

**SECTION 00 02 00
INFORMATION FOR BIDDERS**

PART I - GENERAL

1.01 SUBMISSION OF BIDS AND BID OPENING

- A. Bids will be received by the School Board of Stafford County, d/b/a Stafford County Public Schools (herein referred to as “SCPS”) and will be opened and read aloud at the time and place set forth in the Invitation to Bid. Bidders, or their representatives, and other interested persons may be present at the opening of Bids.
- B. The envelope containing one (1) original bid must be sealed and addressed to Stafford County Public Schools with the following marked on the outside:
 - 1. IFB#**
 - 2. IFB Title:**
 - 3. Name of the Bidder**
 - 4. Bidder’s Virginia Contractor License Number**
 - 5. Bidder’s Virginia State Contractor's Registration Number**
- C. The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.

1.02 BIDDING DOCUMENTS

- A. Bidding Documents included in the Invitation to Bid,
 - a. Section 00 11 16 – Bid Invitation,
 - b. Section 00 02 00 – Information for Bidders,
 - c. Section 00 41 00 – Bid Form with all required attachments,
 - d. Section 00 52 00 – Owner-Contractor Agreement,
 - e. Section 00 72 00 – General Conditions, including any Addenda issued prior to receipt of Bids.

All requirements and obligations of the Bidding Documents are hereby incorporated by reference into the Contract Documents and are binding on the successful Bidder upon award of the Contract.

- B. Bidders shall use complete sets of Bidding Documents in preparing Bids. Neither the School Board of Stafford County (“School Board”, “Owner”, “Stafford County Public Schools”, or “SCPS”), the Architect or Engineer shall assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- C. SCPS in making copies of the Bid Documents available does so only for the purpose of obtaining Bids on the Work and does not confer a license or grant for any other use.

1.03 DEFINITIONS

A. BID.

A Bid is a complete and properly signed Bid to do the work for the sum stipulated therein, submitted in accordance with the Bidding Documents.

B. BASE BID:

The Base Bid is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as the base, to which work may be added or from which work may be deducted for sums stated in Additive and/or Deductive Bid items, if any.

C. ADDITIVE/DEDUCTIVE BID ITEMS:

An Additive or Deductive Bid is an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted.

D. BIDDER:

A Bidder is a vendor that submits a bid in response to an Invitation for Bid. The term Bidder is referred to throughout the Contractor Documents as if singular in number and masculine in gender.

1.04 QUALIFICATION OF BIDDER

A. Prior to Contract award or within seven (7) days of SCPS's request to do so, the Successful Bidder shall be prepared to demonstrate that his present organization, direct labor force and prior work experience is of adequate size and development to maintain responsible control of the project and to schedule, coordinate and perform the work in an expeditious manner and in accordance with the Contract Documents.

B. Bidders, whether residents or nonresidents of Virginia, will be required to show evidence of a certificate or registration as required by Chapter 7 of Title 54 of the Code of Virginia before their Bids will be considered. If a Bid is \$120,000 or more, or if the Contractor's annual volume is \$750,000 or more, the Contractor must be licensed as a "Class A Contractor." If a Bid is \$10,000 or more but less than \$120,000 or if the Contractor's annual volume is between \$150,000 and \$749,999, the Contractor must be licensed as at least a "Class B Contractor". If a Bid is \$1,000 or more but less than \$10,000 or if the Contractor's volume is less than \$150,000, the Contractor must be licensed as at least a "Class C Contractor". The Bidder shall place license on the outside of the envelope containing the Bid, at the place provided, whichever of the following notations is appropriate:

"Licensed Class A Virginia Contractor No. _____."

"Licensed Class B Virginia Contractor No. _____."

"Licensed Class C Virginia Contractor No. _____."

"Contract is less than \$1,000 therefore licensure is not required."

- C. SCPS will consider, in determining the qualifications of a Bidder, his record in the performance of any Contracts for the construction work into which he may have entered with SCPS or with such public bodies or corporations. SCPS expressly reserves the right to reject the Bid of any Bidder if such record discloses that such Bidder, in the opinion of SCPS, has not properly performed such contracts; or has habitually and without just cause neglected the payment of bills; or has otherwise disregarded his obligations to Subcontractors, material men, suppliers or employees; or has had, in the sole and exclusive judgment of SCPS, a poor safety record from prior projects performed within or outside of SCPS.
- E. SCPS may make such investigation as SCPS deems necessary to determine the ability of the Bidder to perform the work, and the Bidder shall furnish to SCPS all such information and data for this purpose as SCPS may request. SCPS reserves the right to reject any bid if the evidence submitted by, or investigation of such Bidder, fails to satisfy SCPS that such Bidder is a responsive and responsible Bidder in accordance with the criteria set forth herein. Conditional Bids will not be accepted.

1.05 BIDDER REPRESENTATIONS

Each Bidder by submitting his Bid represents that:

- A. Bidder has read and understands the Bidding Documents and his Bid is made in accordance therewith; and Bidder agrees to be bound by the terms and requirements set forth in the Bidding and Contract Documents;
- B. Bidder has visited the site, has familiarized himself with the local conditions under which the Work is to be performed in accordance with Paragraph 1.08 of the Information for Bidders and has correlated his observations with the requirements of the proposed Contract Documents;
- C. The Bid is based upon the materials, systems and equipment required by the Bidding Documents without exception; and
- D. Bidder has the capability, in all respects, and the moral and business integrity, reliability, technical ability, financial resources, plant, management, superintendence, equipment and materials which will assure effective and efficient good faith performance in full compliance with the Contract Documents and with any and all schedules and Milestone and Completion dates required by SCPS. The Bidder acknowledges and represents that he has made allowances for normal inclement weather indigenous to the Project Site, in his estimating, planning, and scheduling of the Work. The Bidder further acknowledges that the Contract Documents are, in his opinion, appropriate and adequate for completing this project and for the construction of sound and suitable work. The Bidder hereby certifies that the work shall be completed, in place, in full accordance with the Contract Documents, within the time limits specified.

1.06 BID SECURITY

Section 00 20 00

- A. Each Bid in excess of \$100,000 must be accompanied by (1) Irrevocable Letter of Credit; or (2) a Cashier's Check or a Certified Check from the Bidder in an amount not less than five percent (5%) of the Bid, made payable to Stafford County Public Schools; or (3) a Bidder's Bond on the Bid Bond Form provided herein or on a similar form which in every respect materially complies with said Bid Bond Form, in the amount of five percent (5%) of his Bid; or (4) a cash escrow in the face amount required for by the bond with a lending institution insured by the FDIC . The Bidder's Bond shall be issued by a surety company licensed to conduct business in Virginia and acceptable to SCPS.
- B. Said Bid security is given as a guarantee that the Bidder will enter into a Contract if awarded the work and, in the case of the Successful Bidder's refusal or failure to execute the Contract within thirty (30) days after he has received notice of the acceptance of his bid, shall forfeit to SCPS the security deposited with his bid. Such security shall be returned to all but the three (3) lowest Bidders within three (3) days after the opening of Bids and the remaining security will be returned within forty-eight (48) hours after SCPS and the Successful Bidder have executed the Contract. If no Contract has been awarded or the Bidder has not been notified of the acceptance of his Bid, within one hundred twenty (120) days of the Bid opening, the Bidder may withdraw his Bid and request the return of his Bid security. If, at SCPS's request, the Bidder agrees to extend and maintain his Bid beyond the specified ninety (90) days, his Bid security will not be returned.

1.07 SITE CONDITIONS AND CONDITIONS OF WORK

- A. Each Bidder shall acquaint himself thoroughly as to the character and nature of the work to be done. Each Bidder furthermore shall make a careful examination of the site of the work and inform himself fully as to the difficulties to be encountered in the performance of the work, the facilities for delivering; storing and placing materials and equipment, and other conditions relating to construction and labor.
- B. No plea of ignorance of conditions that exist prior to submission of bids, or may hereafter exist on the site of the work subsequent to the Notice to Proceed, or difficulties that may be encountered in the execution of the work, as a result of failure to make necessary investigations and examinations, will be accepted as an excuse for any failure or omission on the part of the successful Bidder to fulfill in every detail all the requirements of the Contract Documents and to complete the work for the consideration set forth therein, or as a basis for any claim whatsoever.
- C. Insofar as possible or as required by the Contract Documents, the Successful Bidder, in carrying out his work, must employ such methods or means as will not cause interruption of or interference with the work of SCPS or any separate contractor.

1.08 BIDDERS' QUESTIONS, ADDENDA AND INTERPRETATIONS

- A. Bidders and Sub-bidders shall promptly notify SCPS of any ambiguity, inconsistency or error that they may discover upon examination of the solicitation and Contract Documents or of the site and local conditions. No interpretation of the meaning of the contract documents will be made to any Bidder orally.

- B. Every request for such interpretation should be in writing addressed to SCPS, and to be given consideration must be received at least seven (7) days prior to the date fixed for the opening of the Bids. Emailed requests are acceptable and preferred. Emails are to be sent to the Procurement team, at Procurement@staffordschools.net.
- C. Any and all such interpretations and any supplemental instructions will be in the form of written Addenda to the Bidding Documents which, if issued, will be available on [eVA, the Commonwealth of Virginia's e-procurement system](http://www.eva.virginia.gov) at (www.eva.virginia.gov). SCPS will not be responsible for any other explanations or interpretations of the proposed documents. Failure of any Bidder to receive any such Addendum or interpretation shall not relieve any Bidder from any obligation under his Bid as submitted. All Addenda so issued shall become part of the Contract Documents.
- D. If the Bidder (or any person bidding to Bidder and/or subsequently in contract with the Bidder, relating to the subject project) knows, or should have known, that an ambiguity, discrepancy, error, omission or conflicting statement exists in the Bidding or Contract Documents, said Bidder (or sub-bidder) has an obligation to seek a written clarification thereof from SCPS prior to Bid. SCPS will welcome such a written clarification request, and, if deemed necessary by SCPS, SCPS will issue a written Addendum clarifying the matter in question. Should the Bidder fail to seek such a clarification prior to Bid, Bidder thereby waives, and agrees to indemnify and hold SCPS and Architect/Engineer harmless from, any claim, suit or cause of action arising out of or related to such ambiguity, discrepancy, error, omission or conflicting statement which the Bidder (and any person bidding to Bidder and/or subsequently in contract with Bidder, relating to the subject project) knew or should have known existed at the time of Bid.
- E. Each Bidder shall ascertain prior to submitting his Bid that he has received all Addenda issued, and he shall acknowledge receipt and inclusion in his bid of all Addenda.
- F. It is SCPS's intent that this Invitation for Bid (IFB) permits competition. It shall be the bidder's responsibility to advise the SCPS Procurement Office, in writing via email to procurement@staffordschools.net, if any language requirement, specification, etc. or any combination thereof, inadvertently restricts or limits the requirements stated in this IFB to a single source. Such notification must be received by SCPS no fewer than fifteen (15) calendar days prior to the date set by this IFB for receipt of bids by SCPS.

1.09 SECURITY FOR FAITHFUL PERFORMANCE

For bids exceeding \$100,000, the Successful Bidder shall furnish a Performance Bond in an amount equal to one hundred percent (100%) of the Contract Sum as security for the faithful performance of this Contract, and also a Labor and Material Payment Bond in an amount not less than one hundred percent (100%) of the Contract Sum, as security for the payment of all persons performing labor and furnishing materials under this Contract. The Performance Bond and the Labor and Material Payment Bond shall be in separate instruments acceptable to SCPS, in accordance with State law and shall be delivered to SCPS not later than the date of execution of the Contract. The surety shall be such surety company or companies that are acceptable to SCPS and that are authorized to transact business in the Commonwealth of Virginia.

1.10 TIME FOR COMPLETION, LIQUIDATED DAMAGES FOR NONCOMPLETION

- A. The time for completion of this Contract shall be as fixed in the Bid Form. Unless otherwise specified in Section 00 52 00 - Owner-Contractor Agreement.
- B. It is the intent of SCPS to execute a Contract with the successful Bidder within one hundred twenty (120) days after receiving Bids.

1.11 LOCATION OF WORK

- A. The site of the proposed work is on SCPS owned property, public streets, easements and/or other right of ways, as shown on the drawings.

1.12 LIABILITY INSURANCE AND WORKERS' COMPENSATION

- A. The Successful Bidder will be required to carry public liability and workers' compensation and other insurance in the amount and under the terms stipulated in the General Conditions.

1.13 BIDDERS REFERRED TO LAWS

- A. The Successful Bidder shall comply with all applicable laws, statutes, codes, building codes, rules, regulations and lawful orders of all governmental, public and quasi-public authorities and agencies having jurisdiction of the Work, the Project and the Site.
- B. The provisions of this contract shall be interpreted in accordance with the laws of the Commonwealth of Virginia and in accordance with the laws, ordinances, regulations, permits and resolutions of Stafford County and SCPS.

1.14 TAXES

All applicable Federal, State and Local Taxes shall be included in the Bidder's bid .
The Successful Bidder shall pay all sales, consumer, use and other similar taxes for the Work provided by the Successful Bidder which are legally enacted at the time bids are received. SCPS is exempt from the payment of federal excise and state taxes. Therefore, prices bid by Bidders to SCPS must be net, exclusive of taxes. In other words, SCPS pays sales tax on goods and materials incorporated into the Work; however, SCPS does not pay sales tax on the value of the construction contract or subcontracts.

1.15 RIGHT TO REJECT BIDS

- A. SCPS expressly reserves the right to reject any or all Bids, to waive any informalities in the Bids received, and to accept that Bid which, in its judgment, best serves the interest of SCPS.

1.16 EQUAL PRODUCTS AND SUBSTITUTIONS

- A. Unless otherwise provided in the Contract Documents, the naming of a certain brand, make or manufacturer or article, device, product, material, fixture, form or type construction by name, make or catalog number, shall convey the general style, type,

character and standard of quality of the article desired and shall not be construed as limiting competition. Any Bidder, in such cases, may, with SCPS approval, use any article, device, product, material, fixture, form or type of construction which in the judgement of the Architect/Engineer/Construction Manager (A/E/CM) and SCPS is equal to and/or will serve as a substitution for that specified considering quality, workmanship, economy of operation, suitability for the purpose intended, and acceptability for use on the project. Approval of equal and/or substitute products by SCPS prior to bid opening will be in the form of an Addendum to the Specifications issued to all prospective Bidders indicating that the additional makes or brands are equivalent to and/or are acceptable substitutes to those specified.

B. Equal Products and Substitutions Prior to Bid Opening:

1. To obtain such approval of makes or brands of materials other than those specified in Contract Documents, the Bidder shall submit the Bidder's Request for Equal and/or Substitute Product Approval and Bidder's Representation Form with adequate supporting technical data, as required below, to SCPS Procurement at procurement@staffordschools.net not less than fifteen (15) calendar days before the bid opening. This form is located in Section 00 41 00 – Bid Form.
2. The Bidder's request for approval of any equal and/or substitute product shall include:
 - a. Itemized comparison of proposed equal and/or substitute product with product or method specified;
 - b. Product identification, including manufacturer's name, address and phone number,
 - c. Manufacturer's literature showing complete product description, performance and test data, and all reference standards,
 - d. Samples and colors in the case of articles or products,
 - e. Name and address of similar projects on which the product was used and date of installation,
 - f. For construction methods, include a detailed description for proposed method and drawings illustrating same, and
3. If an equal and/or substitute product is approved by an Addendum, any bidder that submits a bid that will use the pre-approved equal and/or substitute product must submit a Bidder's Notice to Use Pre-Approved Equal and/or Substitute Product(s) form with his bid.

C. The decision of SCPS regarding the approval of items as equal products will be final.

D. A change in brand or make from the originally specified item or product may also be considered if satisfactory written evidence is presented to the A/E/CM and approved by

SCPS that the original manufacturer cannot make scheduled delivery of the approved item.

- E. The Bidder may request approval for equal products after award of the Contract in accordance with the provisions of the General Conditions.
- F. Equal products will not be considered for approval by SCPS prior to or after award of the Contract if acceptance of the proposed equal product will require substantial design revisions to the Contract Documents or is otherwise not acceptable to SCPS or A/E/CM.
- G. Equal products will not be considered for approval by SCPS after award of the Contract if the proposed item is indicated or implied on shop drawings or product data submittals and has not been formally submitted for approval by the Bidder in accordance with the above stated requirements.
- H. Bidders, other than the bidder who requested a particular equal product, that choose to utilize that equal product, as approved by Addendum, shall comply with the Bid Form submittal requirements of Article 1.16, subparagraph B.3 herein. All provisions herein and in the General Conditions regarding the use of said equal product shall apply to all Bidders who choose to utilize said equal product.

1.17 PREPARATION AND SUBMITTAL OF BID FORM:

- A. Bids shall be submitted utilizing the Section 00 41 00 – Bid Form as found herein, or otherwise provided with the Contract Documents, and shall be complete in every respect. The total Bid amount shall be entered in words and figures in the space provided along with any Additive and/or Deductive Bids, if applicable. Where applicable, the unit price or lump sum items, and their extensions shall be entered in figures in the respective columns provided for each Bid item. All entries shall be typewritten or printed in ink. The signatures of all persons shall be in longhand. Any entry of amount that appears on the face of the Bid to have involved an erasure, deletion, whiteout and/or substitution or other such change or alteration shall show by them the initials of the person signing the Bid and the date of the change or alteration. A failure to comply with this requirement may be cause for disqualification of the Bid.
- B. For Unit Price Bids, in the event of any discrepancies between the unit prices and the extensions thereof or the total bid amount, the unit price shall govern. For Lump Sum Bids, in the event of a discrepancy between the amount in writing and that in figures, the written value shall govern.
- C. Bids shall not contain any restatement or qualifications of work to be done and Additive and Deductive Bids will not be considered unless called for. No oral, telephonic, faxed and/or emailed Bids or modifications will be considered.
- D. Bids shall be delivered to SCPS on or before the day and hour set for the receipt of bids, enclosed in a sealed envelope clearly marked as described in 1.01.B.
- E. Each bidder is and shall be subject to the provisions of the Virginia Governmental Frauds Act, Virginia Code, Title 18.2, Chapter 12, Article 1.1. In compliance with this law, each

bidder is required to submit a certification that its bid, or any claim resulting therefrom, is not the result of, or affected by, any act of collusion with another person engaged in the same line of business or commerce, or any act of fraud punishable under the Act. Any bidder who knowingly makes a false statement on the Certificate of No Collusion shall be guilty of a felony, as provided in Virginia Code § 18.2-498.1, et seq.

1.18 MODIFICATION OR WITHDRAWAL OF BID

- A. A Bidder may withdraw his Bid from consideration after bid opening if the price Bid was substantially lower than the other Bids due solely to a mistake therein, provided the Bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the Bid sought to be withdrawn. The Bidder shall give notice in writing of his claim of right to withdraw his bid within two (2) business days after the conclusion of the bid opening procedure.
- B. Prior to the time and date designated for receipt of Bids, any Bid submitted may be modified or withdrawn by notice to the party receiving Bids at the place designated for receipt of bids. Such notice shall be in writing over the signature of the Bidder or by email to procurement@staffordschools.net; if by email, written confirmation over the signature of the Bidder shall be mailed and postmarked on or before the date and time set for receipt of Bids, and it shall be so worded as not to reveal the amount of the original bid.
- C. Withdrawn Bids may be resubmitted up to the time designated for the receipt of Bids provided that they are then fully in conformance with this Information for Bidders.
- D. Bid security, if any is required, shall be in an amount sufficient for the Bid as modified or resubmitted.
- F. A decision denying withdrawal of Bid pursuant to this Article 1.19 shall be final and conclusive unless the Bidder appeals the decision within ten (10) days after receipt of the decision by invoking the procedures specified in Paragraph 1.25 herein.
- G. If, upon appeal, it is determined that the decision refusing withdrawal of the Bid was arbitrary or capricious, the sole relief shall be withdrawal of the Bid and return of his bid security.

1.19 SAFETY

- A. **It shall be required that each bid submitted** to SCPS for a contract for construction, alteration, and/or repairs, including painting or decorating of a building, highway, street, bridge, sidewalk, culvert, sewer, excavation, grading, or any other construction, include a list of all the following actions which have become final in the three years prior to the bid submission:

- 1. Willful violations, violations for failure to abate, or repeated violations, for which the

- bidder was cited by (a) the United States Occupational Safety and Health Administration; (b) the Virginia Occupational Safety and Health Administration; or (c) the occupational safety and health plan for any other public jurisdiction; or
2. Three (3) or more serious construction safety violations for which the bidder was cited by the (a) United States Occupational Safety and Health Administration; or (b) the Virginia Occupational Safety and Health Administration; or (c) the occupational safety and health plan from any other public jurisdiction.
 3. Termination of a contract between the contractor and any public entity by their purchasing agent or his designee for safety violations.
- B. If the bidder has not received or been the subject of any such violations referenced in paragraph A in the three (3) years prior to the bid submission, then the bidder shall so indicate by certification on the Bid Form entitled Certification of Safety Violations. The bidder will also indicate on this form each state in which work was performed in the three (3) years prior to the bid submission.
- C. No bidder or contractor may bid on a SCPS construction contract who has been the subject of any citations for the type and number of violations listed in aforementioned paragraph A, which have become final within the three (3) years prior to the bid submission.
1. Notwithstanding the language of paragraph C, above, any bidder or contractor who has been the subject of a violation, as described in paragraph A.1, which has become final in the three (3) years prior to the bid submission, may bid, if the bidder or contractor meets the eligibility criteria set forth in paragraph E, below.
 2. Notwithstanding the language of paragraph C, above, any bidder or contractor who has been the subject of the type and number of violations as described in paragraph A.2, which have become final within three (3) years prior to bid submission, may bid, if the bidder or contractor meets the eligibility criteria in paragraph E, below.
 3. Notwithstanding the language of paragraph C, above, any bidder or contractor who has previously been terminated from a public contract, as described in paragraph A.3, within three (3) years prior to the bid submission, may bid, if the bidder or contractor meets the eligibility criteria in paragraph E, below.
- D. Prior to bidding on a project, under the provisions of paragraph C above, a contractor may request that a determination be made by SCPS's Assistant Superintendent of Finance and Administration, regarding their eligibility to submit a bid on a contract. However, this request for determination and any subsequent adjudication process must be completed prior to submitting a bid on any project and the request for determination must be received by SCPS's Assistant Superintendent of Finance and Administration no later than twenty-one (21) days before bids are due unless otherwise stated in the Invitation to Bid. A notice of the bidder's request for determination of eligibility will be posted publicly for comments by any interested party. The bidder's request for determination of eligibility and all supporting documentation provided by the bidder to SCPS in support of its request shall be open to the inspection of any interested person, firm or corporation in accordance with the requirements of the Virginia Freedom of Information Act.

- E. At the request of the Assistant Superintendent of Finance and Administration or designee, SCPS shall evaluate a contractor's eligibility. Contractors may be subject to a special audit of their safety records as required. The criteria used by SCPS in evaluating contractor's eligibility shall include but not be limited to the following:
1. Corrective action taken by a bidder or contractor to prevent the recurrence of safety violations.
 2. Days Away From Work Incident Rate for the past three (3) years.
 3. Summary of Work-Related Injuries and Illnesses/Incident Rate for the past three (3) years.
 4. Worker's Compensation Experience Modification Rating for the past three (3) years.
 5. Fatality record for the past five (5) years.
 6. Detailed information regarding the firm's safety program including but not limited to a Safety and Health plan and qualifications of the safety personnel.
 7. Verification that management staff directly in charge of projects that experienced safety violations listed in aforementioned paragraph A will not be involved in SCPS project.
 8. Incorporation of safety and health related issues into their new employee orientation programs.
 9. Incorporation of work safety as a part of an employee's performance evaluation.
 10. Support of safety related matters by senior/corporate management. Does the firm have a safety policy statement signed by a member of senior/corporate management?
 11. Designation of a full time Safety Manager. Does this person report to a high level, authoritative position within the Company?
 12. Frequency and type of safety inspections conducted at work sites.
 13. The number and type of safety training programs conducted for employees.
 14. Frequency of safety "tailgate meetings" conducted by the firm.
 15. Designation of an active safety committee, frequency of their meetings and list of members of the committee.
 16. Active membership in a recognized construction safety organization.
- F. The determination of eligibility rendered by the Assistant Superintendent of Finance and Administration or his designee shall be final unless it is appealed within 10 days to the SCPS Superintendent in accordance with Article 1.25.

- G. It shall be a condition of each SCPS construction contract, as discussed above, that no contractor or subcontractor contracting for any part of the contract work shall require any laborer, mechanic, or other person employed in the performance of the contract to work in surroundings or under working conditions which are hazardous or dangerous to his safety, as determined under construction safety standards promulgated by the U.S. Department of Labor or the Virginia Department of Labor and Industry.
- H. The contractor awarded a SCPS construction contract shall certify in writing that they will not knowingly, willfully, or recklessly employ or contract with any person, company, corporation, or any other entity for services pursuant to that contract if such person, company, corporation, or other entity could not have been awarded such contract due to the restrictions in paragraph C, above.
- I. The contractor shall also certify in writing that all safety related information provided in accordance with this Article 1.20 is complete, accurate and truthful.
- J. The failure to provide information requested pursuant to this Article 1.20 or the failure to conform to the certification requirements of this Article 1.20 shall be grounds for declaring a bidder non-responsive.
- K. SCPS may impose the following sanctions upon a contractor who willfully submits any false or misleading certification or information regarding material facts in connection with submissions pursuant to this Article 1.20, or willfully omits any certification or information regarding material facts. The term willful shall include intentional or reckless acts or omissions.
 - (1) Disqualify the prospective bidder from bidding a contract.
 - (2) Debar the contractor from bidding future contracts for a period not to exceed three years.
 - (3) Terminate the contract awarded to the bidder after providing notice and opportunity to be heard.

1.20 AWARD OF CONTRACT

The Contract will be awarded to the lowest responsive and responsible Bidder.

- A. The low Bidder, for purposes of award, shall be the responsive Bidder offering the lowest aggregate amount for the base bid item, plus additive or deductive bid items in the order listed, within funds available for the project.

When it appears that funds available for a project may be insufficient for all the desired features of construction, SCPS may provide in the Invitation for Bids for a base bid item covering the work generally as specified and one or more additive or deductive bid items progressively adding or omitting specified features of the work in a stated order of priority. In such case, SCPS, before the opening of bids, shall record in the contract file the amount of funds available for the project.

- B. A Responsive Bidder shall mean a Bidder who has submitted a Bid which conforms, in all material respects, to the Bidding Documents.
- C. A Responsible Bidder shall mean a Bidder who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance, and who has been prequalified, if required. In determining responsibility, the following criteria will be considered:
 - 1. The ability, capacity and skill of the Bidder to perform the contract or provide the service required;
 - 2. Whether the Bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
 - 3. The character, integrity, reputation, judgment, experience and efficiency of the Bidder;
 - 4. The quality of performance of previous contracts or services. For example, the following information will be considered:
 - a. The administrative and consultant cost overruns incurred by SCPS on previous contracts with Bidder,
 - b. The Bidder's compliance record with contract general conditions on other projects,
 - c. The submittal by the Bidder of excessive and/or unsubstantiated extra cost proposals and claims on other projects.
 - d. The Bidder's record for completion of the work within the Contract Time or within Contract Milestones and Bidder's compliance with scheduling and coordination requirements on other projects,
 - e. The Bidder's demonstrated cooperation with SCPS, Architect/Engineer and other contractors on previous contracts,
 - f. Whether the work performed and materials furnished on previous contracts was in accordance with the Contract Documents; and
 - g. Whether the work performed on other contracts was of high quality.
 - 5. The previous and existing compliance by the Bidder with laws and ordinances relating to contracts or services;
 - 6. The sufficiency of the financial resources and ability of the Bidder to perform the contract or provide the service;
 - 7. The quality, availability and adaptability of the goods or services to the particular use required;
 - 8. The ability of the Bidder to provide future maintenance and service for the warranty period;
 - 9. The number and scope of the conditions attached to the bid;

10. Whether the Bidder is in arrears to SCPS on debt or contract or is a defaulter on surety to SCPS or whether the Bidder's Stafford County taxes or assessments are delinquent; and
 11. Such other information as may be secured by SCPS, having a bearing on the decision to award the contract, to include, but not limited to:
 - a. The ability, experience and commitment of the Bidder to properly and reasonably plan, schedule, coordinate and execute the Work,
 - b. Whether the Bidder has ever been debarred from bidding or found ineligible for bidding on any other projects.
 - D. The purpose of the above is to enable SCPS, in its opinion, to select the Bid which is in the best interests of SCPS. The ability of the low Bidder to provide the required bonds will not of itself demonstrate responsibility of the Bidder.
 - E. SCPS reserves the right to require from the Bidder: (1) submissions of references, to include a listing of previous and current projects and (2) financial statements indicating current financial status prepared in accordance with generally accepted accounting principles, by a CPA licensed to do business in Virginia, and any other pertinent information SCPS deems, in its own discretion, that it needs to evaluate the responsibility of a bidder. Failure to provide the requested information by the deadline set by SCPS may result in SCPS declaring the bidder non-responsive.
 - G. SCPS reserves the right to defer award of this Contract for a period of ninety (90) days after the due date of Bids. During this period of time, the Bidder shall guarantee the prices quoted in his bid.
 - H. Public notice of the award of this contract, or the announcement of the decision to award this contract, shall be given in the following manner: posting of a written notice on the [Commonwealth of Virginia's electronic procurement system, eVA](#).
- 1.21 APPEAL OF DETERMINATION OF NONRESPONSIBILITY
- A. If SCPS determines that the apparent low bidder is not responsible, SCPS shall proceed as follows:
 1. Prior to the issuance of a written determination of non-responsibility, the SCPS Director of Procurement shall (i) notify the apparent low bidder in writing of the results of the evaluation, (ii) disclose the factual support for the determination, and (iii) allow the apparent low bidder an opportunity to inspect any documents that relate to the determination, if so requested by the bidder within five (5) business days after receipt of the notice.
 2. Within ten (10) business days after receipt of the notice, the bidder may submit rebuttal information to the SCPS Director of Procurement challenging the evaluation. The Assistant Superintendent of Finance and Administration shall evaluate the information, and issue his written determination of responsibility based on all information in the possession of SCPS, including any rebuttal information, within five (5) business days of

the date SCPS receives the rebuttal information. At the same time, SCPS shall notify, with return receipt requested, the bidder in writing of its determination.

3. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten (10) days after receipt of the notice by invoking administrative procedures meeting the standards of Va. Code § [2.2-4365](#), if available, or in the alternative by instituting legal action as provided in Va. Code § [2.2-4364](#).

The provisions of this subsection shall not apply to procurements involving the prequalification of bidders and the rights of any potential bidders under such prequalification process to appeal a decision that such bidders are not responsible.

- B. If, upon appeal to the SCPS Superintendent or designee, it is determined that the decision of the Assistant Superintendent of Finance and Administration was arbitrary or capricious, or otherwise in error and the award for the particular SCPS contract in question has not been made, the sole relief available to the Bidder shall be a finding that the Bidder is a responsible Bidder for SCPS contract in question. Where the award has been made and performance has begun, SCPS may declare the contract void upon a finding that this action is in the best interest of SCPS. Where a Contract is declared void, the performing Contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing Contractor be entitled to lost profits.
- C. A bidder contesting a determination that he is not a responsible bidder for a particular contract shall proceed under this section, and may not protest the award or proposed award under the provisions of Va. Code § [2.2-4360](#).
- D. Nothing contained in this section shall be construed to require a public body, when procuring by competitive negotiation, to furnish a statement of the reasons why a particular bid was not deemed to be the most advantageous.

1.22 PROTEST OF AWARD OR DECISION TO AWARD

- A. Any Bidder or offeror may protest the award or decision to award a contract by submitting a protest in writing to the Assistant Superintendent of Finance and Administration, SCPS, or other official designated by the SCPS, no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first; provided, however, that no protest shall lie for a claim that the selected Bidder or offeror is not a responsible Bidder or Offeror. The written protest shall include the basis for the protest and the relief sought. The Assistant Superintendent of Finance and Administration shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the Bidder or Offeror appeals to the Superintendent within ten (10) days of receipt of the written decision as provided in 1.23.
- C. If prior to award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The Assistant Superintendent of Finance and Administration shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a Contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the Contract may be declared void by

SCPS. Where the award has been made and performance has begun, the Assistant Superintendent of Finance and Administration may declare the Contract void upon a finding that this action is in the best interest of SCPS. Where a Contract is declared void, the performing Contractor shall be compensated for the cost of performance at the rate specified in the Contract up to the time of such declaration. In no event shall the performing Contractor be entitled to lost profits.

- C. Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this Article 1.24 shall not be affected by the fact that a protest or appeal has been filed.
- D. An award need not be delayed for the period allowed a Bidder or Offeror to protest, but in the event of a timely protest, no further action to award the Contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

1.23 ADMINISTRATIVE APPEALS PROCEDURE

A bidder electing to appeal the written decision of the Assistant Superintendent of Finance and Administration may do so within ten (10) days of the receipt of the written decision by submitting his appeal to the Superintendent. The Superintendent shall conduct a hearing conforming to the requirements of the Code of Virginia, § 2.2-4365. The decision of the Superintendent shall be final unless appealed to the circuit court of the County within thirty (30) days of receipt of the written decision. Legal actions shall comply with Va. Code § 2.2-4364.

1.24 NEGOTIATION WITH LOWEST RESPONSIBLE AND RESPONSIVE BIDDER

- A. SCPS reserves the right to waive informalities, and to reject any and all bids. If the bid from the lowest responsible bidder exceeds available funds, SCPS reserves the right to negotiate with the apparent low bidder to obtain a Contract Price within available funds. If, upon review of the lowest responsible bid, it is determined, in writing, by SCPS that sufficient funds are not currently budgeted in the Project to award this contract and it is in SCPS's best interest to proceed with the construction of the Project without delay, SCPS may review the plans and contract documents to determine, in writing, possible areas of modification or reduction which can be made without significantly affecting the scope of the project. Upon determination that such areas may exist, SCPS shall notify the lowest responsive and responsible bidder of SCPS's decision to exercise its option under this provision and request an interview with the apparent low bidder or his designee. If a satisfactory bid price is obtained, SCPS shall then enter into a contract as modified during the negotiation session(s).
- B. If a satisfactory price cannot be agreed to, then negotiations shall be terminated, all bids rejected and, if the requirement is still valid, the project shall be re-advertised.

1.25 FAITH-BASED CLAUSE

- A. This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia Section 2.2-4343.1 or against a Bidder or Offeror because of race,

religion, color, sex, national origin, age, disability or any other prohibited by state law relating to discrimination in employment.

1.26 USE OF CONTRACT BY OTHER GOVERNMENT ENTITIES- OMITTED

1.27 DEBARMENT

By submitting a Bid, the Bidder is certifying that he is not currently debarred by SCPS, the Commonwealth of Virginia, the federal government or any other public body in or outside of Virginia. SCPS's debarment procedure is in accordance with Section 2.2-4321 of the Code of Virginia.

1.28 BIDDER DISCLOSURE

Each Bidder or Offeror shall certify, upon signing a Bid or Proposal, that to the best of his knowledge no SCPS official or employee having official responsibility for the procurement transaction, or member of his/her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this Contract. If such a benefit has been received or will be received, this fact shall be with the Bid or Proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the Contract made, or could affect payment pursuant to the terms of the Contract.

1.29 PROOF OF AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA

A Bidder or Offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia shall include in its Bid or Proposal the identification number issued to it by the [Virginia State Corporation Commission](#). Any Bidder or Offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law shall include in its Bid or Proposal a statement describing why the Bidder or Offeror is not required to be so authorized. Any Bidder or Offeror described herein that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this Article is granted by the SCPS Superintendent.

1.30 IMMIGRATION REFORM AND CONTROL ACT OF 1986

By accepting a Contract award, Bidder certifies that it does not and will not during the performance of this Contract violate the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits the employment of illegal aliens.

1.34 PUBLIC INSPECTION, BIDS AND PROPOSALS

A. Except as provided herein, or by applicable law, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person in accordance with the Virginia Freedom of Information Act and the Virginia Public Procurement Act.

B. Cost estimates relating to a proposed procurement transaction, prepared by or for SCPS, shall

not be open to public inspection.

- C. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that SCPS decides not to accept any of the bids and to reopen the contract, postpone the contract or not contract at all. Otherwise, competitive sealed bid records shall be open to public inspection only after award of the contract.
- D. Any inspection of procurement transaction records shall be subject to reasonable restrictions to ensure the security and integrity of the records.
- E. Trade secrets or proprietary information submitted by a bidder in connection with this procurement transaction shall not be subject to the Virginia Freedom of Information Act, but only if the bidder (i) invokes the protections of Virginia Code §2.2-4342 prior to or upon submission of the data or other materials; (ii) identifies the specific data or other materials to be protected, and (iii) states the reasons why protection is necessary. A general designation of a contractor's entire bid submission as being "confidential" shall not be sufficient to invoke the protections referenced above. SCPS will not be liable for any damages sustained by a bidder or offeror who fails to follow the procedures designated by Virginia Freedom of Information Act and the Virginia Public Procurement Act as a prerequisite to protection of trade secrets or proprietary information.

1.35 BIDDER INTERESTED IN MORE THAN ONE BID

If more than one bid or proposal is offered by any one party, either directly or by or in the name of his or her clerk, partner or other persons, all such bids or proposals may be rejected. A person who has quoted prices on work, materials or supplies to a bidder or offeror is not thereby disqualified from quoting prices to other bidders or offerors submitting a bid.

1.36 WAIVER OF INFORMALITIES

SCPS may waive any informalities in bids, whenever, in the sole discretion of the SCPS, such waiver is in the best interests of the SCPS.

1.37 CONTRACTOR'S FORM/BOILERPLATE CONTRACTS

All written agreements, contracts, service agreements, account applications, forms and other documents, of any nature, that the Contractor would require the SCPS to sign in connection with any contract resulting from this procurement transaction, or the performance thereof by the Contractor, must be submitted along with the Contractor's bid. Under no circumstances shall SCPS be required to agree to any contractual provision (i) that would materially conflict with any provision of this Invitation for Bids, (ii) that would affect the price, quality, quantity or delivery schedule for any goods or services, or (iii) that would, in the SCPS's sole discretion, materially alter the overall combination of quality, price and various elements of required services that in total are optimal relative to the SCPS's needs; or (iv) that would violate or contradict the Virginia Public Procurement Act, and the Contractor shall not condition its performance or delivery upon any such agreement by SCPS.

END OF SECTION