

THE HOWARD COUNTY PUBLIC SCHOOL SYSTEM  
REQUEST FOR PROPOSAL (RFP)  
FOR A  
MASS NOTIFICATION SYSTEM  
RFP NO. 060.18.B1

<b>April 13, 2018</b>	Issuance of RFP
<b>May 3, 2018</b>	Deadline for Submission of responses at 2:00 p.m. Late submittals will not be considered.
<b>May, 2018</b>	Evaluation of final candidates.
<b>May, 2018</b>	Contract Execution (or as soon thereafter as practical)

The Howard County Public School System  
10910 Clarksville Pike  
Ellicott City, Maryland 21042

# 1 GENERAL

The Howard County Public School System (HCPSS) is soliciting competitive sealed proposals to provide mass notification system service for the Office of Public Information.

## 1.1 SCOPE OF CONTRACT

HCPSS is requesting proposals from qualified firms with enterprise K-12 experience to provide a turn-key fully functional and integrated mass notification services to parents/guardians, staff and the general public by means of telephonic messaging, electronic mail, text messaging, social media and mobile application in accordance with this Request for Proposal (RFP).

## 1.2 PURPOSE

HCPSS' objective is to acquire, deploy and integrate an emergency communication and general notification system that provides the ability for HCPSS and each of its 77 schools and additional offices with the ability to send timely messaging. HCPSS desires a high-speed, vendor-hosted, automated communication system to deliver both emergency and routine notifications by voice, email, text, social media and mobile app to recipients with all varieties of devices. HCPSS also requires a contractor with the ability to integrate student and parent contact information via connection to the Synergy Student Information System, as well as the ability to import additional recipient and contact information via uploaded CSV files.

## 1.3 BACKGROUND

HCPSS is soliciting competitive proposals to select a contractor knowledgeable and experienced with a proven record to provide mass notification system.

HCPSS currently has more than 56,000 students in 77 schools and is located between the metropolitan areas of Baltimore, Maryland, and Washington, D.C. For more information on the Howard County Public School System, please visit <http://www.hcpss.org/about-us>. Offerors to this solicitation are encouraged to review the data contained in HCPSS website for a better understanding of HCPSS, its organization and management, and the services it provides.

## 1.4 SUBMITTAL QUALIFICATIONS

Offerors may be required to furnish satisfactory evidence that they are qualified dealers or manufacturers of the items offered, or regularly engaged in performing the services on which they are replying to the Proposal, and in both cases maintain a regularly established place of business. An authorized representative of HCPSS may visit any prospective Offeror's place of business to determine its ability, capacity, reliability, financial stability, and other factors necessary to perform the contract.

HCPSS reserves the right to require that the Offeror demonstrate that it has the skills, equipment and other resources to satisfactorily perform the nature and magnitude of work necessary to complete the project within the proposed contract schedule and can provide the maintenance and support of the product in the out years.

Offerors and any associated subcontractors to this solicitation must meet the following qualifications:

- a) Be an established software company for the past five (5) years implementing a product similar to requirements in this RFP.
- b) Provide a response that offers a fully functional product already developed and previously implemented.
- c) Have existing personnel experienced in disciplines that would enable efficient implementation of the services.

- d) Have direct experience with state and local government practices, procedures, laws, and regulations; with emphasis on the state of Maryland Public School Laws §5-112.
- e) Have direct experience in large-scale mass notification system implementation for local government or school systems.
- f) Produce results through activities and methodologies in accordance with state-of-the-art practices; and accredited, certified, and/or in accordance with usual and customary practices, and others as may be applicable.
- g) Are legally allowed to do business in the state of Maryland.
- h) Be able to provide 24 x 7 customer support

**2 OFFEROR INSTRUCTIONS**

The objectives of HCPSS efforts are to implement a mass notification system that supports the requirements in this RFP. The implementation scope and schedule will be consistent with the affordability and manageability constraints acceptable to HCPSS.

**2.1 SCHEDULE OF PROCUREMENT EVENTS**

<b>Date*</b>	<b>Event</b>
April, 2018	Issuance of RFP
May, 2018	Pre-Submittal Conference(s)
May, 2018	Further Evaluation of Final Candidates, Oral Presentations of Final Candidates. Potential product evaluations dates are from 09/12/14 to 09/30/2014.
June, 2018	Contract Execution (or as soon thereafter as practical)
July 1, 2018	Implementation of services

*\*The above dates are subject to change. See invitation notice for specific dates.*

**2.2 PRE-SUBMISSION CONFERENCE**

There will be no pre-submission conference for this project.

**2.3 DEADLINE FOR SUBMISSION OF RESPONSES**

To be considered, submittals must be received in the issuing office the date and time specified on the invitation notice of this RFP. See Section 2.6 of this RFP for delivery address. HCPSS prefers direct delivery. However, courier delivery services are acceptable, but the responsibility remains with the Offeror.

**2.4 RIGHT TO AMEND, MODIFY OR WITHDRAW RFP**

HCPSS reserves the right, in their sole discretion, to amend, or modify any provisions of this RFP, or to withdraw this RFP, at any time prior to the award of a Contract, if it is in the best interest of HCPSS BOE to do so. The decision of HCPSS shall be administratively final in this regard.

## 2.5 WRITTEN QUESTIONS AND OFFICIAL RESPONSES

Inquiries concerning this RFP must be in writing and received by the Issuing Office specified in Section 2.6 no later than the date and time specified on the invitation notice of this RFP. HCPSS will make every effort to provide a timely, written response to questions. Telephone inquiries will not be accepted.

Questions may be submitted by email or through the contact listed. Responses to inquiries of a general nature will be distributed to all entities. Responses to inquiries of a specific nature will be provided only to the requester. Response to inquiries of a specific nature can only be provided to the requester if the request was made by email to the Issuing Office rather than anonymous submission on the website. HCPSS reserves the right, in its sole discretion, to determine whether a request is of a general or specific nature. If an Offeror discovers any ambiguities, conflicts, discrepancies, exclusionary specifications, omissions, or other errors in this RFP, Offeror must immediately notify the Issuing Office. If an Offeror fails to so notify the Issuing Office, such Offeror submits a response at its own risk and under such conditions. If such Offeror is awarded a contract, then it is not entitled to additional compensation, relief, or time by reason of the error or its later correction. Areas of conflict that do not receive the specific written acceptance of HCPSS shall be resolved in favor of the solicitation documents.

## 2.6 ISSUING OFFICE

HCPSS Purchasing Office is the Issuing Office and the sole point of contact for the RFP. HCPSS Purchasing Office is the only office authorized to clarify, modify, amend, alter, or withdraw the specifications, terms, and conditions of this RFP and any contract awarded as a result of this RFP. All communications concerning this Request for Proposal must be addressed to:

Douglas Pindell  
Purchasing Office, Howard County Public School System  
10910 Clarksville Pike  
Ellicott City, MD 21042 Phone: (410) 313-6722 Fax: (410) 313-6789  
Email: [Douglas.Pindell@hcpss.org](mailto:Douglas.Pindell@hcpss.org)

## 2.7 CLARIFICATIONS AND ADDENDA

Should a Offeror find discrepancies in the RFP documents, or should they be in doubt as to the meaning or intent of any part thereof, they must, no later than seven (7) days (Saturdays, Sundays and holidays excluded) prior to the RFP due date, request clarification in writing (written emails from the Offeror's office are acceptable) from the Issuing Office, who will issue a written Addendum as necessary to the RFP. Failure to request such clarification is a waiver to any claim by the Offeror for expense made necessary by reason of later interpretation of the RFP documents by HCPSS. Requests shall include the RFP number and title.

Oral explanations or instructions will not be binding; only written Addenda will be binding. Any Addenda resulting from these requests will be posted to the website. The Offeror shall acknowledge the receipt of all addenda on the Proposal Pricing Sheet (Attachment F).

## 2.8 OPEN RECORDS

Following the award and execution of the Contract, responses to this RFP are subject to release as public information unless HCPSS has determined that parts of the submittal are confidential. The successful submittal may be considered public information even though parts are marked confidential. Copyrighted submittals are unacceptable and will be disqualified as non-responsive.

## 2.9 TIME

The times stated in this document refer to the Eastern Time Zone. Unless otherwise stated in this document, the applicable time deadline will be 3:00 p.m. on the date specified on the RFP invitation notice. HCPSS' regular office hours are 8:30 a.m. to 4:30 p.m., Monday through Friday, except for holidays.

## 2.10 COPIES

Offerors must submit one (1) signed original, five (5) copies and five (5) electronic (CD/DVD or flash drive) copies of their submittals. Offerors must include copies of Offeror's cost proposals in their submittal. By making a submission, Offerors acknowledge that HCPSS may make copies for internal and evaluation purposes.

## 2.11 LATE PROPOSALS

Proposals received in the Office of Purchasing after the date and time prescribed shall not be considered for contract award.

## 2.12 PERIOD THAT PROPOSALS REMAIN VALID

Each Offeror agrees that proposals shall remain firm for a period of one hundred and twenty (120) calendar days after the date specified for receipt of proposals.

## 2.13 OBLIGATIONS OF HCPSS

HCPSS shall pay no costs or other amounts incurred by any entity in responding to this RFP or prior to the effective date of the contract entered into for the services provided. HCPSS reserves the right, in their sole discretion, to select qualified responses to this RFP without discussion of responses with Offerors. HCPSS reserves the right to reject any or all submitted responses. All submittals will become property of the HCPSS official procurement files, and will be available for public inspection.

## 2.14 OFFEROR OBLIGATIONS

Qualified Offerors are invited to submit responses in accordance with this RFP. Submittals must address all specifications. The Offeror will be liable, both individually and severally, for the performance of all obligations under the contract, and will not be relieved of non-performance of any subcontractor.

## 2.15 ORAL PRESENTATION

Offerors selected may be required to present individual presentations to HCPSS representatives in order to clarify their response.

## 2.16 MULTIPLE/ALTERNATIVE PROPOSALS

Offerors may not submit more than one (1) response, nor may Offerors submit an alternate to this RFP.

## 2.17 PROPOSAL RESPONSE ACCEPTANCE

HCPSS reserves the right to accept or reject any and all Proposal responses, in whole or in part, received as a result of this RFP or to waive minor irregularities, in any manner necessary, to serve the interest of The Board of Education. HCPSS further reserves the right to award in full, make multiple awards, partial awards, or to make no award at all.

## 2.18 OPENING PROCEDURES

During the period of evaluation, no Offeror shall contact any member or employee of HCPSS concerning the Proposal award. Such action may result in the Offeror's Proposal response being removed from evaluation and rendered non-responsive.

## 2.19 ERRORS IN PROPOSALS

Failure of the Offeror to thoroughly understand all aspects of the issued Proposal, will not act as an excuse to permit withdrawal of their Proposal Response nor secure relief or plea of error.

Neither law nor regulation makes allowance for errors of omission on the part of the Offerors.

# 3 PROGRAM SUMMARY

## 3.1 SYSTEM ARCHITECTURE

The architecture must provide the Central Office and all schools of HCPSS with the ability to collect the required data and provide access to the collected data. The primary architecture should be a centralized, user-friendly (Graphical User Interface) software system accessible through web page compliance (W3) standards along with cross-browser support (Internet Explorer Version 8, Safari Version 5, Firefox Version 7, Chrome Version 15) with the data hosted by HCPSS.

## 3.2 CURRENT STATE

### 3.2.1 Computer & Server HarMNSare and Operating System Infrastructure

The HCPSS is a hybrid environment for desktop computers and laptops (Windows and Macintosh OS X). The current desktop computer configuration includes Windows 7 SP1 and Macintosh OS X 10.5 with plans for migration to Windows 8 and Macintosh OS 10.7.

For supported server environments, HCPSS runs Windows 2003 and 2008, OS X 10.5, Red Hat Linux, HP-UX, and Apache Tomcat and IIS web servers to handle critical student information as well as business systems. HCPSS has implemented a Microsoft Active Directory Services architecture that is used for all network and some system authentications. Currently supported databases include Oracle, MySQL and Microsoft SQL Server.

### 3.2.2 Local Area Network (LAN) Configuration

The HCPSS has a very robust network infrastructure. All hard-wired access devices connect at a minimum of 100mpbs per second switched. 1gbps connectivity is available upon request. The network switching architecture includes 3Com, HP, and Cisco LAN switches. VLANs and firewall technology have been deployed as part of the overall network security plan.

### 3.2.3 Wide Area Network (WAN) Configuration

Comcast's Ethernet Network Services ("ENS") HCPSS uses Comcast as a data communication service to provide for data connectivity between remote school locations and central office. Comcast ENS provides 1GBps bandwidth from each remote site over a fiber optic network. Remote locations connect to two 1GBps handoffs at HCPSS Central Office.

### 3.2.4 Communication Systems

The following requirements describe the communications systems which operate on the HCPSS network and strategies which would need to be compatible with the Offeror's product:

- a) Email Service. HCPSS uses Office 365 for all corporate email communications.
- b) An External REST-ful Application Programming Interface (API): An API means that we could write programs that could read/write data or call methods against the Offeror’s product using defined JSON or XML structures.
- c) WebHooks: WebHooks are extensibility points inside the Offeror’s product that allow specific URLs to be triggered when events happen within the system. (i.e. A student gets added to the system and the system calls a specific URL for subsequent actions.)
- d) Plugins/Internal API: The product has an internal, documented API that allows custom developed modules to run within it and safely access data.

3.2.5 Existing Third Party Interfaces

HCPSS currently maintains several information systems to manage data analysis and reporting needs, including but not limited to:

System Interfaces

Current Student Information System – Edupoint Synergy SIS - collects and reports student demographic, enrollment, attendance, conduct, course, and transcript data. Includes grade book and family/student portal tools. Microsoft SQL Server, Hosted In-House.

3.3 MASS NOTIFICATION SYSTEM FEATURES

The notification system features that are expected, at a minimum, are listed below.

3.4 IMPLEMENTATION SCHEDULE

<b>Project Milestone</b>	<b>Due Date</b>
Contract award	May 2018
Testing and Training	May-June 2018
Final “Go live”	July 1, 2018

Offeror shall adhere to the timeframe for implementation of the mass notifications system depicted in the table above.

Offeror may provide alternate implementation plans. Offeror may provide more than one implementation plan.

3.5 SYSTEM PERFORMANCE – SCOPE OF CONTRACT

HCPSS’ objective is to acquire, deploy and integrate an emergency communication and general notification system that provides the ability for HCPSS and each of its 77 schools and additional offices with the ability to send timely messaging. HCPSS desires a high-speed, vendor-hosted, automated communication system to deliver both emergency and routine notifications by voice, email, text, social media and mobile app to recipients with all varieties of devices. HCPSS also requires a contractor with the ability to integrate student and parent contact information via connection to the Synergy Student Information System, as well as the ability to import additional recipient and contact information via uploaded CSV files.

The awarded contractor shall train Multimedia staff, who then need to train all school front office and additional division/office staff before 10-month employees leave at the end of this school year. And, prior to any training of school staff, we would need to reconfigure and design newsletter templates for HCPSS and every school, and develop new workflows. Additionally, by mid-August, we will need the vendor to provide and our staff to configure a new mobile app.

3.5.1 The Contractor's system shall provide the following general capabilities under the Contract (collectively, the "Services"):

1. Software-as-a Service
2. Survey capability
3. E-mail, phone (with robocall ability), mobile/cell phone, text messaging, social media posts, mobile app (regardless of platform)
4. Professional development/Training/School-based training and webinars
5. Help desk/customer service support for all end users
6. User-friendly interface
7. Reporting capability (unconnected calls and reason, ad hoc reporting), and a quarterly report to monitor school usage
8. Calls per school (ability to restrict time/delivery of calls)
9. Performance better than 30,000 notifications an hour
10. Integrated voice response system
11. Mobile application for end users
12. Unlimited district accounts
13. Data privacy and security protection identified in Attachment J
14. 24-hour customer support and client services
15. Provides connectivity to HCPSS account for Facebook and Twitter accounts to automatically post information
16. Ideal system will have relationships with AT&T, Verizon, other carriers to expedite posting time to less than 10 minutes

3.5.2 In addition to the general capabilities listed above, the District requires the Contractor's system to provide the following specific capabilities (refer to Attachment D):

1. The designated District administrator(s) shall have access to all functions of the system. This person/people will be the only one(s) who will have the capability to send District wide messages or emergency messages. The District administrator will have the ability to assign permissions.
2. The school principal shall have the ability to create messages for his/her school only. The school principal may assign these rights to others at the school.
3. The District shall have the ability to create separate accounts for students and parents. Messages shall be able to be tailored for either or both students and parents.
4. The District shall have the ability to assign accounts to different departments within the District and be able to track their usage (i.e. Food Service will have an account and the District will be able to track calls made from that account).

5. The District shall have the ability to create notification groups and also the ability to create notification groups based on users' security profiles (i.e. parents; students; administrators; teachers). Sub-groups shall also be able to be created from primary groups.
6. The District shall have the ability to create emergency messages and deliver the messages within 15 minutes of determining the need.
7. The District shall have the ability to allow authorized school or district officials to override standard message delivery schedules in the event of the need to transmit emergency messages (email and phone).
8. Each school shall have the ability to notify parents or guardians of upcoming events (Open House, PTA, School Holidays, etc.) via email or by phone.
9. Each school shall have the ability to notify parents or guardians of emergencies and evacuations at school via email or by phone.
10. Each school shall have the ability to send an email or phone message to the parent or guardian automatically when a student is above or below a performance criterion as determined by the school or requested by the parent. The threshold shall be able to be tailored to meet the needs of the school or parent.
11. The system shall have the ability to generate a daily automatic, data-driven notifications to parents or guardians of student attendances, absences and tardiness, by period, in English, Spanish, Vietnamese, Chinese, Haitian Creole, Burmese, Tagalog and Arabic, without the necessity of involvement of or intervention by District staff.
12. The system shall have the ability to create and send text-to-speech messages translated in Spanish, Vietnamese, Chinese, Haitian Creole, Burmese, Tagalog and Arabic.
13. The system shall have the ability to save messages for future delivery.
14. The system shall have the ability to maintain 'Do Not Call' lists.
15. The system shall have the ability to automatically randomize calls.
16. The system shall have the ability to recognize answering machines and deliver notification at the appropriate interval.
17. The system shall have the ability to override call blocking devices.
18. The system shall have the ability to accept and deliver messages created by District personnel by phone.
19. The system shall have the ability to contain a database of standardized messages where the user will only have to insert dates or times (i.e. - open house, school board meetings, school holidays, early dismissal, closed for weather, etc.)
20. The system shall have the ability to create surveys to poll parents or students.
21. The system shall have Spanish, Vietnamese, Chinese, Haitian Creole, Burmese, Tagalog and Arabic translation capability.
22. The system shall have the ability for an unlimited number of retry attempts in the event a busy signal is received.
23. The system shall have the ability to maintain an unlimited number of listings per student or parent/guardian.
24. The system shall have the ability to automatically consolidate attendance notifications with any other messages that are being delivered to the same household or contact information.
25. The system shall have the ability to send voice messages to multiple types of devices (land phone, cell phone) and text messages via various means (e-mail, TTY, PDAs, SMS)

26. The system shall have the ability to schedule calls, by date and time. Calls shall be completed within the given parameter with a report back to the creator if calls are not completed.
27. The system shall allow the receiver the option to block the reception of text messages to a cell phone. This shall be automatic and shall prevent future text messages.
28. The system shall provide a nightly file of all attempted calls by the District. The file shall be an automated transfer to District servers without the necessity of involvement of or intervention by District staff.
29. The system interface shall be compatible with Android and iOS mobile devices.
30. All system data shall be housed in a Tier 3 facility rated to include: single non-redundant distribution path serving the equipment, non-redundant capacity components, redundant site infrastructure capacity components guaranteeing 99.982% availability, multiple independent distribution paths serving all the equipment, 24/7/365 monitoring of data center, physically secured center, and all equipment will be dual-powered and fully compatible with the topology of the site's architecture.
31. The system shall use at least 256 bit TLS/SSL encryption. All authenticated data transfers to and from the system shall be secured with at least 256-bit encryption.
32. The system shall leverage existing authentication system for identity and access management, Microsoft Active Directory through LDAP, SAML, or ADFS.
33. The system shall have the ability to generate reports in multiple formats to include Excel, Acrobat, MS Word and Text.
34. The system shall have the ability to have reports scheduled for delivery through email or SFTP on a selected interval or time schedule.

### 3.6 REPORTING

The system shall have the ability to generate the following reports:

1. a report that contains; date, time, contact, type of call, results of call;
2. a report that contains a list of the bad numbers or emails. The report will contain the phone number, email address, school, and student attached to the number or email;
3. a searchable report that contains all calls by phone number and will show the number, school, student, and parent attached to that number;
4. a suite of reports that will show attendance and calling trends;
5. a quarterly report that includes number of calls by school, reason, department, and purpose as well as summative information for the District.
6. A monthly report of all successful calls, failed calls and calls not attempted.
7. Ad hoc reports based upon data elements selected by the District for custom reports.

### 3.7 SYSTEM AND COMPONENT ACCESS

Offeror/implementer should provide complete system administrator access to all the components of the system including but not limited to all server, application code, database access, database components, hardware and software components. Offeror/Implementer should provide guidelines to HCPSS staff to make changes to the user-defined fields, tables and columns.

### 3.8 DATA CONVERSION

The solution must consist of an initial load process created to load the current and past years' HCPSS SIS and all relevant data. Conversion must incorporate all transformation rules as specified by HCPSS personnel.

Data should be converted without significant degradation to performance. It is not acceptable for HCPSS or school district staff to have to re-enter data that is already loaded into the existing SIS and other third party applications, unless it is mutually agreed that it is most cost effective to re-enter certain portions of the data.

### 3.9 TRAINING

Offeror shall provide technical support staff on-site training to operate, maintain, and effectively utilize each purchased module of the MNS in the course of their daily activities. The training shall primarily follow a train-the-trainer model and appropriately precedes the Implementation Schedule noted above. Primary users include both clerical and professional staff with varied levels of technical experience. Comprehensive and quality training and support is critical to the success of this project. Each employee participating in training shall receive an abbreviated instruction booklet for desktop use, and instruction on the use of the product manual(s) or on-line help. Training shall be by group and if deemed necessary by HCPSS, on an individual basis. Follow-up training is on an as needed, as requested basis.

### 3.10 SYSTEM TESTING

- a) The successful Offeror will provide all system integration testing which HCPSS requires to support any existing interfacing products currently used by HCPSS. System integration must be performed on all system components to accurately define the product's solution capabilities and limitations. The tests must be performed in collaboration with HCPSS staff.
- b) Prior to the deadline for full implementation of the entire system, Offeror shall perform a full load response time test and provide a final written document on the test results to be reviewed and approved by HCPSS. The successful Offeror will also include simulations to verify the load and performance capabilities of the solution to support 100 staff and approximately 10,000 publics if using a "Click here to view this message in your web browser" feature simultaneous users. The mechanism for testing this load performance should be delivered as part of the product for continuous system monitoring by HCPSS staff.

### 3.11 OFFEROR PERFORMANCE AND ACCEPTANCE TESTING

- a) The successful Offeror will perform acceptance testing throughout the implementation phase of the project. Testing windows must be included in the project plan. The HCPSS project manager will work collaboratively with the Offeror to refine the testing timeline.
- b) The successful Offeror will demonstrate, through the testing process that the proposed product/solution works and meets all the functional requirements.
- c) Results of acceptance testing will be documented and reported to the HCPSS Project Manager during the course of the project.

- d) HCPSS shall be responsible to evaluate the system immediately following Offeror's notification that the MNS has been properly installed and tested in accordance with the schedule specified herein. This evaluation includes both pilot implementations and final implementation. HCPSS's testing of the system shall be not more than 30 days. At the end of such time, HCPSS shall provide a written report of its acceptance or rejection of the system being tested. Any rejection shall document deficiencies found that caused the rejection and must be rectified. Once the corrections have been made, HCPSS reserves the right to conduct the test again repeating the steps found above.

### 3.12 MAINTENANCE

Maintenance fees provided in the Price Proposal Form shall remain firm for a 5-year period commencing upon expiration of the warranty period. Maintenance shall be billed by the Offeror on an annual basis and shall include all updates/upgrades required by Federal and Maryland State mandates. Any software fixes or changes to MNS shall be available for download to HCPSS personnel. Offeror shall provide all updates/upgrades and fixes to the MNS with the capability of being processed at a central site on a HCPSS specified network platform in order to ensure that the resulting modifications are simultaneously available to all user's resident on the network.

Upon expiration of the initial term, or upon its earliest termination as provided herein, the HCPSS reserves the right to re-solicit or to extend Maintenance services for two (2) additional one (1) year periods this contract and the services described and/or included in this RFP, at its sole option.

### 3.13 TECHNICAL SUPPORT

HCPSS will provide first line support for MNS. Offeror shall provide full support for the product for a minimum of five (5) years from the date of final acceptance by HCPSS. Offeror shall provide user telephone support for designated HCPSS personnel. The Offeror's second line support shall be available 24 hours per day, seven days per week. The telephone number shall be a toll free user support hot line. In the event that the help desk cannot resolve the problem via a telephone call, a service call shall be coordinated by the Offeror at the expense of the Offeror.

### 3.14 LOCATION

Primary implementation activities will be performed at the HCPSS Board of Education and throughout Howard County. The HCPSS Board of Education is located at:

Howard County Public School System

10910 Clarksville Pike

Ellicott City, MD 21042

Training and maintenance activities may be conducted throughout Howard County, Maryland.

### 3.15 PERFORMANCE-BASED MILESTONES

HCPSS will make partial payments based upon Offeror completion and HCPSS MNS Manager approval of Performance-Based Milestones (PBM's). Payments may be withheld until all identified deficiencies are corrected and the system is accepted by HCPSS. HCPSS shall not withhold acceptance unreasonably. Billings for anticipated future work to be completed will not be accepted.

### 3.16 OFFEROR RESPONSIBILITIES

The Offeror shall provide complete design, development, delivery, implementation, installation, and testing of proposed MNS as required herein and proposed in Offeror's Technical Approach, as well as on-

site support during all phases of the contractual obligations. All software proposed shall be licensed in perpetuity to HCPSS.

HCPSS will only provide the required space, power, AC and bandwidth in the HCPSS data centers.

### 3.17 HCPSS RESPONSIBILITIES

#### 3.17.1 MNS Project Manager

Before the start of implementation, HCPSS will appoint an employee who will serve as the Project Manager, to whom the Offeror shall address project communications. The role of the Project Manager is to provide direction of staff working on the project as well as direction, communication guidelines, and procedures for reporting to management and leadership within the school system. This person will be dedicated to the project.

#### 3.17.2 Access to Schools

HCPSS shall facilitate the reasonable access to schools and data centers for the purposes of training and performing on the contract.

### 3.18 CONTRACT PERIOD

A contract is anticipated to be executed in June, 2018. Implementation will begin once the contract is executed. The service shall begin upon the execution of an agreement soon after award or by July 1, 2018. Once awarded, the Contract shall remain in force and effect for a period not to exceed five (5) years and is subject to available funding.

## **4 SUBMITTAL FORMAT**

### **4.1 INTRODUCTION**

By submitting a signed submittal, an Offeror represents that it fully understands this RFP and will abide by its terms and conditions, including those appearing as Section 6 to this RFP and the HCPSS Standard Contract that appears as Attachment A to this RFP. Exceptions, amendments, or deviations from this RFP should be presented at the pre-submittal conference in writing. Unauthorized exceptions, amendments, or deviations in the response may result in disqualification of the submittal.

Submittals must be organized as described in Section 4.2 below. Submittals not organized in this manner are subject to disqualification. Conciseness and clarity of content are emphasized and encouraged. Vague and general submittals will be considered non-responsive and disqualified. Submittals must be complete; failure to include all required information may result in disqualification. Submittal pages must be numbered and contain an organized, paginated table of contents corresponding to the sections and pages of the submittal.

It is the Offeror's responsibility to clearly identify and to describe the services being offered in response to the Request for Proposal. Offerors are cautioned that organization of their response, as well as thoroughness is critical to the HCPSS's evaluation process. The RFP forms must be completed legibly and in their entirety; and all required supplemental information must be furnished and presented in an organized, comprehensive and easy to follow manner.

### **4.2 GENERAL ORGANIZATION OF SUBMITTAL CONTENTS**

Offerors intending to respond to this RFP should submit a Proposal Reply Form (Attachment I) at the earliest date possible.

Submittals must be organized as follows:

- a) Transmittal Letter
- b) Executive Summary
- c) Table of Contents
- d) Offeror Identifying Information (See Attachment C)
- e) Subcontractor Information
- f) References (See Attachment D)
- g) Management Team – Offeror (See Attachment E)
- h) Technical Proposal
- i) Price Proposal (See Attachment F)
- j) Equal Employment Opportunity Practices Statement (See Attachment G)
- k) Statutory Affidavit And Non-Collusion Certification & Proposal Signature Sheet (See Attachment H)
- l) Letter of Intent to Sign HCPSS Standard Contract (See Attachment A) or Detailed Description of exceptions, deviations or additions to the HCPSS Standard Contract
- m) Confirmation of compliance with the data privacy and security requirement

#### **4.2.1 Transmittal Letter**

Offerors must submit with their submittals a transmittal letter that identifies the entity submitting the submittal, all principals, and includes a commitment by that entity to provide the services required by HCPSS.

The transmittal letter must be signed by a person legally authorized to bind Offeror to the representations in the response. Offeror also must indicate, in its transmittal letter, why it believes it is the most qualified Offeror to provide the requisite services.

The transmittal letter must include a statement of acceptance of the terms and conditions as specified in Section 6 of this RFP and of the contract resulting from this RFP (a copy of the HCPSS Standard Contract appears as Attachment A. If an Offeror takes exception to any of the proposed terms and conditions stated in Section 6 or the Standard Contract that appears as Attachment A of this RFP, those exceptions must be noted in the transmittal letter.

#### 4.2.2 Executive Summary

Offerors must provide an executive summary of their submittals and represent that Offerors' submittals address all of the requirements of this RFP. The executive summary must represent a full and concise summary of the contents of the submittal. The executive summary must not include any information concerning the cost of the submittal. Offerors must identify any services that are provided beyond those specifically requested. If Offeror is providing services that do not meet the specific requirements of this RFP, but in the opinion of Offeror are equivalent or superior to those specifically requested, any such differences must be noted in the executive summary. However, failure to provide the services specifically required may result in disqualification of the submittal. The executive summary should summarize background on the firm and its specific accomplishments in the MNS area. This shall include specific reference to providing quality software and subsequent support services.

Offeror should provide examples of past MNS implementations which were integrated with Edupoint's Synergy Student Information Systems. Provide a brief description of the project and its location.

#### 4.2.3 Table of Contents

Each submittal must be submitted with a table of contents that clearly identifies the location of each submittal item. The table of contents must also clearly identify and denote the location of all enclosures of the submittal. The table of contents must follow the RFP's structure as much as is practical.

#### 4.2.4 Offeror Identifying Information

Each Offeror must provide the following identifying information using the form provided as Attachment C and any additional pages required for amplifying information.

- 1) Name and address of business entity submitting the submittal;
- 2) Name(s) of all principals;
- 3) Type of business entity (i.e., corporation, partnership);
- 4) How long in business under current name and previous names used by business;
- 5) Length of time it has been implementing MNS product;
- 6) State of incorporation or organization and principal place of business;
- 7) Confirmation that company is legally allowed to do business in the state of Maryland;
- 8) Offeror's Federal Employer Identification Number;
- 9) Main office and branch office locations, noting street address and city, state, and zip code. Name and location of major offices, plants, and other facilities that related to Offeror's performance under this RFP. P.O. Boxes will not be accepted;
- 10) Manpower breakdown - number of personnel by specialty, number of office workers, number of field supervisors, number of field workers, number of developers, number of sales and marketing;

- 11) Full name and business address for each subcontractor who will perform services on this project;
- 12) Offeror shall provide a Letter of Intent to Comply with the HCPSS Insurance Requirements, listed in Attachment B;
- 13) Statement as to business and/or principals' involvement in any legal action pending or resolved regarding failure to perform in the state of Maryland during the previous three years, furnish details and outcome;
- 14) Statement of principals' of ownership or investment in other corporations, partnership, or businesses of any nature - state name of business, nature of business, principals' involved, and nature of involvement.

This information must be provided for each subcontractor as a separate form (Attachment C).

#### 4.2.5 Subcontractor Information

Submittals must identify any subcontractors, and outline the contractual relationship between Offeror and each subcontractor. Offeror will be the sole point of contract responsibility. HCPSS will look solely to Offeror for performance of the contract. Offeror will indemnify and hold harmless HCPSS from any claim asserted by or against Offeror or Offeror's subcontractors.

#### 4.2.6 References

For MNS product, include the School System Name, Point of Contact Name, Phone, Email, Address, Number of Students, Date of Contract Signing and Date of Initial Implementation Contract Completion, and description of services provided for each of your references listed using the form provided as Attachment D, including the:

- 1) Last three implementations for this proposed product;
- 2) Last three implementations for school systems greater than 50,000 students using this product;
- 3) Three Maryland clients or, where no Maryland clients exist, list three geographically-closest clients to HCPSS using this product.

HCPSS reserves the right to consider feedback from current or previous customers of the Offeror not provided by the Offeror as a Reference (Attachment D).

#### 4.2.7 Price Proposal

This Part details the submittal evaluation and selection process and the mandatory format for submission of the cost portion of submittals ("price proposals"). Any re-worked version of Attachment F that is intended to be a substitute for Attachment F previously provided by an Offeror may be determined as non-responsive, and may result in the submittal's disqualification. Offeror must include in its cost proposal all travel and accommodation expenses associated with travel, and all other out-of-pocket expenses required to perform under this project as part of the overall non-recurring product costs. All such costs will be at the expense of Offeror.

The Price Proposal should:

- a) Outline methods or philosophy that will be utilized to control project costs. This should include specific cost control methods, automation techniques, and the expected use of staff and subcontractors.

- b) Include a fee structure utilizing the Price Proposal Cover Sheet - Attachment F.  
The pricing specifications described on the Price Proposal Cover Sheet shall include a fixed price to complete the work described in this RFP, with the individual components of that price broken out in the following manner.
  - a. Product Costs – Including Non-Recurring Services, materials and equipment for the implementation of the MNS, Recurring costs such as licensing of the Offeror’s system and any other licensing required to be contracted by HCPSS.
  - b. Maintenance Pricing
  - c. Warranty Pricing
  - d. Contracted and consulting services and expense costs.
- c) If pricing alternatives are proposed, include a separate Price Proposal Cover Sheet for each option.
- d) All pricing provided should not include any reductions or discounts attributed to an E-Rate program.
- e) If pricing is based on a per student basis, estimate extended pricing based on a population of 52,000 students.
- f) Optional pricing for cloud-based, Offeror -hosted solutions may be provided, however HCPSS does not expect to consider hosted solutions at this time.

*4.2.7.1 Non-Recurring and Recurring Fees*

- a) The Proposal Price Sheet requests itemized non-recurring and recurring fees for the period of this contract. Offerors are advised that funding for these services is provided on an annual basis. Subsequent contract years, after the initial year shall be subject to appropriated school funding and satisfactory Offeror performance.

*4.2.7.2 Warranty Pricing*

Offeror shall warrant the proposed software, upgrades and customizations for a one-year period beginning from the date of final acceptance of the proposed software. During this warranty period all maintenance and support services described above shall be provided free of charge. Warranty period provided under Offeror’s Responsibilities shall begin immediately following acceptance of the product and end one year later.

*4.2.7.3 Maintenance Pricing*

Maintenance fees, service and technical support shall comply with Section 3.12 of this proposal.

*4.2.7.4 Prices and Alterations*

Proposal prices must be typed or written in ink. Any price, rate, or payment changes must be initialed or the item will be disqualified, and the proposal rejected.

**4.2.8 Financial Information – Upon Request by HCPSS**

Upon request by HCPSS, the Offeror will be required to submit a statement regarding the financial stability of Offeror, including the ability of Offeror to perform the requisite services and additional services included in its response. If requested by HCPSS, Offeror will be required to submit the most recent audited financial statement of the Offeror’s organization, and other financial data requested or required within 24 hours after request by HCPSS, in an envelope labeled “Financial Statement and Data.”

- a) Financial Statement: Upon request by HCPSS, the financial statement must be certified by the owner, partner, or officer of the firm, or by a certified public accountant. Financial statements will not be required, at submittal deadline time, from firms who are individuals, or from firms who are proposed

for less than \$10,000 of services. However, the school system reserves the right to solicit this information at any time, if said information is deemed relevant.

- b) Other Financial Data: Upon request by HCPSS, provide financial data that is specifically requested by the school system.

#### 4.2.9 Equal Employment Opportunity Practices

HCPSS is committed to assisting firms that are majority owned by minorities and women. An Offeror must state in its submittal whether it is majority owned by minorities and/or women.

Offerors are expected to make every effort to meet or exceed the goal of 25 percent participation by organizations majority owned by Native American, Asian, African-American, Hispanics, persons with disabilities, and/or women.

Offerors must submit with their submittals completed copies of the Equal Business Opportunity Contract Schedule of Participation Form that appears as Attachment G.

#### 4.2.10 Statutory Affidavit, Non-Collusion Certification & Proposal Signature Sheet

Each Offeror must sign a Statutory Affidavit, Non-Collusion Certification and Proposal Signature Sheet, which is included herein as Attachment H. This form shall be completed to provide all the information requested and signed by the person or persons legally authorized to sign contracts. By executing the signature sheet, Offeror acknowledges that the Offeror has read this Request for Proposal, understands it, and agrees to be bound by its terms and conditions.

#### 4.2.11 Intent to Sign HCPSS Standard Contract

Offeror shall provide a Letter of Intent to Sign HCPSS Standard Contract (Attachment A) or Detailed Description of exceptions, deviations or additions to the HCPSS Standard Contract

## **5 GENERAL EVALUATION**

### **5.1 EVALUATION OVERVIEW**

The information of this section is advisory to supplement and clarify to other sections of this RFP. HCPSS reserves the right to accept or reject any or all proposals, waive irregularities and technicalities, request resubmissions, and enter into negotiations with proposers as warranted. There is no obligation on the part of HCPSS to award the contract to the firm proposing the lowest price. HCPSS reserves the right to award the contract to the firm whose proposal is most advantageous to and in the best interest of HCPSS. HCPSS shall be the sole judge of which proposal is in its best interest.

### **5.2 BASIS FOR AWARD**

The Howard County Public School System reserves the right to award the contract in the aggregate, by individual service, or any combination, whichever is in the best interest of the HCPSS or to make multiple awards in a primary or secondary manner depending on the capacity of the awarded Offerors to service the school system.

- a) Contract award will be made by the Board of Education based on consideration of all submitted information. HCPSS hereby reserves the right to select the particular response to this Proposal which it believes will best serve its business and operational requirements, considering the evaluation criteria set forth in this document.
- b) Additionally, HCPSS hereby reserves the right to solicit best and final offers only from a short list of Offerors receiving the highest evaluated scores. If short listing occurs, Best and Final offers may be solicited from not less than two (2) of the highest evaluated scores.
- c) HCPSS hereby reserves the right to make an award of the Proposal for all items, or any parts, thereof, to one or more Offerors, as set forth in detail under the information furnished in this document. HCPSS further reserves the right to consider information other than price when evaluating Proposal responses.
- d) In the event of a tie where all factors are equal, award shall be made to the Howard County Offeror, the Out-of-County Offeror but incorporated in Maryland, and the Offeror not incorporated in Maryland, in that order of preference. If Offerors within one of these geographical designations are equal as to all factors of consideration, the award shall be made by the toss of a coin.
- e) The Board of Education of Howard County reserves the right to reject any or all proposal responses, to make partial awards, to waive any irregularity, to increase or decrease quantities where quantities are shown and may reject any Proposal which indicates any omission, contains alteration of form or additions, or imposes conditions or offers alternate items and may make any award which is deemed in the best interest of HCPSS.
- f) Offerors must submit prices for all line items on the Price Proposal Cover Sheet in order to be considered responsive.
- g) Submittals shall comprehensively address all of the desired services outlined in the Request for Proposal and shall demonstrate the successful performance of similar contracts by the Offeror making the submittal, and shall offer the most cost effective submittal for the desired services.
- h) HCPSS reserves the right to require presentations and/or demonstrations for clarification purposes. Criteria shall include clarity of answers to questions asked by the Selection Committee, explanation of the methodology and generally pertinent information revealed which would serve to distinguish an Offeror from the other Offerors. HCPSS may as is sole option, elect not to request discussions with or presentations by Offerors.

- i) HCPSS reserves the right to make an award with or without negotiations or to request best and final offers or to make an award without further review. Qualified agencies may be requested to provide an oral presentation to the Selection Committee.
- j) HCPSS will evaluate submittals on the basis set forth in this section. A contract may be awarded to the Offeror whose submittal best meets HCPSS requirements and needs at the time of the award. The evaluation criteria below are set forth in their order of importance and are intended to be the basis by which each proposal shall be evaluated, measured and ranked. HCPSS reserves the right to evaluate, at its sole discretion, the extent to which each proposal received compares to the said criteria and to each other.

### 5.3 PROPOSAL EVALUATION CRITERIA

Each proposal will be evaluated by the Selection Committee for key categories, including but not limited to:

Criteria	Weight (%)
Pricing (Implementation and Annual Recurring)	30
Technical Approach	20
Functional Evaluation Matrix	20
Qualifications of the Firm	15
Contractual Alignment	15

- a) Pricing (Implementation and Annual Recurring)
  - Pricing is evaluated to be thorough, accurate, and reasonable for the product proposed.
  - Financial Information provided indicates solid financial standing to implement contract and future support requirements.
  - Any associated software and peripherals, including external licenses, are stated and determined to be reasonable.
- b) Technical Approach and Evaluation Criteria Matrix
  - Technical Approach most closely satisfies HCPSS functional and technical requirements, project implementation schedule, implementation support and training throughout term of Contract.
  - Documentation, technical, marketing and training literature provided in the submission is available to support the product.
- c) Evaluation Criteria Matrix
  - Evaluation Criteria Matrix submitted demonstrates the product proposed meets all or most of the requirements identified.
  - System reporting (“canned reports”) are extensive to support immediate use with minimal HCPSS development effort.
  - User interface, as represented in screen shots submitted, is appealing and functional.
- d) Proposal Information and Qualifications of the Firm
  - Executive Summary and Offeror Information displays a portfolio of previous experiences and demonstrates Offeror’s qualifications to complete the contract.
  - Proposal submitted is complete and compliant with the requirements of this RFP.
  - Proposal implements both MNS solution

- References and information received from comparable current and previous MNS customers and related services with similar sized school systems confirm Offeror's qualifications and level of product support.
  - Post-Implementation Maintenance and Technical Support are acceptable.
- e) Contractual Alignment
- Intent to Sign Standard HCPSS Contract is signed, or
  - Detailed list of exceptions, deviations or additions to the HCPSS Standard Contract provided is determined by HCPSS to be uncomplicated and predictive of a prompt post-award contractual signing.

## **6 GENERAL PROVISIONS**

Offerors are encouraged to submit any questions with regard to terms and conditions and the Standard Contract prior to the deadline set on the invitation notice in this RFP for the submission of questions.

### **6.1 CANCELLATION OF THE RFP**

HCPSS may cancel this RFP, in whole or in part, at any time before the opening.

### **6.2 ORDER OF PRECEDENCE**

In the event of an inconsistency among provisions of this Request for Proposal, the inconsistency shall be resolved by the following order of precedence:

- Specifications
- Terms and Conditions
- General Provisions for Professional Services

### **6.3 CONTRACT AWARD**

Any award to furnish services to The Howard County Public School System (referred to as “HCPSS”) shall include, in whole or in part, either attached or incorporated by reference, binding in all respects, these provisions.

### **6.4 CONTRACT DOCUMENTS**

Contract Documents consist of the Terms and Conditions of the Proposal, the Procurement Specifications, the General Provisions, and any applicable drawings and addenda issued.

All of these materials will be included in the contract which the Board of Education awards as a result of this solicitation and will be among the Contract documents. The Offeror, by submitting its Proposal, agrees that if awarded the Contract that it will be bound under the Contract to all the Terms and Conditions of the Contract.

### **6.5 PURCHASE ORDER**

Payments will be made contingent upon the satisfactory completion of the timeframes defined in Section 3.3 under Implementation Schedule and under Performance Based Milestones in Section 3.15. HCPSS may request additional information or clarification. The purchase order indicates that sufficient funds have been obligated.

The purchase order does not supersede any provisions of the resulting contract. Performance time and dates are determined solely by the contract and any modification thereto.

### **6.6 BILLING AND PAYMENT**

The awarded Contractor shall submit invoices to the Howard County Department of Education, 10910 Clarksville Pike, Ellicott City, MD 21042, Attn: Public Information Office – Ms. Emily Bahar.

### **6.7 PAYMENT**

Subject to the performance of the work within the implementation schedule and its acceptance by the HCPSS, successful Contractor may invoice the HCPSS for all appropriate charges for services performed during the billing period. All such charges shall be derived in accordance with the prices originally quoted on the Price Proposal Form, attached hereto and made part hereof. In the event that successful Contractor is not in default of any of the contract terms and conditions, then HCPSS shall cause said invoice to be paid timely.

HCPSS will make every effort to pay the Contractor within thirty (30) days of acceptance of all deliverables associated with each invoice. Notwithstanding any other provision of this RFP, all invoices must be accompanied with documentation that details the number of hours expended and nature of work performed by Contractor's personnel and subcontractor staff in the performance of work under the Contract.

#### 6.8 PRICE ADJUSTMENTS

The Howard County Public School System will only consider adjustments on labor rates based only upon federal minimum wage increases and decreases in the Consumer Price Index (CPI-W), Baltimore Region, as published by the Bureau of Labor Standards. Requested increases above a 10% cap will not be considered. In order to receive consideration for a price increase, the Contractor must submit to The Howard County Public School System, forty-five (45) days prior to the contract expiration date, a statement of any change in the hourly rate wage actually to be paid to its employees during the renewal term. Adjustments will be calculated by comparing the current index with the previous year's index so as to determine the change in index points. The point change will then be divided by the price index to obtain the percentage of change.

The Howard County Public School System will also consider adjustments based on fees outside of the control of the Contractor, such as manufacturer price increases. However, such increases will be a "pass through" to the Howard County Public School System with no mark-up allowed. For such changes to be considered by the Howard County Public School System, documentation from the manufacturer (or any other applicable party) assessing a cost increase must accompany a written request from the Contractor. The Howard County Public School System will then review the request and advise the Contractor of approval or disapproval of the price change request.

Price increase requests will not be considered if not accompanied with the proper information.

#### 6.9 CONFLICT OF INTEREST

In submitting a submittal, an Offeror affirms that it has not given, nor intends to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or any employee or representative of same, in connection with this procurement.

Additionally, by submitting a submittal, the Contractor represents and warrants that if awarded the Contract, the review would not put the Contractor in a position of having to review and/or evaluate its own work in a past consulting or business engagement with the system. In any event, such existing and/or past relationships with the system must be disclosed in the submittal.

By submitting a response, the Contractor agrees that, if selected, the Contractor will be independent and not be unduly influenced by any group or individuals, public or private, to include the HCPSS, Maryland State Department of Education, Maryland State Government, or any of its respective employees, members, or representatives.

Each Offeror must disclose any existing or potential conflict of interest relative to the performance under the Contract. Examples of potential conflicts may include an existing business or personal relationship between Offeror, its principal, or any affiliate or subcontractor, with HCPSS or any other entity or person

involved in any way in the Contract. Similarly, any personal or business relationship between Offeror, the principals, or any affiliate or subcontractor, with any employee of HCPSS or its suppliers must be disclosed. Any such relationship that might be perceived or represented as a conflict must be disclosed. Failure to disclose any such relationship or reveal personal relationships with HCPSS employees may be cause for contract termination. HCPSS reserves the right, in its sole discretion, to determine if an actual or perceived conflict should result in submittal disqualification.

#### 6.10 WAIVER OF RIGHT TO BID ON OTHER CONTRACTS

The Contractor agrees that it and its parent, its affiliates and subsidiaries, if any, waive the right to submit a proposal on any procurement contracts, of any tier, resulting from the services to be provided under this agreement.

#### 6.11 PUBLIC INFORMATION ACT NOTICE

Contractors should give specific attention to the identification of those portions of their submittals that they deem to be confidential, proprietary information or trade secrets and provide any justification of why such materials, upon request, should not be disclosed by HCPSS. Blanket requests for the entire submittal to be held confidential will not be accepted.

HCPSS shall determine, in their sole discretion, which (if any) portions of the Contractor's submittals shall be confidential.

#### 6.12 INITIATION OF WORK

The Contractor shall not commence performance of the services until it receives a formal written notice to proceed from HCPSS.

#### 6.13 RESPONSIBILITY FOR CLAIMS AND LIABILITY

The Contractor shall be responsible for any personnel injury, loss of life, and damage to or loss of property arising from or related to Contractor's activities or those of its subcontractors, agents, or employees in connection with the services required under this agreement. The Contractor shall indemnify and save harmless HCPSS, its elected officials, officers, agents and employees from and against all claims, suits, demands, judgments, expenses, actions, damages and costs of every name and description, including but not limited to attorneys' fees arising out of or resulting from its negligent or wrongful performance or failure of performance of the services of the Contractor under this agreement or the activities conducted or required to be conducted by the Contractor under this agreement, including its subcontractors, agents, or employees.

#### 6.14 CHANGES ALTERATIONS, OR MODIFICATIONS IN THE SERVICES

HCPSS shall have the right, at their discretion, to change, alter, or modify the services provided for in this agreement and such changes, alterations, or modifications may be made even though it will result in an increase or decrease in the services of the Contractor or in the contract cost thereof.

If such changes cause an increase or decrease in the Contractor's cost of, or time required for, performance of any service under this contract, whether or not changed by an order, an equitable adjustment shall be made and the contract shall be modified in writing accordingly. Any claim of the Contractor for adjustment under this clause must be asserted in writing within 30 days from the date of receipt by the Contractor of the notification of change unless the project manager or his duly authorized representative grants a further period of time before the date of final payment under the contract.

No services for which an additional cost or fee will be charged by the Contractor shall be furnished without prior written authorization of HCPSS.

#### 6.15 DELAYS AND EXTENSIONS OF TIME

The Contractor shall prosecute the work continuously and diligently and no charges or claims for damages shall be made by the Contractor for any delays, acceleration or hindrance, from any cause whatsoever, during the progress of any portion of the services specified in this agreement. Such delays, acceleration or hindrances, if any, may be compensated for by an extension of time for such reasonable period as HCPSS may decide. Time extensions will be granted only for excusable delays such as delays beyond the control and without the fault or negligence of the Contractor.

#### 6.16 REMEDIES AND TERMINATION

##### 6.16.1 Correction of Errors, Defects, and Omissions

The Contractor agrees to perform work as may be necessary to correct errors, defects, and omissions in the services required under this agreement without undue delays and without cost to HCPSS. The acceptance of the work set forth herein by HCPSS shall not relieve the Contractor of the responsibility.

##### 6.16.2 Set-Off

HCPSS may deduct from and set-off against any amounts due and payable to the Contractor any back-charges or damages sustained by HCPSS by virtue of any breach of this agreement by the Contractor to perform the services or any part of the services in a satisfactory manner. Nothing herein shall be construed to relieve the Contractor of liability for additional construction and design or other costs, expenses, and damages resulting from a failure to satisfactorily perform the services. Nothing herein shall limit the liability of the Contractor for damages and HCPSS may affirmatively collect damages from the Contractor.

##### 6.16.3 Termination

###### 6.16.3.1 *Termination for Default*

Should Contractor fail to perform fully, faithfully and promptly any obligation owed to HCPSS under the Contract, HCPSS may, at its election, consider the breach material and, notwithstanding any requirement of notice, terminate the Contract in its entirety by written notice to the Contractor.

The notice shall specify the acts of omissions relied on as cause for termination. All finished or unfinished supplies and services provided by the Contractor, shall at HCPSS's option, become HCPSS property. HCPSS shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and HCPSS can affirmatively collect damages.

Such termination, or failure to terminate, by HCPSS shall not be construed as a waiver of any other right or remedy afforded by law or by agreement between the parties which HCPSS may have against Contractor. No failure of HCPSS to utilize a remedy afforded by law or contract upon any breach by Contractor shall be construed as a waiver of the right to insist upon full, prompt and faithful performance of the particular obligation, and all other obligations of Contractor in the future.

#### *6.16.3.2 Termination for Convenience*

The performance of work under the Contract may be terminated by HCPSS in accordance with this clause in whole, or from time to time in part, whenever HCPSS shall determine that such termination is in the best interest of HCPSS. In the event of such termination, the contract manager shall determine the costs the Contractor has incurred to the date of termination and such reasonable costs associated with the termination. HCPSS will pay all reasonable costs associated with the Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract provided, however, that the Contractor shall not be reimbursed for any anticipatory profits that have not been earned as of the date of termination.

#### 6.16.4 Non-Availability of Funding

If the County Council fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of the Contract succeeding the first fiscal period, the Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either HCPSS's rights or the Contractor's rights under any termination clause in the Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and HCPSS from future performance of the contract, but not from their rights and obligations existing at the time of termination.

#### 6.16.5 Obligations of Contractor upon Termination

Upon notice of termination as provided in Section 6.16.3 above, the Contractor shall:

1. Take immediate action to orderly discontinue its work and demobilize its work force to minimize the occurrence of costs.
2. Take such action as may be necessary to protect the property of HCPSS, place no further orders or subcontract, assign to HCPSS in the manner and to the extent directed by HCPSS all of the right, title and if ordered by HCPSS possession and interest of Contractor under the orders or subcontracts terminated.
3. Deliver to HCPSS all materials, equipment, data, drawings, specifications, reports, estimates, and such other information accumulated by the Contractor which has been or will be reimbursed under this agreement after taking into account any damages that may be payable to HCPSS. Title to such items shall be transferred to HCPSS.

#### 6.16.6 Remedies Not Exclusive

The rights and remedies contained in this general condition are in addition to any other right or remedy provided by law, and the exercise of any of them is not a waiver of any other right or remedy provided by law

#### 6.17 DISPUTES; GOVERNING LAW

Except as otherwise provided in these contractual documents, any claim, dispute, or other matter in question concerning a question of fact shall initially be referred to the HCPSS contract manager. Any claim, dispute, or other matter in question concerning a question of fact referred to the contract manager that is not disposed of by agreement shall be referred to the Purchasing Officer, HCPSS, who shall reduce his decision to writing and mail or otherwise furnish a copy to the Contractor. The decision of HCPSS shall be final and conclusive.

The contract shall be governed by the law of the State of Maryland and nothing in this contract shall be interpreted to preclude the parties from seeking, after completion or termination of the agreement, any and all remedies provided by law.

- 1) Bid rejection for non-responsiveness and/or non-responsibility shall be made using the criteria guidelines as stated in the Instructions to Offerors, Terms and Conditions, and Technical Specifications.
- 2) After Bid opening and Bid review, but prior to Bid award, if an Offeror's entire Bid response is declared to be non-responsive and/or non-responsible, the Offeror will be notified as to the reason(s) for rejection.
- 3) Protests shall be filed in writing to the Purchasing Office within two days after notification.
- 4) Protests shall include the basis for the protest or appeal, complete in all respects, with relief sought, and whether the protester wishes to have a hearing with respect to the protest or appeal.
- 5) Protests shall be addressed to Howard County Department of Education, 10910 Clarksville Pike, Ellicott City, Maryland 21042, Attn.: Purchasing Office, labeled "Protest". The written protest shall include as a minimum the following:
  - a) Name and address of the protester
  - b) Appropriate identification of the Bid
  - c) Supporting exhibits, evidence, and/or documents to substantiate any claims
  - d) Suggested remedies.

#### 6.18 DEBRIEFING OF UNSUCCESSFUL BIDDERS

A debriefing of an unsuccessful bidder shall be conducted upon written request submitted to the Purchasing Office within a reasonable time. A debriefing shall be scheduled at the earliest feasible time AFTER CONTRACT AWARD. The debriefing shall be limited to a discussion of the unsuccessful bidder's technical offer only and shall provide information on areas in which it was deemed weak or deficient.

#### 6.19 RESPONSIBILITY OF CONTRACTOR

The Contractor shall perform the services with that standard of care, skill, and diligence normally provided by a Contractor in the performance of services similar to the services hereunder.

Notwithstanding any review, approval, acceptance, or payment for the services by HCPSS, the Contractor shall be responsible for professional and technical accuracy of its work furnished by the Contractor under this agreement.

HCPSS's review, approval, or acceptance of, nor payment for, any of the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Contractor shall be and remain liable to HCPSS in accordance with applicable law for all damages to HCPSS caused by the Contractor's negligent performance of any or the services furnished under this contract.

The rights and remedies of HCPSS provided for under this contract are in addition to any rights and remedies provided by law.

#### 6.20 QUANTITIES

The school system makes no guarantee that any or all of the estimated work will be assigned to the selected Contractor.

Additional work may be added or deleted at any time throughout the life of the contract. The Contractor may be requested to provide service to additional equipment not specified in this document subject to all conditions identified herein.

#### 6.21 TAXES

The Howard County Public School System is Maryland Sales Tax exempt. Except for Maryland Sales Tax, all prices quoted shall be firm and include any additional fees and charges.

#### 6.22 TRADE DISCOUNTS

All prices offered must be the lowest corresponding price after trade discounts have been considered. Proposal responses offering a percentage off list prices will not be accepted unless: (1) specifically requested in that manner; (2) two copies of the referenced price list accompany the Proposal response, if applicable.

#### 6.23 ETHICS REGULATIONS

The Owner has adopted an Ethics Regulation policy. Required by the Annotated Code of Maryland, these Ethics Regulations cover members of the Board of Education, the Superintendent, and all employees; and it specifies limits of participation of these individuals with entities doing business with HCPSS. For a copy of the regulations, please contact the Purchasing Office, Howard County Department of Education (410) 313-6644.

#### 6.24 ASSIGNMENTS

The awarded Contractor may not assign or transfer this contract, any interest herein or any claim hereunder, except as expressly authorized in writing by the Howard County Public School System. Unless the performance is expressly waived in writing by the HCPSS, an assignment does not release the awarded Contractor from responsibility for performance of this contract.

#### 6.25 EXAMINATION OF RECORDS

The Contractor agrees that the auditor of HCPSS any of their duly authorized representatives shall, until expiration of five (5) years after final payment under this contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this contract.

#### 6.26 DATA SECURITY AND PRIVACY

See ATTACHMENT J.

#### 6.27 NON-HIRING OF EMPLOYEES

No employee of the Board of Education of Howard County or any department, commission, or agency or branch thereof, whose duties as such employee include matters relating to or affecting the subject matter of this contract, shall, while such employee, become or be an employee of the party or parties hereby contracting with said HCPSS, or any department, commission, agency or branch thereof.

#### 6.28 CONTINGENT FEE PROHIBITION

The Contractor warrants that they have not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, to solicit or secure this agreement, and that they have not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this agreement.

For breach or violation of this warranty, HCPSS shall have the right to terminate this agreement without liability, or, at its discretion, to deduct from the contract price or consideration, or percentage, brokerage fee, gift or contingent fee.

#### 6.29 MULTI-YEAR CONTRACTS CONTINGENT UPON APPROPRIATIONS

Funds have been set-aside for the anticipated term of this contract. Should, for any reason, the Contractor's work extend beyond the current fiscal year, this contract will be subject to termination in accordance with the Termination for Convenience (Section 6.16.3.2), if the Board of Education of Howard County fails to appropriate funds for any fiscal year for the future performance of the contract.

HCPSS, however, reserves the right to negotiate with the Contractor to perform additional tasks not specified in this RFP that may be required in order to assure that the Contractor's recommendations are implemented and are having the desired effects.

#### 6.30 MULTI-AGENCY PARTICIPATION

Under §5-112, Paragraph (3) of the Education Article of the Annotated Code of Maryland HCPSS may with Board of Education approval participate in contracts for goods or commodities that are awarded by other public agencies or by intergovernmental purchasing organizations if the lead agency for the contract follows the public proposal procedures. HCPSS therefore reserves the right to extend the terms and conditions of this solicitation to any and all other agencies within the state of Maryland as well as any other federal, state, municipal, county, or local governmental agency under the jurisdiction of the United States and its territories. This shall include but not limited to private schools, parochial schools, non-public schools such as charter schools, special school systems, intermediate units, non-profit agencies providing services on behalf of government, and/or state, community and/or private colleges/universities that require these goods, commodities and/or services. A copy of the contract pricing and the Proposal requirements incorporated in this contract will be supplied to requesting agencies.

Each participating jurisdiction or agency shall enter into its own contract with the

Award Contractor(s) and this contract shall be binding only upon the principals signing such an agreement. Invoices shall be submitted in duplicate "directly" to the ordering jurisdiction for each unit purchased. Disputes over the execution of any contract shall be the responsibility of the participating jurisdiction or agency that entered into that contract. Disputes must be resolved solely between the participating agency and the Award

#### 6.31 TOBACCO FREE AND ALCOHOL/DRUG FREE ENVIRONMENT

The Howard County Public School System maintains a tobacco, alcohol/drug free environment. The sale or use of tobacco, alcohol or drugs, in any form, or related product, is prohibited in school buildings and grounds at all times. Persons found violating this policy will be requested to remove the product and themselves from school premises.

Repeated use or sale of tobacco on HCPSS property, or any use or sale of alcohol, misuse of other drugs, or any use of illegal drugs by a contract employee while servicing this contract or while on HCPSS property will result in a prohibition of that employee from servicing the HCPSS contract. Repeated instances of violations by contract employees may result in a default ruling and lead to contract termination.

### 6.32 CRIMINAL HISTORY BACKGROUND CHECKS

All employees, agents, or representatives of the awarded Contractor who will be performing work on any phase of the contract arising out of this Proposal may be subject to a criminal history background check by the school system. Such persons, if requested by the school system, must provide fingerprints and other required information to facilitate such a check, as well as the necessary fees to obtain such a check from the federal or state government. At the completion of a background check, the school system may, at its sole discretion, decide that a particular employee, agent, or representative of the Contractor be barred from school system property.

### 6.33 CHILD SEX OFFENDER NOTIFICATION

Maryland law requires certain child sex offenders to register with the local law enforcement agency. One of the purposes of this law, found in Article 27§ 792, is to inform school systems when a child sex offender is residing or working in the area. When the child sex offender registers, the local police are required to notify the Superintendent of Schools, and the Superintendent, in turn, is required to send a notice to school principals.

As a Contractor working for HCPSS, we require that you do not employ convicted child sex offenders to work on projects for our school system if they, as a result, are required to perform delivery, installation, repair, construction or any other kind of services on HCPSS property.

**A. ATTACHMENT A: HCPSS STANDARD CONTRACT**

**AGREEMENT FOR PROFESSIONAL SERVICES**

AGREEMENT # \_\_\_\_\_

THIS AGREEMENT is entered into this \_\_\_\_\_ Date, effective as of this date, by and between the Board of Education of Howard County (hereinafter referred to as the "Board") and \_\_\_\_\_ Contractor, (hereinafter referred to as the "Contractor").

**RECITALS**

WHEREAS, the Contractor submitted a proposal to RFP No. 060.18.B1 issued by the Board and has been selected to perform professional services in accordance with the terms and conditions expressed in the RFP;

WHEREAS, the Board desires the Contractor to perform certain work and services, on the terms and conditions herein set forth and the Contractor is ready, willing, and able to perform such work and services; and

WHEREAS, this Agreement shall be administered by the Project Manager or such other persons designated by The Board of Education.

NOW, THEREFORE, in consideration of the promises contained herein and the promises each to the other made, the parties hereby agree as follows:

**ARTICLE I - CATEGORY OF WORK AND SERVICES**

- (1) The work and services to be performed by the Contractor shall be in accordance with the following documents:

Request for Proposal \_\_\_\_\_, RFP No. 060.18.B1, dated \_\_\_\_\_, 2018; and \_\_\_\_\_ (contractor name) proposal dated \_\_\_\_\_, 2018.

**ARTICLE II - TERMS AND CONDITIONS**

Contractor agrees to perform the work and services required under this Agreement in accordance with RFP No. 060.18.B1, whose provisions for services are incorporated herein by reference.

**ARTICLE III - TERM OF AGREEMENT**

The term of agreement shall begin upon award for a period of one year with four one-year renewals. Contract renewals shall be contingent upon adequate fiscal appropriations as per the RFP.

**ARTICLE IV - PAYMENTS AND SCHEDULE OF PAYMENTS**

- (1) The Contractor shall receive compensation within 30 days of invoice date.

(2) Payment shall be made in accordance with the provisions set forth in Section 6.5.

ARTICLE V - INSURANCE

The Contractor agrees to and has complied with the insurance requirements set forth in the RFP.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above-written.

BOARD OF EDUCATION OF HOWARD COUNTY

By: \_\_\_\_\_ (SEAL)  
Cynthia L. Vaillancourt, Chairman  
Board of Education of Howard County

By: \_\_\_\_\_ (SEAL)  
Dr. Michael J. Martirano, Interim Superintendent

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Title

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address

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

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

## **B. ATTACHMENT B: INSURANCE REQUIREMENTS**

### **I. General Insurance Requirements**

1. The Contractor (Awarded Offeror) shall not commence services until the Contractor has obtained at the Contractor's own expense all of the insurance as required hereunder and such insurance has been approved by the Howard County Board of Education (Owner); nor shall the Contractor allow any Subcontractor to commence work on any subcontract until all insurance required by the Subcontractor has been so obtained and approved by the Owner. Approval of insurance required of the Contractor will be granted only after submission to the Owner of original certificates of insurance signed by authorized representatives of the insurers or, at the Owner's request, certified copies of the required insurance policies.
2. Insurance as required hereunder shall be in force throughout the term of the Contract and for two years after final payment by Owner for services rendered under this Contract in accordance with the insurance requirements below. Original certificates signed by authorized representatives of the insurers or, at the Owner's request, certified copies of insurance policies, evidencing that the required insurance is in effect, shall be maintained with the Owner throughout the term of the Contract and for two years after final payment by Owner for services rendered under this Contract.
3. The Contractor shall require all Subcontractors to maintain during the term of the Contract commercial general liability insurance, business auto liability insurance, worker's compensation, employers' liability insurance, and umbrella excess or excess liability insurance to the same extent required of the Contractor herein unless any such requirement is expressly waived or amended by the Owner in writing. The Contractor shall furnish Subcontractors' certificates of insurance to the Owner immediately upon request.
4. All insurance policies required hereunder shall be endorsed to provide that the policy is not subject to cancellation, non-renewal or material reduction in coverage until sixty (60) days prior written notice has been given to the Owner.  
Therefore, the phrases "endeavor to" and "... but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" are to be eliminated from the cancellation provision of standard ACORD certificates of insurance.
5. No acceptance and/or approval of any insurance by the Owner shall be construed as relieving or excusing the Contractor from any liability or obligation imposed upon the Contractor by the provisions of this Contract.
6. If the Contractor does not meet the insurance requirements of this Contract, the Contractor shall forward a written request to the Owner for a waiver in writing of the insurance requirement(s) not met or approval in writing of alternate insurance coverage, self-insurance, or group self-insurance arrangements. If the Owner denies the request, the Contractor must comply with the insurance requirements as specified in this Contract.
7. All required insurance coverage must be underwritten by insurers allowed to do business in the State of Maryland and acceptable to the Owner. The insurers must also have a policyholders' rating of "A-" or better, and a financial size of "Class VII" or better in the latest evaluation by A. M. Best Company, unless Owner grants specific approval for an exception. The Owner hereby grants specific approval for the acquisition of workers' compensation and employers liability insurance from the Injured Workers Insurance Fund of Maryland.

8. Any deductibles or retentions in excess of \$5,000 shall be disclosed by the Contractor, and are subject to Owner's written approval. Any deductible or retention amounts elected by the Contractor or imposed by the Contractor's insurer(s) shall be the sole responsibility of the Contractor.
9. Any and all return premiums and/or dividends for insurance or coverage directly charged to the Owner by the Contractor in connection with this Contract shall belong to and be payable to the Owner.
10. If the Owner is damaged by the failure or neglect of the Contractor to purchase and maintain insurance as described and required herein, without so notifying the Owner, then the Contractor shall bear all reasonable costs properly attributable thereto.

## **II. Owner's Liability Insurance**

1. The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance, or solely at the Owner's option, the Owner may self-insure the Owner's liability exposures.

## **III. Contractor's Liability Insurance**

1. The Contractor shall purchase and maintain the following insurance coverage which will insure against claims which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Insurance shall be written for not less than the limits specified below or required by law, whichever is greater.

1.1 Commercial general liability insurance or its equivalent for bodily injury, personal injury and property damage including loss of use, with minimum limits of:

- \$1,000,000 each occurrence;
- \$1,000,000 personal and advertising injury;
- \$2,000,000 general aggregate; and
- \$2,000,000 products/completed operations aggregate.

This insurance shall include coverage for all of the following:

- a) General aggregate limit applying on a per project basis;
- b) Liability arising from premises and operations;
- c) Liability arising from the actions of independent contractors and subcontractors;
- d) Liability arising from products and completed operations with such coverage to be maintained for two years after completion of the Work;
- e) Contractual liability including protection for the Contractor from bodily injury and property damage claims arising out of liability assumed under this Contract; and
- f) Liability arising from any explosion, collapse, or underground (XCU) hazards.

1.2 Business auto liability insurance or its equivalent with a minimum limit of \$1,000,000 per accident and including coverage for all of the following:

- a) Liability arising out of the ownership, maintenance or use of any auto (if no owned autos, hired and non-owned autos only);
- b) Automobile contractual liability.

1.3 Workers compensation insurance or its equivalent with statutory benefits as required by any state or Federal law, including standard "other states" coverage; employers liability insurance or its equivalent with minimum limits of:

\$100,000 each accident for bodily injury by accident;  
\$100,000 each employee for bodily injury by disease; and  
\$500,000 policy limit for bodily injury by disease.

1.4 Contractor pollution liability insurance or its equivalent for bodily injury, property damage, including loss of use, and clean-up costs on and off the Project site, with a minimum limits of:  
\$1,000,000 each pollution incident; and  
\$2,000,000 annual aggregate.

1.5 Umbrella excess liability or excess liability insurance or its equivalent with minimum limits of:

\$2,000,000 per occurrence;  
\$2,000,000 aggregate for other than products/completed operations and auto liability;  
\$2,000,000 products/completed operations aggregate

Umbrella to include all of the following coverage on the applicable schedule of underlying insurance:

- a) Commercial general liability;
- b) Business auto liability; and
- c) Employer's liability.

1.6 The Owner and the Owner's elected and appointed officials, officers, consultants, agents and employees shall be named as additional insured on the Contractor 's commercial general liability insurance and the umbrella excess liability or excess liability insurance policies with respect to liability arising out of the Contractor's work under this Contract. Such coverage shall extend to cover the additional insured(s) for liability arising out of the following:

- a) On-going operations; and
- b) Completed operations.

Special Note: Policies endorsed with the following combination of ISO forms shall be acceptable:

- a) CG 2010 entitled "Additional Insured - Owners, Lessees or Contractors – Scheduled Person or Organization";
- b) CG 2037 entitled "Additional Insured – Owners, Lessees or Contractors – Completed Operations";

OR

- c) CG 2033 entitled Additional Insured - Owners, Lessees or Contractors – Automatic Status When Required in Construction Agreement with You";
- d) CG 2037 entitled "Additional Insured – Owners, Lessees or Contractors – Completed Operations."

Both endorsements are required to afford coverage to the additional insured for both ongoing operations and completed operations. Additionally, the schedules on these endorsements must properly reference the Owner and Owner's elected and appointed officials, officers, consultants, agents and employees.

1.7 Insurance or self-insurance provided to the Owner and Owner's elected and appointed officials, officers, consultants, agents and employees under any Contractor 's liability insurance or self-insurance required herein, including, but not limited to, umbrella and excess liability or excess liability policies, shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of insurance or self-insurance. (Any cross suits or

cross liability exclusion shall be deleted from Contractor 's liability insurance policies required herein.)

1.8 Insurance or self-insurance provided to the Owner and Owner's elected and appointed officials, officers, consultants, agents and employees as specified herein shall be primary, and any other insurance, self-insurance, coverage or indemnity available to the Owner and Owner's elected and appointed officials, officers, consultants, agents and employees shall be excess of and non-contributory with insurance or self-insurance provided to the Owner and Owner's elected and appointed officials, officers, consultants, agents and employees as specified herein.

2. If any liability insurance purchased by the Contractor has been issued on a "claims made" basis, the Contractor must agree to comply with the following additional conditions:

2.1 The Contractor shall agree to provide certificates of insurance evidencing the above coverage for a period of two years after the final payment for the Contract. Such certificates shall evidence a retroactive date no later than the beginning of the services provided under this Contract;

or

2.2 The Contractor shall purchase an extended (minimum two years) reporting period endorsement for each such "claims made" policy in force as of the date of final acceptance and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself. Such certificate or copy of the endorsement shall evidence a retroactive date no later than the beginning of the services provided under this Contract.

**C. ATTACHMENT C: OFFEROR IDENTIFYING INFORMATION**

1. Prime Contractor's Name and Address		2. Names and Titles of All Principals:	
3. Type of business entity (i.e. Corporation, Partnership):		5. Length of Time in Business with Products Similar to Proposed Product:	
4a. Length of Time in Business Using Current Name:		6. State of Incorporation or organization and Principal Place of Business:	
4b. Previous Names Used by Business:		7. Legally allowed to do business in Maryland? <input type="checkbox"/> Yes <input type="checkbox"/> No	8. Federal Employer Identification Number:
9a. Main Office Location: <i>Street Address / City / State / Zip Code:</i>			
9b. Branch Office/ Major Office / Manufacturing Plant Location: <i>Street Address / City / State / Zip Code:</i>			
9c. Branch Office/ Major Office / Manufacturing Plant Location: <i>Street Address / City / State / Zip Code:</i>			
<i>(Continue on separate page if necessary for other facilities)</i>			
10. Manpower Breakdown: Enter type number of staff working on proposed product. Add additional rows as necessary.			
Job Type	# Staff	Job Type	# Staff
Field Technicians		Technical Support Staff	
Developers		Project Management	
		Office Staff	
11. Full name and business address for each partner and subcontractor who will perform services on this project. Continue on separate sheet if necessary. <i>(Note: A Separate Offeror Information Form must be completed by each subcontractor)</i>			
11a. Subcontractor's Name and Address		11b. Subcontractor's Name and Address	
<i>(Continue on separate page if necessary for other Subcontractors)</i>			
<i>On Separate Sheet, provide the following information:</i>			
12. Statement of ability to comply with the insurance requirements identified under Attachment B.			
13. Statement as to business and/or principals' involvement in any legal action pending or resolved regarding failure to perform in the state of Maryland during the previous three years, furnish details and outcome.			
14. Statement of principals' of ownership or investment in other corporations, partnership, or businesses of any nature - state name of business, nature of business, principals' involved, and nature of involvement.			
<b>Form Prepared by :</b>			
Signature:		Date:	
Printed Name:		Title:	

## D. ATTACHMENT D: REFERENCES

1. Last three (3) Implementations for this proposed product.		
School System Name/ Location / Student #	Contact Information	Project Information
1a.	Contact Name:	Date Contract Signed:
	Contact Phone:	Date Implementation Completed:
#Students:	Contact Email:	
Description of Services:		
1b.	Contact Name:	Date Contract Signed:
	Contact Phone:	Date Implementation Completed:
#Students:	Contact Email:	
Description of Services:		
1c.	Contact Name:	Date Contract Signed:
	Contact Phone:	Date Implementation Completed:
#Students:	Contact Email:	
Description of Services:		
2. Last three (3) Implementations for this proposed product for schools systems greater than 50,000 students.		
School System Name/ Location / Student #	Contact Information	Project Information
2a.	Contact Name:	Date Contract Signed:
	Contact Phone:	Date Implementation Completed:
#Students:	Contact Email:	
Description of Services:		
2b.	Contact Name:	Date Contract Signed:
	Contact Phone:	Date Implementation Completed:
#Students:	Contact Email:	
Description of Services:		
2c.	Contact Name:	Date Contract Signed:
	Contact Phone:	Date Implementation Completed:
#Students:	Contact Email:	
Description of Services:		
3. Three (3) Maryland Clients or Three (3) Geographically Closest Clients to HCPSS using this proposed product.		
School System Name/ Location / Student #	Contact Information	Project Information
3a.	Contact Name:	Date Contract Signed:
	Contact Phone:	Date Implementation Completed:
#Students:	Contact Email:	
Description of Services:		
3b.	Contact Name:	Date Contract Signed:
	Contact Phone:	Date Implementation Completed:
#Students:	Contact Email:	
Description of Services:		
3c.	Contact Name:	Date Contract Signed:
	Contact Phone:	Date Implementation Completed:
#Students:	Contact Email:	
Description of Services:		

## E. ATTACHMENT E: BLANK

**F. ATTACHMENT F: PRICE PROPOSAL COVER SHEET**

PRODUCT NAME / PRICING DESCRIPTION: \_\_\_\_\_

The following Pricing is submitted for the Offeror’s Product:

Price Description	Non-Recurring	Recurring	5-Yr Extended Cost (2018-2018)
Product Costs			
• Licensing Price			
• Other Licensing Price			
Maintenance Cost			
Warranty Price			
Additional Costs* (Attach description)			
TOTAL*			
<i>Optional Pricing</i>		Recurring	
Post-Implementation Consultation and On-Site Support Pricing (Note # hours and period for pricing basis)			
• Project Manager			
• Senior Technical Staff			

The following Pricing is estimated for costs external to the Offeror’s proposal required for implementation of this price proposal.

<b>OTHER COSTS</b>				
Vendor Name	Vendor Model/ Part Number	Qty Recommended	Price*	Extended Price
Software Products/ Licenses				
Other Products or Peripherals				

(\*Pricing may be estimated, or provided as a vendor quote or purchase order.)

Multiple Options shall be noted on separate Pricing Sheets, if applicable.

This cover sheet shall be included with Attachment H.

**G. ATTACHMENT G: EQUAL BUSINESS OPPORTUNITY CONTRACT  
SCHEDULE OF PARTICIPATION FORM**

1. Prime Contractor's Name	2. Prime Contractor's Address and Telephone Number	
3. Project/School Name	4. Project/School Location	
5. PSC No.	6. Base Proposal Amount	\$ _____
	Plus Accepted Alternates	\$ _____
		\$ _____
<b>7a. Minority Firm Name</b>	Minority Firm Address	
Minority Firm Telephone Number _____	Minority Group Type	
Minority Firm Fax Number _____	<input type="checkbox"/> African American	<input type="checkbox"/> Women Owned
<b>MDOT Certification Number</b> _____	<input type="checkbox"/> Asian	<input type="checkbox"/> Hispanic
Subcontract Dollar Amount	<input type="checkbox"/> American Indian	<input type="checkbox"/> Disabled
	Percent of Total Contract	
<b>7b. Minority Firm Name</b>	Minority Firm Address	
Minority Firm Telephone Number _____	Minority Group Type	
Minority Firm Fax Number _____	<input type="checkbox"/> African American	<input type="checkbox"/> Women Owned
MDOT Certification Number	<input type="checkbox"/> Asian	<input type="checkbox"/> Hispanic
Subcontract Dollar Amount	<input type="checkbox"/> American Indian	<input type="checkbox"/> Disabled
	Percent of Total Contract	
<b>7c. Minority Firm Name</b>	Minority Firm Address	
Minority Firm Telephone Number	Minority Group Type	
Minority Firm Fax Number	<input type="checkbox"/> African American	<input type="checkbox"/> Women Owned
MDOT Certification Number	<input type="checkbox"/> Asian	<input type="checkbox"/> Hispanic
Subcontract Dollar Amount	<input type="checkbox"/> American Indian	<input type="checkbox"/> Disabled
	Percent of Total Contract	
8. MBE Total Dollar Amount	9. Total MBE Percent of Entire Contract	
10. Form Prepared by :	11. Reviewed & Accepted by Board of Education MBE Liaison	
Name	Name	
Title	Title	
Date	Date	

**H. ATTACHMENT H: STATUTORY AFFIDAVIT, NON-COLLUSION CERTIFICATION, & PROPOSAL SIGNATURE SHEET**

*Special Instructions: An authorized representative of the Offeror needs to complete the following affidavit and insert an answer to paragraphs 1 and 3.*

**Statutory Affidavit and Non-Collusion Certification**

I, \_\_\_\_\_, being duly sworn, depose and state:

1. I am the \_\_\_\_\_ (officer) and duly authorized representative of the firm (the "Firm") \_\_\_\_\_ whose address is

\_\_\_\_\_ and that I possess the authority to make this affidavit and certification on behalf of myself and the firm for which I am acting.

2. OFFEROR'S CERTIFICATION

- a) I/we hereby certify to furnish and deliver supplies, equipment, or services, in accordance with specifications and stipulations contained herein, and at the proposal prices quoted. I/we certify that this proposal response is made without any previous understanding, agreement, or connection with any person, firm, or corporation making a Proposal response for the same supplies, materials, or equipment and is in all respects fair and without collusion or fraud.
- b) I/we certify that this proposal response is made without having contacted any employee within The Howard County Public School System unless such contacts were previously authorized by the Purchasing Officer.
- c) I/we affirm that this proposal is genuine and not collusive or a sham; that said Offeror has not colluded, conspired, connived and agreed, directly or indirectly, with any Offeror or person to put in a sham proposal or offer or to refrain from offering or making a proposal and is not in any manner, directly or indirectly, sought by agreement of collusion or communication or conference, with any person to fix the prices of the affidavit or any other person, or to fix any overhead, profit or cost element of said price, or that if any person, or to secure an advantage against the Board of Education of Howard County or any other person interested in the proposed contract; and that all statements in the proposal or offer are true. I acknowledge that, if the representations set forth in this affidavit are not true and correct, the Board of Education of Howard County may terminate any contract awarded and take any other appropriate action.
- d) I/we affirm that this firm will not knowingly employ an individual to work at a school if the individual is a Registered Sexual Offender, pursuant to section 11-722 (C) of the Criminal Procedure Article of the Annotate Code of Maryland. A firm or person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.
- e) I hereby certify that I am authorized to sign for the Offeror.

3. Except as described in paragraph 4 below, neither I, nor to the best of my knowledge, the above Firm, nor any of its officers, directors, or partners, or any of its employees who are directly involved in obtaining or performing contracts with any public bodies has:

- a) been convicted of bribery, attempted bribery, or conspiracy to bribe, under the laws of any state or of the federal government;
- b) been convicted under the laws of the state, another state, or the United States of: a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;
- c) been convicted of a criminal violation of an antitrust statute of the State of Maryland, another state, or the United States;

- d) been convicted of a violation of the Racketeer Influenced and Corrupt Organization Act, or the Mail Fraud Act, for acts in connection with the submission of proposals or offers for a public or private contract;
- e) been convicted of any felony offenses connected with obtaining, holding, or maintaining a minority business enterprise certification, as prohibited by Section 14-308 of the State Finance ~ Procurement Article;
- f) been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction under any of the laws or statutes described in paragraph (a) through (e) above; or
- g) been found civilly liable under an antitrust statute of this State, another state, or the United States for acts or omissions in connection with the submission of proposals or offers for a public or private contract.
- h) been debarred or suspended under Maryland State Finance and Procurement Title 16, subtitle 3, Annotated Code of Maryland, as amended, will provide, directly or indirectly, supplies, services, architectural services, construction-related services, leases of real property, or construction.

4. The only conviction, plea, or admission by any officer, director, partner, or employee of this Firm to involvement in any of the conduct described in paragraph 2 above is as follows:

If none, write "None" below. If involvement, list the date, count, or charge, official or administrative body, the individuals involved, their position with the firm, and the sentence or disposition of the charge.

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(An explanation may be attached as necessary.)

**The statements contained in this affidavit shall be incorporated into the awarded contract as material provisions and shall be effective throughout the life of the contract. The firm has a continuing obligation through the life of the contract to submit a revised affidavit should the firm discover information, or events occur, which render the contents of this affidavit erroneous or incomplete or which would result in the firm providing a different response. The firm's failure to submit a revised affidavit within three (3) working days of either its awareness of any error, change of circumstances, incompleteness, etc., or request by the owner shall constitute breach of contract. Upon submission of a revised affidavit, the owner has the right to take such actions as may be necessary, in the judgment of the owner, to maintain and enforce the provisions of the affidavit, including termination of the contract.**

*(Continued on next page)*

**I DO SOLEMNLY DECLARE AND AFFIRM** under the penalties of perjury that the contents of these affidavits (Statutory and Non-Collusion) are true and correct, that I am executing this Affidavit in compliance with Section 16-311 of the State Finance and Procurement Article, Annotated Code of Maryland, and the Non-Collusion Certification in compliance with requirements of the Howard County Board of Education, and that I am executing and submitting this Form of Proposal on behalf of and as authorized by the Offeror named below.

\_\_\_\_\_

WITNESS:

Title:

SUBSCRIBED AND SWORN to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_

NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_

(Legal Name of Company)

\_\_\_\_\_

(Address)

\_\_\_\_\_

(City)

\_\_\_\_\_

(State)

\_\_\_\_\_

(Zip)

\_\_\_\_\_

(Telephone)

\_\_\_\_\_

(Fax)

Contractor's No. \_\_\_\_\_

\_\_\_\_\_

(Signature)

\_\_\_\_\_

(Title)

\_\_\_\_\_

(Date)

\_\_\_\_\_

(Printed Name of Signatory)

In the presence of \_\_\_\_\_

(Witness) (Date)

We are/I am legally allowed to do business in the State of Maryland as a:

Corporation

Partnership

Individual

Other

**I. ATTACHMENT I: PROPOSAL REPLY FORM**

THE HOWARD COUNTY PUBLIC SCHOOL SYSTEM  
10910 Clarksville Pike  
Ellicott City, Maryland 21042

**PROPOSAL REPLY FORM**

RFP Number: \_\_\_\_\_

Offeror: \_\_\_\_\_

- We intend to submit a bid.
- We intend to attend the Pre-Submission Conference and plan to bring \_\_\_\_\_ (#) people.
- We do not plan to attend the Pre-Submission Conference.

To assist us in obtaining good competition on our Request for Proposals, we ask that each firm that has received an invitation, but does not wish to submit a proposal, state their reason(s) below. This information will not preclude receipt of future invitations unless you request removal from the Offerors' List by so indicating below.

Unfortunately, we must offer a "No Proposal" at this time because:

- \_\_\_\_\_ 1. We do not wish to participate in the Proposal process.
- \_\_\_\_\_ 2. We do not wish to Proposal under the terms and conditions of the Request for Sealed Proposal document. Our objections are:

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

- \_\_\_\_\_ 3. We do not feel we can be competitive.
- \_\_\_\_\_ 4. We cannot submit a Proposal because of the marketing or franchising policies of the company.
- \_\_\_\_\_ 5. We do not wish to sell to The Howard County Public School System. Our objections are: objections are:

\_\_\_\_\_

- \_\_\_\_\_ 6. We do not sell the item(s)/service(s) requested in the specific specifications.
- \_\_\_\_\_ 7. Other: \_\_\_\_\_
- \_\_\_\_\_ 8. We wish to remain on the Offerors' List.
- \_\_\_\_\_ 9. We wish to be removed from the Offerors' List for the above stated commodity.

\_\_\_\_\_  
(Signature) (Title) (Date)

\_\_\_\_\_  
(Printed Name of Signatory)

This form may be scanned and emailed to Doug Pindell [Douglas\\_Pindell@hcpss.org](mailto:Douglas_Pindell@hcpss.org) or faxed to (410) 313-6789.

## ATTACHMENT J

### DATA PRIVACY AND SECURITY REQUIREMENTS

HCPSS, as a Government entity, is required when entering into agreements with other parties to follow all applicable laws and regulations, including those related to data privacy and security; accessibility; and records retention. Accordingly, the Terms of Service (TOS) are hereby modified by this Amendment as they pertain to HCPSS's use of the Company's Site and/or Services.

- A. **Definition of "CLIENT Data"**: CLIENT Data include all Personally Identifiable Information (PII) and other non-public information. CLIENT Data include, but are not limited to, student data, metadata, and user content.
- B. **Data Collection and Use**: ENTITY will collect and use CLIENT Data only for the purpose of fulfilling its duties and providing services under this Agreement, and for improving services under this Agreement.
- C. **Education Records**: If ENTITY will have access to "education records" as defined under the Family Educational Rights and Privacy Act (FERPA) (34 CFR Part 99), the ENTITY acknowledges that for the purpose of this Agreement it will be designated as a 'school official' with 'legitimate educational interests' and will use the data only for the purpose of fulfilling its duties under this Agreement. ENTITY agrees to indemnify and hold harmless the Board of Education of Howard County for any damages or costs, including reasonable attorney's fees, which arise out of any gross negligence or willful misconduct by ENTITY, its agents and employees concerning its FERPA obligations under this section.
- D. **Obligation of Confidentiality**: In performing services under this Agreement, ENTITY and CLIENT may be exposed to and will be required to use certain "Confidential Information", as defined below. ENTITY and CLIENT along with their employees, agents or representatives will not, use, directly or indirectly, such Confidential Information for purposes other than the purposes outlined in this Agreement.
- E. **Definition of Confidential Information**: "Confidential Information" means information, not generally known, and proprietary to the ENTITY or CLIENT or to a third party for whom the ENTITY or CLIENT is performing work, including, without limitation, information concerning any patents or trade secrets, confidential or secret designs, processes, formulae, source codes, plans, devices or material, research and development, proprietary software, analysis, techniques, materials or designs (whether or not patented or patentable), directly or indirectly useful in any aspect of the business of the ENTITY or CLIENT. Confidential Information includes all information which ENTITY or CLIENT acquires or becomes acquainted with during the period of this Agreement, whether developed by ENTITY, CLIENT or others, which ENTITY or CLIENT has a reasonable basis to believe to be Confidential, such as data that is personally identifiable to an individual student and information within the definition of "Education Record." The parties agree that the following will be treated as "Confidential Information": (i) all database information ("Data") provided by or on behalf of CLIENT to ENTITY; (ii) all information provided by ENTITY to CLIENT pertaining to the Services; (iii) all information which is labeled as such in writing and prominently marked as "Confidential," "Proprietary" or words of similar meaning by either party; or (iv) business information of a party which a reasonable person would understand under the circumstances to be confidential.
- F. **Maintenance of Confidentiality**: Any Confidential Information acquired or received by either party (the "Recipient") in the course of this Agreement will not be disclosed or transferred to any person or entity other than to employees of a party and, as to ENTITY, for the purpose of performing its obligations under this Agreement. Confidential Information received under this Agreement will be treated with the same degree of care and security as each party uses with respect to its own Confidential Information, but not less than a reasonable degree of care. The parties agree to use Confidential Information only for the purpose of performance of this Agreement and to make no copies except as necessary for performance of this

Agreement. Any such confidential information and copies thereof made by a party, or any representative of a party, shall be completely and promptly destroyed at the conclusion of contract performance subject to paragraph F.1 below.

1. Upon termination or completion of the Services hereunder, upon request of CLIENT, ENTITY will delete the CLIENT's Confidential Information as housed in the ENTITY production database(s), provided that ENTITY may maintain archival copies for audit purposes and dispute resolution purposes and ENTITY may retain copies of Confidential Information on back-up media in which such Data is co-resident with other employment and income data. ENTITY shall remain under its contractual obligation of confidentiality and security to CLIENT and such obligations shall survive termination of the Agreement. This Section shall survive the termination of this Agreement.
- G. **Data De-Identification:** ENTITY may use de-identified Data for product development, research, or other internal purposes. De-identified Data will have all direct and indirect personal identifiers removed. This includes, but is not limited to, name, ID numbers, date of birth, demographic information, location information, and school ID. Furthermore, ENTITY agrees not to attempt to re-identify de-identified Data.
- H. **Data Mining, Marketing and Advertising:** Except as indicated in Section G above, ENTITY is prohibited from mining CLIENT Data for any purposes other than those agreed to by the parties. **Data mining or scanning of user content for the purpose of advertising or marketing to students or their parents is prohibited. Any and all forms of advertisement, directed towards children, parents, guardians, or District Employees will be strictly prohibited unless allowed with express written consent of the District.**
- I. **Modification of Terms of Service:** ENTITY will not change how CLIENT Data are collected, used, or shared under the terms of this Agreement in any way without advance notice to the CLIENT. This Agreement is the entire agreement between the CLIENT (including all District end users) and the ENTITY. All other agreements or understandings, whether electronic, click-through, verbal or in writing, with District Employees or other End Users shall be null and void.
- J. **Data Sharing:** ENTITY will not share CLIENT data, with or disclose it to any third party, except to affiliated subcontractors, agents, or third-party service providers of the ENTITY, without prior specific and informed written consent of the CLIENT, except as required by law.
- K. **Data Storage:** CLIENT Data will not be stored outside of the United States without prior, specific and informed written consent from the CLIENT.
- L. **Terms, Data Transfer, Survival and Destruction:** The CLIENT may immediately terminate the Agreement if the CLIENT determines the ENTITY has breached this Agreement. The Agreement will automatically terminate at the expiration date. However, the ENTITY's obligations shall survive termination of this Agreement until ALL CLIENT Data has been returned and/or securely removed or destroyed. ENTITY will ensure that all Data in its possession and in the possession of any subcontractors, or agents to which the ENTITY may have transferred Data, are destroyed.
- M. **Rights and License in and to Data:** All goods, products, materials, documents, reports, writings, video images, photographs, papers and intellectual property of any nature including software or computer images prepared by the ENTITY (or subcontractors) for the CLIENT or from CLIENT-provided material will not be disclosed to any other person or entity and remains the property of the school system. All student-produced work remains the property of the school system or that eligible student. The ENTITY has a limited, nonexclusive license to the data described herein solely for the purpose of performing its obligations as outlined in the Agreement. This Agreement does not give ENTITY any rights, implied or otherwise, to Data, content, or intellectual property, except as

expressly stated in the Agreement, including any right to sell or trade Data.

- N. **Access:** Except as otherwise expressly prohibited by law, the ENTITY will immediately notify the CLIENT of any subpoenas, warrants, or other legal orders, demands or requests, including Audits, and governmental requests and demands, received by the ENTITY seeking CLIENT Data. If the CLIENT receives a similar request, the ENTITY will promptly supply the CLIENT with copies of records or information required by the CLIENT to respond.
- O. **Security Controls and Risk Management:** ENTITY will store and process CLIENT Data in accordance with industry best practices. This includes appropriate administrative, physical, and technical safeguards to: 1) ensure the security and confidentiality of PII and Confidential Information; 2) protect against any anticipated threats or hazards to the security or integrity of Confidential Information; 3) protect against unauthorized access to or use of Confidential Information that could result in substantial harm or inconvenience to any customer or to any client employee and/or student; and 4) dispose of PII and Confidential Information in a secure manner.
1. To comply with the safeguard obligations generally described above, ENTITY has (a) designated an employee to coordinate its information security program, (b) identified reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of CLIENT Information that could result in the unauthorized disclosure, misuse, alteration, destruction, or other compromise of such information, and assessed the sufficiency of any safeguards in place to control these risks, and (c) designed and implemented information safeguards to control the risks identified through the risk assessment, and regularly tests or otherwise monitors the effectiveness of safeguards' key controls, systems and procedures.
  2. ENTITY will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. ENTITY will also have a written incident response plan, to include prompt notification of HCPSS in the event of a security or privacy incident, as well as best practices for responding to a breach of PII.
- P. **Data Breaches:** ENTITY shall notify CLIENT in writing as soon as commercially practicable, however no later than forty-eight (48) hours, after ENTITY has either actual or constructive knowledge of a breach which affects CLIENT's Data (an "Incident") unless it is determined by law enforcement that such notification would impede or delay their investigation. ENTITY shall have actual or constructive knowledge of an Incident if ENTITY actually knows there has been an Incident or if ENTITY has reasonable basis in facts or circumstances, whether acts or omissions, for its belief that an Incident has occurred. The notification required by this section shall be made as soon as commercially practicable after the law enforcement agency determines that notification will not impede or compromise the investigation. ENTITY shall cooperate with law enforcement in accordance with applicable law provided however, that such cooperation shall not result in or cause an undue delay to remediation of the Incident. ENTITY shall promptly take appropriate action to mitigate such risk or potential problem at ENTITY's expense. In the event of an Incident, ENTITY shall, at its sole cost and expense, restore the Confidential Information, to as close its original state as practical, including, without limitation any and all Data, and institute appropriate measures to prevent any recurrence of the problem as soon as is commercially practicable.
- Q. **Employee and Subcontractor Qualifications:** ENTITY shall ensure that its employees and all subcontractors who have potential access to CLIENT Data have undergone appropriate background screening and possess all needed qualifications to comply with the terms of this Agreement. Further, all employees and subcontractors are subject to the same FERPA compliance in relation to the 'school official' designation, and should receive training that the re-disclosure of PII and/or Confidential Information will violate federal and state laws and may result in criminal and/or civil penalties.
- R. **Governing Law:** This agreement shall be governed by and construed in accordance with the laws of

Maryland, excluding its choice of law rules. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the appropriate Maryland Court. ENTITY will comply with Maryland Education Code ANN. § 4-131, “Operators of School Internet Web sites, Online Services, Online Applications, and Mobile Applications.” ENTITY agrees to be bound as an “operator” under the law regardless of the ENTITY’s exemptions that may exist in Maryland Education Code ANN. § 4-131(a)(3).

- S. **Compliance:** In addition to complying with FERPA and the Maryland Education Code cited above, the ENTITY shall ensure that its products and services comply with the Federal Protection of Pupil Rights Act (34 CFR Part 98), the Federal Children’s Internet Protection Act (47 CFR 54.520), and the Federal Children’s Online Privacy and Protection Act (16 CFR Part 312).
- T. **Monitoring:** The ENTITY agrees to allow the HCPSS the ability to audit the ENTITY’s use of HCPSS data to ensure compliance with the terms of this agreement.
- U. **Indemnification:** ENTITY agrees to indemnify and hold harmless HCPSS, and its members, trustees, employees, agents, officers, and officials, from and against any and all liabilities, taxes, tax penalties, interest, losses, penalties, damages, and expenses of any kind, nature, or character, including costs and attorney fees, arising out of or relating to any and all claims, liens, damages, obligations, actions, suits, judgments, settlements, or causes of action of every kind, nature, or character, in connection with or arising out of the acts or omissions of either Party or its employees, subcontractors, or agents under this Agreement. This provision expressly applies to, but is not limited in application to, matters and circumstances involving or implicating the unauthorized use of any trade secrets, or United States patent or copyright infringement or any liability resulting from the unauthorized disclosure of PII or Confidential Information or a breach of the obligations contained in this Data Sharing Agreement, including those set forth in paragraph R above. The indemnities set forth herein will survive the expiration or termination of this Agreement.

HCPSS agrees to indemnify and hold harmless ENTITY, and its members, trustees, employees, agents, officers, and officials, from and against any and all liabilities, taxes, tax penalties, interest, losses, penalties, damages, and expenses of any kind, nature, or character, including costs and attorney fees, arising out of or relating to any and all claims, liens, damages, obligations, actions, suits, judgments, settlements, or causes of action of every kind, nature, or character, arising out of the intentional or malicious acts of HCPSS or its employees, subcontractors, or agents under this Agreement. This provision expressly applies to, but is not limited in application to, matters and circumstances involving or implicating the unauthorized use of any trade secrets, or United States patent or copyright infringement or any liability resulting from the unauthorized disclosure of PII or Confidential Information or a breach of the obligations contained in this Data Sharing Agreement. The indemnities set forth herein will survive the expiration or termination of this Agreement.