



**THE ESCAMBIA COUNTY DISTRICT
PURCHASING DEPARTMENT
75 NORTH PACE BLVD.
PENSACOLA, FL 32505**

470 PROPOSAL ACKNOWLEDGMENT

POSTING DATE:
December 14, 2018

PURCHASING CONTACT & EMAIL:
Anya Klinginsmith, aklinginsmith@escambia.k12.fl.us

FORM 470 TITLE:
UPS systems and supporting equipment

FORM 470 APPLICATION NUMBER:
470 190009887

QUESTION SUBMISSION DEADLINE:
December 17, 2018, 5:00 PM, CST

470 PROPOSAL SUBMISSION DEADLINE:
January 14, 2019, 2:00 PM, CST

NOTE: PROPOSALS RECEIVED AFTER THE 470 PROPOSAL SUBMISSION DEADLINE WILL NOT BE ACCEPTED.

The School District of Escambia County, Florida, solicits your company to submit a Proposal on the above-referenced goods or services. All terms, specifications and conditions set forth in this request are incorporated by this reference into your response. Proposals will not be accepted unless all conditions have been met. All Proposals must have an authorized signature in the space provided below. All Proposals must be sealed and received in the District's Purchasing Office located at: 75 North Pace Blvd., Pensacola, Florida 32505, by the "470 Proposal Submission Deadline" referenced above. All envelopes containing sealed Proposals must reference the "Form 470 Title", "Form 470 Application Number" and the "470 Proposal Submission Deadline". The District is not responsible for lost or late delivery of Proposals by the U.S. Postal Service or other delivery services used by the Responder. Proposals may not be withdrawn unless otherwise specified.

THE FOLLOWING MUST BE COMPLETED, SIGNED, AND RETURNED AS PART OF YOUR PROPOSAL. PROPOSALS WILL NOT BE ACCEPTED WITHOUT THIS FORM, SIGNED BY AN AUTHORIZED AGENT OF THE RESPONDER.

COMPANY NAME:

MAILING ADDRESS:

CITY, STATE, ZIP:

FEDERAL EMPLOYER'S IDENTIFICATION NUMBER (FEIN):

SPIN NUMBER:

TELEPHONE NUMBER: (EXT:) FACSIMILE NUMBER:

EMAIL:

I CERTIFY THAT THIS PROPOSAL IS MADE WITHOUT PRIOR UNDERSTANDING, AGREEMENT, OR CONNECTION WITH ANY OTHER RESPONDER SUBMITTING A PROPOSAL FOR THE SAME MATERIALS, SUPPLIES, EQUIPMENT OR SERVICES, AND IS IN ALL RESPECTS FAIR AND WITHOUT COLLUSION OR FRAUD. I AGREE TO ABIDE TO ALL TERMS AND CONDITIONS OF THIS PROPOSAL AND CERTIFY THAT I AM AUTHORIZED TO SIGN THIS PROPOSAL FOR THE RESPONDER. SIGNING THIS ACKNOWLEDGEMENT ALSO AFFIRMS THAT THE ORIGINAL 470 PROPOSAL ACKNOWLEDGMENT DOCUMENT HAS NOT BEEN ALTERED IN ANY WAY.

TYPED OR PRINTED NAME, TITLE:

AUTHORIZED SIGNATURE:

DATE:

I. INTRODUCTION AND GENERAL INFORMATION

A. **PURPOSE:** The purpose and intent of this 470 Proposal ("Proposal") is to solicit sealed Proposals from qualified firms who are approved by the Universal Service Administrative Company ("USAC") to provide E-rate goods and services to procure equipment as described further in this solicitation for the School District of Escambia County located within Escambia County, Florida (the "District").

B. CALENDAR OF EVENTS:

Proposal Posting (See Page 1)	Friday, December 14, 2018
Deadline for Questions (See Page 6)	Monday, December 17, 2018 at 5:00 p.m., CST
Answers to Questions and Any Addendums By (See Page 6)	Wednesday, December 19, 2018 at 5:00 p.m., CST
District Holiday Closure (No Deliveries or Mail)	Friday, December 21, 2018 – Thursday, January 3, 2019
Proposal Opening (See Page 1)	Monday, January 14, 2019 at 2:00 p.m., CST
Proposal Evaluation (Subject to change)	Friday, January 18, 2019

C. **GENERAL INFORMATION ABOUT DISTRICT SCHOOLS:** The District and its governing board were created pursuant to Section 4, Article IX of the Constitution of the State of Florida. The District is an independent taxing and reporting entity managed, controlled, operated, administered, and supervised by the District's school officials. The Board consists of five (5) elected officials responsible for the adoption of policies, which govern the operation of the District. The Superintendent of Schools is responsible for the administration and management of the schools within the applicable parameters of state and federal laws and regulations, State Board of Education Rules, and School Board Policies. The Superintendent is also specifically delegated the responsibility of maintaining a uniform system of records and accounts in the District. Additionally, the District is held to adhering to the provisions outlined in the Jessica Lunsford Act in Section III (Special Conditions), Letter E (Employee Screenings).

The District is coterminous with Escambia County, which covers eight hundred seventy-six (876) square miles. The District currently operates fifty-two (52) schools/centers (32) elementary schools, nine (9) middle schools, seven (7) high schools and four (4) specialized schools/centers.

As one of the largest school districts in the nation, the District serves approximately forty thousand one hundred (40,100) students (excludes private schools and the student population changes annually).

II. GENERAL TERMS AND CONDITIONS

NOTE: The terms "Responder", "Contractor", "Vendor", and "Party" as used within this Proposal refers to the person, company or organization responding. The Responder is responsible for understanding and complying with the terms and conditions herein.

- A. **GENERAL:** Upon a Proposal award, the terms and conditions of this Proposal or any portion thereof, may, upon mutual agreement of the parties, be extended for an additional term(s) or for additional quantities (all original terms and conditions will remain in effect). Subject to the mutual consent of the parties, the pricing, terms and conditions of this Proposal, for the products or services specified herein, may be extended to other municipal, city or county government agencies, school boards, community or junior colleges, or state universities within the State of Florida.
- B. **PROPOSAL OPENING AND FORM:** Proposal openings will be public on the date and time specified on the "470 Proposal Acknowledgement" form found on page 1. All proposals received after the time indicated will be rejected as non-responsive and retained by the District. Proposals by email, fax, telegram, or verbally by telephone or in person will not be accepted. The public opening will acknowledge receipt of the Proposals only; details concerning pricing or the offering will not be announced. All proposals submitted will become public record upon an announcement of a recommended award or thirty (30) days after the opening date whichever occurs first. To protect any confidential information contained in their Proposal, companies must invoke the exemptions to disclosure provided by law in response to the Proposal, and must identify the data and other material to be protected, and must state the reasons why such exclusion from public disclosure is necessary.
- C. **WARRANTY:** All goods and services furnished by the Responder(s), relating to and pursuant to this Proposal will be warranted to meet or exceed the Specifications contained herein. In the event of breach, the Responder(s) will take all necessary action, at Responder's expense, to correct such breach in the most expeditious manner possible.
- D. **PRICING:** All pricing submitted will include all packaging, handling, shipping charges, and delivery to any point within Escambia County, Florida to a secure area or inside delivery. The School Board is exempt and does not pay Federal Excise and State of Florida Sales Taxes.
- E. **TERMS OF PAYMENT / INVOICING:** The normal terms of payment will be Net 30 Days from receipt and acceptance of goods or services and Responder's invoice. Itemized invoices, each bearing the Purchase Order Number must be mailed on the day of shipment. Invoicing subject to cash discounts will be mailed on the day that they are dated.
- F. **TRANSPORTATION AND TITLE:** (1) Title to the goods will pass to the District upon receipt and acceptance at the destination indicated herein. Until acceptance, the Responder(s) retain the sole insurable interest in the goods; (2) The shipper will prepay all transportation charges. The District will not accept collect freight charges; (3) No premium carriers will be used for the District's account without prior written consent of the Director of Purchasing.
- G. **PACKING:** All shipments will include an itemized list of each package's content, and reference the District's Purchase Order Number. No charges will be allowed for cartage or packing unless agreed upon by the District prior to shipment.
- H. **INSPECTIONS AND TESTING:** The District will have the right to expedite, inspect and test any of the goods or work covered by this Proposal. All goods or services are subject to the District's inspection and approval upon arrival or completion. If rejected, they will be held for disposal at the Responders' risk. Such inspection, or the waiver thereof, however, will not relieve the Responder(s) from full responsibility for furnishing goods or work conforming to the requirements of this Proposal, and will not prejudice any claim, right, or privilege the District may have because of the use of defective or unsatisfactory goods or work.

- I. **STOP WORK ORDER:** The District may at any time by written notice to the Responder, stop all or any part of the work for this Proposal award. Upon receiving such notice, the Responder(s) will take all reasonable steps to minimize additional costs during the period of work stoppage. The District may subsequently either cancel the stop work order resulting in an equitable adjustment in the delivery schedule, the price, or terminate the work in accordance with the provisions of the Proposal terms and conditions.
- J. **INSURANCE AND INDEMNIFICATION:** The Responder(s) agrees to indemnify and save harmless the District, its officers, agents and employees from and against any and all claims and liabilities (including expenses) for injury or death of persons or damage to any property which may result, in whole or in part, from any act or omission on the part of the Responder(s), its agents, employees, or representatives, or are arising from any Responder(s) furnished goods or services, except to the extent that such damage is due solely and directly to the negligence of the District. The Responder(s) will carry comprehensive general liability insurance, including contractual and product liability coverage, with minimum limits acceptable to the District. The Responder(s) will, at the request of the District, supply certificates evidencing such coverage.
- K. **RISK OF LOSS:** The Responder(s) assumes the following risks: (1) all risks of loss or damage to all goods, work in process, materials and equipment until the delivery thereof as herein provided; (2) all risks of loss or damage to third persons and their property until delivery of all goods as herein provided; (3) all risks of loss or damage to any property received by the Responder(s) or held by the Responder(s) or its suppliers for the account of the District, until such property has been delivered to the District; (4) all risks of loss or damage to any of the goods or part thereof rejected by the District, from the time of shipment thereof to Responder(s) until redelivery thereof to the District.
- L. **LAWS AND REGULATIONS:** Responder(s) will comply with all applicable Federal, State and Local laws, statutes and ordinances including, but not limited to the rules, regulations and standards of the Occupational Safety and Health Act of 1970, the Federal Contract Work Hours and Safety Standards Act, and the rules and regulations promulgated under these Acts. Responder(s) agree not to discriminate against any employee or applicant for employment because of race, sex, religion, color, age or national origin.
- All agreements as a result of an award hereto and all extensions and modifications thereto and all questions relating to its validity, interpretation, performance or enforcement will be governed and construed in conformance to the laws of the State of Florida.
- M. **PUBLIC ENTITY CRIMES:** A Responder, person, or affiliate who has been placed on the convicted Contractor list following a conviction for a public entity crime may not submit a proposal to provide any goods or services to a public entity for the construction or repair of a public building or public work, may not submit proposals on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Florida State Statute, Section 287.017, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted Contractor list.
- N. **PATENTS:** Responders agree to indemnify and save harmless the District, its officers, employees, agents, or representatives using the goods specified herein from any loss, damage or injury arising out of a claim or suit at law or equity for actual or alleged infringement of letters of patent by reason of the buying, selling or using the goods supplied under this solicitation, and will assume the defense of any and all suits and will pay all costs and expenses thereto.

- O. **CONFLICT OF INTEREST:** The award hereunder is subject to the provisions of Chapter 112 Florida Statutes. All Responders must disclose the name of any company owner, officer, director or agent who is an employee of the District, is an employee of the District and owns, directly or indirectly, an interest of five percent (5%) or more of the company.
- P. **TERMINATION: DEFAULT.** The District may terminate all or any part of a subsequent award by giving notice of default to Responder, if Responder: (1) refuses or fails to deliver the goods or services within the time specified; (2) fails to comply with any of the provisions of this Proposal or so fails to make progress as to endanger performances, hereunder, or; (3) becomes insolvent or subject to proceedings under any law relating to bankruptcy, insolvency, or relief of debtors. In the event of termination for default, the District's liability will be limited to the payment for goods and services delivered and accepted as of the date of termination. **CONVENIENCE.** The District may terminate for its convenience at any time, in whole or in part any subsequent award. In which event of termination for convenience, the District's sole obligations will be to reimburse Responder for: (1) those goods or services actually shipped/performed and accepted up to the date of termination, and (2) costs incurred by Responder for unfinished goods, which are specifically manufactured for the District and which are not standard products of the Responder, as of the date of termination, and a reasonable profit thereon. In no event is the District responsible for loss of anticipated profit nor will reimbursement exceed the amounts paid to Responder under this Proposal.
- Q. **DRUG-FREE WORKPLACE:** Whenever two (2) or more Proposals are equal with respect to price, quality, and service, a Proposal received from a business that certifies that it has implemented a drug-free workplace program as defined by Section 287.087 Florida Statutes, will be given preference in the award process.
- R. **PERFORMANCE/REMEDIES:** In an effort to reduce the cost of doing business with the District, and unless indicated elsewhere, no bid or performance bond is required. However, upon award and subsequent default by Responder, the District reserves the right to pursue any or all of the following remedies: (1) to accept the next lowest available Proposal price or to purchase materials or services on the open market, and to charge the original awardee for the difference in cost via a deduction to any outstanding or future obligations; (2) the Responder in default will be prohibited from activity for a period of time determined by the severity of the default, but not exceeding two (2) years; (3) any other remedy available to the District in tort or law.
- S. **AUDIT AND INSPECTION:** The District or its representative reserves the right to inspect or audit all Responder documents and records as they pertain to the products and services delivered under this Proposal award. Such rights will be exercised with notice to the Responder(s) to determine compliance with and performance of the terms, conditions and specifications on all matters, rights and duties, and obligations established by this agreement. Documents/records in any form will be open to the District's representative and may include but are not limited to all correspondence, ordering, payment, inspection and receiving records, and contracts or sub-contracts that directly or indirectly pertain to the transactions between the District and the Responder.
- T. **SAMPLES AND BRAND NAMES: BRAND NAMES.** Specifications referencing specific brand names and models are used to reflect the kind and type of quality in materials and workmanship, and the corresponding level of performance the District expects to receive as a minimum. Responders offering equivalents or superior products to the brand/model referenced will: (1) reference in their proposal the manufacturer's name, brand name, model or part number; (2) next to the price Responders will indicate "ALT" to reflect an alternate offering; (3) where no sample is provided with the Proposal; Responders will enclose sufficient technical specification sheets and literature to enable the District to reach a preliminary evaluation; (4) the District may request and Responders agree to submit a sample or to provide its

product on-trial or demonstration, whichever the District may deem appropriate, at no charge to the District; (5) the District reserves the right to determine the acceptability of any alternatives offered. **SAMPLES.** Any sample requested by this Proposal or to be provided at the Responder's option, should be forwarded under separate cover to the attention of the Purchasing Department of the District. The package or envelope will reference the Proposal Number, Proposal Title, and Proposal Item Number and clearly marked "Samples". All samples will be provided free of charge, including transportation charges. Responders are responsible for notifying and making arrangements for pick up from the District if a return of samples is expected. All samples unclaimed for thirty (30) days will be disposed of at the discretion of the District.

- U. **EVALUATION CRITERIA:** Primary factors used to decide the award hereunder will be price, quality, availability, Responder's experience, references, and responsiveness. Other factors that may be used in the evaluation of proposals received will be: (1) administrative costs incurred by the District in association with the discharge of any subsequent award; (2) alternative payment terms; (3) Responder's past performance. The District reserves the right to evaluate by lot, by partial lot, or by item, and to accept or reject any proposal in its entirety or in part, and to waive minor irregularities if the proposal is otherwise valid. In the event of a price extension error, the unit price will be accepted as correct. The District has sole discretion in determining testing and evaluation methods. The District may consider in conjunction to any award hereunder, those products, services and, prices available to them through contracts from state, federal, and local government agencies or other Districts within the State of Florida.
- V. **CLARIFICATIONS AND INTERPRETATIONS:** The District reserves the right to allow for clarification of questionable entries, and for the Responder to withdraw items with obvious mistakes. Any questions concerning terms, conditions or specifications will be directed to the designated Purchasing Agent referenced on page 1. Any ambiguities or inconsistencies will be brought to the attention of the designated Purchasing Agent in writing by 5:00 PM CST of Monday, December 17, 2018. Failure to do so, on the part of the Responder, will constitute an acceptance by the Responder of the consequent decision. An addendum to the Proposal shall be issued and posted for those interpretations that may affect the eventual outcome of this solicitation. It is the Responder's responsibility to assure the receipt of all addendum issued. No person is authorized to give oral interpretations of, or make oral changes to the Proposal. Therefore, oral statements given before the Proposal opening date will not be binding. The School District will consider no interpretations binding unless provided for by issuance of an addendum. Addenda will be posted to the School District's Purchasing website address at <http://ecsd-fl.schoolloop.com/purchasing/bids> by Thursday, December 19, 2018 at 5:00 pm CST. The Responder shall acknowledge receipt of all addenda by signing and enclosing said addenda with their proposal.
- W. **PROPOSAL TABULATIONS, RECOMMENDATIONS, AND PROTEST:** Proposal tabulations with award recommendations will be posted for seventy-two (72) hours in the Purchasing Office and are also posted to the School District's Purchasing website address at <http://ecsd-fl.schoolloop.com/purchasing/bids>. Proposal tabulations, recommendations or notices will not be automatically mailed. Failure to file a protest within the time prescribed in Section 120.57(3) Florida State Statutes will constitute a waiver of proceedings under Chapter 120, Florida State Statutes and School Board Rules.
- X. **CONTACT:** All questions for additional information regarding this Proposal **must be directed to the designated Purchasing Agent noted on page 1.** Prospective Responders shall not contact any member of the Escambia County School Board, Superintendent, or staff regarding this solicitation prior to posting of the final tabulation and award recommendation on the website and in the Purchasing Office. Any such contact will be cause for rejection of your proposal.
- Y. **PROPOSAL PREPARATION COSTS:** Neither the District nor its representatives shall be liable for any expenses incurred in connection with the preparation of a response to this proposal.

Z. **AGREEMENT FORM:** All subsequent agreements as a result of an award hereunder ("Agreement"), shall incorporate all terms, conditions and specifications contained herein, and in response hereto, unless mutually amended in writing.

AA. **ADDITIONAL TERMS AND CONDITIONS:** The District reserves the right to reject offers containing terms and/or conditions contradictory to those requested in this solicitation.

III. SPECIAL CONDITIONS These "SPECIAL CONDITIONS" are in addition to or supplement Section II GENERAL TERMS AND CONDITIONS. In the event of a conflict, these SPECIAL CONDITIONS will have precedence.

A. **TERM OF AGREEMENT:** The District intends to purchase equipment during the Erate Funding Year (FY19/20) which would commence between July 1, 2019 to June 30, 2020. The purchase may be made in a single order or multiple order format during the stated time period.

B. TERMINATION:

1. The District reserves the right to terminate this Agreement and/or any purchase order in accordance with this Proposal, at any time and for any reason.
2. The Contractor may terminate this Agreement at any time with ninety (90) days written notice to the Purchasing Agent listed on page 1 without penalty. Include the reason for the termination in the written notice.
3. In the event that the Contractor breaches the Agreement, then the District reserves the right to seek any and all remedies in the law and/or in equity.
4. All warranty provisions as it relates to services/parts purchased during this Agreement will survive any termination between the parties regardless of cause and the supplier agrees to be obligated to continue to provide warranty repair service when and where needed as if no termination has occurred.
5. During the course of the Agreement, should the District encounter performance issues in the execution of this Proposal, the District will begin documenting information concerning those instances. After three (3) instances are recorded within the Agreement Term, a meeting will occur involving representative from the Responder in question, the Purchasing Department, and the Information Technology Department to address. If performance does not improve in accordance with the established benchmarks from the joint meeting, the District reserves the right to terminate the Agreement. Should an instance be of such severity that the District has reasonable concern for the safety or viability of the operational ability, then the District reserves the right to request an immediate meeting to address the issue without waiting for three (3) documented records.

C. **COMMUNICATION:** Ex parte communication, whether verbal or written, by any potential Responders or representative of any potential Responders to this Proposal, prior to posting of the final tabulation and award recommendation on the website and in the Purchasing office, with District personnel involved with or related to this Proposal, other than as expressly designated in this document, is strictly prohibited. Violation of this restriction may result in the rejection/disqualification of the Responders' proposal.

Ex parte communication (whether verbal or written) by any potential Responders or representative of any

potential Responders to this Proposal with School Board members, Superintendent, is also prohibited and will result in the disqualification of the Responders.

Any current Responder meetings with District staff and administration, or instructional personnel will at no time include any conversation regarding the solicitation.

All inquiries regarding this Proposal must be in writing and addressed to:

Anya Klinginsmith, Senior Purchasing Agent
Purchasing Department
Escambia County School District
75 N. Pace Blvd.
Pensacola, FL 32505
Email: aklinginsmith@escambia.k12.fl.us

Both the Invoice and the Technical point of contact will be named following award. For questions concerning contract and performance, the Purchasing Agent on page 1 will remain the point of contact.

- D. **INVOICES:** Within ten (10) calendar days of the close of each month, the District's Invoice Contact will be invoiced for the amount of applicable cost share as needed. The District's Invoice Contact will also receive a copy, and must approve, all invoices prepared for submission to USAC for payment. Invoices must detail the type of activity, by whom, and the 471 #. The District's Invoice Contact will have fifteen (15) business days to notify the Contractor an invoice is incorrect. Once notified, the Contractor will have ten (10) business days to issue a corrected invoice. Audits will be conducted at the discretion of the District. Responder agrees that all documentation necessary to validate pricing listed on invoice will be provided to the requesting District representative within ten (10) business days of the written request. In the event additional time is required to obtain the necessary documentation, the successful Responder will notify the District designee within five (5) business days of the District's written request and provide a specified date that the documentation will be ready, which will not exceed thirty (30) days from the date of the written request. Further, the Responder agrees that payment for the invoice in question will be held, without penalty to the District, until the requested documentation has been provided and reviewed by the District, which will not be unreasonably delayed. Invoices submitted more than sixty (60) days after project completion may be deemed waived and will not be paid. Payments will be made on a per-delivery completion with no partial or incremental payments unless authorized in writing by the District's Purchasing Department.

The District is exempt from federal and state taxes for tangible personal property. The Contractor doing business with the District will not be exempted from paying sales tax to its suppliers for materials to fulfill contractual obligations with the District, nor will any Contractor be authorized to use the District's Tax Exemption Number in securing such materials.

- E. **EMPLOYEE SCREENINGS:** Responder will comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes; by certifying that the Responder and all of its employees who provide services under this Agreement have completed the background screening required by the referenced statutes and meet the standards established by the statutes. This certification will be provided to the District in advance of the Responder providing any services on campus while students are present. The Responder will bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to Responder and its employees. The Responder will follow the procedures for obtaining employee background screening as outlined on the District Website: <http://ecsd-fl.schoolloop.com>. Responder will provide the District a list of its employees who have completed background screening as required by the referenced statutes and meet the statutory requirements. Responder will update these lists in the event that any employee listed fails to meet the statutory standards or new employees who have completed the

background check and meet standards are added. The parties agree that in the event that Responder fails to perform any of the duties described in this paragraph, this will constitute a material breach of the Agreement entitling the District to terminate immediately with no further responsibility to make payment or perform any other duties under this Agreement. Responder agrees to indemnify and hold harmless the District, its officers and employees from any liability in the form of physical injury, death, or property damage resulting from Responder's failure to comply with the requirements of this paragraph or Sections 1012.32 and 1012.465, Florida Statutes.

- F. **HARASSMENT/DISCRIMINATION:** Contractors doing business with the District are prohibited from harassing, sexually harassing, and/or discriminating against any employee, applicant, or client because of race, creed, color, national origin, sex or age with regard to but not limited to the following: employment practices, rates of pay or other compensation methods, and training selection.
- G. **EQUAL OPPORTUNITY:** Responders affirm by submitting their proposals that they are equal opportunity and affirmative action employers and shall comply with all applicable federal, state and local laws and regulations including, but not limited to: Executive Order 11246 as amended by 11375 and 12086; 12138; 11625; 11758; 12073; the Rehabilitation Act of 1973, as amended; the Vietnam Era Veterans Readjustment Assistance Act of 1975; Civil Rights Act of 1964; Equal Pay Act of 1963; Age Discrimination Act of 1967; Immigration Reform and Control Act of 1986; Public Law 95-507; the Americans with Disabilities Act; 41 CFR Part 60, 2 CFR Part 200 and any additions or amendments thereto.
- H. **THE RESPONDER AS AN INDEPENDENT CONTRACTOR:** The Responder shall have sole control over the manner and means of providing the services performed under the Agreement. The Responder's relationship to the District under the Agreement shall be that of an Independent Contractor. The Responder will not be considered an agent or employee of the District for any purpose.

As an Independent Contractor, the Responder is responsible for all taxes incident to payments for services herein, including without limitation, all state and federal income taxes payroll and other taxes, and Workers' Compensation.

- I. **COMPLIANCE WITH LAWS:** The Responder agrees to comply with all applicable laws, statutes, regulations, rulings, or enactments of any governmental authority under this Proposal and Agreement whether or not such is specified in the Agreement. The Responder shall obtain from third parties, including State and local governments, all licenses, permits and permissions necessary for the performance of the work. Lack of knowledge by the Contractor will in no way be a cause for relief from responsibility. The Contractor warrants that it is a duly formed business entity organized and existing in good standing under the laws of the State of its formation and is entitled and shall remain licensed to carry on its business as required by the State of Florida.
- J. **GOVERNING LAWS:** This Agreement is to be governed and construed in accordance with the laws of the State of Florida. The parties agree that jurisdiction for the resolution of any legal shall be solely with the Circuit Courts of Escambia County, Florida. The parties hereby waive venue in any other forum.

The Agreement shall not be construed more strongly against any party regardless of who was more responsible for its preparation.

The Contractor will pay the District's reasonable attorneys' fees and costs for any matter arising under Section III (Special Conditions), Letter N (Florida Public Records Law and Compliance) of the Proposal. It shall be the sole responsibility of the awarded Contractor to comply with all requirements of Chapter 119 regarding documents received or generated in direct relationship to any contract/agreement awarded by the District.

Should any provision of the Agreement be determined by the Courts to be illegal or in conflict with any laws of the State of Florida or of the United States Government, the remaining provisions shall not be impaired, and such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law. The remainder of the Agreement shall remain valid and in full force and effect.

It is the practice of the District to evaluate all Proposals in an open public forum pursuant to Florida Statute 286.011 and to make available for public inspection and copying any information received in response to a Proposal, in accordance with Florida Statute Chapter 119, as such any information sent to the District is being sent into the public domain. Proposals received as a result of this Proposal will not become public record until ten (10) days after the date of opening or until posting of a recommendation for award, whichever occurs first. No action on the part of the Responder(s) would create an obligation of confidentiality on the part of the District, including but not limited to, making a reference in the proposal to the trade secret statutes, Florida Statutes 812.081, 815.045. It is recommended that potential Responders exclude from their response any information that, in their judgment, may be considered a trade secret.

- K. **INDEMNIFICATION:** Nothing set forth in any provision of an Agreement shall mean or be construed that the District has waived, altered, or amended in any manner whatsoever the limitations or provisions of Section 768.28, Florida Statutes, regarding the District's sovereign immunity.

The Contractor shall indemnify the Board and to the fullest extent permitted by law, protect, defend, indemnify, and hold harmless the Board, its agents, officers, elected officials, employees and volunteers from and against all claims, actions, liabilities, losses (including economic losses), and costs arising out of any actual or alleged:

Bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting there from, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged act or omission of the Contractor or its subcontractor, or other party directly or indirectly employed by the Contractor for whose acts may be liable in performance of the work; or

Violation of law, statute, ordinance, governmental administration order, rule or regulation by the Contractor in the performance of the work; or

Liens, claims or actions made by the Contractor or any subcontractor or other party performing the work.

The indemnification obligations hereunder shall not be limited to any extent on the amount, type of damages, compensation or benefits payable by or for the Contractor or any subcontractor under workers' compensation acts, disability benefit acts, other employee benefit acts or any statutory bar.

Any cost or expense, including attorney's fees, incurred by the Board to enforce the Agreement shall be borne by the Contractor.

The School Board of Escambia County, Florida agrees to indemnify the Contractor to the extent and only to the extent of the limits set forth in 768.28(5), Florida Statutes and then only for the negligent or wrongful act or omission of any officer or employee acting within the scope of the officer's/employee's office or employment under circumstances in which the state or such agency or subdivision, if a private person, would be liable to the claimant. Further, except as specifically provided herein, the School Board does not waive any defense of sovereign immunity. It is further understood and agreed by the parties to this

agreement that no officer or employee may be held personally liable except as provided by 768.28(9), Florida Statute.

L. FEDERAL LAWS AND REGULATIONS: As this solicitation may use federal funds, the Contractor shall comply with the provisions of 45 CFR, Part 74, 2 CFR, Part 200 and other applicable regulations, including, but no limited to:

1. Title VI of Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, Age Discrimination Act of 1975, 7 CFR Parts 15, 15a and 15b, and any additions or amendments.
2. The Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act (33 USC 1251-1387).
3. Byrd Anti-Lobbying Amendment (31 USC 1352).
4. Energy Policy and Conservation Act (42 USC 6201).
5. Contract Work Hours and Safety Standards Act (40 USC 3701-3708) supplemented by Department of Labor regulations (29 CFR Part 5).
6. Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375 and Department of Labor Regulation (41 CFR Chapter 60).
7. Copeland "Anti-Kickback" Act (40 USC 3145) as supplemented in Department of Labor regulations (29 CFR Part 3).
8. Davis-Bacon Act (40 USC 3141-3148) as supplemented by Department of Labor regulations (29 CFR Part 3).
9. Rights to Inventions Made Under a Contract or Agreement [37 CFR 401.2(a)].
10. Procurement of Recovered Materials (2 CFR 200.322).
11. Breach of Contract [2 CFR Appendix II to Part 200 (b)].

M. EXAMINATION OF RECORDS: The Responder agrees that the District, the Comptroller General of the United States of America and/or the Inspector General of the Federal Sponsoring Agency, and the Auditor General of the State of Florida or their duly authorized representatives shall have access to, and the right to examine, any directly pertinent books, papers, and records of the Responder involving transactions related to this agreement until the expiration of ten (10) years after final payment under this agreement or if an audit has been initiated and audit findings have not been resolved at the end of ten (10) years, the records shall be retained until resolution of the audit findings.

N. FLORIDA PUBLIC RECORDS LAW AND COMPLIANCE: Pursuant to Section 119.0701, Florida Statutes, any contract entered into pursuant to this Proposal will require the successful Responder to comply with all public records laws, including the obligations to:

1. Keep and maintain public records required by the District to perform the service.
 - a. The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies and GS7 for Public Schools. (See <http://dos.dos.state.fl.us/library->

[archives/records-management /general-records-schedules/](#).

- b. Records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the District. Contractor's records under this Agreement include but are not limited to, supplier/subcontractor invoices and contracts, project documents, meeting notes, emails and all other documentation generated during this Agreement.
2. Upon request from the District's custodian of public records, provide the District with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for by law. If a Contractor does not comply with the District's request for records, District shall enforce the provisions in accordance with the contract.
3. Ensure that project records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to District.
4. Upon completion of the contract, transfer, at no cost, to the District all public records in possession of the Contractor or keep and maintain public records required by the District to perform the service. If the Contractor transfers all public records to the District upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon the completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records kept electronically must be provided to the District, upon request from the District's custodian of public records, in a format that is compatible with the information technology systems of the District.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE SCHOOL DISTRICT OF ESCAMBIA COUNTY, CUSTODIAN OF PUBLIC RECORDS AT (850) 469-6131, NROSS@ESCAMBIA.K12.FL.US, OR 75 NORTH PACE BLVD., PENSACOLA, FL 32505.

A Contractor who fails to provide the public records to the District within a reasonable time may also be subject to penalties under Section 119.10, Florida Statutes.

- O. **COVENANT AGAINST CONTINGENT FEES:** The Responder warrants that no person or agency has been employed or retained to solicit or secure a contract pursuant to this Proposal upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the District shall have the right to annul the contract without liability, or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

For purposes of this Section:

1. Bona fide agency means an established commercial or selling agency, maintained by a Responder for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds itself out as being able to obtain any government contract or contracts through improper influence.
2. Bona fide employee means a person, employed by a Responder and subject to the Responder's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds out as being able to obtain any government contract or contracts through improper influence.
3. Contingent fee, as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a government contract.
4. Improper influence, as used in this clause, means any influence that induces or tends to induce a government employee or officer to give consideration or to act regarding a government contract on any basis other than the merits of the matter.

P. RISK MANAGEMENT PROVISIONS: Anything in the foregoing Articles to the contrary notwithstanding, each Responder thereof hereby agrees to:

- A. **HOLD HARMLESS/INDEMNIFICATION AGREEMENT:** Save and hold harmless, pay on behalf of, protect, defend, and indemnify the School Board, (including the Superintendent of Schools, the District, their officers, agents, and employees) from and against any demand, claim, suit, loss, expense, or damage which may be asserted against any of them in their official or individual capacities by reason of any alleged damage to property, or injury to, or death of any person arising out of, or in any way related to, any action or inaction of the Responder (including its sub-contractors, officers, agents, and employees) in the performance or intended performance of this Agreement, or the maintenance of any facility, or the operation of any program, which is the subject of, or is related to the performance of this agreement. The obligations of the Responder pursuant to this paragraph will not be limited in any way by any limitation in the amount or type of proceeds, damages, compensation, or benefits payable under any policy of insurance or self-insurance maintained by or for the use and benefit of the Responder.
- B. **REQUIRED INSURANCE:**
 1. Maintain, keep in full force and effect during the term of this Proposal and any extensions and renewals thereof, and furnish to the District's Purchasing Department good and sufficient evidence of general liability and auto liability insurance in an amount not less than \$1,000,000 with an insurance company rated not lower than "A" by A. M. Best and Company. The School Board will be named as an additional insured. The policy and evidence of such insurance will be endorsed so as to provide coverage for all liability hereby contractually assumed by the Responder and a copy thereof will be delivered to the attention of the Purchasing Agent at the address provided on page 1 of the Proposal no later than sixty (60) days after Proposal award or before beginning performance of this Agreement, whichever is sooner. Such insurance will not be subject to cancellation, non-renewal, reduction in policy limits or other adverse change in coverage, except with forty-five (45) days prior written notice to the School Board, which notice will be given by U.S. Certified Mail with return receipt requested to the undersigned. No other form of notification will relieve the insurance company, or its agents, or representatives of responsibility.

2. If this Proposal involves performance by officers, employees, agents or sub- contractors of the Responder, the Responder will also maintain, keep in full force and effect during the term of this Proposal and any extensions and renewals thereof, and furnish to the undersigned good and sufficient evidence of Workers' Compensation insurance in the amount required by Florida Statutes Chapter 440, and Employer Legal Liability Insurance in the amount of \$100,000.

Q. PRICING:

1. All pricing will remain firm through the term of the Agreement.
2. Responder agrees to hold pricing and proposal terms following award through the issuance of Funding Commitment Decision Letters ("FCDL") by USAC. In the event that the District does not receive a positive funding commitment letter through initial submission or following an appeal; the District will have sole and exclusive ability to revoke the award. In the event that the District wishes to proceed with the purchase of goods and services with an alternate payment source, the Responder and District will negotiate any changes.
3. Pricing must reflect a separation of eligible and ineligible costs. Anything that would be deemed "free", "promotional", etc. must be clearly identified with the value of the offering indicated.
4. During the performance of this Agreement, no allowances will be made for price increases, even if as a result of tariffs or government action or inaction. In the event the price decreases or is found to be a lower cost for the same product or similar services, the District will receive price-matching to the lower cost. Failure of the Responder to allow this may result in a material breach, subject to the provisions as stated in Section II (General Terms and Conditions), Letter R (Performance/Remedies).
5. The District will not be liable for any costs not included in the Proposal and subsequent contracted-for-costs.
6. Pricing will not be given consideration until all proposals are determined eligible based on the items in Section IV (Evaluation and Award), Letter C (Proposal Format and Evaluation Criteria), Number 2, Numerals "i" and "ii". Further, Section IV (Evaluation and Award), Letter C (Proposal Format and Evaluation Criteria), Number 2, Numeral "iii" (Contents), Numbers 2,3, and 4 will be evaluated prior to giving consideration to price.
7. Pricing must be submitted in a separate envelope with the Responder's proposal, clearly labeled with: (1) the Form 470 Title, (2) Form 470 Application Number, and (3) the word "Pricing".

R. CONFLICT OF INTEREST: The Responder affirms that, to the best of its knowledge, there exists no actual or potential conflict between the Independent Contractor's family, business, or financial interests and its services under this Agreement; and, in event of change in either its private interests or services under this Agreement, the Responder will raise with the District any questions regarding possible conflict of interest which may arise as a result of such change.

S. MISCELLANEOUS:

1. Any proposal may be withdrawn until the date and time set for the opening of the Proposal. Any proposal not so withdrawn will constitute an irrevocable offer to provide the District the services/products set forth in this Proposal.
2. The District reserves the right to use other existing contracts when determined to be in their best

interest. The District also reserves the right to bid separately any item(s) or service(s) covered under this Proposal if deemed to be in the best interest of the District at any time during the term of this Agreement.

3. No work shall begin without first receiving either a Purchase Order for the specific job or receiving prior authorization to bill the work on the End User's District Purchasing Card (with no additional fees to be charged).
4. Responder(s) must be a certified E-rate provider, shall have a "Service Provider Information Number" (SPIN) from the Schools and Libraries Division of the USAC, and be responsible for complying with all rules and regulations of the E-rate program. This certification must be maintained throughout the term of the Agreement. Evidence of Responder's certification and annual re-certification by the Federal Communication Commission/Schools and Library Division ("FCC/SLD") must be provided as part of the submitted proposal. Failure of Responder to maintain this certification or have certification revoked by FCC/SLD shall constitute a breach of contract. Further, Responder shall reimburse the District for the full amount of any and all invoices resulting from the services provided by Responder under the pending or current contract that is not reimbursed by the FCC/SLD because of Responder's lack of certification, failure to re-certify or revocation of certification, as required by the FCC/SLD.
5. All equipment and material will be new. Used, refurbished, damaged or deteriorated equipment and material is NOT acceptable.
6. The Agreement may not be amended or supplemented in any way except in writing, dated and signed by authorized representatives of both parties.
7. The headings used herein are for reference and convenience only and shall not enter into the interpretation hereof.
8. The Agreement is entered into solely between, and may be enforced only by, the District and the Contractor, and the Agreement shall not be deemed to create any rights in third parties, including suppliers and customers of a party, or employees of either party, or to create any obligations of a party to any such third parties.
9. All media releases, public announcements, and public disclosures by either party relating to the Agreement or the subject matter of the Agreement, including promotional or marketing material, shall be coordinated with and approved by the other party prior to release.
10. If any date of significance hereunder falls upon a Saturday, Sunday, or Federal holiday, such date shall be deemed moved forward to the next day which is not a Saturday, Sunday or Federal holiday. Saturdays, Sundays and Federal holidays shall not be considered business or working days.
11. By returning a signed and completed proposal, the Responder attests that there has been no collusion with any other Responder. In addition, there has been no divulging, discussion, or comparison of this proposal during the preparation or submission of this proposal in order to gain an unfair advantage in the award if this proposal.
12. The Contractor herein shall not assign payments under the Agreement without the prior written consent of the District.

T. DEFINITIONS: For the purposes of this Proposal, the following definitions apply:

1. **Data Communications:** Data communications is a designation referring to any stand-alone or bundled equipment, systems, or services (including but not limited to: all cable types; wireless and hardwired electronics; transport and monitoring protocols; operating systems; miscellaneous components, materials, and supplies; and certified personnel) that facilitate and/or maintain the capacity to transfer data, voice, or video over the District's LAN's, MAN, closed Circuits, and Telephony networks.
2. **Inside Plant:** Inside plant is a designation applied to any data communications equipment, systems, or services located on District property. Predominately, but not exclusively, inside plant refers to data communications equipment, systems, and services providing connectivity within individual District facilities (LAN's, Local Area Networks).
3. **Outside Plant:** Outside plant is a designation applied to any data communications equipment, systems, or services located outside District property. Predominately, but not exclusively, outside plant refers to data communications equipment, systems, or services providing connectivity among District facilities (collectively referred to as the District MAN, Metropolitan Area Network).

IV. EVALUATION AND AWARD Points will be awarded based on the responses in each proposal received. Lack of a response for any item may receive (0) zero points for that item. All attachments must be clearly marked and reference the appropriate item. Additional information may be submitted by the Responder, however, the evaluation committee will be solely responsible for determining the weight if any such information will be assigned.

A. PROPOSAL EVALUATION PROCESS:

1. Proposals are received and publicly opened. Only names of Responders are read at this time.
2. An Evaluation Committee will convene, review and evaluate all proposals submitted based on the factors set forth in the Proposal. Purchasing personnel will participate in an administrative and advisory capacity only. The District reserves the right to waive any irregularities and technicalities.
3. The Evaluation Committee reserves the right to interview any or all Responders and to require a formal presentation with the key people who will administer and be assigned to work on the Proposal before recommendation of award. This interview is to be based upon the written proposal received. The District will not be liable for any costs incurred by the Responder in connection with such interviews (i.e., travel, accommodations, etc.). The District also has the right to require Responders to submit additional evidence of qualifications or any other information the District may deem necessary. Such information will not materially change the original proposal response nor serve to allow the addition of new information that was not originally expressed or referenced.
4. All Proposals will be evaluated in accordance with the evaluation criteria specified in this document. Information derived by investigation and overall due diligence of District staff will be considered. Based on the proposals received, the District may elect to proceed based on any of the following options, but will not necessarily be limited only to these options: (1) Award to the

best initial proposal without any further discussion or negotiation; (2) Negotiate with the highest ranked Responder; or, (3) Allow the top ranked Responders to make oral presentations.

5. Responders are advised to provide their best offer with the initial proposal because the District reserves the right to award a contract based on initial proposals without further discussion or negotiation.
6. The District reserves the right to negotiate out unacceptable clauses or restrictions incorporated within an otherwise acceptable proposal. In the event that a mutually acceptable Agreement between the District and the selected Responder cannot be successfully negotiated and executed, then the District reserves the right to discontinue negotiations with such Responder and to negotiate and execute a contract with the next-ranked Responder.
7. The District reserves all rights, in its sole discretion, not to issue an award to any Responder, to cancel this Proposal at any time, to reissue this Proposal for any reason, or a combination of any or all of the above. The District will not be liable to any Responder for any costs incurred in connection with this Proposal as a result of any of the above stated actions taken by the District.
8. The Purchasing Department will prepare and submit a recommendation agenda item to the Director of Purchasing or Superintendent of Schools, Escambia County, Florida. If a recommendation is made to the Superintendent, he will then recommend the award to the School Board. The School Board will then approve or reject the recommendation.

B. DISPUTE:

1. Solicitation award recommendations and tabulations will be posted for seventy-two (72) hours in the Purchasing and Business Services Department and on its website. Failure to file a "Notice of Protest" during this seventy-two (72) hour period, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under School Board Rule and Florida Statutes. It is the Contractor's responsibility to insure timely filing and receipt of protest by the Purchasing and Business Services Department.
2. Each party agrees to continue performing its obligations under the Agreement while any dispute is being resolved (except to the extent the issue in dispute precludes performance); provided, however, that any dispute over payment shall not be deemed to preclude performance.
3. Each party agrees that, in its respective dealings with the other party under or in connection with the Agreement, it shall act in good faith. Except where expressly provided as being in the discretion of a party, where agreement, approval, acceptance, consent, or similar action by either party is required under the Agreement, such action shall not be unreasonably delayed or withheld. An approval or consent given by a party under the Agreement shall not relieve the other party from responsibility for complying with the requirements of the Agreement, nor shall it be construed as a waiver of any rights under the Agreement, except as and to the extent otherwise expressly provided in such approval or consent.
4. Any person or company whose substantial interests are directly and adversely affected by the award or intended award of a bid, Proposal, or contract may file a protest in accordance with the procedures set forth herein:

- i. Within ten (10) days, not including Saturdays, Sundays and Federal holidays, of filing the Notice of Protest, the Protester shall file a formal written protest with the Purchasing and Business Services Department. The formal written protest shall state with particularity the facts and law on which the protest is based. At the time of filing the formal written protest, the Protester shall post a Protest Bond to defray the costs incurred by the Board in considering the protest. The Bond, payable to the Board, shall be in the amount equal to five percent (5%) of the estimated amount of the contract or ten thousand dollars (\$10,000.00), whichever is greater, not to exceed twenty-five thousand dollars (\$25,000.00).
 - 1) The Protest Bond shall be in the form of a surety bond, cash, or certified funds, and shall be conditioned upon payment of all costs and charges which may be incurred by the Board in considering the protest if the Board prevails. In the event the Protest is withdrawn prior to a formal hearing or the Protester prevails as determined by the findings of an independent Hearing Officer, the Bond will be refunded to the Protester.
 - 2) Failure to file the Notice of Protest, formal written protest, and/or Protest Bond within the time permitted shall constitute a waiver of proceedings under Board Rules and Florida Statutes. The Protester has the responsibility to insure timely filing of the Notice of Protest, formal written protest and/or Protest Bond and receipt of same by the Purchasing and Business Services Office.
5. Communications shall continue between the Protester and the Purchasing and Business Services Department and/or their legal counsel for seven (7) days, not including Saturdays, Sundays and Federal holidays from filing the formal written protest in an effort to mutually resolve the protest. The parties may mutually extend the seven (7) workday time period. If the subject of a protest is not resolved by mutual agreement within seven (7) days, excluding Saturdays, Sundays, and Federal holidays, after receipt of the formal written protest, the Board shall refer the protest to the Florida Division of Administrative Hearings (DOAH).
6. For the entirety of the Protest procedures, all terms and conditions of the Proposal still apply. All communication from the Protester shall be directed to the Purchasing and Business Services Department and/or their legal counsel. Communication in references to this Proposal between the Protester, District Board, and District employees outside Purchasing and Business Services Department is prohibited. Refer to Section III (Special Conditions), Paragraph C (Communication).
7. The DOAH will assign an Administrative Law Judge (ALJ) to serve as an impartial Hearing Officer. A date, time and location will be set for an administrative hearing within thirty (30) days.
8. The parties shall arrange to have all witnesses and evidence present at the time and place of hearing. Subpoenas will be issued by the ALJ upon request of the parties. All parties have the right to present oral argument and to cross-examine opposing witnesses. All parties have the right to be represented by counsel or other qualified representative, in accordance with Florida Administrative Code Rule 28-106.106. Failure to appear at this hearing may be grounds for closure of the file without further proceedings.

9. The ALJ shall render his findings of fact and ruling of law. Each party shall be allowed ten (10) days in which to submit written exceptions to the recommended order. A final order shall be submitted within thirty (30) days of the entry of the recommended order to the School Board to be adopted for resolution and disposition of the protest.

- i. If the Protester prevails, the Board shall return the Protest Bond to the Protester.
- ii. If the Board prevails, the Protester will submit payment for all costs and charges, such as ALJ and court reporter fees. Each party will be responsible for their own attorney fees regardless of the findings of the ALJ. Upon settlement of all cost and charges, the Protest Bond will be returned to the Protester.

C. PROPOSAL FORMAT AND EVALUATION CRITERIA: Proposals not conforming to the instructions provided herein may be subject to disqualification, at the sole option of the District. The submission of a proposal shall be prima facie evidence that the Responder has full knowledge of the scope, nature, quantity and quality of work to be performed; the detailed requirements of the specifications; and the conditions under which the work is to be performed.

All proposals must be received no later than 2:00 p.m. CST, on Monday, January 14, 2019. If a proposal is transmitted by US Mail or other delivery medium, the Responder will be responsible for its timely delivery to: **The School District of Escambia County, Attn: Purchasing Department, 75 North Pace Blvd., Pensacola, FL 32505 with the Proposal number clearly marked on the outside.** Any proposal received after the stated time and date or received at any other location will not be considered. Proposals **must** be submitted in hardcopy format. Fax and/or email submissions will be considered **“non-responsive”**.

Any disqualified proposals will be retained by the District.

One (1) manually signed original, and five (5) photocopies, of the complete proposal must be sealed and clearly labeled on the outside of the package. The legal name, address, Responders' contact person, and telephone number should also be clearly annotated on the outside of the package. Once accepted, all original proposals and any copies become the sole property of the District and may be retained by the District or disposed of in any manner the District deems appropriate.

Pricing will not be given consideration until all proposals are determined eligible based on the items in Section IV (Evaluation and Award), Letter C (Proposal Format and Evaluation Criteria), Number 2, Numerals “i” and “ii”. Further, Section IV (Evaluation and Award), Letter C (Proposal Format and Evaluation Criteria), Number 2, Numeral “iii” (Contents), Numbers 2,3, and 4 will be evaluated prior to giving consideration to price.

Pricing must be submitted in a separate envelope with the Responder’s proposal, clearly labeled with: (1) the Form 470 Title, (2) Form 470 Application Number, and (3) the word “Pricing”.

All proposals must be signed by an officer or employee having authority to legally bind the Responder.

Any corrections of unit prices must be by line-outs of the original prices with correct amounts typed or written in and initialed by the originator. Corrections made using correction fluid (white out) or any other method of correction are **unacceptable**.

1. Please follow the “script” in Number 2 below for your proposal submittal; this will allow the District

to better evaluate/compare your company's capabilities with our needs. Responses shall be organized as described herein and contain the information. Responders are encouraged to provide tab separations for each item. At the District sole discretion, proposals received which do not contain ALL items listed in this section may be considered non-responsive.

2. Each Proposal should include the following:

i. Title Page: Indicating the Form 470 Title, the 470 Application Number, and showing the name and address of the firm as well as the contact person for the firm with his or her phone number and email address.

ii. Attachments: The following documents are attached, agreed to, and incorporated by specific reference. Sign or initial, as applicable, each document and return with the Proposal.

1) Failure to return the following items WILL result in your proposal not being accepted:

- a) A completed and signed "470 Proposal Acknowledgement" form (page 1 of this document). This form must be completed with an ORIGINAL, manual signature (blue ink preferred).
- b) A completed and signed "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions" form (Attachment A)
- c) A signed "Conflict of Interest Disclosure" form (Attachment B).
- d) A signed "Vendor Certification Regarding Scrutinized Companies Lists" (Attachment C).
- e) A signed "E-Rate Certification" form (Attachment D).
- f) A copy of Responder's company valid Service Provider Identification Number ("SPIN"). Acceptable documentation for proof of SPIN will be a copy of FCC Form 498 or a screen print from the E-File System. SPIN numbers will be verified by District personnel.

2) Failure to return the following items MAY result in your bid not being accepted, at the sole discretion of the District:

- a) All pages of this Proposal document (pages 1-27).
- b) A signed "Drug Free Workplace" form (Attachment E). At minimum, an unsigned form must be returned as part of the entire Proposal documentation. While a signed "Drug Free Workplace" form is not required, it will be a determining factor in award between two (2) proposals that are equal in price, quality, and service.
- c) A copy of current "red light status". Utilize <https://apps.fcc.gov/redlight/login.cfm> to obtain a print-out showing company name, status, with date/time the information was obtained.

iii. Contents:

1) PRICE (45 points maximum): Pricing should be displayed in a manner that is easily understood, such as in a table or quote format, for example. Pricing should also be submitted in a separate envelope with the Proposal in accordance with the instructions above.

a) Pricing will be based on a Firm Fixed Price of new, OEM parts and equipment, and any required licensing and/or software to operate the equipment. Clearly show the brand, part number, short description, and pricing based on a quantity of one (1). If your Proposal is for equivalent equipment, clearly show any and all additional equipment, as required, to provide equivalency to the requested equipment as a quantity of one (1).

b) Indicate and identify if any pricing includes ineligible costs per E-rate rules.

- c) Indicate quantity or cooperative discount information. (i.e., "Pricing is in accordance with XYZ Cooperative number...." or "5% discount for quantities of fifteen (15) or more"). If no such discounts are offered, please provide an answer stating this.

2) WARRANTY/RETURNS/EXCHANGES (23 points maximum):

- a) Provide the manufacturer's warranty information.
- b) Describe your warranty/return/exchange policy should equipment not perform as specified or arrives damaged. Specifically provide information on:
 - i. Damaged equipment upon delivery;
 - ii. Damaged/malfunctioning equipment upon install;
 - iii. Number of days from date of delivery to return equipment; and
 - iv. Number of days from date of delivery to exchange equipment (if different from return)

3) TIMELINE (25 points maximum):

Submit a timeline detailing lead time beginning with date of Purchase Order issuance to delivery to the designated location. The timeline should reflect information to show fulfillment process (i.e., are the items commercially available and on hand or manufactured on demand), transit times (including any overseas container shipment times), and planning in the event the project is disrupted due to severe weather or other Force Majeure events. It is understood by the District that many factors can influence delivery; however, the Responder should provide a reasonable estimate as timelines that are unrealistic or prove to be unverifiable in the event of delays may result in material breach at the sole discretion of the District.

4) INVOICING (7 points maximum):

- a) Indicate acceptance of SPI.
- b) State the maximum SPI percentage Responder will allow.
- c) Indicate acceptance of invoice submission in accordance with Section III (Special Conditions), Letter D (Invoices).
- d) Indicate acceptance of pricing requirements in accordance with Section III (Special Conditions), Letter Q (Pricing).
- e) State whether the District may order and/or pay invoices with a District Visa Purchasing Card with no additional fees.
- f) Submit sample invoice(s) for both the District and USAC (if different).

V. EQUIPMENT TO BE PURCHASED:

Requested equipment is APC Smart-UPS model SMX1500RM2U or equivalent.

Quantity Estimates:

135 qty APC Smart-UPS model SMX1500RM2U or equivalent

ATTACHMENT A
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

This certification is required by the regulations implementing Executive Order 12549, Executive Order 12689, and 31 U.S.C. 6101; Debarment and Suspension, 2 CFR Part 417, Subpart C, Responsibilities of Participants Regarding Transactions Doing Business with Other Persons.

(Please read instructions below before completing Certification)

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ORGANIZATION NAME

SPONSOR AGREEMENT NUMBER OR PROJECT NAME

NAME(S) AND TITLE(S) OF AUTHORIZED REPRESENTATIVE(S)

SIGNATURE(S)

DATE

1. By signing and submitting this form, the prospective lower tier participant is providing the certification above in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

ATTACHMENT B
CONFLICT OF INTEREST DISCLOSURE

Conflict of Interest and Ethical Considerations. The Responder affirms that, to the best of his or her knowledge, there exists no actual or potential conflict between the Responder's business or financial interests and its services under this Proposal; and, in event of a change in services under this Proposal; the Responder will raise with the District any questions regarding possible conflict(s) of interest which may arise as a result of such change.

Examples of potential conflicts of interest are listed below:

1. Recent hiring or in-progress consideration for employment of persons that are currently or have been with the District (last three (3) years) in connection to the Information Technology Department.
2. Recent termination (voluntary or otherwise) of Responder's employee(s) to be gainfully employed by the District in connection with the Information Technology Department.
3. Current bid submission directly or as a sub-contractor with the District.
4. Holding a consulting, advisory, or other similar position with the District outside of direct correlation of authorized work.
5. Holding any current membership on a committee, board, or similar position with the District.
6. Having a relationship with District personnel specifically connected to Information Technology or Purchasing Departments. Additionally, having a relationship specifically connected with School Board personnel or School District Administration, inclusive of the Superintendent, Deputy Superintendent and Assistant Superintendents. This includes any affiliation or relationship by marriage or through family membership, any business or professional partnership, close personal friendship, or any other relationship.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Responder's Signature _____

ATTACHMENT C
VENDOR CERTIFICATION REGARDING SCRUTINIZED COMPANIES LISTS (Florida Statute 287.135)

Company Name: _____

Vendor FEIN: _____

Vendor's Authorized Representative Name and Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____

Email Address: _____

Section 287.135, Florida Statutes, prohibits agencies from contracting with companies for goods or services of \$1,000,000 or more, that are on either the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector Lists which are created pursuant to s. 215.473, F.S., or the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725, F.S., or companies that are engaged in a boycott of Israel. This provision becomes inoperative on the date that federal law ceases to authorize states to adopt and enforce such contracting prohibitions.

As the person authorized to sign on behalf of Respondent, I hereby certify that the company identified above in the section entitled "Company Name" is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List. I further certify that the company is not engaged in a boycott of Israel. I understand that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject company to civil penalties, attorney's fees, and/or costs.

Certified By: _____ who is
authorized to sign on behalf of the above-referenced company.

Print Name and Title: _____

ATTACHMENT D
E-RATE CERTIFICATION

Responder(s) must be a certified E-rate provider, shall have a "Service Provider Information Number" (SPIN) from the Schools and Libraries Division of the Universe Service Administrative Company, and be responsible for complying with all rules and regulations of the E-rate program.

This certification must be maintained throughout the term of the contract. Evidence of Responder's certification and annual re-certification by the Federal Communication Commission/Schools and Library Division ("FCC/SLD") must be provided no later than thirty (30) calendar days following the start or renewal of an Agreement term.

Failure of Responder to maintain this certification, re-certify annually, or have certification revoked by FCC/SLD shall constitute a breach of contract. Further, Responder shall reimburse the District for the full amount of any and all invoices resulting from the services provided by Responder under the pending or current contract that is not reimbursed by the FCC/SLD because of Responder's lack of certification, failure to re-certify or revocation of certification, as required by the FCC/SLD.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Responder's Signature _____

ATTACHMENT E

DRUG FREE WORKPLACE

Preference will be given to businesses with drug-free workplace programs. Whenever two (2) or more proposals which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a proposal received from a business that certifies that it has implemented a drug-free workplace program will be given preference in the award process. Established procedures for processing tie proposals will be followed if none of the tied Responders have a drug-free workplace program. In order to have a drug- free workplace program, a business will:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under the Proposal a copy of the statement specified in subsection 1.
- 4) In the statement specified in subsection 1, notify the employees that, as a condition of working on the commodities or contractual services that are under Proposal, the employees will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Responder's Signature: _____