

# SECTION A: TERMS AND CONDITIONS

## **A.1. DEFINITIONS**

- A.1.1.** The **St. Joseph County Schools** hereafter referred to as "**APPLICANT**" is soliciting proposals from vendors, bidders, contractors, respondents, etc. hereafter collectively referred to as "**OFFERORS**".
- A.1.2.** "**EXISTING PROVIDER**" hereafter shall refer to any entity which provides an existing service or data transport solution which is eligible for replacement under the description of this request for proposals.
- A.1.3.** "**SUB-OFFEROR**" hereafter refers to any subcontractors or subsidiaries of a primary OFFEROR referenced within their proposal.
- A.1.4.** "**USAC**" shall refer to the Universal Service Administrative Company
- A.1.5.** "**USF**" shall refer to Universal Service Funds.

## **A.2. SUBMISSION OF RFP**

- A.2.1.** Refer to **SECTION D - Format, Response and Checklist**, for detailed information.

## **A.3. ENGINEERING AND SALES OFFEROR'S CONFERENCES**

- A.3.1.** For this RFP, an Engineering and Sales OFFEROR'S Conference is:

Mandatory       Optional       Not Offered

- A.3.2.** If the Engineering and Sales Conference is **Mandatory**

- A.3.2.1.** The Engineering and Sales Conference location and date information is located on the **Introductory Page**.
- A.3.2.2.** Failure to attend any required pre-proposal meeting or walk-through may, in APPLICANT'S sole discretion, result in proposal disqualification by the APPLICANT.
- A.3.2.3.** At this conference, members of the APPLICANT'S staff will be present to ask

and answer questions regarding the design and engineering of the Data Transport project.

A.3.2.4. At this conference, members of the APPLICANT staff will be present to ask and answer questions regarding the sales and administration of the Data Transport project.

A.3.2.5. An OFFEROR intending to submit a bid shall have an authorized representative attend and sign in to the Engineering and Sales conference.

**A.3.3. If the Engineering and Sales Conference is **Optional****

A.3.3.1. The Engineering and Sales Conference location and date information is located on the **Introductory Page**.

A.3.3.2. OFFERORS are encouraged but not required to attend any offered optional meeting.

A.3.3.3. OFFERORS shall state their intention to bid by emailing the contact listed on the **Introductory Page**.

**A.3.4. If the Engineering and Sales Conference is **Not Offered****

A.3.4.1. OFFERORS shall state their intention to bid by emailing the contact listed on the **Introductory Page**.

**A.3.5. OFFERORS Q & A Follow-Up**

A.3.5.1. Following the Engineering and Sales Conference, there shall be an Addendum released addressing the Questions and Answers asked and given during the conference. Information released as part of the Addendum shall be considered the official answer to any questions asked, even where contradictory to answers given during the live conference. The Question and Answer Addendum shall be treated as any other addendum issued pursuant to this RFP and OFFEROR shall follow the same procedure for Addenda as detailed in (SECTION D).

A.3.5.2. In addition to, or in the absence of, any Question and Answer Addendum released as part of an Engineering and Sales Conference, there shall also be a "living" Question and Answer document detailing questions received throughout the RFP process from OFFERORS. It is the responsibility of each OFFEROR to ensure they have the latest version of this document and include the finalized version of it with any prospective response as a signed Addenda pursuant to (SECTION D).

#### **A.4. INTERVIEWS**

A.4.1.1. APPLICANT reserves the right to require any or all OFFERORS to make a presentation either in person, by conference call, or by web conferencing that illustrates the OFFEROR'S abilities relative to this proposal. APPLICANT may also request an interview session to gauge an OFFEROR'S suitability to provide services relevant to this proposal. If so requested, the OFFEROR shall make its personnel available within ten (10) business days of request. No cost allowance shall be permitted for this requirement.

#### **A.5. GOVERNING LAW**

A.5.1.1. Should there be a contract, OFFEROR agrees that it shall be governed by, and created in accordance with, the laws of the State of Michigan. No action involving this contract agreement may be brought except in a state court located in St. Joseph County, Michigan, USA.

#### **A.6. SUB-OFFERORS AND THIRD PARTIES**

A.6.1.1. Any OFFEROR that proposes a solution reliant upon a SUB-OFFEROR shall clearly denote in their response the services that shall be provided by SUB-OFFEROR along with relevant qualifications and contact information.

A.6.1.2. OFFEROR assumes the responsibility and liability of all SUB-OFFERORS utilized by OFFEROR in the course of providing service as defined in any proposed solution.

#### **A.7. SUSPENSION AND RESPONSIBILITIES**

A.7.1.1. OFFEROR must certify that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from transactions with any state or federal department or agency.

A.7.1.2. Submission of a signed proposal in response to this solicitation is certification that OFFEROR's firm and any SUB-OFFEROR is not currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any state or federal department or agency. Submission is also an agreement that the APPLICANT will be notified of any change in this status.

A.7.1.3. Loss of Agreement and/or Inability to Fulfill Requirements

A.7.1.3.1. If OFFEROR has had an agreement terminated or has a pending

termination, or a settlement to avoid litigation or Termination for Default during the past five (5) years, all such incidents must be described, (**Section E**)

- A.7.1.3.2. **“Termination For Default”** is defined as notice to stop performance due to OFFEROR’s non-performance or poor performance, and the issue was either: (a) not litigated; or (b) litigated and such litigation determined OFFEROR to be in default.
- A.7.1.3.3. OFFEROR shall submit full details of all Terminations for Default, settlements, or pending terminations experienced in the past five (5) years including the other party’s name, address, and telephone number. OFFEROR shall also present its position on the matter.
- A.7.1.3.4. APPLICANT shall evaluate the facts and at its sole discretion may reject the OFFEROR’s response if the facts discovered indicate that completion of an agreement resulting from this RFP may be jeopardized by selection of OFFEROR.
- A.7.1.3.5. If OFFEROR has experienced no such settlement or terminations for default in the past five (5) years, and has no pending terminations, it must affirmatively declare this to be so.

## **A.8. UNIVERSAL SERVICE FUNDING**

- A.8.1.1. The contract awarded to the successful OFFEROR shall be contingent on the contract receiving approval from the Universal Service Administrative Company for Universal Service Funds (i.e., Category 1 Erate funding). In the event that Universal Service Funding is denied in whole or in part for the contract awarded based on this RFP, APPLICANT shall have the unilateral right, at its discretion, to cancel or terminate the contract without penalty or termination fees, and promptly notify OFFEROR of its decision.
- A.8.1.2. Required Notice to Proceed and Funding Availability
  - A.8.1.2.1. OFFEROR shall follow the purchasing policies of the APPLICANT’S Fiscal Agency as well as the requirements and procedures of the FCC’s E-Rate program as administered by the Universal Service Administrative Company to be eligible for all available funding.
  - A.8.1.2.2. The implementation of any associated contracts resulting from this competitive bid process will be dependent on the APPLICANT’S issuance of a written Notice to Proceed.

- A.8.1.2.3. E-Rate funding notification alone shall not signify Notice to Proceed. The APPLICANT shall maintain the sole right to allow the contract to expire without implementation if appropriate funding (including any state matching funds for special construction projects) does not become available.

## **A.8.2. E-RATE REQUIREMENTS**

- A.8.2.1. USF Knowledge – OFFEROR shall have a working knowledge of the E-Rate program (including USAC rules).
- A.8.2.2. USF Registration – OFFEROR shall include with its proposal a valid **USAC ISSUED 498 ID (FORMERLY SPIN) FORM (Section E)** and a valid **FCC REGISTRATION NUMBER FORM (Section E)**.
- A.8.2.3. USF Participation – OFFEROR shall agree to participate in the E-Rate program and cooperate in all respects with the APPLICANT, the Universal Service Administrative Company (USAC) and any agents acting on its behalf, and the Federal Communications Commission (FCC) to ensure the APPLICANT’S educational agencies receives all E-Rate funding for which it has applied and to which it is entitled pertaining to the OFFEROR’s products and/or services.
- A.8.2.4. All OFFERORS must have the 2025 Service Provider Annual Certification Form 473 on file with USAC by September 1, 2025.
- A.8.2.5. USF Documentation – OFFEROR shall provide to APPLICANT staff and/or E-Rate consultants within a reasonable amount of time, all documentation and information that the OFFEROR has or that OFFEROR can reasonably acquire that the APPLICANT may need to prepare its E-Rate applications, respond to inquiries from the USAC or FCC, and to document transactions eligible for E-Rate support.
- A.8.2.6. USF Audit and Document Retention Requirement – OFFEROR shall maintain all quotes, bids, correspondence, records, delivery information, bills, invoices, memoranda, and other information and data pertaining to OFFEROR’S services to APPLICANT. All such records shall be retained for a period of at least ten (10) years after the last day services are provided related to this proposal. Such information and data shall be subject to audit and inspection by the APPLICANT. OFFEROR shall include in all SUB-OFFEROR agreements for services, provisions requiring SUB-OFFERORS to maintain the same records and allowing the APPLICANT the same right to audit/inspect those records.

## **A.8.3. TERMINATION OF CONTRACT**

- A.8.3.1. This contract may be terminated in whole or in part by APPLICANT for its convenience, but only after the OFFEROR is given:
  - A.8.3.1.1. Not less than thirty (30) calendar days written notice of intent to terminate and an opportunity for consultation with the APPLICANT contact prior to termination.
  - A.8.3.1.2. OFFEROR shall clearly detail any and all fees associated with early termination of a contract in their proposal.
  - A.8.3.1.3. Early termination fees shall not exceed the balance of any non-recurring charges, plus the lesser of 12 months of monthly recurring charges or the number of months remaining on the contract.

#### **A.8.4. AMERICANS WITH DISABILITIES ACT**

- A.8.4.1. APPLICANT acknowledges its responsibilities under the Americans with Disabilities Act (ADA) of 1990. APPLICANT expects all OFFERORS to be knowledgeable about and comply with the requirements of the ADA.

#### **A.8.5. INSTALLATION**

- A.8.5.1. OFFEROR shall make good, and at their expense, any damage to the work of other trades caused by installation with regards to this proposal and to the satisfaction of the APPLICANT.

#### **A.8.6. REQUIRED INSURANCE COVERAGE**

- A.8.6.1. OFFEROR shall, at their sole expense, procure, maintain, and keep in force for the duration of the contract insurance conforming to the minimum limits as specified in this document. The required insurance shall be in effect prior to the commencement of work by the OFFEROR and shall continue in force as appropriate until final acceptance by the APPLICANT of the completion of this contract.
- A.8.6.2. Certificate of Insurance: A Certificate of Insurance form or a form substantially similar must be submitted to APPLICANT to evidence the insurance policies and coverages required of the OFFEROR. The certificate must name the APPLICANT'S Fiscal Agency as the certificate holder. The certificate should be signed by a person authorized to bind coverage on its behalf. Upon renewal of the policies listed, the successful OFFEROR shall furnish the APPLICANT with replacement certificates.

### **A.8.7. WORKERS COMPENSATION COVERAGE**

A.8.7.1. OFFEROR shall have Workers' Compensation coverage as required by law for the duration of the contract to include Employer's Liability Coverage with minimum limits of one million dollars (\$1,000,000).

### **A.8.8. GENERAL LIABILITY INSURANCE**

A.8.8.1. During the life of the contract, the OFFEROR providing service to APPLICANT shall maintain Comprehensive General Liability Insurance (occurrence form) with the following coverages through an insurance carrier(s) licensed to do business in the State of Michigan and having a current Best rating of A or better and approved by the APPLICANT:

A.8.8.1.1. Premises-Operations

A.8.8.1.2. Independent Contractor's Protection

A.8.8.1.3. Products and Completed Operations

A.8.8.1.4. Broad Form Property Damage

A.8.8.1.5. Personal Injury (with Employee Exclusion deleted)

A.8.8.1.6. Blanket Contractual Liability

A.8.8.1.7. Property Damage Liability

A.8.8.2. Limits shall be equal to the amount carried by the successful OFFEROR, but shall not be less than two million dollars (\$2,000,000) per occurrence combined single limits.

A.8.8.3. By endorsement to the required general liability policy and automobile liability policy, APPLICANT Fiscal Agent must be named as an additional insured for all liability arising from this contract. The Additional Insured Document should reference the RFP number.

### **A.8.9. COMPREHENSIVE AUTOMOBILE LIABILITY INSURANCE**

A.8.9.1. During the life of the contract, the OFFEROR shall maintain Comprehensive Automobile Liability Insurance to include all owned autos, non-owned autos, and hired autos coverage through an insurance carrier(s) licensed to do business in the State of Michigan and having current Best rating of A or better and approved by the APPLICANT.

- A.8.9.2. Limits shall be equal to the amount carried by the OFFEROR, but shall not be less than one million dollars (\$1,000,000) per occurrence combined single limits.

#### **A.8.10. PROFESSIONAL LIABILITY INSURANCE**

- A.8.10.1. During the life of the contract, the OFFEROR shall maintain Professional Liability (Errors & Omissions) Insurance with minimum limits of at least one million dollars (\$1,000,000) per occurrence. The insurance required above may be provided under primary policies or by a combination of primary and excess policies.

#### **A.8.11. LICENSE AND CERTIFICATION**

- A.8.11.1. OFFEROR must be licensed or incorporated to do business in the State of Michigan.
- A.8.11.2. OFFEROR shall possess all applicable licenses and/or certifications to perform this type of service.

#### **A.8.12. VESTED INTEREST**

- A.8.12.1. OFFEROR cannot receive any benefits (directly or indirectly) or be party to other agreements that may emanate from recommendations, contracting actions, and or activities related to this effort.
- A.8.12.2. The only benefit OFFEROR may derive from this project is payment for the identified work and optional tasks contained herein, including identified deliverables in OFFEROR's initial RFP response.

#### **A.8.13. WARRANTY**

- A.8.13.1. OFFEROR warrants that the work shall be performed with the degree of skill, care, and judgment customarily accepted as sound quality practice and procedure.
- A.8.13.2. OFFEROR further warrants that the work fulfills the requirements and intent of the entire contractual agreement inclusive of OFFEROR's RFP response.
  - A.8.13.2.1. If work fails to meet the aforementioned criteria and/or is deemed to be inadequate in the judgment of the APPLICANT, OFFEROR shall re-perform the work or portion of the work that is unsatisfactory.



A.8.13.2.2. All electronics and equipment requested in this project may not be refurbished or used. The APPLICANT reserves the right to reject refurbished or used equipment.

**A.8.14. ASSIGNMENT**

A.8.14.1. Any attempt by OFFEROR to assign or otherwise transfer any interest in this agreement without the prior written consent of the APPLICANT shall be void.

**A.8.15. ATTORNEY'S FEES**

A.8.15.1. The parties agree that in the event of a dispute, each party will bear its own costs of arbitration, litigation, and attorney's fees.

**A.8.16. COMPLIANCE WITH LAW**

A.8.16.1. OFFEROR shall comply with all applicable federal, state, and local statutes, regulations, ordinances, and other legal requirements which may apply.

**A.8.17. CONFIDENTIAL TREATMENT OF INFORMATION**

A.8.17.1. OFFEROR shall preserve any information obtained, assembled, or prepared in connection with the performance of this agreement in strict confidence.

**A.8.18. COVENANT**

A.8.18.1. OFFEROR covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this agreement. Further, OFFEROR covenants to its knowledge and ability in the performance of said services no person having any such interest shall be employed.

**A.8.19. DISPUTE RESOLUTION**

A.8.19.1. Any controversy or claim arising out of or related to the agreement or the breach thereof shall be settled by arbitration unless APPLICANT, at its sole option, rejects arbitration by so notifying OFFEROR.

A.8.19.2. If the APPLICANT rejects arbitration, the OFFEROR shall have thirty (30) days from the date of receipt of rejection to send notice to commence litigation by the service of a summons and complaint upon the APPLICANT.

A.8.19.3. Failure to effect service upon the APPLICANT within said time period shall act as a bar to litigation of the claim, which was the subject of the request for

arbitration.

- A.8.19.4. If the matter is arbitrated, the rules of the American Arbitration Association Construction Industry Rules shall apply, unless both parties agree otherwise in writing. Michigan courts may enter judgment on such awards.
- A.8.19.5. The parties agree that any arbitrator may not award attorney's fees in any case.
- A.8.19.6. Unless specifically stated herein, if there exists any conflict or inconsistency between the terms set forth in this proposal, the successful OFFEROR's response, and any agreement submitted by the successful OFFEROR, the language in this RFP shall take precedence.

#### **A.8.20. FORCE MAJEURE**

- A.8.20.1. Neither party shall be liable for failure or delay in performance under any agreement anticipated by this order in whole or in part to an act of God, strike, lockout, or other labor dispute, civil commotion, sabotage, fire, flood, explosion, acts of any government, unforeseen shortages or unavailability of fuel, power, transportation, raw materials or supplies, inability to obtain or delay in obtaining governmental approvals, permits, licenses or allocations, and any other causes which are not within such party's reasonable control, whether or not the kind is specifically enumerated above. During any period of OFFEROR's inability to perform, APPLICANT may acquire from others said goods or services without incurring liability to OFFEROR.

#### **A.8.21. PATENT INDEMNITY**

- A.8.21.1. OFFEROR agrees to indemnify and hold the APPLICANT harmless from any claim, including court costs and actual attorney fees, involving patent infringement or copyrights on goods or services supplied.

#### **A.8.22. PENALTIES/DEFAULT**

- A.8.22.1. In the event that the OFFEROR defaults on the contract entered into pursuant to this RFP, for any reason, including but not limited to cable routing or installation infeasibility, the APPLICANT shall have the unilateral right, at its discretion, to terminate or cancel the contract entered into between the parties.
- A.8.22.2. Additionally, if the OFFEROR defaults on the contract entered into pursuant to this RFP, the APPLICANT is entitled to recover any upfront or non-recurring charges paid to OFFEROR pursuant to any contract.

- A.8.22.3. In the event of a default, the APPLICANT may require the OFFEROR to directly refund USAC for any charges paid for with Erate funds that were not used for their eligible purposes.

### **A.8.23. INDEMNITY**

- A.8.23.1. OFFEROR agrees to indemnify and hold harmless the APPLICANT, its officers, employees, agents, and volunteers from and against all liability, claims, demands, and expenses including court costs, USAC Payment Demands, and actual attorney's fees on account of any injury, loss, or damage which arises out of the work performed under this agreement if such injury, loss, or damage is due to the negligence or contract breach of OFFEROR, any SUB-OFFEROR of OFFEROR, or any officer, employee, or agent of OFFEROR.
- A.8.23.2. The obligation of this section shall not apply to damages for which APPLICANT is/shall become liable by final judgment to pay to a third party as a result of the negligence of APPLICANT. Nothing herein shall constitute a waiver by APPLICANT of any and all rights and privileges under any governmental immunity act or related statutes.

### **A.8.24. INTELLECTUAL PROPERTY**

- A.8.24.1. The APPLICANT may request copies of the OFFEROR's drawings, written reports, or other works related to this project for the sole purpose of verifying that the OFFEROR is in compliance with the relevant specifications required in this RFP. The documents provided by the OFFEROR shall at all times remain the property of the OFFEROR.

### **A.8.25. NO THIRD-PARTY RIGHTS**

- A.8.25.1. Any contract entered into between the APPLICANT and the OFFEROR shall be for the sole benefit of APPLICANT and the OFFEROR.

### **A.8.26. NON-ENDORSEMENT**

- A.8.26.1. As a result of the selection of an OFFEROR to supply services, APPLICANT is neither endorsing nor suggesting that the OFFEROR's service is the best or only solution. OFFEROR agrees to make no reference to APPLICANT in any literature, promotional material, brochures, sales presentations, or the like, without the express written consent of APPLICANT.

### **A.8.27. RECORDS**

- A.8.27.1. Records shall be maintained as required by a successful OFFEROR in compliance with applicable municipal, federal or state laws, ordinances, codes, and as prescribed by APPLICANT.
- A.8.27.2. At any time during normal business hours when APPLICANT deems it necessary, all records shall be made available to APPLICANT'S Educational Agencies at a location of APPLICANT'S designation for examination with respect to all matters covered by any agreement.
- A.8.27.3. Referenced educational agencies may audit, examine and/or take excerpts or transcripts from such records including, but not limited to, invoices, materials, payrolls, records of personnel, conditions of employment or any other data as may be pertinent to this RFP.

#### **A.8.28. SEVERABILITY**

- A.8.28.1. If a competent court or arbitrator holds any of the terms, covenants, provisions and agreements contained herein invalid, illegal or unenforceable, this agreement shall be interpreted as if such invalid terms, covenants, provisions, or agreements were not contained herein and the remaining provisions shall be valid and enforceable.

#### **A.8.29. EXPENSES**

- A.8.29.1. In the event that the APPLICANT agrees to pay for any of OFFEROR'S expenses directly related to this work, the following parameters shall apply:
  - A.8.29.1.1. No overhead and/or profit shall be permitted.
  - A.8.29.1.2. OFFEROR shall only receive reimbursement in amounts that are consistent with applicable travel guidelines established by APPLICANT'S policy, regulations, and procedures for its own employees.
- A.8.29.2. APPLICANT is under no obligation to award a contract, pay costs incurred in preparation of, or to procure a contract for services or supplies from any OFFEROR.
- A.8.29.3. Awarded OFFEROR may be required to participate in negotiations, submit any price, technical or other revisions, resulting from negotiations.
- A.8.29.4. Wherever possible, proposals should take into account that one or more APPLICANT(S) may opt out of the consortium and that the cost should be able to be easily computed for the remaining consortium members.

### **A.8.30. REJECTION OF PROPOSALS**

- A.8.30.1. APPLICANT reserves the right to reject any and all proposals received, or any part thereof. Proposals may be rejected for any of, but not limited to, the following causes:
  - A.8.30.1.1. Proposal lacks signature by an authorized representative of OFFEROR.
  - A.8.30.1.2. Evidence of collusion among OFFERORS exists.
  - A.8.30.1.3. OFFEROR fails to meet terms and conditions as specified in the RFP.
  - A.8.30.1.4. Evidence submitted by OFFEROR leads APPLICANT to believe that OFFEROR will be unable to carry out the obligations of the agreement and complete the work described.
  - A.8.30.1.5. APPLICANT investigation determines that OFFEROR is not qualified to meet the obligations of the agreement and complete work described.
  - A.8.30.1.6. Cost of services exceeds budgetary constraints.
  - A.8.30.1.7. OFFEROR lacks proper system certification or experience.
  - A.8.30.1.8. OFFEROR has supplied an incomplete bid package that prevents APPLICANT from performing a sufficient analysis of the supplied proposal.

### **A.8.31. REFERENCES**

- A.8.31.1. APPLICANT reserves the right to investigate information supplied by OFFEROR to determine its accuracy.
- A.8.31.2. OFFEROR supplied reference or customer list authorizes the APPLICANT to contact firms listed and understand that any information gathered may be used in evaluation of the proposal.

### **A.8.32. PROPOSAL NEGOTIATIONS**

- A.8.32.1. APPLICANT may open negotiations with OFFEROR(S) after submission of proposals and prior to award.
- A.8.32.2. At its sole discretion the APPLICANT reserves the right to award an agreement without negotiation based upon written proposals.

- A.8.32.3. The APPLICANT reserves the right to accept any proposal which it deems most favorable to the APPLICANT and to reject any or all proposals or any portion of any proposal submitted which is not in the APPLICANT'S best interest. However, the APPLICANT shall comply with any applicable E-rate rules and regulations.

### **A.8.33. CONTRACT AWARD GUIDELINES**

- A.8.33.1. APPLICANT reserves the right to waive any minor irregularities in proposals and/or agreements deemed to be in its best interest.
- A.8.33.2. APPLICANT reserves the right to award an agreement based upon evaluation criteria detailed in (**Section D**), Taking into consideration the specified evaluation criteria, APPLICANT will select the OFFEROR consistent with any applicable E-rate guidelines and whose proposal is most advantageous to the APPLICANT.
- A.8.33.3. All agreements are subject to approval by APPLICANT'S legal counsel and may require approval of the Governing Bodies of any and all of the participating entities prior to execution.
- A.8.33.4. Once awarded, this contract will be the final expression of agreement between the parties and may not be altered, changed, or amended except by mutual written approval agreement.
- A.8.33.5. Unless specifically stated herein, if there exists any conflict or inconsistency between the terms set forth in this RFP document, the successful OFFEROR'S proposal, and any agreement submitted by the successful OFFEROR, the language in this RFP document shall take precedence.
- A.8.33.6. APPLICANT reserves the right to hold proposals for a period of ninety (90) days from the date of opening before awarding or rejecting said proposals.

### **A.8.34. RECOMMENDATION FOR AWARD POSTING**

- A.8.34.1. It is the responsibility of the interested OFFEROR to obtain the Recommendation for Award.
- A.8.34.2. The Recommendation for Award is posted on the following website:  
[www.sjcisd.org](http://www.sjcisd.org)
- A.8.34.3. OFFEROR may also obtain the Recommendation for Award by contacting APPLICANT'S Contact from the **Introductory Page**.

### **A.8.35. BID EVALUATION**

- A.8.35.1. Although the cost of the product/service is of primary concern, the ability to accommodate growth and change and the total cost of operation (TCO) within the district are, in many ways, more important. Do not assume the lowest bid will be awarded the project.
- A.8.35.2. Evaluation Criteria (**SECTION D**)

### **A.8.36. APPEAL BY UNSUCCESSFUL OFFEROR**

- A.8.36.1. Any unsuccessful OFFEROR may appeal a pending Recommendation for Award.
- A.8.36.2. Appellant must submit a written protest to the APPLICANT Contact no later than six (6) business days after Recommendation for Award is posted. The notice of protest must include a written statement setting forth with specificity the reasons the person filing the notice believes the applicable provisions of the law were violated.
- A.8.36.3. Appellant may be required to post a bond with a good and solvent surety company authorized to do business in the State of Michigan or submit other security in a form approved by the APPLICANT, which will hold the bond or other security until a determination is made on the appeal. Such a bond must be submitted with the written protest to the APPLICANT Contact.
- A.8.36.4. The bond or other security shall be in the amount of twenty five percent (25%) of the total dollar value of OFFEROR'S proposal.
- A.8.36.5. If Appellant is not satisfied with the APPLICANT'S Contact response, OFFEROR may then appeal to an appeals committee designated by the APPLICANT. If OFFEROR is not satisfied with the appeals committee's response, OFFEROR may then appeal to the APPLICANT'S Governing Body, who will render the final decision.
- A.8.36.6. OFFEROR will not seek any type of judicial intervention until APPLICANT has rendered its final decision on the protest.
- A.8.36.7. APPLICANT is not liable for any costs, expenses, attorney's fees, loss of income or other damages sustained by Appellant in the proposal appeal process.
- A.8.36.8. APPLICANT will stay any award action until after the APPLICANT'S Governing Body renders a final decision.

- A.8.36.9. If an appeal is granted and a bond is required, the full amount of the posted bond will be returned to Appellant. If the appeal is denied or not upheld, a claim may be made against the bond for expenses suffered by APPLICANT because of the unsuccessful appeal.

#### **A.8.37. BID BOND**

- A.8.37.1. Every RFP shall be accompanied by a surety company certified bid bond or cashier's check made payable to the Fiscal Agency listed on the **Introductory Page**.
- A.8.37.2. The amount of the bid bond or Cashier's Check shall be five percent (5%) of the total cost of the OFFEROR'S proposal. Said amount to be forfeited to the APPLICANT should the OFFEROR, to whom the contract is awarded, fail to enter into the contract in accordance with the RFP.
- A.8.37.3. Surety of the successful OFFEROR shall be retained by APPLICANT until replaced by a Performance Bond.

#### **A.8.38. PERFORMANCE AND PAYMENT BOND**

- A.8.38.1. Upon entering into a successful contract with APPLICANT, OFFEROR shall provide a Performance and Payment Bond in the amount of one hundred percent (100%) of the total value of proposal within thirty (30) calendar days with bond payable to the APPLICANT'S Fiscal Agency listed on the **Introductory Page**. This Performance and Payment Bond is required by Michigan law to the extent that OFFEROR constructs, alters, or repairs a school district improvement pursuant to a contract whose cost exceeds \$50,000.

#### **A.8.39. TERM OF AGREEMENT**

- A.8.39.1. See (**SECTION B**) for each service term.

#### **A.8.40. ALTERNATE WEATHER DATES**

- A.8.40.1. In the event of inclement weather, APPLICANT has provided a list of alternate weather dates for OFFEROR'S conferences and RFP openings and reserves the right to postpone the originally announced dates.
- A.8.40.2. Announcement shall be posted no later than **7:15 AM EST** the morning of the listed event(s). It shall be the OFFEROR'S responsibility to check the provided website listing for any announcement regarding postponed and/or



rescheduled events (**Introductory Page**)

- A.8.40.3. If no postponement is announced there shall be no alternate dates for the conferences or RFP openings. The alternate dates listed shall only be used in the event of inclement weather and only under the consideration of APPLICANT or its representatives.
  
- A.8.40.4. Mandatory events that are postponed to a later date must still be attended on their alternate date by an OFFEROR representative. Failure to have an authorized representative present on alternate date may result in forfeiture of bidding rights by the OFFEROR.