

BOARD OF EDUCATION of the MEMPHIS CITY SCHOOLS

**PROCUREMENT SERVICES**

2597 Avery Avenue, Room 126 □ Memphis, Tennessee 38112-4892 □ Phone (901) 416-5376

**REQUEST FOR PROPOSAL**

*(NOT AN ORDER)*

Please submit proposals on the item(s) listed below. The right is reserved to reject any or all proposals. If substitutions are offered, give full particulars. Proposals will be received no later than **5th of October @ 2:00 P.M. / Central Time, 2012**

The Memphis City Schools reserves the right to accept or reject any or all proposals, or any part thereof, and to waive any informalities and/or technicalities that are deemed to be in the best interest of the Memphis City Schools. Successful vendor shall be paid only when delivery is complete. *\*For the appropriate purchases, all material data safety data sheets (MSDA) must accompany all shipments covered under Tennessee Hazardous Chemical Right to Know Law- Tennessee Public Chapter #417- House Bill #731.*

**Proposal for  
A Social Studies Software Program for Grades 3-12**

The Memphis City Schools (“MCS”) invites the submission of Proposals for the provision of the services described above (“Proposals”) in accordance with the specifications enclosed herewith.

Proposals **MUST** be received by MCS by the due date and time set forth above. Questions regarding submission of Proposals may be directed to MCS via telephone at (901) 416-5376 or via facsimile at (901) 416-5378.

**Issued by Sharrion Smith**

**Req# 2273110R01**

INVOICES WILL BE PAID ACCORDING TO TERMS BID

TIME REQUIRED FOR DELIVERY \_\_\_\_\_ DAYS

\_\_\_\_\_  
NAME OF FIRM

TERMS \_\_\_\_\_

\_\_\_\_\_  
ADDRESS

PHONE \_\_\_\_\_ FAX # \_\_\_\_\_

\_\_\_\_\_  
CITY STATE ZIP CODE

E-MAIL ADDRESS \_\_\_\_\_

\_\_\_ CHECK HERE IF YOU ARE A MINORITY VENDOR

\_\_\_\_\_  
**PRINT** AUTHORIZED REPRESENTATIVE NAME

\_\_\_ CHECK HERE IF YOUR COMPANY QUALIFIES AS A LOCAL VENDOR

**PLEASE NOTE:** Per the Local Vendor Preference Resolution adopted by the MCS Board of Commissioners on June 6, 2005, to be considered a local vendor, local vendors must have physical address located within the limits of Shelby County. A Post Office Box is not acceptable.

\_\_\_ CHECK HERE IF YOU ATTACHED A COPY OF A VALID SHELBY COUNTY BUSINESS LICENSE.

“Memphis City Schools does not discriminate in its programs or employment on the basis of race, color, religion, national origin, handicap/disability, sex or age. For more information, please contact the Office of Equity Compliance at (901) 416-6670.”

# TABLE OF CONTENTS

<b>SECTION A</b>	<b>ANNOUNCEMENT.....</b>	<b>3</b>
<b>SECTION B</b>	<b>SCOPE OF SERVICES.....</b>	<b>6</b>
<b>SECTION C</b>	<b>INSTRUCTIONS TO THE RESPONDENTS .....</b>	<b>11</b>
<b>SECTION D</b>	<b>PRICING SCHEDULE .....</b>	<b>22</b>
<b>SECTION E</b>	<b>FORMS AND DOCUMENTS.....</b>	<b>24</b>

**SECTION A**  
**ANNOUNCEMENT**

**September 24, 2012**

**ANNOUNCEMENT**

**Request for Proposals:**

**Social Studies Software for Grades 3-12**

With this request for proposal (this “RFP”), Memphis City Schools (“MCS”) hereby solicits submissions of written proposals (“Proposals”), on a competitive basis, from qualified companies (“Respondents”) to provide for MCS the services described herein, all in accordance with the terms and conditions detailed herein. In particular, the services sought by MCS will require the Respondent to:

Memphis City Schools seeks a Social Studies program to include software for grades 3-12 that is a Tennessee Standards Mastery Program and is specifically designed to help students master the contents specified in the Tennessee Curriculum Standards.

*Each Respondent **must** submit their mission statement and customer focus with their proposal.*

*If required in RFP, the respondents are to provide a copy of current licenses and proof of insurance with each proposal.*

*Memphis City Schools reserves the right to reject or accept any or all documents submitted. Memphis City Schools shall have the right to consider factors other than the proposal response in awarding a contract.*

*Respondents are required to include a copy of standard contract, modified as deemed necessary for this RFP. This contract will be considered only as a sample. Memphis City Schools reserves the right to modify or reject the sample contract in the event the Respondent is selected.*

(All of such services are referred to herein as the “Services”). More information about the requirements pertaining to the Services is set forth in Section B of this RFP.

About MCS

The mission of MCS is to prepare all children to be successful citizens and workers in the 21st century. This includes educating them to read with comprehension, write clearly, compute accurately, think, reason and use information to solve problems.

MCS is the largest public school system in the State of Tennessee and the 21st largest school system in the nation. It serves 105,000 students in its 209 schools, ranging from kindergarten through twelfth grade. MCS owns over 200 facilities. Created as a special school district by a private act of the Tennessee General Assembly in 1869, MCS employs approximately 16,000 people, including more than 6,000 full-time teachers, making it the second largest employer in the City of Memphis.

Submission of Proposals

Proposals will be accepted until **2:00 p.m. on October 5, 2012. PROPOSALS RECEIVED AFTER THIS TIME WILL NOT BE ACCEPTED.** One (1) original hard copy, one (1) flash drive or CD and ten (10) hard copies of your Proposal must be submitted including all attachments, forms and other related documents. Electronic document must be in PDF consolidated into (1) document. MCS expects to award a contract to the successful contractor not later than **October 2012. MCS RESERVES THE RIGHT TO CONTRACT IN THE BEST INTEREST OF MCS, AND TO REJECT ANY AND ALL PROPOSALS AT ANY TIME PRIOR TO AWARD.**

Proposals must be sealed in a container marked on the lower left-hand corner with the name and address of the Respondent. MCS will date stamp the container with the submission date and the submission time. In addition, the sealed container in which the Proposal is submitted should be labeled "**Social Studies Software for Grades 3-12**". **FAXED RESPONSES WILL NOT BE ACCEPTED.** Further instructions for submitting Proposals may be obtained from:

DIVISION OF PROCUREMENT SERVICES  
MEMPHIS CITY SCHOOLS  
2597 AVERY AVENUE  
ROOM 126  
MEMPHIS, TENNESSEE 38112

All completed Proposals and accessory documents should be mailed or delivered to:

SHARRION SMITH  
PROCUREMENT SERVICES  
MEMPHIS CITY SCHOOLS  
2597 AVERY AVENUE  
ROOM 126  
MEMPHIS, TENNESSEE 38112

Inquiries for information regarding procurement procedures, Proposal submission requirements or other administrative concerns may be directed to my office at (901) 416-5376.

Thank you for your participation.

Sharrion Smith  
Transactional Sourcing Analyst  
Division of Procurement Services

**SECTION B**  
**SCOPE OF SERVICES**

## SCOPE OF SERVICES

### Social Studies Software for Grades 3-12

#### 1.0 THE SERVICES.

1.1 The Services. MCS hereby solicits submissions of written Proposals, on a competitive basis, from qualified Respondents to lease to provide for MCS the services described herein, all in accordance with the terms and conditions detailed herein. In particular, the services sought by MCS will require the Respondent to:

Memphis City School seeks a Social Studies Software program for grades 3-12 that is a Tennessee Standards Mastery Program specifically designed to help students master the content specified in the Tennessee Curriculum Standards. Topics should consist of questions, answers, explanations, and lessons that address the specific skills required in order to master the Curriculum Standards.

The web based program may be used anywhere with any internet connection and requires no software installation and is simultaneously accessible to all students. Students can use it at school, home, or anywhere with an Internet connection.

The content must include answer to multiple choice questions, alternate positions, and the questions are randomly chosen. This compels student to learn the concepts rather than just memorize the answers.

The program must include instant feedback and built-in remediation upon answering a question incorrectly, student are shown the correct answer along with detailed explanation for the correct response. When student need extra help on a specific topic, the program automatically prompts them to work on remedial-level material for that topic.

The program must be a foundationally and statistically research based.

The program must record statistics for each user session in a real-time report card. These statistics measure progress, streamline the learning process, and can be customized by student, subject, class, grade, and school. Teachers and administrators can have access to private page where they are able to view student, class, grade-level, or school-wide usage statistics and results. Real-time reports, including graphs, to help teachers measure progress and identify areas of student weaknesses and deficiencies as they relate to the Tennessee Curriculum Standards. With this knowledge, teacher can promptly respond with appropriate intervention and remediation.

The program must enable students to choose their style of learning. Students can work using a standard test format or several interactive games. As with this feature, the school will have the option to restrict access to the games. Printable worksheets must be included.

1.2 Intent to Contract. MCS, a governmental agency and school district organized under the laws of the State Tennessee, desires to enter into an agreement pursuant to which the Services described above will be provided (the “Agreement”), all subject to the terms and conditions set forth in this RFP and any agreed upon modifications or additions hereto. The basic purpose of this RFP is for the Respondent to provide to MCS the Services described above.

1.3 Joint Ventures. Respondents are encouraged to enter joint ventures for the purposes of responding to this RFP and providing the Services. Respondents are particularly encouraged to enter joint ventures with local small business enterprises, as defined in the MCS Fair Business Program. A copy of the Fair Business Program may be obtained by calling the MCS Office of Contract Services at (901) 416-1143, by requesting a copy in person at 2597 Avery, Room 114, Memphis, Tennessee 38112 or on-line from the website located at [http://www.mcsk12.net/forms/2003\\_FBP.pdf](http://www.mcsk12.net/forms/2003_FBP.pdf)

**2.0 DURATION OF THE AGREEMENT.** The term of the Agreement shall commence on the date that the Agreement is executed by all parties thereto. The Agreement shall reserve for MCS the unilateral option of extending the term of the Agreement for # additional terms of # year(s) each, provided that the maximum duration of the Agreement shall not exceed # years. The Agreement shall also contain a provision granting to MCS the right to terminate the Agreement, with or without cause, upon thirty (30) days notice. (Hereinafter, the period from the time of commencement of the term of the Agreement until the time of expiration of the term of the Agreement shall be referred to as the “Agreement Term”).

**3.0 FORMAT OF PROPOSAL.** The Proposal submitted by the Respondent must contain the following information, which information collectively constitutes the Proposal.

3.1 Description of the Services. The Proposal must contain a thorough description of the Services being offered in response to this RFP. The Proposal should show that the Services being provided, at a minimum, meet the specifications set forth in this RFP. All requests included in this RFP for information regarding the Services should be included in this part of the Proposal, including but not necessarily limited to the following:

- a. Cover Letter Referencing the RFP;
- b. Table of Contents;
- c. Respondent’s Background
- d. Respondent’s Mission Statement and Customer Focus
- e. A description of any additional services the Respondent believes are necessary to fully provide the Services or which the Respondent believes would be beneficial to MCS within the context of the Services requested in this RFP; and
- f. Any other relevant information about the proposed Services deemed to be material.

3.2 Description of the Respondent. The Proposal must contain a thorough description of the background of the Respondent and sufficient evidence showing that the Respondent is capable of providing the Services. All requests included in this RFP for information describing the Respondent should be included in this part of the Proposal, including but not necessarily limited to the following:

- a. A brief description of the history and mission of the Respondent, including the Respondent's background and mission statement, the length of time the Respondent has been in business, a description of the Respondent's organizational structure and a description of the Respondent's customer make-up;
- b. Disclosure of the Respondent's Dunn and Bradstreet number;
- c. References of the Respondent, including at least three (3) other clients for whom the Respondent has provided services similar to the Services (with preference given to clients comparable to MCS) and, for each such reference, the business name, the identification of a contact person, the title of the contact person and a telephone number;
- d. Disclosure of the volume of sales the Respondent has had in each of its past two fiscal years;
- e. A description of the number and qualifications of the Respondent's employees who will participate in the performance of the Services, including the total number of employees at the Respondent's Memphis location, if any, the names and titles of key employees who will be assigned to provide the Services, a description of the role to be filled by each such key employee and a resume of each such key employee;
- f. A description of any other resources available to the Respondent that will be useful in providing the Services;
- g. A description of the business design of the Respondent, including the number and locations of facilities and offices of the Respondent and specification of the location of the home office of the Respondent;
- h. A statement of whether the Respondent has been certified by any certification agency as a minority business enterprise or any other type of business qualified for an allowable preference under the MCS Fair Business Program and, if so, a copy of written documentation supporting such certification;
- i. A description of the methods used by the Respondent to measure the satisfaction of its clients;
- j. Any other relevant information about the capabilities of the Respondent deemed to be material.

3.3 Experience of the Respondent. A sufficient description of the experience and knowledge base of the Respondent to show the Respondent's capabilities should be included in the Proposal. At a minimum, the description of the experience and knowledge base of the Respondent included in the Proposal should include, but not necessarily be limited to, the following:

- a. A statement of how long the Respondent has provided services similar to the Services requested herein;
- b. A general description of the Respondent's experience and background in providing services similar to the Services requested herein;

c. A statement regarding previous experience, if any, in providing the Services to MCS.

d. Any other relevant information about the experience and knowledge base of the Respondent which is deemed to be material.

3.4 Sample Contract. A sample agreement, substantively similar to the agreement the Respondent proposes to use if awarded the final contract, should be included in the Proposal.

3.5 MCS Fair Business Program Forms. The MCS Fair Business Program forms referenced in Section C of this RFP, completed and properly executed, must be included in the Proposal along with any additional documentation required or permitted thereby.

3.6 Pricing Schedule. The pricing schedule contained in Section E of this RFP, entitled "Pricing Schedule", if any, must be completed and included in the Proposal along with any additional documentation required or permitted thereby.

**4.0 COMPENSATION.** The successful contractor will be compensated for the Services provided in accordance with any other compensation arrangement negotiated between MCS and the successful contractor. To the extent the provisions of this paragraph contradict any provision regarding compensation set forth in Section C of this RFP, the provisions set forth in this paragraph shall govern.

**5.0 BONDING REQUIREMENTS.**

The successful contractor shall be required under the Contract to comply with the bonding requirements listed below, if any.

5.1 See Section 11:22-11:23

**SECTION C**  
**INSTRUCTIONS TO RESPONDENTS**

## **INSTRUCTIONS TO RESPONDENTS**

**1.0 PURPOSE.** Memphis City Schools (“MCS”) hereby solicits submission of written proposals (“Proposals”), on a competitive basis, from qualified companies (the “Respondents”) capable of providing the scope of products or services described in Section B hereof (the “Services”). These instructions provide detailed legal and technical requirements for the acquisition of the Services. This Request for Proposal (this “RFP”) will become part of any final contract entered between MCS and the Respondent for the provision of the Services.

MCS will review the Proposals submitted and, ultimately, will enter into a contract with the successful Respondent for the Services. The Services are more particularly described in Section B of this RFP, which section is entitled “Scope of Services”.

**2.0 PERIOD OF CONTRACT PERFORMANCE.** The period of performance for the Services to be provided to MCS by the Respondent as a result of this RFP and any resulting contract or agreement shall be as agreed and negotiated. It is the intent of MCS to award a contract, or agreement, for the term, or duration, defined in Section B of this RFP. The contract or agreement resulting from this RFP shall also contain a provision granting to MCS the right to terminate the Agreement, with or without cause, upon thirty (30) days notice. A sample agreement containing provisions consistent with the provisions set forth in this paragraph must be included with the Proposal.

**3.0 N/A**

**4.0 PRE-PROPOSAL CONFERENCE.** No pre-Proposal conference will be held.

**5.0 MINIMUM STANDARDS.** The successful contractor shall be capable of providing the Services in accordance with the minimum standards, specifications and performance requirements, as well as in accordance with all of the terms and conditions, stated in this RFP. The standards, specifications, performance requirements, terms and conditions set forth in this RFP reflect the primary considerations of MCS concerning the minimum services and capabilities expected, but may not necessarily reflect all the services and capabilities required. Additional standards, specifications, performance requirements, terms and conditions may be set forth in the final contract. In this regard, the successful contractor shall furnish all management and resources (including but not limited to personnel, technical support, computerized and other systems support, equipment, materials and miscellaneous supplies) necessary to provide the Services in a thorough, comprehensive, timely, efficient and effective manner.

**6.0 SPECIFICATIONS.** The Respondent, if and when it is awarded a contract, shall provide all the Services described in Section B of this RFP, entitled “Scope of Services”.

## 7.0 PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS.

7.1 General Requirements. In order to be considered for selection, successful Respondents must submit a complete response to this RFP. One (1) original hard copy, one (1) flash drive or CD and ten and ten (10) hard copies of each Proposal, including all attachments, forms and other related documents. Electronic document must be in PDF consolidated into (1) document. No other distribution of the Proposal shall be made by the Respondent. Proposals submitted by telegraphic or facsimile will not be considered.

7.1.1 Signatures; Completeness. Proposals shall be manually signed by an authorized representative of the Respondent. The printed name and title of the person signing the Proposal must appear on the signature page of the Proposal. Proposals must concisely set forth all of the information requested by this RFP in a full, accurate and complete manner, including all required attachments. If any required information is not contained in the Proposal, the Proposal will be considered non-responsive and, consequently, will not be considered.

7.1.2 Simplicity. Proposals should be prepared simply and economically, providing a straightforward, concise description of the Respondent's capability of satisfying the requirements of this RFP. Emphasis should be on completeness and clarity of content. Responses should focus on efficient and cost effective systems which ensure cost management, timely services and minimized paperwork.

7.1.3 Binding. Each copy of the Proposal should be bound or contained in a single 1" volume. All documentation submitted with the Proposal should be contained in that single volume.

7.2 Place and Time for Submission. Proposals will be received by MCS at its Procurement Services office located at 2597 Avery, Room 126, Memphis, Tennessee 38112, until **2:00 P.M. LOCAL TIME ON OCTOBER 5, 2012 (the "Submission Deadline")**. **PROPOSALS RECEIVED AFTER THIS DATE AND TIME WILL BE REJECTED AND WILL BE RETURNED TO THE RESPONDENT UNOPENED. FOR HAND DELIVERY, PLEASE ALLOW TIME FOR SECURITY CHECK-IN WHEN ENTERING THE FACILITY.**

7.2.1 Delivery. All Proposals shall be deemed received when delivered to the above address. Each Respondent is solely responsible for ensuring that its Proposal is timely delivered. Any Respondent who relies on overnight delivery services, the United States mail, private mail services, local couriers or any other delivery service remains solely responsible for the timely delivery of its Proposal and assumes all risk of late delivery, mis-delivery and non-delivery (See 7.2). Respondents may verify delivery of Proposals by contacting MCS at (901) 416-5376.

7.2.2 Receipt by MCS; Markings. Upon receipt, all Proposals will be date-stamped, time-stamped, logged and deposited by MCS staff. Respondents are reminded that all Proposals must be securely sealed and clearly marked.

7.3 Pricing. Pricing information shall be provided on the pricing schedule form attached to this RFP. In determining its pricing proposal, the Respondent should take into account the following considerations.

7.3.1 Tax Exemption. MCS is a tax-exempt entity and, as such, is exempt from the payment of taxes, including but not limited to sales and use taxes, federal excise taxes and federal high use taxes.

7.3.2 Extra Charges. Unless agreed by the parties in writing, charges in excess of the amounts agreed upon in the final contract shall not be allowed.

7.4 Forms. Along with the Proposal, the Respondent will provide signed copies of all forms required by this RFP to be submitted. Information required by any forms must be submitted on the forms furnished. If erasures or other changes appear on the forms, such erasures or changes shall be initialed by the person(s) signing the form and the Proposal.

7.5 Identity of the Respondent. The Proposal must reveal the full name and business address of the Respondent. MCS will enter an agreement only with the person or entity named as the Respondent in the Proposal of the successful contractor.

7.6 Modifications Following Submission. Modifications of Proposals following submission will be allowed, provided the modification is received by the MCS at the place designated for submission of Proposals prior to the Submission Deadline.

7.7 Duration of Validity. Proposals shall be valid for a minimum period of ninety (90) days subsequent to the Submission Deadline. Proposals expiring less than ninety (90) days from Submission Deadline will be considered non-responsive and, consequently, will not be considered.

**8.0 CHANGES TO THE SPECIFICATIONS.** Any modification, amendment or other change to this RFP will be made by MCS via written addendum and will be forwarded to all persons and firms to whom the RFP has been transmitted. Any unapproved deviation, exception, substitute, alternate or conditional qualification contained in a Proposal may be cause for rejection of the Proposal.

**9.0 EVALUATION PROCESS.**

9.1 Evaluation Committee. MCS will appoint an evaluation committee, consisting of representatives of MCS, to evaluate submitted Proposals and recommend a Respondent for a final contract with MCS for provision of the Services. The committee will apply the evaluation criteria set forth in this RFP, or in any addenda hereto that may be issued by MCS, in order to identify a Respondent for a final contract. An evaluation criterion is deemed to include any unstated “subcriterion” that logically might be included within the scope of the stated criterion.

9.2 Evaluation. The evaluation committee shall consider a number of criteria in determining with which Respondent MCS will enter a final contract. MCS reserves the right to negotiate fees and other terms with the selected Respondent and, if no agreement is reached including desired fees and terms, the right to select and negotiate with another Respondent. MCS may request additional information from any Respondent at any time after the Submission Deadline. However, unsolicited information may not be accepted from any Respondent after the Submission Deadline. MCS will assume that all Proposals are complete as received.

9.2.1 Evaluation Criteria. Proposals shall be evaluated based upon the following criteria:

9.2.1.1 The extent to which the Services offered in response to this RFP meet or exceed the minimum specifications required of the Services;

9.2.1.2 The ability of the Respondent to provide the Services requested or offered;

9.2.1.3 The quality of the Services being offered by the Respondent;

9.2.1.4 The price for which the Services are offered; and

9.2.1.5 Any and all other factors the evaluation committee deems reasonably applicable.

9.3 Oral Presentation. MCS reserves the right to interview, or require an oral presentation from, any Respondent for clarification of information set forth in the Respondent's Proposal. In this regard, at the discretion of the evaluation committee, some or all Respondents who submit an Proposal in response to this RFP may be asked submit to an interview or give an oral presentation of their respective Proposals to the evaluation committee. If so, this is not to be a presentation restating the Proposal, but rather an in-depth analysis of certain qualifications of the Respondent. The interview or oral presentation, if utilized, is intended to provide an opportunity for the Respondent to clarify or elaborate on its qualifications without restating the Proposal. The interview or oral presentation is to be a fact finding and explanation session only and is not to be used to negotiate any terms of contract. If required, the time and location of such interview or oral presentation will be scheduled by the Purchasing Director of MCS. Interviews and oral presentations are strictly an option of MCS or its evaluation committee and, consequently, may or may not be conducted. All travel expenses to and from the interview or oral presentation shall be the responsibility of the Respondent.

9.4 Qualifications of the Respondent. MCS may make such reasonable investigations as deemed proper and necessary to determine the ability of the Respondent to provide the Services. The Respondent shall furnish to MCS all such information and data as may be requested for this purpose. MCS further reserves the right to reject any Proposal if the evidence submitted by, or investigation of, the Respondent fails to satisfy MCS that the Respondent is properly qualified to carry out the obligations required in this RFP and the final contract and to provide the Services contemplated therein.

9.5 Inspections. MCS reserves the right, at reasonable times, to inspect the part of the plant or place of business of the Respondent or any subcontractor thereof which is related to the performance of any contract awarded or proposed to be awarded by MCS. MCS further reserves the right, at reasonable times and places, to audit the books and records of any Respondent who has submitted a Proposal to the extent that such books and records relate to cost or pricing data contained in the Proposal.

**10.0 AWARD OF CONTRACT.** The final contract for provision of the Services will ultimately be awarded to the Respondent deemed by MCS in its sole discretion to be the lowest responsive and responsible Respondent. In determining which Respondent is the lowest responsive and responsive Respondent, MCS will consider which Respondent is fully qualified and best suited, offers the best Services for the most reasonable price and is altogether most advantageous to MCS among those submitting Proposals in response to this RFP, as determined based upon evaluation of the criteria set forth in this RFP and upon the results of negotiations. Terms of engagement will be negotiated with the selected Respondent, and the final contract will be awarded in the manner deemed by MCS to be fair and most advantageous to MCS.

10.1 Rejection of Proposal. MCS reserves the right to reject any or all Proposals and to waive informalities and irregularities in any or all Proposals submitted. In this regard, MCS, at its own discretion and at any time prior to award, may cancel this RFP or reject any Proposal, in whole or in part, and is not required to furnish a statement of the reason why a particular Proposal or Proposal was rejected or was not deemed to be the most advantageous.

10.2 Bid Preferences. MCS applies a five percent (5%) bid preference to Respondents that qualify as local businesses. In the event that federal funds are used to fund this purchase and/or services, the Local Preference Program may not apply.

10.3 Negotiation and Approval of Contract. Should, at any time, MCS determine in its sole discretion that only one Respondent is fully qualified or that one Respondent is clearly more qualified than the others under consideration, a proposed contract may be negotiated for award to that successful Respondent. MCS shall have no obligation to include in any such proposed contract any part of any sample contract submitted by the Respondent. The proposed contract must be presented to the board of commissioners of the MCS (the "Board") for final approval of award. Provision of the Services may not commence until: (i) a contract between MCS and the successful Respondent is properly negotiated, executed and entered; (ii) the contract is approved by the Board, as required; and (iii) MCS issues to the successful Respondent a purchase order for the Services.

10.4 Compensation. The successful contractor will be paid for the Services provided in accordance with a compensation arrangement to be negotiated between MCS and the successful Respondent. More specific guidance regarding compensation may be set forth in Section B of this RFP.

10.5 Price Adjustment. The price to MCS, including fee, profit or any other portion of the compensation payable to the Respondent, shall be adjusted to exclude any significant sums by which MCS finds that the price was increased because the fees, costs or pricing data furnished by the Respondent were inaccurate, incomplete or not current as of the date of the contract.

10.6 Charges Not Required. The successful contractor and MCS both shall agree that MCS shall not be required to pay to the successful contractor any cost, fee or charge which is not specifically required to be paid by the contract.

10.7 Performance. MCS and the successful contractor each shall agree to fully perform all of their respective obligations under the Agreement. However, failure of MCS to perform such obligations shall not automatically relieve the successful contractor of its obligation to perform under the contract.

10.8 Protests. MCS will consider all protests filed in a timely manner regarding the award of a contract, or the process of awarding a contract, in relation to this RFP, whether submitted before or after award. All protests are to be submitted in writing.

## **11.0 GENERAL TERMS AND CONDITIONS.**

11.1 No Commitment. This RFP does not commit MCS to award a contract, pay any costs incurred in the preparation of any Proposal submitted or procure or contract for Services from any Respondent or any other person. Accordingly, each Respondent shall be responsible for all costs incurred in the preparation and submission of its Proposal or in any part of its participation in the pre-award process.

11.2 Conditions and Assumptions. All Proposals and related documents submitted shall be based on the same conditions and assumptions that will underlie any prospective final contract between MCS and the successful Respondent. Thus, in establishing the terms of any resulting contract, MCS may assume the conditions and assumptions underlying the Proposal submitted by the successful Respondent are accurate.

11.3 Termination. Failure by the successful contractor to comply with the terms and conditions of this RFP or to deliver the Services identified in this RFP or the contract at the prices quoted shall void the contract award. In the case of the successful contractor's failure to deliver the Services in accordance with the contract terms and conditions, MCS, after due oral or written notice, may procure such Services from other sources and hold the successful contractor responsible for any resulting additional purchase and administrative costs.

MCS reserves the unilateral right to cancel and terminate any resulting contract, in part or in whole, without penalty, whenever MCS in its sole discretion determines that such a termination is in the best interest of MCS. Any such termination shall be enacted by delivery to the successful contractor by certified mail, at least thirty (30) calendar days prior to the termination date, a notice of termination specifying the extent to which performance shall be terminated and the date upon which such termination shall become effective. After receipt of a notice of termination, the successful contractor must stop all work or deliveries under the contract on the effective date and to the extent specified in the notice of termination. However, any such contract termination notice shall not relieve the successful contractor of the obligation to deliver and perform on all outstanding orders issued prior to the effective date of termination. No payment shall be made for anticipated profit on unperformed services.

11.4 Ethics in Public Contracting. By submitting its Proposal, Respondent certifies that its Proposal is submitted without collusion or fraud, that it has not offered or received any kickback or inducement from any other Respondent, supplier, manufacturer, subcontractor, customer or other person in connection with its Proposal and that it has not conferred on any public employee or official having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, employment, service or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

11.5 Prohibited Contact. Registered and non-registered lobbying of MCS staff members or Board members with respect to a pending project or award is prohibited during the time period between the date the RFP is advertised and the date a final contract is awarded. Any contact between MCS staff members or Board members and any representative of a Respondent relating to a pending project or award (whether by writing, telephone, e-mail or otherwise) outside of properly scheduled meetings, other than as intended and initiated by an MCS staff member or a Board member, shall be grounds for disqualification of the Respondent from the bid process. By submitting a Proposal, the Respondent represents and warrants that it has not made, and will not make, any contact prohibited by this paragraph.

11.6 Conflict of Interest. Respondent certifies that no MCS Board member, staff member or any MCS employee has a financial or beneficial interest in the Respondent.

11.7 Mandatory Use of Form and Modification of Terms and Conditions. Failure to submit a Proposal on any official form provided for that purpose may be cause for rejection of a Proposal. Return of the complete form is required. Modification of, or additions to, the general terms and conditions of this RFP may be cause for rejection of the Proposal. Notwithstanding, the MCS Director of Purchasing reserves the right to decide, on a case by case basis, in his or her sole discretion, whether to reject such a Proposal.

11.8 Errors or Omissions. The Respondent shall not be allowed to take advantage of any errors or omissions in the specifications set forth in this RFP. Where errors or omissions occur in this RFP, the Respondent shall promptly notify the contact person listed in this RFP and report the identified error or omission. Inconsistencies in the specifications are to be reported before Proposals are submitted to MCS.

11.9 Liability for Improper Date or Time Processing. By submitting a Proposal, the Respondent agrees that, if it becomes the successful contractor, the Respondent will indemnify and hold harmless MCS and the officers, employees, Board members and agents of MCS against any claim of, or liability for, breach of any contract related to the Services that is caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort or otherwise process dates or times.

11.10 Audit. Unless the contract is a firm fixed price contract, MCS shall be entitled to audit the books and records of the successful contractor or any subcontractor thereof to the extent that such books and records relate to the performance of the successful contractor's contract with MCS. Accordingly, the successful contractor agrees, and any subcontractor thereof will agree, to retain all books, records and other documents relative to this RFP and the related contract for a period of three (3) years from the date of final payment under the contract for the contractor and for a period of three (3) years from the date of final payment under the subcontract for the subcontractor, unless a shorter period is otherwise authorized in writing the MCS. By submitting a Proposal, the successful contractor grants to MCS the right to perform, or have performed by its authorized agents and/or auditors, an audit of the books and records of the successful contractor. Consequently, MCS will have full access to, and the right to examine, any of said materials following the giving of reasonable notice during said period. **RESPONDENTS ARE HEREBY NOTIFIED THAT ALL RECORDS OF ALL PERSONS CONTRACTING WITH THE MCS MAY BE SUBJECT TO THE TENNESSEE PUBLIC RECORDS ACT.**

11.11 Compliance with Procedures The successful contractor will comply with all procedural instructions that may be issued from time to time by MCS. However, the substantive terms and conditions of the contract shall not change without the written consent of all parties thereto.

11.12 Obligation of Successful Contractor. By submitting a Proposal, the successful contractor covenants and agrees, based upon its own investigation of the conditions to be met, that it fully understands its obligation and that it will not make any claim under, or have any right to cancellation or relief from, the contract because of any misunderstanding or lack of information.

11.13 Format of Services; Satisfaction of MCS. The Respondent agrees that, if it becomes the successful contractor, the Respondent will fully provide to MCS, to the best of its capabilities, the Services in substantially the format, quality and scope required by, or indicated in, this RFP, including any modifications and additions hereto. Furthermore, the Respondent agrees to be responsible for providing the Services in a manner and to an extent satisfactory to MCS.

11.14 Delivery. By submitting a Proposal, the Respondent agrees that, if it becomes the successful contractor, the Respondent will deliver to MCS all items required to be delivered by this RFP and the Agreement in a form which is complete and ready for use.

11.15 Taxes. The successful contractor shall determine, be responsible for and pay any applicable taxes related to the Services or the Agreement, including but not limited to any property tax, sales tax, federal excise tax or federal highway use tax. MCS is a tax-exempt organization and shall not be billed for, nor be expected to pay, any taxes applicable to the Services. A COPY OF DOCUMENTATION VERIFYING THE "TAX EXEMPT" STATUS OF MCS IS AVAILABLE AND WILL BE FURNISHED TO THE SUCCESSFUL CONTRACTOR UPON REQUEST.

11.16 Support. If it becomes the successful contractor, the Respondent agrees and affirms that, throughout the Agreement Term, it will utilize its best efforts to assist and support MCS in addressing any problem whatsoever relating to the Services or the Agreement.

11.17 Deviation from Specification. Accountability for the Services will rest solely with the successful contractor. Any inaccuracy in or other deviation of the Services from the required specifications will be corrected by the successful contractor within two (2) weeks after the successful contractor is notified of the inaccuracy or discrepancy.

11.18 Time for Performance. In order to minimize the disruption of schools and other MCS facilities, the successful contractor will perform the Services during hours which will be determined by MCS.

11.19 Prevailing Wages. The Respondent agrees that, if it is awarded the contract, the wages it, as the successful contractor, will pay to its employees, subcontractors and other agents will not be less than the prevailing wage rates applicable under Tennessee law at the time the wages are paid.

If the Services to be provided by the Respondent include the construction of a public building, work or other project, the successful contractor will provide and maintain a bond containing a provision obligating the successful contractor to faithfully pay prevailing wages, as required in this paragraph. In addition, the successful contractor on such a project will post and keep posted in a conspicuous place at the site of the construction work a copy of the prevailing wage rates prescribed under state law and, further, shall furnish to MCS any necessary forms, papers, payroll copies or other information that may be required of the successful contractor to show compliance with the provisions of this paragraph and the provisions of Chapter 4, Part 4, of Title 12 of the Tennessee Code Annotated. The successful contractor will not destroy payroll records related to work performed under the contract for one (1) year following completion of the work.

11.20 Non-Discrimination. The Respondent is obligated not to discriminate against any employee of, or applicant for employment with, the Respondent on the basis of race, color, religion, handicap, national origin, sex or socio-economic status. This obligation shall include, but not be limited to the following matters: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The Respondent is obligated to comply with all requirements of the Americans with Disabilities Act. In addition, all vendors wishing to do business with Respondent shall be afforded the same equal opportunity and non-discrimination. By submitting a response to this RFP, the Respondent confirms and asserts that it is not currently discriminating, and will not discriminate, against any person in any manner related to this RFP or to any Proposal or contract related hereto, including in the performance under any such contract.

11.21 Fair Business Program. The Respondent must comply with the requirements of the MCS Fair Business Program. A copy of the Fair Business Program may be obtained by calling the MCS Office of Contract Services (901) 416-1143, by requesting a copy in person at 2597 Avery, Room 114, Memphis, Tennessee 38112 or on-line from the website located at [http://www.mcsk12.net/forms/2003\\_FBP.pdf](http://www.mcsk12.net/forms/2003_FBP.pdf).

11.22 Bonding or Other Security. If the Services include any type of construction or maintenance of a public building, work or other project to be provided under a contract having a contract price of more than One Hundred Thousand Dollars and No/100 Dollars (\$100,000.00), then, prior to the commencement of work under the contract, the successful contractor will execute and provide to MCS a good and solvent bond to the effect that the successful contractor will pay for all the labor and materials used by the successful contractor or by any subcontractor, immediate or remote, in connection with the contract, in lawful money of the United States, as required by Section 12-4-118 of the Tennessee Code Annotated. The bond shall be for at least twenty-five (25%) of the contract price. The bond shall provide that the successful contractor shall promptly make payment when due of all taxes, licenses, assessments, contributions, penalties and interest on the project. In lieu of the afore-mentioned bond requirement, the successful contractor may substitute cash or any of the following securities, provided the cash or the securities are substituted in the same amount as required of the afore-mentioned bond and subject to the provisions of Section 12-4-118 of the Tennessee Code Annotated: (i) treasury bonds, treasury notes or treasury bills of the United States; (ii) general obligation bonds of the state of Tennessee; (iii) certificates of deposits of evidence of other deposits irrevocably pledged from a state or national bank or savings and loan institution having its principal office in the state of Tennessee; or (iv) a letter of credit from a state or national bank having its principal office in the state of Tennessee.

11.23 Insurance. By submitting a Proposal in response to this RFP, the Respondent certifies that, if awarded a contract, it will have the insurance coverage required for performance of the Services, if any, at the time the work commences. Additionally, the Respondent certifies that it will maintain this insurance coverage throughout the entire term of the contract and that all insurance coverage shall be provided by insurance companies authorized to sell insurance in Tennessee. During the term of the contract, MCS reserves the right to require the successful Respondent to furnish certificates of any required insurance for the coverage required by MCS, if any is required.

11.24 Confidential and Proprietary Information. MCS is subject to the Tennessee “Public Records Act.” Accordingly, no claim of confidentiality or proprietary information in all or any portion of any Proposal submitted in response to this RFP will be honored unless a specific exemption from the Public Records Act exists and such exemption is cited in the Proposal. Any claimed exemption must be specifically cited by page and paragraph number(s). An incorrectly claimed exemption does not disqualify the Respondent.

11.25 Ownership of Computer Programs and Data. Ownership of all computer systems, programs, software, data, materials, documentation or similar products purchased, created or compiled in connection with the performance of the Services or the performance of obligations under any contract resulting from or related to this RFP, now or hereafter, shall vest completely and exclusively with MCS. Upon expiration of the term of the contract, the successful contractor will relinquish and convey to MCS any right it may have in such computer systems, programs, software, data, materials, documentation or similar products.

11.26 Assignment of Contract. Upon execution, the contract shall not be assigned or subcontracted by the successful contractor, in whole or in part, without the prior written consent of MCS.

11.27 Binding Nature of This RFP. By submitting a Proposal, the Respondent agrees to be bound by all of the provisions of this RFP. The Respondent further agrees that, if it becomes the successful contractor, the Respondent and its heirs and assigns will continue to be bound by the provisions of the RFP for the duration of the Agreement Term except to the extent any provision hereof is explicitly waived in the Agreement.

11.28 Applicable Laws and Courts. This RFP and any related Proposal and resulting contract shall be governed in all respects by the laws of the State of Tennessee. Jurisdiction over any matter arising in connection with this RFP or any related Proposal or resulting contract hereunder shall be held by the federal and state courts having jurisdiction in Shelby County, Tennessee. Furthermore, the Respondent shall comply with all applicable federal, state and local laws and regulations.

11.29 Background Checks. Respondent hereby acknowledges the requirements of Tennessee Code Annotated §49-5-413 requiring the background check of any employee or subcontractor that works on school grounds at any time when students are present, and prohibiting any person with a history of the criminal offenses cited in the statute from working on a school campus during such times. The Respondent hereby certifies that it has, and will, at all times during the performance of the Services, comply with the provisions of this statute and will provide to MCS, upon request, proof of its compliance with this provision. A default by the Respondent of the provisions of this Section shall automatically be grounds for termination of this Contract pursuant to the default terms herein.

11.30 Subject to Funding. This Contract is subject to the appropriation and availability of funds. In the event that the funds are not appropriated or are otherwise unavailable, MCS reserves the right to terminate the Contract upon written notice to the Respondent. Said termination shall not be deemed a breach of the Contract by MCS. Upon receipt of written notice, the Respondent shall cease all work associated with the Contract. In the event of termination, the Respondent shall be entitled to compensation for all satisfactory and authorized Services completed as of the termination date. Upon such termination, the Respondent shall have no right to recover from MCS any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

**SECTION D**  
**PRICING SCHEDULE**

**PRICING SCHEDULE**  
**Social Studies Software Program for Grades 3-12**

---

**PART A**

Pricing shall be broken down as follows:

1. Unlimited subscription for school and home usage for grades 3-12 including unlimited free technical support, phone live chat and email for 47,662 students at 123 schools.

3<sup>rd</sup> grade- 7,655  
4<sup>th</sup> grade- 7,807  
5<sup>th</sup> grade- 7,264  
6<sup>th</sup> grade- 6,079  
7<sup>th</sup> grade- 6,384  
8<sup>th</sup> grade -6,399  
High School – 6,074

\$ \_\_\_\_\_

2. Training for three (3) staff members per school.

\$ \_\_\_\_\_

**Grand Total \$ \_\_\_\_\_**

**PART B**

**DISTRICT INITIATIVES AND VALUE ADD.**

Support of MCS’ Strategic Goals. Respondents are encouraged to include in their proposal a commitment to support MCS on one or more of its strategic goals. The six objectives are Student Achievement, Accountability, Parent and Community Involvement, Healthy Youth Development, Safety and Security, and Diversity.

Each Respondent is scored according to the criteria in the RFP. District initiatives are a very significant piece of the RFP program.

Support may be in the form of financial or in-kind donations, sponsorships, student internships, community forums, volunteerism, mentorship, minority or women-owned business participation, or the like. Indicate the dollar value for each commitment and whether the commitment is one-time or recurring during the term of the contract.

Please submit your commitment as Part B of the Pricing Schedule. Commitment for MCS’ Strategic Goals will be evaluated and scored based on the rubric established for this component of the evaluation matrix.

**SECTION E**  
**FORMS AND DOCUMENTS**



## VENDOR INFORMATION (Please Complete Form)

The Memphis City Schools reserves the right to accept or reject any or all proposals, or any part thereof, and to waive any informalities and/or technicalities that are deemed to be in the best interest of the Memphis City Schools. Successful vendor shall be paid only when delivery is complete. *\*Material safety data sheets (MSDA) must accompany all shipments covered under the Tennessee Hazardous Chemical Right To Know Law: Tennessee Public Chapter #417 – House bill #731.*

**Name of Firm:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip Code:** \_\_\_\_\_

**Phone #:** \_\_\_\_\_ **Fax #:** \_\_\_\_\_

**E-Mail Address:** \_\_\_\_\_

**Time Required for Delivery:** \_\_\_\_\_ **Days**

**Payment Terms:** \_\_\_\_\_

**Print Authorized Representative Name:** \_\_\_\_\_

We propose to furnish the item(s) listed at prices quoted and guarantee safe delivery **F.O.B. delivered** and as specified. These prices are submitted with a declaration that no Memphis City Schools Board of Education Commissioner or employee has a financial or beneficial interest in this transaction.

**\*IS YOUR COMPANY A MINORITY-OWNED OR DISADVANTAGED BUSINESS AS DEFINED BELOW?**     Yes     No

If your response is YES, check the category that properly defines your minority status:

- Black   
  American Indian   
  Alaskan Native   
  Asian American   
  Hispanic   
  Women  
 Other (Please specify \_\_\_\_\_)   
 HUBZone   
 Small Business

“A minority business is defined as a business that is both owned and controlled by minorities and/or women, Minorities and/or women must own at least 51% of the business and control its management and daily operations. Minorities include Black, Women, American Indians, Alaskan Natives, Asian American, Hispanics and members of other groups determined to be economically or socially disadvantaged by the Small Business Administration under Section A of the Small Business Act as amended (15 USC 637 a)” HUBZone business as determined by the Small Business Administration is a small business located within a HUBZone.

\_\_\_\_\_ **CHECK HERE IF YOUR COMPANY QUALIFIES AS A LOCAL VENDOR**

**Please Note: Per the Local Vendor Preference Resolution adopted by the MCS Board of Commissioners on June 6, 2005, local vendors must have physical address located within the limits of Shelby County. A Post Office Box is not acceptable.**

\_\_\_\_\_ **CHECK HERE IF YOU ATTACHED A COPY OF A VALID SHELBY COUNTY BUSINESS LICENSE. (Please attach copy of license to the first line item of the bid/quote.)**

“Memphis City Schools does not discriminate in its programs or employment on the basis of race, color, religion, national origin, handicap/disability, sex or age. For more information, please contact the Office of Equity Compliance at (901) 416-6670.”

## **SECOND TIER PURCHASING**

Memphis City Schools utilizes a race neutral program for all purchases and contracts. In order to set benchmarks for all Local, Small, Women Owned Business Enterprises, we ask that our vendors review and actively participate in the Fair Business Program which can be found in the Procurement Services website at:www.mcsk12.net-Procurement Services link.

In order to track the purchases and contracts issued to MBE's (Minority Business Enterprises), we ask our vendors to indicate their level of second tier purchasing commitment. Second tier purchasing is defined below:

**Second-tier purchasing** is the process through which a first-tier (or prime) supplier utilizes a minority supplier either directly or indirectly.

Please indicate below the level of participation, in both dollars and percentage that would define the level of minority business enterprise participation for this project.

Second Tier Commodity\_\_\_\_\_ (Example: Office supply vendors may purchase subsets from minority owned companies. Manufacturers may purchase a certain percentage from minority suppliers. This line asks for the commodity.)

MBE category for second tier supplier - **PLEASE CHECK ONE:**

- Hispanic
- Black
- Asian American
- Native American Indian
- Woman Owned

Dollars expended for this commodity, this project \$\_\_\_\_\_

Percentage of this project\_\_\_\_\_%

\_\_\_\_\_  
Name of Business (Please Print)

\_\_\_\_\_  
Print Authorized Representative Name

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

## **LOCAL PREFERENCE PURCHASING PROGRAM**

In compliance with the resolution requiring the establishment of a Local Preference Purchasing Program adopted by the Board of Commissioners at the regular meeting of June 6, 2005, Memphis City Schools has determined that it is in the best interest of the city to give a Local Preference to Local Businesses in Shelby County, Tennessee.

**Local Preference** means that if the lowest responsive bidder is a regional or non-local business, then all bids received from responsive Local Businesses shall be decreased by five (5) percent. The original bid is not changed; the five (5) percent decrease is calculated only for the purposes of determining the Local Preference. The Local Preference cost differential is not to exceed \$100,000.00.

This preference shall only apply when:

1. The total dollar purchase is \$10,000 or more;
2. The vendor has a valid Shelby County business license, issued by Shelby County at least six (6) months prior to bid or proposal opening date;
3. The vendor has a physical business address located within the limits of said locality (excluding P.O. Boxes); the vendor has been doing business in Shelby County, Tennessee for a year or more;
4. In the case of Request for Proposals and other selected competitive negotiation, Local Businesses shall be assigned five (5) percent of the total points of the total evaluation points up to a maximum of five (5) points.

In the event of a tie between a local and non-local vendor, the tie shall be broken in favor of the local vendor.

In order to receive or be considered for Local Preference the following is required:

- ❖ Each vendor must provide a copy of Shelby County Business License;
- ❖ Each vendor must provide proof of payment of Shelby County Personal Property Taxes

**Exclusions** – This preference shall not apply to purchases

- Funded in whole or part by a governmental entity
- Purchases or contracts made under emergency or non competitive situations
- Application of the Local Preference may be waived upon written justification and recommendation of Memphis City Schools Board of Commissioners



**CERTIFICATION REGARDING DEBARMENT, SUSPENSION  
AND OTHER RESPONSIBILITY MATTERS –  
PRIMARY AND LOWER TIER COVERED TRANSACTIONS**

1. By signing and submitting this proposal, the prospective primary and/or lower tier participant (“participant”) is providing the certification set out below. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction, however failure of the prospective participant to furnish a certification or explanation shall disqualify such person from participation in this transaction. The certification or explanation will be considered in connection with the department or agency’s determination whether to enter into this transaction.
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 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 termination for cause or default, suspension and/or debarment.
3. The prospective participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective participant learns that its certification was erroneous when submitted or had 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 meaning 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 participant agrees by submitting this proposal 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 proposed for debarment under 48 CFR part 9, subpart 9.4, 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 participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all covered transactions and in all solicitations for 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 it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, 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 List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
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 proposed for debarment under 48 CFR part 9, subpart 9.4, 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 termination of this transaction for cause or default, suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary  
Exclusion—Primary and/or Lower Tier Covered Transactions**

- (1) The prospective participant certifies to the best of its knowledge, 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) The prospective participant and its principals have not, within a three (3) year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
- (3) The prospective participant and its principals are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses in Paragraph 2 of this certification.
- (4) The prospective participant and its principals have not, within a three (3) year period preceding this application/proposal, had one (1) or more public transactions (Federal, State or local) terminated for cause or default.
- (5) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**Agency:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_