



Sharyland
Independent School District
Purchasing Department
1200 N. Shary Road, Mission TX 78572
Tel. (956) 580-5200 Ext. 1019
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COMPETITIVE PROCUREMENT SOLICITATIONS STANDARD TERMS & CONDITIONS

The words “Bids, Proposals, Quotes” and their derivatives may be used interchangeably in these terms and conditions, unless otherwise specified. These terms and conditions are applicable on all Competitive Sealed Bids, Request for Proposals, Competitive Sealed Proposals, Quotes, etc. to which they are attached.

SOLICITATION INSTRUCTIONS, GENERAL TERMS & CONDITIONS OF FORMAL BIDS/PROPOSALS

Vendors are cautioned to inform themselves fully on the instructions and conditions set forth hereafter. These Standard Terms & Conditions are requirements that are binding upon the vendor (“Vendor” or “Contractor”) awarded the solicitation (“Bid” or “Proposal”) and they communicate the Sharyland Independent School District’s (“Sharyland I.S.D.” or “District”) expectations in regards to the Vendor’s performance in connection with the District’s purchases.

1. **INSTRUCTIONS:** Bidders shall carefully examine the terms and conditions, specifications and other documents included. These instructions apply to all Vendor offers (“Offers”) and become part of the terms and conditions of any bid/proposal submitted.
2. **APPLICABILITY:** These conditions are applicable and form a part of all contract documents and a part of the terms and conditions of any submittal, unless bidder takes exception in writing when submitting bid.
3. **RESPONSES:** Solicitation responses will be received electronically through the District’s web-based e-Bidding system (the “System”). To participate, interested firms must first register online to receive a login username and password. The District’s System may be accessed by clicking on the following link:

<https://sharyland.ionwave.net/>

All solicitation documents and any applicable addenda (collectively, the “Solicitation”) will be made available through this System. If you require further assistance with the online registration process, please contact the Purchasing Department at 956-580-5200 Ext 1019.

4. **POINT OF CONTACT:** The District’s sole point of contact for questions regarding this solicitation is listed below. Unless otherwise indicated, any communication regarding this solicitation, including requests for clarification, must be directed via the e-Bidding system or **e-mail only** to:

Jesse G. Salazar
Coordinator of Purchasing
jgsalazar@sharyland.org

5. **DEADLINE FOR ELECTRONIC SUBMISSION OF BIDS/PROPOSALS (BID OPENING):** Responses shall be submitted electronically via the District’s system no later than the time and date indicated on the Solicitation (“Submission Deadline”). After such Submission Deadline, the System “locks” and does not allow the submission of any responses. **The District will not accept late submissions under ANY circumstances.** Respondents are encouraged to submit their electronic responses with plenty of time in advance of the deadline indicated to ensure a timely response. The District will not be responsible for lateness of receipt due to Internet delays or unavoidable circumstances. Since responses are submitted electronically through the System, the public bid opening will be done accordingly.

Any proposal not submitted directly to the Purchasing Department by the deadline for submitting proposals, will be considered not timely filed and therefore, will be disqualified. No faxed or e-mailed proposals will be accepted.

6. **ERRORS/OMISSIONS:** Due care and diligence have been used in the preparation of the specifications and information contained in the solicitation and is believed to be substantially correct. However, the responsibility for determining the full extent of the exposure and the verification of all information presented herein shall rest solely on the respondent. The District and its representatives will not be responsible for any errors and omissions in the Specifications nor the failure on the part of the Proposer to determine the full extent of the exposures. Proposers and their authorized representatives are expected to fully inform themselves as to the conditions, requirements and specifications before submitting proposals. Failure to do so will be at the proposer's own risk and proposer cannot secure relief on the plea of error. Neither law nor regulation make allowance for errors of omission or commission on the part of the proposer. Pricing must be submitted on units of quantity specified and extended to show total. In the event of discrepancies in extension, the unit price shall govern.
7. **WITHDRAWING ('RETRACTING') RESPONSES:** Responses may be withdrawn for any reason prior to the Submission Deadline. To do so, vendors must click on the 'Retract' option available within the System. Respondents who retract a response may then perform any corrections and resubmit the response, if desired, prior to the Submission Deadline. After the Submission Deadline, no proposals may be withdrawn.
8. **ADDENDA TO SOLICITATION:** Any additions, deletions, modifications or changes made to this Solicitation shall be processed through an electronic addendum ("Addendum"), which will be posted and distributed to all participating respondents through the System. It shall be the sole responsibility of each respondent to ensure review of all Addenda issued in connection to this Solicitation prior to submitting a response.
9. **TERM OF OFFERS:** Unless otherwise specified, all bids/proposals submitted in response to this Solicitation are considered an offer ("Offer"). All Offers, including pricing, terms, and conditions must remain in effect through the term specified in the solicitation. This allows the District time to review and evaluate all Offers until a decision is made on which Offer(s) to recommend for contract award.
10. **EQUAL OPPORTUNITY:** Sharyland I.S.D. is committed to fair and equal competition among all vendors. It is the intent of the District to encourage participation in the competitive bid process by all interested parties. The District does not discriminate against any otherwise qualified vendor because of the vendor's race, color, national origin, age, religion, sex, or disability.
11. **VENDOR AUTHORITY:** All bids and proposals must be submitted by a responsible officer or employee. By submitting an Offer, your electronic responses create obligations that must be fulfilled.
12. **ELECTRONIC SIGNATURE:** Bidder's name entry in the designated "Electronic Signature" field constitutes an acceptable electronic signature. The person signing the bid must have authority to bind the represented company to a contract. An unsigned bid cannot be signed after the bid opening time even though the bidder or a representative is present at the bid opening.
13. **NOTICE OF NO BID:** If vendor is unable to submit a bid/proposal, please submit a "No Bid" entry in the respective Supplier Notes section and provide a brief explanation indicating reason for not bidding. Vendors who fail to respond will be **dropped** from the District's Centralized Master Bidders List.
14. **TIE BIDS/PROPOSALS:** Consistent and continued tie bid/proposal submittals on any commodity could cause for rejection of all proposals by the Sharyland I.S.D. and/or investigation for antitrust violations.

15. **RESPONDENTS FULLY RESPONSIBLE FOR COST OF PROPOSALS:** The District accepts no financial responsibility for any costs incurred by the Vendor in the course of responding to this Solicitation.
16. **NON-COLLUSION STATEMENT:** By submitting an Offer, Contractor affirms that the Contractor, including its officers, employees, or agents, has not prepared its submitted Offer in collusion with any other bidder participating on this Solicitation and that the contents of their submittal have not been communicated by the offeror nor by any employee, officer or agent of the offeror to any other person engaged in this type of business prior to the official Submission Deadline of this solicitation. The Bidder, by submitting this bid, certifies and represents to the District that Bidder has not offered, conferred or agreed to confer any pecuniary benefit, as defined by §1.07(a)(6) of the Texas Penal Code, or any other thing of value, as consideration for the receipt of information or any special treatment or advantage relating to this bid; the Bidder also certifies and represents that Bidder has not offered, conferred or agreed to confer any pecuniary benefit or other things of value as consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion concerning this bid. The Bidder certifies and represents that Bidder has neither coerced nor attempted to influence the exercise of discretion by any officer, trustee, agent or employee of the District concerning this bid on the basis of any consideration not authorized by law; the Bidder also certifies and represents that Bidder has not received any information not available to other bidders so as to give the undersigned a preferential advantage with respect to this bid; the Bidder further certifies and represents that Bidder has not violated any state, federal or local law, regulation or ordinance relating to bribery, improper influence, collusion or the like and that Bidder will not in the future offer, confer, or agree to confer any pecuniary benefit or other thing of value to any officer, trustee, agent or employee of the District in return for the person having exercised the person's official discretion, power or duty with respect to this bid; the Bidder certifies and represents that it has not now and will not in the future offer, confer, or agree to confer a pecuniary benefit or other thing of value to any officer, trustee, agent or employee of the District in connection with information regarding this bid, the submission of this bid, the award of this bid or the performance, delivery or sale pursuant to this bid.
17. **ADHERENCE TO SPECIFICATIONS:** Each participating bidder by making his bid represents that he has read and understands the bid documents and his bid is made in accordance therewith. Submission of bid affirms that your company will enter into a binding contract with the District for products/services awarded to your company.
18. **ANTI-LOBBYING STATEMENT:** By submitting an Offer, Vendor certifies that no attempt has been or will be made by the Vendor's officers, employees, or agents to lobby, directly or indirectly, to the Sharyland Independent School District Board of Trustees, between the Solicitation's Submission Deadline and the date of contract award by the District's Board. The Contractor certifies that it has not and will not use any federal funds to lobby. If *non*-federal funds are used to lobby, the contractor must complete the Disclosure of Lobbying and forward the disclosure to the next tier, who must forward it through each tier to the federal awarding agency.
19. **DEBARMENT OR SUSPENSION:** The following shall be applicable to Solicitations that are funded by federal funds:
 - a) Federal Law (A-102) Common Rule and (A-110) OMB Circular prohibits non-federal entities, including public school districts, from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred.
 - b) The District has the right to use the System for Award Management (SAM) system managed by the Federal Government, found at www.sam.gov, to determine Vendor eligibility prior to contract award.
 - c) Covered transactions include procurement Contracts for goods or services equal to or in excess of \$100,000 and all non-procurement transactions (e.g. sub-awards to sub-recipients).
 - d) Contractors receiving individual awards for \$100,000 or more and all sub-recipients must certify that the organization and its principals are not suspended or debarred.
 - e) By submitting an Offer in response to this Solicitation, the Contractor affirms that neither they nor their principals are suspended or debarred by a federal agency.
20. **PROHIBITION ON CONTRACTS WITH ABORTION PROVIDERS (SB 22):** Pursuant to Texas Government Code Chapter 2272, the District is prohibited from contracting with any abortion provider or an affiliate of an abortion provider whereby the provider or affiliate receives something of value derived from state or local tax revenue. Any contract entered into by the District is void if the prospective vendor has such a

prohibited affiliation or contractual relationship. By submitting a proposal in response to the request for proposals, you are certifying to the District that you do not have such an affiliation or contractual relationship.

21. **CONFLICT OF INTEREST:** Texas Local Government Code § Chapter 176 requires vendors seeking to contract with the District to disclose business relationships, affiliations, and gifts made to officers of the District. For a complete list of Sharyland Board of Trustees, please refer to the District website: https://www.sharyland.org/school_board Vendors may also request a list of District officers from the Purchasing Department. A Conflict of Interest Questionnaire (Form CIQ) must be submitted with bid/proposal for proper recording of all transactions. Any purchase order or contract resulting from this process shall be considered null and void if the successful bidder fails to comply with Section 1, Subtitle C, Title 5, Local Government Code Chapter 176: Disclosure Of Certain Relationships With Local Government Officers; Providing Public Access to Certain Information, specifically Sec. 176.006: Disclosure Requirements For Vendors And Other Persons; Questionnaire; Form CIQ.
22. **TEXAS ETHICS COMMISSION FORM 1295 - CERTIFICATE OF INTERESTED PARTIES:** In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2016. The Texas Ethics Commission was required to adopt rules necessary to implement that law, prescribe the disclosure of interested parties form, and post a copy of the form on the commission's website. The commission adopted the Certificate of Interested Parties form (Form 1295) on October 5, 2015. The commission also adopted new rules (Chapter 46) on November 30, 2015, to implement the law. The commission does not have any additional authority to enforce or interpret House Bill 1295. Filing Process: The Texas Ethics Commission Form 1295 is now available on their website: <https://www.ethics.state.tx.us/tec/1295-Info.htm> A business entity must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of the business entity must sign the printed copy of the form. The completed Form 1295 with the certification of filing must be filed with bid/proposal submittals under the bid/proposal "Response Attachments" tab. If a business entity needs to file a Form 1295 at any other time, please forward complete form via e-mail to: jgsalazar@sharyland.org Sharyland I.S.D. must notify the commission, using the commission's filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the contract binds all parties to the contract. The commission will post the completed Form 1295 to its website within seven business days after receiving notice from the District. Information regarding how to use the filing application is available on the Texas Ethics Commission website using this link: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm Bidders must certify compliance by providing TEC Form 1295 to Sharyland as requested. TEC Form 1295 must be submitted with vendor's bid/proposal and at any time a disclosure is necessary.
23. **FELONY CONVICTION NOTICE:** Contractor must give advance notice to the District if the person or an owner or operator of the business entity has been convicted of a felony as required by Senate Bill No. 1, Section 44.034, Notification of Criminal History, Subsection (a). The notice must be provided through the "Attributes" section of this solicitation and shall include a general description of the conduct resulting in the conviction of a felony. The District may terminate this Agreement pursuant to the Termination article contained herein if the District determines that the person or business entity failed to give notice as required by this paragraph or misrepresented the conduct resulting in the conviction. This paragraph requiring advance notice does not apply to a publicly held corporation.
24. **CRIMINAL HISTORY REVIEWS:** Contractor shall certify compliance with Texas Education Code 22.0834 and Education Commissioner's rules regarding criminal history record review for all employees, applicants for employment, agents or subcontractors of the Contractor. Contractor will obtain criminal history record information that relates to an employee, applicant for employment, or agent of the Contractor if the employee, applicant, or agent has or will have continuing duties related to the contracted services and will have direct contact with students. The District considers "direct contact" to exist either when a Contractor will be providing services to students directly without the immediate and constant supervision by a District staff member or providing services in a manner that could expose the Contractor to students without the immediate and constant supervision by a District staff member. The Contractor shall certify to the District before beginning work and at no less than an annual basis thereafter that criminal history record information has been

obtained. Contractor shall assume all expenses associated with the background checks, and shall immediately remove any employee or agent who was convicted of a felony or misdemeanor involving moral turpitude, as defined by Texas law, from District property or other location where students are regularly present. District shall be the final decider of what constitutes a “location where students are regularly present.”

25. **CERTIFICATION REGARDING TERRORIST ORGANIZATIONS (Govt. Code 2252 (SB252))**: Vendor hereby certifies that it is not a company identified on the Texas Comptroller’s list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State.
26. **CERTIFICATION REGARDING BOYCOTTING OF ISRAEL Govt. Code 808 (HB89)**: Vendor certifies and verifies that neither Vendor, nor any affiliate, subsidiary, or parent company of Vendor, if any (the “Vendor Companies”), boycotts Israel, and Vendor agrees that Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term “boycott” shall mean and include terminating business activities or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory.

EVALUATION OF OFFERS AND CONTRACT AWARD

1. **COMPETITIVE PROCUREMENT METHOD**: The procedures used by the District will be in accordance with the Competitive Sealed Bids/Proposals procedures as set forth in the Texas Education Code 44.031. Respondents will submit a response electronically through the District’s e-Bidding System, which will retain proposals in a “sealed” status and will not allow any District staff to “unseal” the responses until the posted deadline.
2. **PROFESSIONAL SERVICES**: The procedures used by the District will be in accordance with the Request for Qualifications procedures as set forth in the Texas Government code 2269.057. The standard practice for soliciting professional services is a request for qualifications. The referenced statutes define the process and offer very few exceptions.
 - Professional services are not to be solicited on a competitive basis.
 - The highest ranked firm is to be identified on a basis of demonstrated competence and qualifications.
 - The highest ranked firm must provide the service at a fair and reasonable price.
 - For architects, engineers, and land surveyors, there should be an attempt to negotiate with the most qualified firm until a satisfactory contract can be executed. If a satisfactory contract cannot be negotiated with the most highly qualified firm, the district is to formally end negotiations with that firm and then negotiate with the firm next in line until either a contract is executed or the district chooses not to award.
3. **CONTRACT AWARD**: The District’s Board of Trustees (the “Board”) reserves the right to award the contract by individual items or combination of items, whichever is to the best interest of the District.
4. **NEGOTIATION PROTOCOL**: Competitive Sealed Bids shall not be negotiated. Requests for Proposals, Competitive Sealed Proposals and Quotes may be negotiated at the School District’s option after the solicitation closing.
5. **WITHDRAWAL OF PROPOSALS**: No offer may be withdrawn after closing without acceptable reason in writing and with the approval of the Sharyland I.S.D. Board of Trustees.
6. **ORDER QUANTITIES**: The District reserves the right to place orders at quoted prices above or below the original Solicitation requirements without the consent of the Vendor. Sharyland I.S.D. estimates the value of this contract to be reflective of the quantities specified with an unlimited increase or decrease allowance dependent upon actual need and available funding.
7. **RIGHT TO ACCEPT/REJECT OFFERS**: The District reserves the right to accept or reject any or all Offers, waive any formalities in the solicitation process and award the contract to best serve the interests of the District.
8. **DISTRICT NEEDS**: Under certain circumstances, the District permits campuses and departments to purchase commodities available through existing contracts for any related district needs that arise. Such circumstances may or may not be identified in the bid solicitation. Vendors shall allow for such purchases provided purchase orders are issued for these purchases.

9. **EVALUATION**: The District will generally award contracts on the basis of “best value”. Award will be made to the best responsive, responsible offer, price and other factors considered.
10. **BID/PROPOSAL EVALUATION**: The district reserves the right to conduct any tests, evaluations, or comparisons it deems necessary to complete the evaluation process and will award on the basis of best value to the district.
11. **EVALUATION CRITERIA**: The following criteria shall be considered when evaluating vendor responses for contract award as delineated in Texas Education Code §44.031 (b) and/or Federal Guidelines, as well as any other criteria specified in the proposal.
 - a. The purchase price or discount
 - b. The reputation of the vendor and of the vendor’s goods and services
 - c. The quality of the vendor’s goods or services
 - d. The extent to which the goods or services meet District’s needs
 - e. The vendor’s past relationship with the District
 - f. The impact on the ability of the District to comply with laws and rules relating to historically underutilized businesses
 - g. The total long-term cost to the district to acquire the vendor’s goods or services (service, supplies, maintenance, etc.), total cost of ownership
 - h. For a contract for goods and services, other than those federally funded or goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor’s ultimate parent company or majority owner:
 - 1) has its principal place of business in this state; or
 - 2) employs at least 500 persons in this state; and
 - i. Any other relevant factor specifically listed in the solicitation
 - j. Other Awarding Factors:
 - 1) In awarding a contract (excludes federally funded contracts) by competitive sealed bid under Education Code 44.031, a district that has its central administrative office located in a municipality with a population of less than 250,000 may consider a bidder’s principal place of business in the manner provided by Local Government Code 271.9051. This section does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153. Education Code §44.031(b-1)
 - 2) Identical bids are awarded as defined by Texas Local Government Code § 271.901 and Texas Government Code § 2252.001 – 2252.004 (excludes federally funded contracts)
 - 3) Texas Reciprocity - Texas Government Code § 2252.002 (excludes federally funded contracts)
 - 4) Texas Government Code § 2155.445(a) provides that school districts "give preference to recycled, remanufactured, or environmentally sensitive products" as determined by CPA rule if the purchases meet applicable specifications as to quantity and quality
 - 5) Health and Safety Code § 361.426(a) provides that a school district shall give preference to purchasing products made of recycled materials if the products meet applicable specifications as to quantity and quality
 - 6) Compliance with delivery requirements
 - 7) Results of sample testing
 - 8) Vendor safety record
 - 9) School community involvement; support of student community; employment opportunities for District residents; investment in local community, etc.
12. **NON-RESPONSIVE BIDDERS**: Bids from non-responsive vendors will not be accepted. Bidders having a history of inconsistent service and unreliability will not be considered by the District to be a responsible bidder
13. **SAMPLES**: A sample may be called for as part of the bid evaluation. Samples and layout drawings of fabricated items, when required, must be furnished free of expense to the District within five (5) days of the date of request. Each sample must be marked with bidder’s name, address, bid number and line item number. Samples shall be sent to the District at the address indicated on the solicitation. If samples are not used or destroyed in testing, they must be claimed by the bidder within thirty days from date of notification or they will become the property of the District.
14. **VENDOR CREDIBILITY**: Vendors may be required to furnish evidence in writing that they maintain permanent places of business and have adequate equipment, finances, and personnel to furnish the items offered

satisfactorily and expeditiously and that they are authorized dealers and can provide necessary warranties for items they propose to furnish.

15. **LICENSES AND CERTIFICATES:** All applicable licenses and certificates as required to satisfy State of Texas and Federal guidelines, must be submitted with vendor's proposal.
16. **SPECIFICATIONS/REQUIREMENTS:** The contractor shall guarantee all equipment and materials to meet the specifications of this bid. Any deviations from specifications must be noted on the "Attributes" under the "Deviations Noted" entry. The District reserves the right to refuse any merchandise that fails to meet the specifications indicated by the contractor. If the contractor is offering refurbished materials, it must be clearly stated in the bid response. Any catalogue, brand name or manufacturer's reference in the specifications are **DESCRIPTIVE, NOT RESTRICTIVE, AND ARE USED TO INDICATE TYPE AND QUALITY LEVEL DESIRED.** Proposals on brands of like nature and quality may be considered unless specifically excluded. If proposing on other than reference on specifications, proposal must show manufacturer's brand, trade name, catalog or lot number, etc., on article offered and certify article offered is equivalent to specifications. If other than specified brands of items are offered, specifications, illustrations and complete descriptive literature must be submitted with proposal, unless previously filed with the Director of Purchasing and Warehouse Operations. If alternates are not identified in the vendor response, the district will assume that the offer is based on our specifications and bidder will be required to furnish brand names, models, etc. as specified.
17. **"OR EQUAL":** When an article of a particular make or trade name is specified, this is done to establish a quality standard and is not intended to eliminate competing articles of equal standards. The term "or equal" if not inserted, shall be implied. The specified article or material shall be understood as indicating the type, function, minimum standard of design, efficiency and quality desired and shall not be construed as to exclude other manufactured products of comparable quality, design and efficiency. The Sharyland I.S.D. reserves the right to determine the "equal". Vendors may quote alternate products and shall provide descriptive literature and specifications of each alternate item, clearly identifying the respective item number. If alternates are not identified in the vendor response, the District will assume that quotation is based on our specifications.
18. **ONE OFFER PER ITEM:** The Sharyland I.S.D. will accept only one offer per item specified. If multiple items are offered, only the first item will be given consideration. Multiple offers per line item will not be acceptable unless indicated otherwise.
19. **ITEM ALTERNATE FEATURES:** The School District will evaluate item offered by the vendor and may accept alternate item features. **(Please note: only one offer per item specified will be accepted unless indicated otherwise.)**
20. **PRODUCT FUNCTIONALITY:** All items proposed shall conform to appropriate Local, State and Federal ordinances, statutes and regulations governing the sale and utilization of such items.
21. **LEAD TIMES:** Time of delivery is a part of the consideration and must be stated in definite terms and must be adhered to completely. Proposals **MUST** show the number of calendar days required to place the materials in the possession of the Sharyland I.S.D. **DO NOT** quote shipping dates. Failure to specify the delivery date will obligate bidder to complete delivery in two (2) weeks from the date the bid is awarded. Unrealistically short or undue long delivery promises may cause the bid to be disregarded. Consistent failure of a bidder to meet these delivery promises without a valid reason may cause removal from the Vendor Bid List. When delivery delays can be foreseen, the bidder shall give 72-hour prior notice to the Director of Purchasing and Warehouse Operations, who shall have the right to extend the delivery date if reasons for delay appear acceptable. The bidder must keep the Director of Purchasing and Warehouse Operations informed at all times on the status of the order. Default in promised delivery, without acceptable reasons, or failure to meet specifications, authorizes the Director or Purchasing and Warehouse Operations to purchase the goods elsewhere, and charge any increase in cost and handling to the defaulting bidder. Every effort will be made by the School District to locate the goods at the same or better price as that originally contracted.
22. **BACK ORDERS:** The District may purchase on the open market any commodity reported by a vendor to be on back order when the resultant delivery time is unsatisfactory. Damages may be applicable in cases of a pattern of back orders.

23. **DAMAGE ASSESSMENT:** If a vendor is in default on an order or fails to honor bid prices, the District reserves the right to purchase the item in default from another vendor and charge the increase in price, if any, and cost of handling to the vendor in default. Failure to pay a damage assessment is cause for contract cancellation and/or suspension or removal of the vendor from the District's Centralized Master Bidders List.
24. **EMERGENCY DELIVERIES:** In case of an emergency experienced by a qualified ordering entity, the successful vendor is requested to supply the needed material immediately, if possible. If the successful vendor cannot respond, then the emergency requirement may be purchased on the open market. The District or the vendor shall not consider such purchases a breach of contract
25. **SUBSTITUTION:** Should an item not be available because the item has been discontinued (or where manufacturing of the item has been extended for a period of 15 working days or longer by the manufacturer) or for any reason beyond the vendor's control, the vendor agrees to substitute the item with an item of equal or superior value. The substituted item shall be offered to the District at the same price as the original item awarded. Furthermore, the School District shall evaluate and validate the substituted item to be of equal or superior value. All substitutions require prior written approval by the District.
26. **OFF CONTRACT PURCHASES:** Under certain circumstances, the District permits campuses and other District users to purchase commodities available through a contract on the open market. Such circumstances may or may not be identified in the IFB. Vendors are to allow for such purchases provided purchase orders are issued for these purchases.
27. **REFERENCES:** The District requires bidders to supply, with this bid, a list of at least three (3) references where like goods/services have been supplied by their firm. Please include name of firm, address, telephone number and name of representative
28. **PACKAGING:** Unless otherwise indicated, items will be new, unused and in excellent condition, including containers suitable for damage-free shipment and storage. If refurbished products are being offered, it must be clearly stated in the proposal.
29. **PRICING ERRORS:** Bidders and their authorized representatives are expected to fully inform themselves as to the conditions, requirements and specifications before submitting bids. Failure to do so will be at the bidder's own risk and bidder cannot secure relief on the plea of error. Neither law nor regulation make allowance for errors of omission or commission on the part of the bidder. Bids must be submitted on units of quantity specified and extended to show total. In the event of discrepancies in extension, the unit price shall govern.

GENERAL CONTRACT TERMS AND CONDITIONS

Upon award of a District contract, the following terms and conditions shall be legally binding and shall remain in full force during the term of the Contract, unless such Contract is terminated.

NOTE TO PARTICIPATING VENDORS REGARDING DEVIATIONS OR EXCEPTIONS: Any exceptions or deviations from the specifications included in the Solicitation and/or the General Contract Terms & Conditions stipulated herein must be noted on the "Attributes" tab under the "Deviations Noted" section.

1. **ACCEPTANCE:** In the absence of a separate written agreement executed by all parties involved, the terms, conditions, specifications, and any accompanying documents ("Exhibits") within this Solicitation, along with the Vendor's Offer, when properly accepted and awarded by the Sharyland Independent School District School Board of Trustees, shall constitute a legally binding contract ("Contract" or "Agreement").
2. **TERM:** Unless specified otherwise, the initial Contract term shall be effective for a period of one year (12 months) beginning on the date indicated on the Solicitation.
3. **GRACE PERIOD:** The District requests the right to continue in force this contract for a period not to exceed ninety (90) days after expiration date for unforeseeable reasons.

4. **MULTI-YEAR CONTRACTS:** The following terms and conditions shall apply to any multi-year contract executed by the District and Contractor.
 - a) The District may enter into a multi-year contract for goods and/or services to be provided by Contractor beyond the first fiscal school year covered by the Contract.
 - b) The District's fiscal school year extends from July 1 to June 30.
 - c) Goods and/or services to be provided by Contractor in years subsequent to the first fiscal school year will be dependent upon the appropriation and allotment of funds, as stipulated in the section titled Appropriation and Allotment of Funds herein.
 - d) Under a multi-year contract, authorization for vendor to provide goods and/or services must be evidenced by separate District Purchase Orders for each fiscal school year covered by the contract. If a Purchase Order is not issued by the District to the Vendor for a consecutive fiscal year, the vendor shall not provide any additional goods or services and the District shall pay Contractor for such goods delivered and/or services rendered under the last duly authorized Purchase Order.
5. **APPROPRIATION AND ALLOTMENT OF FUNDS:** Performance by Sharyland I.S.D. under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Trustees of Sharyland I.S.D. (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then Sharyland I.S.D. will issue written notice to Vendor and Sharyland I.S.D. may terminate this Agreement without further duty or obligation under this Agreement. Vendor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of Sharyland I.S.D.
6. **PRICING:** The pricing offered by the respondent shall remain firm through the duration of the contract term. In case of annual contract request for offers, the prices must remain firm for the period as specified on the proposal. Price decreases are acceptable. Vendors are required to implement immediately any price decreases, roll backs, etc. that may become available. The District must be notified in writing of any decreases for file updating purposes and notice to contract users. "Discount from List" proposals are not acceptable unless specifically requested.
7. **AUTHORIZED METHOD OF ORDER (PURCHASE ORDERS):** Orders to the awarded Vendor shall be made through a duly authorized and signed District purchase order, and Vendor shall not fulfill any orders without receipt of such document of authorization. Purchase orders dated during the term of the contract must be honored even if received after the contract expiration date. Vendors may not specify a "final order" receipt date. Pricing is established by the date the purchase order is processed unless otherwise stated in the contract.
8. **PAYMENT TERMS:** As allowed by Government Code 2251.021 (b), payment terms under this contract for products that have been delivered and/or services rendered shall be Net 30 days from receipt of Vendor's invoice, provided that the goods and/or services received are in satisfactory condition. Any discounts available to the School District for early payment should be noted. Discounts may be considered in determining the best value to the district. Unpaid invoices past the due date will accrue interest at a rate not to exceed that which is allowed by laws of the State of Texas.
9. **CASH DISCOUNTS:** Normal payment terms are net 30 given that the goods and/or services received are in satisfactory condition. Any discounts available to the School District for early payment should be noted. Discounts may be considered in determining the best value to the district.
10. **INVOICES:** A Purchase Order will be assigned to the successful offeror on an order by order basis. Upon delivery of goods and/or services, the awarded vendor shall provide a complete invoice, detailing the following:
 - a. P.O. number on invoice. Invoices with incorrect or missing P.O. number will be returned to the vendor for posting of the correct P.O. number before payment is made.
 - b. A clear identification of the contractor, including name and mailing address
 - c. The corresponding bid numbers
 - d. The dates (beginning and ending date) during which the services were performed (i.e., billing period)
 - e. The location(s) where services were provided during the billing period
 - f. A detailed and itemized description of the services/activities completed during the billing period
 - g. The total amount due to the contractor for the billing period

By submitting a properly-prepared invoice, the contractor certifies that it is true and correct.

Under no circumstances will the vendor be paid in advance.

Invoices shall be itemized and e-mailed to: accountspayable@sharylandisd.org

11. DELIVERY PROTOCOL:

- a. All prices shall be firm including shipping charges, shipped F.O.B. destination, inside delivery and include delivery, packaging and all charges noted on the specifications. Any parts or accessories not specifically mentioned which are normally part of the equipment necessary to complete the installation shall be included in the price. Shipments may be either district-wide, to the Sharyland I.S.D., Central Warehouse, 1243 E Business 83 BLDG C, Mission, TX 78572 or as specified in the solicitation.
- b. The Sharyland I.S.D., assumes no liability for goods delivered in damaged or unacceptable condition. The successful bidder shall handle all claims with carriers and in case of damaged goods, shall ship replacement goods immediately upon notification by the Sharyland I.S.D.
- c. Delivery must be accompanied by a packing list that itemizing the items included.
- d. Boxes and pallets must be labeled with respective purchase order number and destination. Continuous failure to properly label boxes with purchase order number may be considered in awarding future contracts.
- e. The district will not accept minimum order deliveries or drop shipment conditions.
- f. Deliveries will be accepted only during normal working hours, 8:00 A.M. to 4:00 P.M., Monday through Friday, unless prior approval for after-hours delivery has been obtained from the District.
- g. If applicable, delivery and installation of goods ordered by Sharyland I.S.D. must be coordinated with the respective Sharyland I.S.D. staff ordering such goods. This will ensure that Sharyland I.S.D. personnel are available to receive the shipment and coordinate the installation. Failure to meet this requirement may result in refusal to receive goods.
- h. The District reserves the right to inspect the goods at delivery before accepting them.
- i. It is the Vendor's responsibility to remove all debris resulting from work done.

12. **TAXES:** The District is exempt from all Federal Excise, Texas State and Local taxes. **PLEASE DO NOT INCLUDE TAX IN PROPOSAL.** A Tax Exemption Certificate may be furnished to Vendor upon request.

13. **W-9 FORM:** If your firm is awarded a contract through this solicitation, forward a W-9 Request for Taxpayer Identification Number and Certification form to the Accounts Payable Department, 1200 N Shary Road, Mission TX 78572 or via fax: (956) 582-5228. It is the vendor's responsibility to submit the most current W-9 form available on www.irs.gov.

14. **WARRANTY/MAINTENANCE AGREEMENT:** Any information regarding warranties and/or maintenance agreements pertaining to said bid item(s) shall be noted. The contractor shall provide warranty information and/or company guarantees concerning the products bid. Contracted merchandise that is received and found to be defective shall be replaced or fully repaired to the satisfaction of the District before payment is made.

15. **MANUFACTURER'S GUARANTEE:** A manufacturer's total satisfaction written guarantee shall be required, in accordance with the Uniform Commercial Code (UCC), for the twelve-month contract term, with Sharyland I.S.D. reserving the right to have any item replaced should the original item prove unreliable or defective as expressed or implied by verbal or written specifications. The items will then, and after adequate time to remedy and as part of remedy, be replaced without charge to Sharyland I.S.D.'s satisfaction. This will be provided at no additional cost to Sharyland I.S.D. during the term of the contract.

16. **LIMITATION OF WARRANTY:** The vendor shall not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.

17. WARRANTY PERIOD:

- a. Unless otherwise specified, the warranty period shall be at least one year from acceptance of the goods or services.
- b. If the manufacturer's warranty is less than the required warranty period, the Contractor shall warrant the product/service to the full extent as provided by the manufacturer.
- c. The District will endeavor to give the Contractor written notice of the breach of warranty within thirty (30) days of discovery of the breach of warranty, but failure to give timely notice shall not impair the District's rights under this section.

- d. Vendor warrants that any services rendered by Vendor in relation to warranty of items will be fully and timely performed in a professional and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State, and local laws, rules, or regulations.
18. **RETURNS**: Merchandise received by Sharyland I.S.D. in defective or damaged condition will be returned to Vendor for either replacement or full credit at no charge to the District, including freight & handling and any restocking charges. Prior to returning the product to the Vendor, Sharyland I.S.D. will contact the Vendor to process a proper Return Material Authorization, if applicable. Offerors must accept returns for credit with no restocking fee or penalty to Sharyland I.S.D.
19. **INSURANCE**: Awarded vendor represents and agrees that it shall provide and maintain certain insurance requirements as required by Sharyland I.S.D., including but not limited to, professional liability, general liability, automobile liability, and worker's compensation insurance in amounts that are satisfactory to the District. Vendor shall provide to Sharyland I.S.D. original certificates of insurance indicating proof of any such required insurance. Vendor shall assure that Sharyland I.S.D. will receive written notice of at least thirty (30) days in advance of the effective date; of any reduction, modification, cancellation or termination of such insurance policies.
20. **CLAIMS**: Vendor will file claims for transportation damage except drop shipments which are the responsibility of Sharyland I.S.D.
21. **EXCEPTIONS TO SOURCING FROM CONTRACTED VENDORS**: In certain cases, it may be necessary for the District to purchase products covered by this Contract from a vendor or vendors other than the originally contracted vendor(s).
- Those exceptions may include the following:
- a. Need of a product or service is acute and delay in obtaining it would adversely affect the District.
 - b. A contracted vendor cannot supply a product and cannot special order the product in a timely manner and/or under the original terms and conditions.
 - c. The product/service offered by an awarded contractor may be obtained through an authorized Purchasing Cooperative under better terms (i.e. lower pricing, shorter lead time, better quality, etc.).
22. **SUBCONTRACTORS**: If any services to be rendered by Contractor under the Contract will be (or may be) performed by individuals other than the Contractor's own employees (hereinafter referred to as "Subcontractors"), then Contractor must inform District of such Subcontractor engagement and shall describe the extent of the work to be performed by the Subcontractor. Contractor shall disclose to District the name of the firm and/or individuals Subcontracted and any other information the District may require to ensure the Subcontractor is qualified to perform such services in connection with the Contract. Subcontractors shall operate under, and shall be bound by, the same terms and conditions of the Contract. Compensation and supervision of Subcontractors shall be the sole responsibility of the Contractor. The District reserves the right to, at any time, to reject services provided by a Subcontractor and reserves the right to interview the Subcontractor prior to accepting any services from such.
23. **EVOTION OF TIME AND EFFORT**: The Contractor shall devote such time and effort as is reasonably necessary for the satisfactory performance of the services contracted.
24. **THE RIGHT TO AUDIT**: The District, upon written notice, shall have the right to audit all documents relating to the services and work provided by the awarded vendor under the contract. Records subject to audit shall include, but not be limited to records which may have a bearing on matters of interest to the District in connection with products and/or services and work for the District and shall be open to inspection and subject to audit and/or reproduction by the District to the extent necessary to adequately permit evaluation and verification of (i) Vendor's compliance with contract requirements; (ii) compliance with the District's procurement policies and procedures; (iii) compliance with provisions for computer billings to the District; and (iv) any other matters related to the contract between the District and Vendor.
25. **GOVERNING LAW AND VENUE**: Respondent agrees that this solicitation and any contract that may result thereof will be governed by and construed in accordance with the laws of the State of Texas without regard to

conflict to law principles. Respondent agrees that the exclusive venue of any dispute or legal proceeding relating to this solicitation or any related written **contract** awarded to the successful respondent will be Hidalgo County, Texas.

26. **RELATIONSHIP OF PARTIES:** It is understood and agreed that Vendor is an independent contractor and that neither it nor any employees (paid or volunteer) or agents contracted by it, or otherwise performing duties of Vendor, shall be deemed for any purposes to be employees or agents of Sharyland I.S.D. This contract does not create a joint venture, business partnership, agency, franchise, or employment relationship, under Texas law. Vendor assumes full responsibility for the actions of any such persons while performing any services incident of this contract, and Vendor shall remain solely responsible for their supervision, daily direction and control, payment, if any, of salaries (including withholding of income taxes and social security), worker's compensation, disability benefits and like requirements and obligations.
27. **CONTRACTOR'S EMPLOYEES:** The contractor hereby certifies compliance with the Contract Work Hours and Safety Standards Act and its implementing regulations.
28. **TITLE AND RISK OF LOSS:** Title and risk of loss pass to Sharyland I.S.D. on delivery to Sharyland I.S.D.'s delivery location as designated on the corresponding Purchase Order.
29. **TEXAS EDUCATION CODE:** All contracts as a result of this solicitation will adhere to Texas Education Code regarding school district contracts and the Texas Business and commerce code.
30. **LIMITATION OF LIABILITY:** Sharyland I.S.D. will not contractually agree to limit in any manner the District's rights to recover damages against Vendor as otherwise provided by applicable law relating to or arising from Vendor providing the goods or services of this bid. The District will seek damages to the extent authorized by the Constitution and the laws of the State of Texas.
31. **COMPLIANCE WITH APPLICABLE LAWS:** Vendor assumes full responsibility and liability for compliance with any and all local, state, and federal laws and regulations applicable to the Vendor and its employees.
32. **GOVERNANCE:** All contracts and agreements created by this bid/proposal will adhere to Texas Education Code regarding school district contracts and the Texas Business and Commerce Code.
33. **TERMINATION:**
 - a. The District reserves the right to terminate for default all or any part of the Contract if awarded Vendor becomes insolvent or files any petition in bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies which the District may have in law or equity, specifically including, but not limited to collect for damages or demand specific performance.
 - b. The District reserves the right to terminate this Contract for convenience, without penalty, for non-appropriation or non-availability of funds, as described herein.
 - c. The District reserves the right to terminate this contract upon the failure of the awarded Vendor to perform as per conditions listed but not limited to those given below:
 - Failure to perform as per terms of solicitation.
 - Failure to perform as per terms and conditions.
 - Failure to perform as per usual and customary industry practices.
 - Failure to perform as per guarantees and performance standards submitted. •Upon breach of any laws, rules and regulations.

Under all circumstances indicated above, the District shall provide Vendor with thirty-day (30) advance written notice of its intent to terminate the agreement / contract.

34. **GENERAL LIABILITY:** Sharyland I.S.D. does not waive or relinquish any immunity of defense on behalf of itself, trustees, officers, employees (paid or volunteer) and agents as a result of this solicitation and performance of the functions or obligations described in the solicitation.
35. **STATUTE OF LIMITATIONS:** Sharyland I.S.D. does not agree to limit or modify the statute of limitations for potential claims as otherwise provided by applicable law.
36. **VENUE:** Participating vendors agree that venue for litigation arising from this contract shall take place in Hidalgo County, Texas.
37. **CONTRACT CLAIMS:** Vendor hereby assigns to Sharyland I.S.D. any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.
38. **PATENT RIGHTS:** The vendor agrees to protect the School District from any claim involving patent right infringement of copyrights on goods supplied.
39. **COPYRIGHT:** All contracts paid from state or federal grants administered by TEA must retain copyright for the Texas Education Agency (TEA) and for the federal government (if a federally funded contract) unless otherwise negotiated in writing with TEA. Pursuant to the provisions in 2 CFR § 200.315, title to intangible property vests in the District as long as such property is used for authorized purposes. However, TEA and the federal awarding agency reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes, and to authorize others to do so.
40. **RIGHTS TO INVENTIONS:** The Contractor agrees to be compliant with the Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants and Contracts.
41. **RESPONSIBILITY:** Each party represents and warrants to the other that any contract resulting from this solicitation has been duly authorized and this contract constitutes a valid and enforceable obligation of such party according to its terms.
42. **NO WAIVER:** No waiver of a breach of provision of any contract resulting from this solicitation shall be construed to be a waiver of any other provision. No delay in acting with regard to any breach of any provision shall be construed to be a waiver of any such breach.
43. **CONFLICT/AMBIGUITY:** To the extent that there is any conflict or ambiguity in the specifications or terms in this solicitation, the conflict or ambiguity will be resolved by giving effect to the interpretation most favorable to the Sharyland I.S.D. as deemed by the District.
44. **INDEMNIFICATION:**
 - a. To the fullest extent authorized by law, the Contractor agrees at all times to defend, indemnify, and hold harmless Sharyland I.S.D., its trustees, officers, employees, and agents from any and all claims for damages or injuries and other losses, including but not limited to costs and attorney's fees, resulting directly or indirectly from any act or omission of Vendor's officials, employees, agents, subcontractors or volunteers arising out of the performance of this contract, whether such claims are asserted before or after termination of this contract.
 - b. The District, by State of Texas law, shall not indemnify and hold harmless the Contractor and its agents and employees.
45. **ASSIGNMENT:** No assignment of this contract or any duty or obligation of performance hereunder shall be made in whole or in part by any party without prior consent from all parties hereto.
46. **OPEN RECORDS:** The District is a public entity subject to the Texas Public Information Act (Tex. Govt. Code Ch. 552). Responses to this invitation are subject to release as public information unless the response or specific parts of the response are exempted from public disclosure under such Act. Respondents should consult with their legal counsel regarding disclosure issues and take the appropriate precautions to safeguard trade secrets or any other proprietary information before responding to this invitation.

47. **CONFIDENTIAL**: Subject to the requirements of the Texas Open Records Act, if a company believes that a bid is, or parts of a bid are confidential, then the company must specify such. The company must indicate in bold letters the term “CONFIDENTIAL” on that part of the submittal which the company believes to be confidential. The successful bid may be considered public information even though parts are marked confidential.
48. **RECORD KEEPING**: Vendor will employ accounting policies and procedures hereunder to preserve all contract-related records for the term of this Contract and such further period of time thereafter as may be prescribed by Federal, State or Local regulations. All vendors/contractors are subject to having any records or other documentation related to any transaction with District available for public access or for review and auditing purposes by any local, state or federal agency, as well as, the public in accordance with the provisions of Government Code, Title 5, Subtitle A, Chapter 552, Open Records.
49. **EMPLOYMENT PRACTICES**: The District does not discriminate on the basis of race, color, national origin, gender, religion, age, or disability in employment or the provision of services.
50. **GRATUITIES**: It is a breach of ethics to offer, give or agree to give any employee or former employee of a school district, or for any employee or former employee of a school district to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before this government. Acceptance of gratuities may be construed as a criminal offense. In addition, Texas law makes a gift (an item valued at \$50 or more, cash of any amount, or a negotiable instrument of any value) to a public employee a Class A misdemeanor if the employee is someone who exercises some influence in the purchasing process of the governmental body.

The district may, by written notice to the vendor, cancel this contract without liability to vendor if it is determined by the district that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the vendor, or any agent, or representative of the vendor, to any officer or employee of the district with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or the making or any determinations with respect to the performing of such contract. In the event this contract is canceled by the district pursuant to this provision, the district shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the vendor in providing such gratuities.

51. **KICKBACKS**: It is a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract of a school district, or any person associated therewith, as an inducement for the award of a subcontract or order.
52. **“ANTI-KICKBACK” ACT**: All contracts and subgrants for construction or repair shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 USD 874) as supplemented in Department of Labor Regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work to give up any part of the compensation, to which he is otherwise entitled. School districts shall report all suspected or reported violations to TEA.
53. **FORCE MAJEURE**: The parties to this contract may be excused from performance hereunder during the time and to the extent that they are prevented from performance due to work stoppages, accidents, manufacturer’s production schedule, an act of God, fire, strike, lockout, when satisfactory evidence thereof is prevented to the other party and provided that such non-performance is not due to the fault of the non-performing party.
54. **CAMPUS VISITATION PROCEDURES**: If vendor is awarded a contract which requires on-site visit, the vendor must first report to the front office and must be prepared to present a valid driver’s license for clearance through the District’s security system.

55. **FAILURE TO COMPLY**: Vendors that fail to comply with the conditions of this solicitation may be removed from the District's Centralized Master Bidders List for a period of two years. Vendors wishing to reinstate their status must request it in writing at the end of the two-year period.
56. **ADVERTISEMENT**: Vendors are prohibited from using contract award information, sales values/volumes and/or District customers in sales brochures or other promotions, including press releases.

RECYCLING PROVISIONS

1. **RECYCLED PRODUCTS**: Texas state law requires that a purchasing preference be given to any product made from recycled material if the product meets written specifications as to quantity and quality. If a product bid on this solicitation contains recycled material, please identify the item number and indicate the percent of all recycled material in the product and the percent of post-consumer material used in the product. "Post-consumer" means material that has been recycled after sale to a consumer as opposed to reuse of manufacturing waste material prior to sale. In addition, identify any products that meet the criteria of "Environmentally Sensitive."
2. **INFORMATION REQUEST**: Please send information on any products not listed in this contract that are related and available through your company which contain recycled material along with the percent of post- and pre-consumer content to: Sharyland I.S.D. Purchasing Department, Attn: Jesse G. Salazar, Coordinator of Purchasing, 1200 N Shary Road, Mission, TX 78572.
3. **PACKING & PACKAGING**: Use of the minimum amount of packing and packaging material consistent with assuring no damage to product in transit. The use of recyclable and recycled material content packing and packaging material is preferred.
4. **NEW AND UN-USED**: The terms shall not be interpreted to exclude the use of recycled content materials in products supplied. Nothing in a solicitation shall be construed to preclude the use of recycled content materials in a product regardless of any referenced specifications such as ANSI, ASTM, or Federal specifications provided the material meets the performance requirements of such specifications and all required laws and regulations.

OTHER PROVISIONS:

57. **MATERIAL SAFETY DATA SHEETS**: A vendor must provide, at no cost to the District, at least one copy of any applicable Manufacturer's Material Safety Data Sheet(s) (MSDS) with each shipment during the term of the contract. If OSHA or Federal or State laws provide for additional requirements, those requirements are in addition to the MSDS requirement.
58. **OSHA**: All items must meet all applicable OSHA standards and regulations and all electrical items must bear the appropriate listing from UL, FMRC or NEMA.
59. **ASBESTOS MANAGEMENT PLAN**: All contractors are required to review the Asbestos Management Plan for all District-owned facilities prior to performing any work or services at District-owned facilities. Asbestos Management Plans may be reviewed at each school site or at the Facilities Maintenance and Operations Department.
60. **THE ASBESTOS HAZARD EMERGENCY RESPONSE ACT (AHERA)**: All work must be in compliance with AHERA.
61. **EQUAL EMPLOYMENT OPPORTUNITY**: All contracts awarded in excess of \$10,000 by school districts and their contractors or subgrantees shall contain a provision requiring compliance with executive order 11246, entitled "Equal Employment Opportunity", as amended by executive order 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60).
62. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**: All contracts awarded by school districts and subgrantees in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor Regulations (29 CFR, Part 5). Under Section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workday of eight hours and a standard workweek of 40 hours. Work in excess of the eight hours per day or 40 hours per week shall be compensated at a rate of not less than 1 1/2 times the basic rate of pay. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under

construction, safety, and health standards promulgated by the Secretary of Labor.

63. **DAVIS-BACON ACT:** Contracts paid through federal funds shall be in compliance with all applicable requirements issued by the U.S. Department of Labor. The Wage and Hour Division of the U.S. Department of Labor determines prevailing wage rates to be paid on federally funded or assisted construction projects. See U.S. Department of Labor site for prevailing wages for Hidalgo County at: <http://www.wdol.gov/dba.aspx>
64. **CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT:** Contracts, subcontracts, and subgrants of amounts in excess of \$100,000 shall contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857 (h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt federal contracts, grants, or loans of facilities included on the EPA list of violating facilities. The provision shall require reporting of violations to the Texas Education Agency and to the USEPA Assistant Administrator for Enforcement (EN-329). The Contractor agrees to be compliant with the Clean Air Act and the Federal Water Pollution Control Act and their implementing regulations.
65. **SOLID WASTE DISPOSAL ACT AND ITS IMPLEMENTING REGULATIONS:** The Contractor certifies that it is compliant with section 6002 of the Solid Waste Disposal Act and its implementing regulations. 2 CFR § 200.322.
66. **ENERGY POLICY AND CONSERVATION ACT:** Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163). The Contractor agrees to be compliant with the Energy Policy and Conservation Act pertaining to mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan.

CONTRACT PROVISIONS FOR CONTRACT UNDER FEDERAL AWARDS:

67. By submission of this bid, Contractor agrees to comply with the following provisions:

1. Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulation Council(s) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
2. All contracts in excess of \$10,000 must address termination for cause and for convenience including the manner by which it will be affected and the basis for settlement.
3. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
4. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$12,000 must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148 as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federal Finance and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate of no less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145) as supplemented by Department of Labor regulations (20 CFR Part 3."Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or sub-recipient must be prohibited from including, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The entity must repair all suspected or reported

violation to the Federal awarding agency.

5. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies and materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
6. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or sub recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or sub recipient must comply with requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations implementing regulations issued by the awarding agency.
7. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended-Contracts and sub grants of amounts in excess of \$150,000 must contain a provision that requires the award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
8. Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235). “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
9. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)-Contractors that apply or bid for an awarded exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of an agency, a member of Congress, or an employee of a member of Congress in connection with obtaining and Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the award.
10. An entity is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
11. BUY AMERICAN ACT
In acceptance of a contract with Sharyland ISD involving the expenditure of federal funds, the vendor hereby certifies compliance with all applicable provisions of the Buy American Act.
12. Prohibition on Contracts with Companies Boycotting Certain Energy Companies (SB 13)
13. Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries (SB 19)