



ALBUQUERQUE PUBLIC SCHOOLS

Procurement Division

Winston Brooks
SUPERINTENDENT

Mark Heckart, CPM
DIRECTOR/PROCUREMENT OFFICER

September 19, 2011

BID: 12-021RR-MC Re-Bid of Cleaning Services on Demand
for APS

DATE: October 12, 2011

TIME: 10:00 a.m.

LOCATION: Albuquerque Public Schools
(Address for Procurement Department
Hand or Courier 6400 Uptown Blvd NE, Suite 600W
Delivery) Albuquerque, NM 87110

U.S. MAIL Albuquerque Public School
DELIVERY: Procurement Department
P.O. Box 25704
Albuquerque, NM 87125
**(Allow appropriate time for delivery to the Procurement
Department location before the deadline time and date.)**

CONTACT: Robert C. Russell, District Buyer
Russel r@aps.edu (505) 878-6123

SPECIAL INSTRUCTIONS: Complete Bid/RFP documents as required. Your response must be received in the APS Procurement Department prior to the specified date and time regardless of delivery option selected. **Late bids are not accepted and will be returned un-opened.** To ensure proper identification and handling, clearly indicate the Bid/Proposal Number and the Opening Date and Time on the outside of the sealed response envelope.

MC

BID NO. 12-021RR-MC

RE-BID OF CLEANING SERVICES ON DEMAND FOR ALBUQUERQUE PUBLIC SCHOOLS

INTENT: Albuquerque Public Schools (APS) invites you to re-bid on **Cleaning Services on Demand** for the Albuquerque Public Schools in accordance with the attached specifications.

INFORMATION FOR BIDDERS

1. **Contract Documents:** The bidding information included in this packet and listed below constitutes the contract documents. The bidder's signature signifies his full understanding of the terms and conditions of this bid. The award of the contract shall be made by a Purchase Order issued by APS to the contractor and shall bind the contractor to the terms of the contract documents.

- Information for Bidders
- General Terms and Conditions
- General Conditions
- General Requirements
- Pricing
- Conflict of Interest and Debarment/Suspension Certification Form
- Terms and Conditions (Signature Page)

Preparation of Bids: Each bid must be submitted on the prescribed form. All blank spaces for bid prices must be filled in with ink or typewritten. Corrections shall be initialed in ink by the person signing the bid. Each bid must be submitted in a sealed envelope bearing on the outside the name and address of the bidder and the bid number as listed on the Bid Invitation. Improper identification may result in premature opening of, or failure to open bid. **An authorized representative of the company must sign all bids. Bids not signed will be considered as non-responsive and rejected.**

2. **Receipt and Opening of Bids:** Bids must be prepared and submitted in accordance with the provisions hereof. APS reserves the right to reject all bids if all bids exceed the available funds. Any bid may be modified or withdrawn prior to the scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the specified time for the opening of bids shall not be considered.

Procurement law requires sealed bids or proposals. Therefore, APS cannot accept bids, which are transmitted using facsimile equipment. This may not apply to amendments or addenda, which do not refer to pricing, or to the transmittal of supplemental product literature, drawings, and the like. Please refer the specific situation to the buyer for clarification before processing.

3. **Qualifications of Bidder:** APS may make such investigations as necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish all such information and data for this purpose as APS may request. APS reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy APS that such bidder is qualified to carry out the obligations of the contract and to complete the work described therein.

Bidder shall also construe this provision to incorporate any necessary investigation and/or monitoring during the life of the contract to enforce any current policy of the Board of Education such as, but not limited to, no smoking or alcoholic beverages on APS property. As a general rule, any such regulation or law that applies to APS personnel shall be deemed to be in force for contractor's work force occupying any work site.

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INFORMATION FOR BIDDERS CONTINUED

4. **Familiarity with Conditions:** Clarification of bidding procedures may be made by contacting APS Procurement Division, Robert C. Russell, Buyer, telephone number (505) 878-6123; for clarifications of the specifications or other technical aspects of this bid may be made by contacting Fred Montano, telephone number (505) 765-5950 ext. 205. **Bidders must have acquainted themselves with all conditions affecting this contract before submitting a bid.** No claim shall be made nor will one be allowed the contractor for negligence, misunderstanding, or error in this regard.

Bidders shall carefully examine the proposed contract documents to obtain first-hand knowledge of all proposed work. Contractors will not be entitled to any additional compensation or any extension of the contract time for conditions which can be determined by examining current work requirements and the proposed contract documents. Submission of a bid constitutes a representation by the bidder that the bidder has made all appropriate examinations, investigations and analysis and has made provision as to the cost thereof in his bid.

5. **Conditional Bids:** Bids in which acceptance is in some manner restricted or conditioned by the bidder will be reviewed by APS. If the limitations imposed are not in the best interest of APS or are prejudicial to other bidders, bid will be rejected.
6. **Multiple Offers:** APS will not select from multiple offers on a single document. If bidder offers more than one brand and/or price per item, the (1) as specified or the (2) most expensive will be considered as the primary bid. Other offers will not be evaluated unless the primary bid is low in its own right. If you wish to offer an alternate bid in addition to your regular bid, make extra copies of the necessary pages (including the signature pages) and submit as Bid #2. Each bid must stand-alone and comply with the terms and conditions of the contract.
7. **Records:** Records shall be maintained by the contractor in compliance with municipal, federal, or state laws, ordinances, codes, and this contract. At any time during normal business hours and as APS may deem necessary, there shall be made available to APS for examination all of contractor's records with respect to all matters covered by this agreement. APS may audit, examine and/or make excerpts or transcripts from such records including but not limited to invoices, materials, payrolls, records of personnel, conditions of employment or any other such data as may be pertinent.
8. **Awards:** APS reserves the right 1) to award bid received on the basis of individual items, or groups of items, or on the entire list of items; 2) to reject any or all bids or any part thereof; 3) to waive any informality in the bids; and 4) to accept the bid that is in the best interest of APS. Bid award will be made to the low responsible and responsive bid taking into consideration prior qualifications and capabilities of the bidder, availability of funds and any other relevant factors. **It is the responsibility of the bidder to inquire as to the status and/or subsequent award of bids.**
9. **Tax Requirements:** APS holds a Class 9 Tax Exemption Certificate and is exempt from payment of taxes on tangible personal property. A NTTC will be issued on request. Bid is for product only.
10. **Protest:** Any bidder, offeror, or contractor who is aggrieved in connection with a procurement may protest to the Procurement Division, Albuquerque Public Schools. The protest shall be submitted in writing fifteen (15) calendar days after the fact or occurrences giving rise thereto.

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INFORMATION FOR BIDDERS CONTINUED

11. **The Procurement Code:** The Procurement Code, Sections 13-1-21 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kickbacks. If your company is approached by any person seeking to receive favors, gratuities, kickbacks, either monetary or in kind, in connection with the performance of this contract, please contact the Purchasing Director at (505) 878-6112 or the Director of Internal Audit at (505) 880-3724.
12. **Promotional Gifts and Activities:** APS policy prohibits the distribution of jackets, shirts, caps or any other clothing items with company or product logo or any other form of advertising to its employees. Furthermore, APS employees are prohibited from entering drawings, contests, or other promotional/advertising activities with vendors or potential vendors in connection with a procurement action.

GENERAL TERMS AND CONDITIONS

The submission of a bid will indicate that the bidder has read the terms and conditions, understands the requirements and that bidder can supply item(s) specified.

It is mutually understood and agreed that the successful bidder(s) shall not assign, transfer, convey, sublet or otherwise dispose of the purchase order, contract, or his right, title, or interest therein, or power to execute such purchase order or contract to any other person, company or corporation without the previous written consent of Albuquerque Public Schools.

Albuquerque Public Schools reserves the right to return supplies which do not meet specifications indicated in Bid at bidder's expense. Bidder guarantees supplies delivered are standard, new, regular stock, and living, as applicable.

Failure to examine any specifications and/or instructions will be at bidder's risk.

GENERAL CONDITIONS

1. **Contract Modification:** No oral statement by any person shall modify or otherwise affect the terms, conditions, specifications, or price agreements stated in this contract. This contract is the final expression of the agreement between parties unless amended in writing by the Procurement Division.

GENERAL CONDITIONS CONTINUED

Contract Modification Continued: Submit all questions about the proposed contract specifications including any discrepancies, omissions, or ambiguities noted by any bidder to the appropriate APS Contact person. If appropriate, APS Procurement Division will issue a written addendum that shall thereafter become part of the bid documents and proposed contract documents. Oral interpretations other than routine clarification and the like, if given shall not be binding unless reduced to a written addendum issued prior to bid opening. All bids shall be responsive to and include any addenda issued prior to bid opening.

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2. **Cancellation:** Failure to comply with the terms of the contract documents and/or unsatisfactory performance on the job will constitute grounds for cancellation of the contract. If, after consultation between APS using departments, APS Procurement Department, and the Contractor, grounds for cancellation still exist, immediate notification of cancellation will be provided in writing by the Procurement Department. Upon such notification, the Contractor shall cease work immediately and shall submit an invoice for work satisfactorily completed to date. No allowance will be made for anticipated profits.

APS may by written notice stating the extent and effective date, cancel the contract for convenience, in whole or in part, at any time. APS shall pay contractor as full compensation for performance until such cancellation (1) the unit or prorated order price for the delivered and accepted portion and (2) a reasonable amount, not otherwise recoverable from other sources by contractor as approved by APS with respect to the undelivered or unaccepted portion of the order; provided compensation shall in no event exceed the total contract price.

3. **Purchase Order and Invoicing Procedures:** Following bid award, a Blanket Purchase Order (BPO) will be issued to the successful bidder(s) on all awarded bid materials for the duration of the contract.

The offeror(s) awarded the contract will submit itemized monthly invoices to the APS Maintenance and Operations, Attention: Support Services, 915 Locust SE, Albuquerque, NM 87106. Each invoice must clearly reference the blanket purchase order number and be submitted in duplicate. The invoices should be submitted at the start of each month for janitorial services provided the previous month.

While APS holds a Class 9 Nontaxable Transaction Certificate and is exempt from payment of taxes on tangible personal property, it does not apply to services rendered as part of this bid. The contractor is responsible for payment of all New Mexico Gross Receipt taxes and any other taxes as a result of this work. Tax rates will fluctuate as required by law and will be shown as a separate amount on each billing or request for payment.

APS will strive to meet or exceed prompt payment terms as may be established by statute. Late payment charges may be assessed on any unpaid balance due over 60 days in arrears at the rate of one and one-half percent (1.5%) per month. APS will not automatically include late charges in your payment. Late charges must be properly documented with separate invoice showing invoice numbers, amount, date and computation to verify charges. Typically our payment schedule will be 30-45 days.

CONTRACTOR RESPONSIBILITIES

The Contractor shall, at his own expense, carry and maintain during the entire performance period of this contract at least the kinds and minimum amounts of insurance listed.

- A. **Workers' Compensation Insurance:** As required by the Labor Laws and the New Mexico Statutes.
- B. **Public Liability Insurance:** In the sum of one hundred thousand dollars (\$100,000) for damage to, loss, or destruction of property arising out of a single occurrence, three hundred thousand dollars (\$300,000) for all medical or medically related expenses arising out of a single occurrence for all damages other than property damage, four hundred thousand dollars (\$400,000) to any person for any number of claims arising out of a single occurrence for all damages other than property damage and medical or medically related expenses, and the sum of seven hundred fifty thousand dollars (\$750,000) for all claims other

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than medical or medically related expenses arising out of a single occurrence as permitted under the Tort Claims Act.

If any policy changes occur during the life of the contract, it is the Contractor's responsibility to provide updated proof of coverage to the APS Procurement Department.

APS will also require employee dishonesty coverage in the amount of \$100,000.00. Provide proof that your company can meet this requirement with the proposal. Offerors not submitting this documentation will be deemed non-responsive and the proposal will not be evaluated.

A current insurance certificate must be provided prior to official award.

The contractor shall take all measures necessary during the course of this contract to protect APS property and shall repair/replace at his own expense and in a manner satisfactory to the Owner any damaged/lost/stolen property.

4. **Prompt Payment:** APS will strive to meet or exceed prompt payment terms as may be established by statute. Late payment charges may be assessed on any unpaid balance over sixty (60) days in arrears at the rate of one and one-half (1.5%) per month. APS **will not** automatically include late charges in your payment. Late charges must be properly documented with separate invoice showing invoice numbers, amount, date, and computation to verify charges. Typically payment schedule will be 30-45 days.

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GENERAL REQUIREMENTS

1. **Scope of Work:** The purpose of this re-bid is to establish pricing for Cleaning Services on Demand. **PLEASE DO NOT BID UNLESS YOU HAVE AUTHORIZATION TO PERFORM CLEANING SERVICES ON DEMAND IN THE STATE OF NEW MEXICO AND ARE A LEGITIMATE REPRESENTATIVE OF THE SERVICE REQUESTED.**

Albuquerque Public Schools (APS) owns facilities throughout Bernalillo County, and the District wishes to contract for cleaning services on demand. This work is supplemental to that performed by APS personnel. The purpose of any contract(s) resulting from this bid is to make facilities suitable for occupancy as soon as possible after an unforeseeable circumstance (vandalism, fire, etc.), or APS may call for cleaning service above and beyond the capacity of APS staff (cleaning gymnasium rafters and windows, cleaning daycare carpets more frequently than APS staff can provide, etc.). APS may also require service to a site which has been vacant for an extended period of time. Offerors should be aware that APS has also recently purchased the City Centre complex at 6400 Uptown Blvd NE.

Offeror will be asked to submit bid pricing and to detail various service methods for APS's evaluation. APS will select the most comprehensive service provider(s) deemed affordable within current budget limitations.

APS has prepared as an attachment a District Map. Bidders must be able to service all sites on the map within the pricing guidelines provided in the proposal. Facilities may be added to/deleted from the contract(s) as new facilities are built or obsolete facilities are torn down. APS also reserves the right to negotiate the addition of service(s) to the contract from time to time and establish pricing as mutually agreeable for the reason that such items may have been omitted in error or as it may be a prudent method to deal with unforeseen circumstances.

The above information has been provided as general background to acquaint the prospective offeror with the Albuquerque Public Schools and its general environment.

CONTRACTING WITH APS

CONTRACT PERIOD: The terms of any contract as a result of this solicitation will be in effect for one (1) year following award. Contingent upon funding and mutual agreement of both parties, the contract may be extended for three (3) additional years, one year at a time. The total duration of this contract, including exercise of any renewal options shall not exceed four (4) years.

Price escalation will be **considered** at renewal years only upon receipt of written request from contractor stating reason for the escalation request and the amount being requested. Price escalation will not be allowed for any reason not related to market conditions related to the Scope of Work. Justifying documentation must accompany price escalation request. Escalation will not be allowed for any reason not related to market conditions related to the Scope of Work. If prices should decrease in the market, APS should benefit from any market fluctuation which would derive savings. Contractor may decline renewal with no penalty and APS will re-bid

Although this contract is being bid on behalf of APS Material and Operations Department, individual schools/departments, state agencies or local public bodies will be referred to the successful Contractor in the event of requirements that can be adapted to the specified items awarded.

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APS will **not** occupy rooms or sites specifically designated by the Contractor as unsafe or which have cleaning in progress. It is the Contractor's responsibility to post notification at the site when cleaning equipment is operating or when the site has been determined to be unsafe. Contractor shall also immediately notify the site administrator or Mr. Montano of unsafe conditions.

Use of any contracts will be at the direction of Mr. Fred Montano, Building Services Manager for Maintenance and Operations. Contractor and Mr. Montano will mutually agree on service times, emergency procedures, site access and other conditions as may be pertinent.

Work performed under the contract shall be subject to strict APS internal controls. Contractor shall have no access to APS work orders and shall not enter into APS administrative decisions. Contract shall be for special circumstances and/or specialty cleaning services only. **This contract is not intended for the provision of daily custodial services on a long-term basis.**

Contractor shall be held accountable to **NOT** accommodate requests which are clearly beyond the defined scope of this contract. Should such requests occur, contractor has the responsibility of calling such violations to the attention of the APS Procurement Officer.

Regular working hours for APS are 7:00 a.m. to 3:30 p.m. Monday through Friday. Work shall be coordinated with both Mr. Montano and the site administrator for minimum interference with any facility schedule. Overtime, weekend and emergency work at any time of day may also be required.

Access to buildings will be arranged by Mr. Montano or his designee. **All workmen shall check in through the site office upon arrival and check out again when leaving.** If APS cannot verify workmen's time of arrival/departure, payment on invoices for work performed that day may be held until such verification has been made.

APS will bear the responsibility of determining that contractor has proper utility services to perform work as required. If cleaning any facility requires the interruption of service within the building, such interruption shall be carefully coordinated with the Director of Maintenance and Operations to minimize system down times. Absolutely no interruption of the existing services will be permitted without the approval of the Director of Maintenance and Operations or his designee.

SITE SAFETY

The Contractor shall take all necessary precautions to protect the site occupants from hazardous conditions. The

Contractor will only use cleaning products approved by APS. Offeror must submit to APS for approval a list of MSDS sheets of all cleaning products with the proposal. The Contractor shall abide by all State of New Mexico Environmental Improvement Board Occupational Safety and Health Board regulations that apply to this Contract. The Contractor shall defend, indemnify, and hold the Board of Education and its agents, officers, administrators, and employees free and harmless against all claims, loss, liability, and expense resulting from any alleged violations of said regulations including, but not limited to, fines or penalties, judgments, court costs, and attorneys' fees. The Contractor also shall be responsible for damage to persons or property that occurs as a result of his fault or negligence, or that of his employees, and/or agents, in connection with this Contract. If the facility is partially occupied, contractor shall barricade or otherwise separate the worksite from students and staff. Workers will not leave cleaning equipment or chemicals unattended. The site administrator or

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designee has the authority to stop any unsafe job and to require safety precautions to protect occupants, such as signage or barricades for wet floors. All such safety items are to be provided by contractor.

The Director of Maintenance and Operations, or his designees, reserves the right to visit any worksite at any time. Contractor may or may not be advised of these visits. Any failure to adhere to proper safety procedures may result in withholding of monthly payments.

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PRICING:

APS will not pay for cleaning estimates. Offeror shall include such costs in the price of the proposal.

Specify the level of service provided and what is included. (For example, your company will clean windows but will not treat carpets.) Note any exclusions and limitations of liability. This proposal assumes that your firm will service all sites listed on the District Map under the circumstances defined on page 6 unless otherwise noted.

As a minimum, offeror's proposal should define methods and materials used on the job and provide a pricing structure **per hour**. APS anticipates requiring a combination of any/all of the following cleaning services (state 'N/A' for any service not provided by your company):

Furniture & Surface Dusting - including but not limited to cabinets, shelves, chalkboard trays and frames, stairway banisters and railings, window sills, and computer equipment. Gymnasium rafters and other high ledge cleaning activities are more dangerous and may require a different pricing structure.

- Dusting of blinds and window coverings _____ Per Hour

- Upholstery, Drapery, and Carpet Cleaning _____ Per Hour

- Emptying waste baskets, replacing liners _____ Per Hour

- Dust Mopping _____ Per Hour

- Duct cleaning _____ Per Hour

- Deodorizing draperies, furnishings, and carpets, especially after fire or flood
_____ Per Hour

- Fire restoration services (including inventory control, structural cleaning, furniture refinishing, carpet/upholstery cleaning, and pack out/warehouse facilities.
_____ Per Hour

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- Water restoration services (including furniture touch-up, carpet repairs and re-stretching, carpet extraction and cleaning, structural moisture removal) _____ Per Hour

- Cleaning doors, door jambs, and cabinets _____ Per Hour

- Cleaning electronics (Televisions, VCRs, speakers, radios, projectors, etc.) _____ Per Hour

- Cleaning appliances inside and out _____ Per Hour

- Cleaning and sanitizing rest rooms _____ Per Hour

- Cleaning light fixtures, Replacing bulbs as required, Washing walls, ceilings and chalkboards. _____ Per Hour

- Washing windows (Interior and Exterior) High windows involve a higher level of danger. _____ Per Hour

- Cleaning wood floors, Cleaning tile floors _____ Per Hour

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- Stripping/re-waxing wood or tile floors. Can your company service gymnasium floors? Yes ___ No ___ Provide references.

_____ Per Hour

- Cleaning carpets

_____ Per Hour

- Graffiti removal

_____ Per Hour

_____ TOTAL PER HOUR OF ALL SERVICES

Pricing as finally negotiated must be the basis for any billing. Pricing will be F.O.B. destination, freight prepaid with the exception that APS will reimburse special handling for supplies when specifically requested.

If any portion of the work is to be subcontracted, use this section to list your subcontractors and specify how subcontracted work will be priced.

**CONFLICT OF INTEREST AND
DEBARMENT/SUSPENSION CERTIFICATION FORM
CLEANING SERVICES ON DEMAND FOR APS.
BID NO. 12-021RR-MC**

CONFLICT OF INTEREST

As utilized herein, the term "Vendor" shall mean that entity submitting a proposal to Albuquerque Public Schools in response to the above referenced request for proposals.

The authorized Person, Firm and/or Corporation states that to the best of his/her belief and knowledge: No employee or board member of Albuquerque Public Schools (or close relative), with the exception of the person(s) identified below, has a direct or indirect financial interest in the Vendor or in the proposed transaction. Vendor neither employs, nor is negotiating to employ, any Albuquerque Public Schools employee, board member or close relative, with the exception of the person(s) identified below. Vendor did not participate, directly or indirectly, in the preparation of specifications upon which the quote or offer is made. If the Vendor is a New Mexico State Legislator or if a New Mexico State Legislator holds a controlling interest in Vendor, please identify the legislator:

_____ List below the name(s) of any Albuquerque Public Schools employee, board member or close relative who now or within the preceding 12 months (1) works for the Vendor; (2) has an ownership interest in the Vendor (other than as an owner of less than 1% of Vendor's stock, if Vendor is a publicly traded corporation); (3) is a partner, officer, director, trustee or consultant to the Vendor; (4) has received grant, travel, honoraria or other similar support from Vendor; or (5) has a right to receive royalties from the vendor. _____

DEBARMENT/SUSPENSION STATUS

The Vendor certifies that it is not suspended, debarred or ineligible from entering into contracts with the Federal Government, or any State agency or local public body, or in receipt of a notice or proposed debarment from any Federal or State agency or local public body. The vendor agrees to provide immediate notice to Albuquerque Public School's Procurement Department in the event of being suspended, debarred or declared ineligible by any department or agency of the Federal government, or any agency of local public body of the State of New Mexico, or upon receipt of a notice of proposed debarment that is received after the submission of the quote or offer but prior to the award of the purchase order or contract.

CERTIFICATION

The undersigned hereby certifies that he/she has read the above CONFLICT OF INTEREST and DEBARMENT/SUSPENSION Status requirements and that he/she understands and will comply with these requirements. The undersigned further certifies that they have the authority to certify compliance for the vendor named **and that the information contained in this document is true and accurate to the best of their knowledge.**

Signature: _____

Name of Person Signing (typed or printed): _____

Title: _____

Date: _____

Name of Company (typed or printed): _____

Address: _____

City/State/Zip: _____

Telephone: _____

**ALBUQUERQUE PUBLIC SCHOOLS
BOARD OF EDUCATION
TERMS AND CONDITIONS
Bid No. 12-021RR-MC**

Preparation of Bids

Bidders are to comply with all instructions and provide the information requested in the appropriate spaces. Bid prices must be entered in ink or typewritten. Mistakes may be corrected prior to bid opening, but shall be initiated by the person signing the bid. Corrections and/or modifications received after the bid opening time will not be accepted. Bids must be submitted by the date and at, or prior to, the time specified for consideration. Late bids will not be accepted. All bids must be signed by an authorized representative of the company.

Improper identification may result in premature opening of or failure to consider the bid. Bids must be submitted in a sealed envelope. Procurement law requires sealed bids. Therefore, APS cannot accept bids which are transmitted using facsimile equipment.

Albuquerque Public Schools holds a Class 9 Tax Exemption Certificate and is exempt from paying sales tax on tangible personal property. A non-taxable transaction certificate (NTTC) will be provided upon request. Services (including construction or materials that become part of a construction project) are not exempt. The Contractor shall comply with all requirements of the State of New Mexico Gross Receipts Law and shall require all subcontractors to comply with same. Do not include tax in your bid price. Tax must be shown as a separate item on all invoices.

General

Brand Names: It is intended that bid specifications admit maximum competition. Brand names or model numbers, where used, are for reference as to standard of character, quality and/or operation and are not indicative of preference on the part of APS. Equal item(s) will be considered, provided the bid clearly describes the item by brand, model number, level of quality or any other appropriate criteria. Descriptive literature must be included for bid evaluation purposes. Include sample(s) if specifically requested. Failure to provide this information may disqualify your bid. Determination by APS as to what item(s) are equal shall be final and conclusive. When brand, model or other identification is not stated, it shall be understood that the bidder is quoting as specified.

Qualifications of Bidders: APS may make such investigations as necessary to determine the ability of the bidder to perform the work required. Bidder shall furnish all necessary information and data as may be requested. APS reserves the right to reject any bid if the evidence submitted or the investigation of a bidder fails to satisfy APS that the bidder is qualified to perform the obligation of the contract.

Award

Award(s) will be made to the low responsible and responsive bid(s) taking into consideration prior qualifications and capabilities of the bidder, availability of funds and any other relevant factors.

APS reserves the right: (1) to award bids received on the basis of individual item(s), or groups of items, or on the entire list of items; (2) to reject any or all bids, or any part thereof; (3) to waive any informality in the bid(s) and (4) to accept the bid(s) that is in the best interest of APS.

APS will take advantage of prompt payment discounts whenever possible; however, these will not be used as award criteria.

New Mexico procurement law provides for a five percent (5 %) residential preference. A bidder who meets state requirements shall be awarded a contract in preference to a non-resident bidder whenever the resident contractor, whose bid is nearest to the low bid of the non-residential contractor, is made lower when multiplied by a factor of .95. This does not apply when federal funds are being used. Any New Mexico firm claiming preference will insert its residential reference number as issued by the State Purchasing Department in the appropriate space. Provision of the number will be the responsibility of the contractor.

Any bidder, offeror or contractor who is aggrieved in connection with a procurement action may protest to the Albuquerque Public Schools Procurement Department. The protest shall be submitted in writing within fifteen (15) calendar days after the facts or occurrences giving rise thereto.

Bidders are informed that initial orders must be furnished at prices submitted. Albuquerque Public Schools reserves the right to make award(s) within (90) days after the date of bid opening unless bidder distinctly specifies that acceptance must be within a shorter time.

Time of delivery may be a consideration in bid award(s) and shall be defined as the number of calendar days following receipt of the order, either verbally or in writing until receipt of materials, supplies or services by APS.

Packing, Shipping and Invoicing

Bidder agrees to deliver all item(s) inclusive of all cost, insurance, freight, drayage, express or other charges. Title to materials or supplies shall pass directly from bidder to APS at the F.O.B. point shown, subject to the right of APS to reject upon inspection. All bids must be F.O.B. destination.

The purchase order number, vendor's name and user's name and location shall be shown on each packing and delivery ticket, pack-age, bill of lading and any other correspondence in connection with any shipment. The user's count will be accepted by the Seller as final and conclusive on all shipments not accompanied by a packing list. All invoices shall reference the order number, description of supplies or services, quantities, unit prices and extended totals. Separate invoices are required for each shipment.

Bidder shall be paid upon submission of acceptable invoices for materials, supplies or services delivered and accepted. Invoices must be accompanied by transportation receipts or facsimiles, if transportation is payable and charged as a separate item.

Patent Indemnity

Seller shall pay all royalty and license fee(s) relating to the item(s) covered hereby. In the event any third party shall claim the manufacture, use and sale of goods covered hereby to be infringement of any copyright, trademark or patent, Seller shall indemnify and hold APS harmless from any cost, expense, damage or loss incurred in any manner by APS because of any such alleged infringement.

Warranties

Materials, supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Seller gives to any customer for the same or substantially similar materials, supplies or services. The rights and remedies provided herein shall extend to APS and are in addition to and do not limit any rights afforded to APS by any other clause of this order. Seller agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

Inspection

Materials, supplies or services shall be furnished exactly as specified, free from all defects in workmanship, materials, and design. Final inspection and acceptance will be made at the destination. If, prior to final acceptance, any item(s) or service(s) are found to be defective or not as specified, APS may reject them, require the Seller to correct without charge or require delivery at a reduction in price which is equitable under the circumstances. If Seller is unable or refuses to correct such item(s) within a time deemed reasonable by APS, APS may terminate the order in whole or in part. Seller shall bear all risks as to rejected materials, supplies or services and, in addition to any other costs for which the Seller may become liable to APS under other provisions in these terms and conditions, shall reimburse APS for all transportation costs, other related costs incurred, or payments to Seller for unaccepted materials, supplies and services. Notwithstanding final acceptance and payment, Seller shall be liable for latent defects, fraud or such gross mistakes as amount to fraud. Any test programs and procedures required by the specifications are in addition to, and do not limit, APS rights provided in this section.

Assignment

Neither the order nor any interest therein, nor claim thereunder shall be assigned or transferred by the Seller except as authorized in writing by APS. No assignment or transfer shall relieve the Seller from its obligations and liabilities.

Non-discrimination

Sellers doing business with APS must be in compliance with Federal Civil Rights Act of 1964 and Title VII of the Act. Rev. 1979.

Changes

APS may make changes within the general scope of this order by giving notice to the Seller and subsequently confirming such changes in writing. If such changes affect the cost and/or the time required for performance of this order, an equitable adjustment in the price or delivery or both shall be made. No change by the Seller shall be recognized without written approval of APS. Any claim of Seller for any adjustment must be made in writing within thirty (30) days from date of receipt by Seller of notification of such change unless APS shall waive this condition. Nothing in this section shall excuse Seller from proceeding with performance of the order as changed hereunder.

Kickback Statement

The Procurement Code, Sections 13-1-21 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for this violation. In addition, New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kick-backs.

Termination

APS may, by written notice stating the extent and effective date, terminate this order for convenience in whole or in part, at any time. APS shall pay Seller as full compensation for performance until such termination (1) the unit or prorata order price for the delivered and accepted portion; and (2) a reasonable amount, not otherwise recoverable from other sources by Seller as approved by APS with respect to the undelivered or unaccepted portion of the order; provided compensation shall in no event exceed the total order price.

APS may by written notice terminate this order for Seller's default in whole or in part, at anytime, if Seller refuses or fails to comply, with the provisions of this order, or so fails to make progress as to endanger performance and does not cure such failure within a reasonable period of time, or fails to make deliveries of the item(s) or service(s) or to perform the service(s) within the time specified or any written extension thereof. In such event, APS may purchase or otherwise secure item(s) or service(s) and except as may be otherwise provided, Seller shall be liable to APS for any excess costs occasioned thereby.

If after notice of termination for default, APS determines that the Seller was not in default or that the failure to perform was due to causes beyond the control and without the fault or negligence of the Seller, termination shall be deemed for the convenience of APS, unless APS shall determine that the item(s) or service(s) were obtainable from other sources in sufficient time to meet required delivery schedule.

If APS determines that Seller has been delayed due to causes beyond the control and without the fault and negligence of the Seller, APS may extend the time for completion when promptly applied for in writing by the Seller. If such delay is due to failure of APS, not caused or contributed to by Seller, to perform services or deliver property in accordance with the terms of the order, the time and price of order shall be subject to change under the Changes section. Sole remedy of Seller in event of delay by failure of APS to perform shall be limited to any money actually and necessarily expended in the work during the period of delay, solely by reason of delay. No allowance will be made for anticipated profits. 'Seller' is defined as the Seller and his subsuppliers at any tier.

Contingency

Seller warrants that no person or selling agency has been employed or retained to solicit or secure this order upon an agreement or understanding for a commission, percentage, brokerage or contingent fee excepting bona-ride employees or bona-fide established commercial or selling agencies maintained or utilized by Seller for the purpose of securing business. For violation or breach of this warranty, APS shall have the right to annul this order without liability or, at its discretion, to deduct from this order price or consideration or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

Other Applicable Laws

Any provisions required to be included in a contract of this type by any applicable and valid executive order, federal, state or local law, ordinance, rule or regulation shall be deemed to be incorporated herein.

Non-Collusion

The undersigned certifies that he or she has not either directly or indirectly entered into any action in restraint of free competitive bidding in connection with this solicitation and agrees to furnish the materials, supplies or services as required within the time specified under the conditions imposed and at the price indicated.

Signature of Authorized Representative _____
Type or print name of above _____
Name of Firm _____
Address _____
Area Code and Telephone No. _____

Contractor's License No: _____
(If Applicable)
Resident Certification No: _____
(If Applicable)
Fax No: _____
Wats Line (If available) _____
Federal ID No.: _____