issued under the Contract: "Arlington County School Board and any affiliated or subsidiary Board, Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board, Authority, Committee, or Independent Agency is either a Body Politic created by the School Board of Arlington Public Schools, Virginia, or one in which controlling interest is vested in Arlington Public Schools".
- g. Cancellation - All insurance policies required by this Contract shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation or non-renewal until thirty (30) days' prior written notice has been given to the Procurement Agent, Arlington Public Schools, Virginia." If there is a material change or reduction in coverage, the Contractor shall notify the Procurement Agent immediately upon Contractor's notification from the insurer. Any policy on which the Contractor has received notification from an insurer that the policy has or will be cancelled, materially changed, or reduced must be replaced with another policy consistent with the terms of this Contract, and APS notified of the replacement, in such a manner that there is no lapse in coverage. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.
- h. Any insurance coverage that is placed as a "claims made" policy must remain valid and in force, or the Contractor must obtain an extended reporting endorsement consistent with the terms of this Contract, until the applicable statute of limitations has expired, such date as determined to begin running from the date of the Contractor's receipt of final payment.
- i. Contract Identification - The insurance certificate shall state this Contract's number and title.

The Contractor must disclose the amount of any deductible or self-insurance component applicable to the General Liability and Automobile Liability, or any other policies required herein, if any. APS reserves the right to request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible. Thereafter, at its option, APS may require a lower deductible, funds equal to the deductible be placed in escrow, a certificate of self-insurance, collateral, or other mechanism in the amount of the deductible to ensure protection for APS.

The Contractor shall require all subcontractors to maintain during the term of this Contract, Commercial General Liability insurance, Automobile Liability insurance, and Workers' Compensation insurance (if applicable) in the same form and manner as specified for the Contractor. The Contractor shall furnish subcontractors' certificates of insurance to APS immediately upon request by APS.

No acceptance or approval of any insurance by APS shall be construed as relieving or excusing the Contractor from any liability or obligation imposed upon the Contractor by the provisions of the Contract Documents.

The Contractor shall be responsible for the Work performed under the Contract Documents and every part thereof, and for all materials, tools, equipment, appliances, and property of any description used in connection with the Work. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the Work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work.

The Contractor shall be as fully responsible to APS for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.

Notwithstanding any of the above, the Contractor may satisfy its obligations under this section by means of self-insurance for all or any part of the insurance required, provided that the Contractor can demonstrate financial capacity and the alternative coverages are submitted to and acceptable to APS. The Contractor must also provide

its most recent actuarial report and provide a copy of its self-insurance resolution to determine the adequacy of the insurance funding.

50. Accessibility of Web Site*

If any work performed under this Contract results in design, development, maintenance or responsibility for content and/or format of any APS websites, or APS' presence on other party websites, the Contractor shall perform such work in compliance with the requirements set forth in the U.S. Department of Justice document entitled "Accessibility of State and Local Government Websites to People with Disabilities." The document is located at: <http://www.ada.gov/websites2.htm>.

51. Arlington County Business License

The Contractor must comply with the provisions of Chapter 11 (Business Licenses) of the Arlington County Code. For further information on the provisions of this chapter and its applicability to this contract, contact the Arlington County Business License Division, Commissioner of the Revenue of Arlington, Virginia, Telephone Number: (703) 228-3060.

52. Failure to Deliver

In case of failure to deliver goods or services in accordance with the contract terms and conditions, APS, after due oral or written notice, may procure the goods or services from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which APS may have; provided that if public necessity requires the use of materials or supplies not conforming to the specifications, they may be accepted and payment therefore shall be made at a reduction in price to be determined solely by APS.

53. Subcontracts

The Contractor shall not enter into any subcontract with any subcontractor who has been suspended or debarred from doing federal, state or local government work for any reason.

The Contractor shall be as fully responsible for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the Contractor.

The Contractor shall insert appropriate clauses in all subcontracts to bind subcontractors to the terms and conditions of this Contract insofar as they are applicable to the Work of subcontractors.

Nothing contained in this contract shall create any contractual relationship between any subcontractor and APS.

54. Non-Endorsement Clause for Contracts and Agreements

APS may be identified as a "Participant" in the Work with the following statement added: "This shall not constitute an endorsement of any products or services". For further information, please contact the APS Department of Schools and Community Relations.

55. Advertising and Use of Proprietary Marks or Logos

Contractor shall not use the name of APS or any authorized user or refer to APS or any authorized user, directly or indirectly, in any press release or formal advertisement without receiving prior written consent of APS or such authorized user. In no event may Contractor use a proprietary mark of APS or an authorized user without receiving the prior written consent of APS or the authorized user.

56. Extension of Contract Term

The Procurement Office, at its sole and absolute discretion, may extend the Contract Term or final Renewal Contract Term of the resultant Contract for a period of not more than six (6) months, unless specifically stated otherwise in the solicitation.

57. Student Data Usage and Privacy Agreement (Intentionally Deleted)

58. Contractor Certification Regarding Criminal Convictions*

All Contracts with APS, where the Contractor or its employees, or its Subcontractors or their employees, will have direct contact with students on school property during regular school hours, or during school-sponsored activities, shall require the Contractor to certify that neither it nor any of its employees nor any of its Subcontractors' nor any of its Subcontractors' employees, who will have direct contact with students, have been:

- (1) convicted of a felony or of a sexually violent offense as defined in Va. Code Ann. § 9.1-902 as mandated by Va. Code Ann. § 18.2-370.5,
- (2) convicted of an offense occurring on or after July 1, 2006, where the offender was more than three years older than the victim involving:
 - (a) the rape of a child under age 13 pursuant to Va. Code Ann. § 18.2-61.A(iii),
 - (b) forcible sodomy of a child less than 13 years of age pursuant to Va. Code Ann. § 18.2-67.1.A.1,
 - (c) object sexual penetration of a child under 13 years of age pursuant to Va. Code Ann. § 18.2-67.2.A.1, or
 - (d) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof.

This requirement is applicable without exception for a person convicted of a felony or of a sexually violent offense as defined in Va. Code Ann. § 9.1-902, but for all other offenses set forth above this requirement does not apply unless the qualifying offense was done in the commission of, or as a part of the same course of conduct of, or as part of a common scheme or plan as a violation of:

- (a) abduction or kidnapping in violation of Va. Code Ann. § 18.2-47.A,
- (b) abduction with intent to extort money or for immoral purpose in violation of Va. Code Ann. § 18.2-48,
- (c) burglary in violation of Va. Code Ann. § 18.2-89,
- (d) entering a dwelling house with intent to commit murder, rape, robbery or arson in violation of Va. Code Ann. § 18.2-90,
- (e) aggravated malicious wounding in violation of Va. Code Ann. § 18.2-51.2, or
- (f) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof.

The Contractor certification covers its employees, its Subcontractors and the employees thereof. (Submit completed Appendix A).

The Contractor certification shall also cover its employees, its Subcontractors and employees thereof, assigned to the Work after Contract award. The Contractor, upon demand from APS, shall provide all information which allowed for the Contractor's certification

59. Cooperative Contract for Use by Other Public Bodies

This Contract has been awarded by APS not only for its benefit but for the benefit of any other public body eligible to participate in use of the services herein solicited by means of cooperative procurement as provided by, and to the extent permitted by the Virginia Public Procurement Act, at Va. Code § 2.2-4304.

60. Contractor Prohibited in Assisting Person for New Job if Engaged in Misconduct with Minor*

As a condition of awarding a Contract, or Contract Renewal, the Contractor acknowledges it is prohibited from assisting the elected and appointed officials of APS, its officers, current and former employees, agents, departments, agencies, boards, and commissions employee, and contractors, including all levels of subcontractors, in obtaining a new job if the Contractor knows or has probable cause to believe that the elected and appointed officials of APS, its officers, current and former employees, agents, departments, agencies, boards, and commissions employee, and contractors, including all levels of subcontractors, engaged in sexual misconduct regarding a minor or student in violation of law.

Issued By: **Kimberly Young**
 Senior Procurement Specialist
 Procurement Office
 Arlington Public Schools
 Phone: (703) 228-7643
 Email: kimberly.young@apsva.us

VII. Appendix A



Contractor Certification Regarding Criminal Convictions

The completed form from the Contractor is a condition precedent to the award of the Contract.

As the official authorized to enter into this Contract on behalf of my organization, I certify that the Contractor, its employees, its subcontractor(s) and their employees, who will have direct contact with students either on or off school property either during regular school hours or during school-sponsored activities during the performance of this Contract, has not been convicted of:

1. A felony or of any offense involving the sexual molestation, physical or sexual abuse, or rape of a child;
2. A sexually violent offense as defined in Va. Code Ann. § 9.1-902;
3. Any of the offense listed below occurring on or after July 1, 2006 in which the offender was more than three years older than the victim, when the offense was done in the commission of, or as a part of the same course of conduct of, or as part of a common scheme or plan to commit, (i) abduction or kidnaping in violation of Va. Code Ann. § 18.2-47 or § 18.2-48, (ii) burglary in violation of Va. Code Ann. § 18.2-89, (iii) entering a dwelling house with intent to commit crimes in violation of Va. Code Ann. § 18.2-90 or Va. Code Ann. § 18.2-91, or (iv) aggravated malicious wounding in violation of Va. Code Ann. § 18.2-51.2, or (v) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof:
 - a. Rape of a child under 13 in violation of Va. Code Ann. § 18.2-61;
 - b. Forcible sodomy with a child under 13 in violation of Va. Code Ann. § 18.2-67.1; or
 - c. Object sexual penetration with a child under 13 in violation of Va. Code Ann. § 18.2-67.2; or
4. A conviction for a crime of moral turpitude.

I understand that a materially false statement regarding this certification is a Class 1 misdemeanor and that conviction of such misdemeanor shall result in the revocation of this Contract and of any related license that I may hold. I declare under penalty of perjury that the foregoing statements are true and correct.

_____ Name of Offeror	_____ Signature
_____ Address of Offeror	_____ Name and Title (please type or print)
_____ Telephone	_____ Date

VIII. Appendix B

Conflict of Interest Statement

I, whose name is subscribed below, a duly authorized representative and agent of the entity submitting this Proposal to APS in response to its Request for Proposal #27FY20, and on behalf of the Offeror:

Certify that neither the Offeror nor any affiliated firm, parent corporation or subsidiary has, within the past five (5) years, been employed by or represented a deliverer of services, which services reasonably could be expected to be considered for purchase by APS as a result of this solicitation.

Affirm that if the Offeror is awarded a contract under this solicitation, and during the term of that contract prepares an invitation to bid or request for proposal for or on behalf of the APS, the Offeror agrees that it shall not (i) submit a bid or proposal for that procurement or any portion thereof, or (ii) disclose to any bidder or Offeror information concerning the procurement which is not available to the public.

Affirm that the Offeror further agrees that it shall not solicit or accept any commissions or fees from vendors who ultimately furnish services to the APS as a result of services furnished by the Offeror under any contract award made as a result of this solicitation.

Offeror Name: _____

Signed By: _____ Date: _____

Name/Title: _____

Acknowledgment

Commonwealth of Virginia/State of (_____) City/County of (_____) to wit:

personally appeared before me this _____ day of _____ 20__ the undersigned a Notary Public in and for the State and County of aforesaid, _____, known to me (or satisfactorily proven) to be the person whose name is subscribed to within the instrument as an agent of the Offeror and acknowledged that he/she has executed the same for the purposes therein contained.

(Seal)

Notary registration number: _____

My commission expires: _____, 20__

IX. Appendix C

Non-Disclosure and Data Security Agreement

The undersigned, an authorized agent of the Contractor and on behalf of _____ (Contractor) hereby agree that the Contractor will hold Arlington Public Schools (APS)-provided information, documents, data, images, records and the like (hereafter "Information") confidential and secure and to protect it against loss, misuse, alteration, destruction or disclosure. This includes but is not limited to the Information of the APS, its employees, contractors, residents, clients, patients, taxpayers and property as well as Information that the APS shares with Contractor for testing, support, conversion or other services provided under APS (the "Work" or "APS Contract" as applicable) or which may be accessed through other APS owned or controlled databases (all of the above collectively referred to herein as "Information" or "APS Information").

In addition to the Data Security obligations set in the APS Contract, the Contractor agrees that it will maintain the privacy and security of the APS Information, control and limit internal access and authorization for access to such Information and not divulge or allow or facilitate access to APS Information for any purpose or by anyone unless expressly authorized. This includes but is not limited to Information that in any manner describes, locates or indexes anything about an individual including, but not limited to, his/her (hereinafter "his") Personal Health Information, treatment, disability, services eligibility, services provided, investigations, real or personal property holdings, and his education, financial transactions, medical history, ancestry, religion, political ideology, criminal or employment record, social security number, tax status or payments, date of birth, address, phone number or that affords a basis of inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual, and the record of his presence, registration, or membership in an organization or activity, or admission to an institution (also collectively referred to herein as "Information" or "APS Information").

Contractor also agrees that it will not directly or indirectly use or facilitate the use or dissemination of Information (whether intentionally or by inadvertence, negligence or omission verbally, electronically, through paper transmission or otherwise) for any purpose other than that directly associated with its work under the Work. Contractor acknowledges that any unauthorized use, dissemination or disclosure of Information is prohibited and may also constitute a violation of Virginia or federal laws, subjecting it or its employees to civil and/or criminal penalties.

The Contractor agrees that it will not divulge or otherwise facilitate the disclosure, dissemination or access to or by any unauthorized person, for any purpose, of any Information obtained directly, or indirectly, as a result of its work on the Work. Contractor shall coordinate closely with the APS Project Officer to ensure that its authorization to its employees or approved subcontractors is appropriate, tightly controlled and that such person/s also maintain/s the security and privacy of Information and the integrity of APS-networked resources.

Contractor agrees to take strict security measures to ensure that Information is kept secure, properly stored, that, if stored, it is encrypted as appropriate, stored in accordance with industry best practices and otherwise protected from retrieval or access by unauthorized persons or unauthorized purpose. Any device or media on which Information is stored, even temporarily, will have strict security and access control. Any Information that is accessible will not leave the Contractor's work site or APS' physical facility, if working onsite, without written authorization of the APS Project Officer. If remote access or other media storage is authorized, Contractor is responsible for the security of such storage device or paper files.

Contractor will ensure that any laptops, PDAs, netbooks, tablets, thumb drives or other media storage devices, as approved by the APS, and connected to the APS network are secure and free of all computer viruses, or running the latest version of an industry-standard virus protection program. Contractor will ensure that all passwords used by its employees or subcontractors are robust, protected and not shared. No Information may be downloaded except as agreed to by the parties and then only onto an APS-approved device. Downloading onto a personally-owned device is prohibited. Contractor agrees that it will notify the APS Project Officer immediately upon discovery, becoming aware or suspicious of any unauthorized disclosure of Information, security breach, hacking or other breach of this

Non-Disclosure and Data Security Agreement, the APS Contract, APS policy, Contractor's security policies, or any other breach of Work protocols. The Contractor will fully cooperate with APS to regain possession of any Information and to prevent its further disclosure, use or dissemination. The Contractor also agrees, if requested, to promptly notify others of a suspected or actual breach.

Contractor agrees that all duties and obligations enumerated in this Non-Disclosure and Data Security Agreement also extend to its employees, agents or subcontractors who are given access to APS Information. Breach of any of the above conditions by Contractor's employees, agents or subcontractors shall be treated as a breach by Contractor. Contractor agrees that it shall take all reasonable measures to ensure its employees, agents and subcontractors are aware of and abide by the terms and conditions of this Non-Disclosure and Data Security Agreement and related data security provisions in the APS Contract.

It is the intent of this Non-Disclosure and Data Security Agreement to ensure that the Contractor has the highest level of administrative safeguards, disaster recovery and best practices are in place to ensure confidentiality, protection, privacy and security of APS Information and APS-networked resources and to ensure compliance with all applicable local, state and federal law or regulatory requirements. Therefore, to the extent that this Non-Disclosure and Data Security Agreement conflicts with the APS Contract or with any applicable local, state, or federal law, regulation or provision, the more stringent APS Contract requirement, law, regulation or provision shall control.

At the conclusion of the Work, Contractor agrees to return all APS Information to the APS Project Officer. These obligations remain in full force and effect throughout the Work and shall survive any termination of the APS Contract.

Authorized Signature: _____

Printed Name and Title: _____

Date: _____

X. Appendix D

Insurance Checklist

Certificate of Insurance must show all coverage and endorsements indicated by "X"

Coverages Required		Limits (Figures Denote Minimums)
X	1 Workers' Compensation	Statutory limits of Virginia (if applicable)
X	2 Employer's Liability	\$100,000 accident, \$100,000 disease, \$500,000 disease policy limit (if applicable)
X	3 Commercial General Liability(CGL)	\$ 500,000 CSL BI/PD each occurrence, \$1 Million annual aggregate
	4 Premises/Operations	\$500,000 CSL BI/PD each occurrence Million annual aggregate
X	5 Automobile Liability	\$\$100,000 per person/ \$300,000 per accident, Uninsured Motorist
	6 Owned/Hired/Non-Owned Vehicles	\$1 Million BI/PD each accident, Uninsured Motorist
	7 Independent Contractors	\$500,000 CSL BI/PD each occurrence, \$1 Million annual aggregate
	8 Products Liability	\$500,000 CSL each occurrence, \$1 Million annual aggregate
	9 Completed Operations	\$500,000 CSL BI/PD each occurrence, \$1 Million annual aggregate
	10 Contractual Liability (Must be shown on Certificate)	\$500,000 CSL BI/PD each occurrence
	11 Personal and Advertising Injury Liability	\$1 Million ea. offense, \$1 Million annual aggregate
	12 Umbrella Liability	\$1 Million Bodily Injury, Property Damage and Personal Injury
	13 Per Project Aggregate	\$1 Million per occurrence/claim
X	14 Professional Liability	\$1 Million per occurrence and \$2 Million in the aggregate
	15 Miscellaneous E&O	\$1 Million per occurrence/claim
	16 Motor Carrier Act End. (MCS-90)	\$1 Million BI/PD each accident, Uninsured Motorist
	17 Motor Cargo Insurance	
	18 Garage Liability	\$1 Million Bodily Injury, Property Damage per occurrence
	19 Garage keepers Liability	\$500,000 Comprehensive, \$500,000 Collision
	20 Inland Marine-Baillie's Insurance	\$
	21 Moving and Rigging Floater	Endorsement to CGL
	22 Dishonesty Bond	\$
	23 Builder's Risk	Provide Coverage in the full amount of Contract
	24 XCU Coverage	Endorsement to CGL
	25 USL&H	Federal Statutory Limits
X	26 Carrier Rating shall be Best's Rating of B or better or its equivalent	
X	27 Notice of Cancellation, nonrenewal or material change in coverage shall be provided to APS at least 30 days prior to action	
X	28 APS shall be an Additional Insured on all policies except Workers Compensation, Professional Liability, and Automobile Liability	
X	29 Certificate of Insurance shall show Solicitation Number and Title	
	30 Intellectual Property Infringement Insurance	

31	Cyber Liability Insurance	\$500,000 CSL each occurrence, \$1 Million annual aggregate
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Insurance Agent's Statement:

I have reviewed the above requirements with the Offeror named below and have advised the Offeror of required coverages not provided through this agency.

Agency Name: _____ Auth. Signature: _____

Offeror's Statement:

If awarded the Contract, I will comply with contract insurance requirements.

Offeror Name: _____ Auth. Signature: _____

XI. Appendix E

Sample Form Agreement



Arlington Public Schools

PROCUREMENT OFFICE

2100 Washington Blvd., Arlington, VA 22204 • Phone: (703) 228-6123

Website: www.apsva.us

Subject: Contract 27FY20 Executive Search Services

Contract 27FY20, for the provision of Executive Search Services (“the Work”) is entered into as of the date the Procurement Agent signs this Agreement, this _____ day of _____, 2019; by and between _____, located at _____, hereinafter called “Contractor” and Arlington County School Board, operating as Arlington Public School, hereinafter called “APS” or “Owner”.

Contract Term:

Any resulting Contract shall commence on the date the Contract is fully executed by the Procurement Director/Procurement Agent and shall expire twelve (12) months following the date the successful applicant takes up the position of Superintendent of APS.

Contract Price Adjustment:

The Contractor agrees that the firm fixed price shall not be subject to change during the Contract Term.

Scope of Work

The Contractor agrees to perform the services described in the Contract Documents (hereinafter the “Work”). The primary purpose of the Work is to obtain the services of a qualified Contractor to provide and implement the Work. The Work is more fully described in Attachment A. The Contract Documents set forth the minimum work estimated by APS and the Contractor to be necessary to complete the Work. It shall be the Contractor's responsibility, at the Contractor's sole cost, to provide the specific services set forth in the Contract Documents and sufficient services to fulfill the purposes of the Work. Nothing in the Contract Documents shall be construed to limit the Contractor's responsibility to manage the details and execution of its Work. The Contractor shall be responsible for providing the Work.

Contract Amount

APS will pay the Contractor in accordance with the firm fixed price(s) shown in Attachment B – Pricing Schedule & Milestone Payment Plan. The firm fixed price shall include all of the Contractor’s fees in performance of the Work under this Contract, including but not limited to, travel, overhead and profit. The firm fixed price(s) shall not be subject to change during the Contract Term.

Contract Documents

The Contract consists of the following documents: all of which are incorporated into and are part of the Contract, and which, in the event of a conflict, shall be given precedence in the order listed, with any Amendment or Modification having precedence over preceding provisions. In the event of a conflict within a Contract Document at the same level of precedence, that provision requiring the higher quality of performance or quantity shall prevail. In the event of a conflict which is not resolved by the foregoing, the Owner shall determine the provision having precedence.

- 1 Agreement #27FY20 and all modifications properly incorporated into the Agreement
- 2 Attachment A – Scope of Work
- 3 Attachment B – Pricing Schedule & Milestone Payment Plan
- 4 Attachment C – Certificate(s) of Insurance
- 5 Attachment D – Non-Disclosure and Data Security Agreements
- 6 Attachment E – Contractor Certification Regarding Criminal Convictions
- 7 Attachment F – Contract Terms & Conditions
- 8 Attachment G – Negotiated Items List

The following are incorporated by reference:

- 9 The Request for Proposal (RFP) documents, and
- 10 The Proposal Response from the Contractor

Where the terms and provisions of the Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of the Agreement shall prevail over the other Contract Documents.

The Contract Documents set forth the entire Contract between APS and the Contractor. APS and the Contractor agree that no representative or agent of either of them has made any representation or promise with respect to this Contract which is not contained in the Contract Documents. The Contract Documents are referred to herein below as the “Contract.”

Definitions

All words and terms shall have the meanings and terms assigned to them in the Contract Documents, unless a different meaning is clear from the context.

Right to Terminate Contract

APS has the right to terminate this Contract for convenience at any time, or for default, all pursuant to the provisions of the Terms and Conditions.

Payment Procedures:

Contractor shall submit invoices for its Work, and such invoices will be processed by APS, all in accordance with the provisions of the Terms and Conditions.

Assignments

This Contract is not assignable by Contractor without the express written consent of APS, and APS shall be under no obligation to grant such consent. Sale, assignment or transfer of a controlling interest in the Contractor shall be deemed an assignment for purposes of this provision and shall be grounds for termination of this Contract if consent of APS is not obtained. It is understood by APS that Contractor may use Subcontractors for performance of parts of the Work. However, it is expected that Contractor will be performing the Work, and subcontracting of all or substantially all of the Work under any Purchase Order shall be deemed an assignment subject to the restrictions of this Section.

Notices

Unless otherwise provided herein, all notices and other communications hereunder shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered to an agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:

To the Contractor:

To APS: Leslie Peterson
Assistant Superintendent, Finance & Management Services
Arlington Public Schools
2110 Washington Blvd.
Arlington, Virginia 22204

And David J. Webb, C.P.M.
Procurement Director / Procurement Agent
Arlington Public Schools
2110 Washington Blvd.
Arlington, Virginia 22204

Binding Agreement

The Owner and the Contractor each binds itself, its successors and assigns to the other, its successors and assigns, in respect of all covenants, terms, conditions and obligations contained in each of the Contract Documents.

The Work shall be performed in accordance with the above-referenced Contract Documents and is the complete agreement between APS and the Contractor and may not be altered except by written amendment signed by APS and the Contractor in compliance with the requirements of the Contract Documents.

The signatures of APS and the Contractor, or their authorized representatives, are set out below in acknowledgment and acceptance of this Contract.

IN WITNESS WHEREOF, APS and Contractor have executed this Agreement as of the date written above.

Acceptance:

Arlington Public Schools		Name of Contractor	
Authorized Signature:	_____	Authorized Signature:	_____
Printed Name	<u>David J. Webb, C.P.M.</u>	Printed Name:	_____
Title:	<u>Procurement Director / Procurement Agent</u>	Title:	_____
Date:	_____	Date:	_____

XII. Appendix F

Pricing Schedule & Milestone Payment Plan

Pricing Schedule:

If there is a variance between the Total for Tasks to be Performed reflected in the Pricing Schedule and the Total for Tasks to be Performed reflected in the Milestone Payment Plan the Total for Tasks to be Performed in the Pricing Schedule will prevail. If there is a variance between the Total (in writing) and the Total (in figures), the Total (in writing) shall prevail.

Lump sum price to perform all Work described in the Request for Proposal is as follows:

- Tasks to be Performed: _____
- Estimated Travel Expenses*: _____
- Total (in writing): _____

- Total (in figures): _____

* Mode of transportation shall be the most economic available without upgrades in class or accommodation. Lodging, meals, and incidental entitlements shall not exceed the current GSA Per Diem Rates for the locality that serves as the destination. <https://www.gsa.gov/travel-resources>

Milestone Payment Plan:

The Offeror should complete the Milestone Payment Plan for each Task under the Scope of Work. APS will make payments based on completion of Tasks to the satisfaction of APS.

Milestone Schedule			Payment Plan
Task	Start Date	Completion Date	Payment Amount
3.1			
3.2			
3.3			
3.4			
3.5			
3.6			
3.7			
3.8			
3.9			
3.11			
3.12			
3.13			
Total All Tasks			

XIV. Appendix G

Mailing Label



Request for Proposal No.: 27FY20

Title: Executive Search Services

RFP Closing Date/Time: October 11, 2019 Prior to 2:00 P.M.
(Local Prevailing Time)

From:

Name of Offeror: _____

Address of Offeror: _____

Deliver To: Arlington Public Schools
Syphax Education Center
Procurement Office
Attn: Kimberly Young
2110 Washington Blvd., 4th Floor
Arlington, VA 22204