

## UPSET BID SOLICITATION – ADDITIONAL TERMS

Orange County Schools(OCS) desires to identify a vendor to collect and refurbish surplus computers, have their hard drive data destroyed, be used for educational purposes and remarketed.

OCS seeks to solicit upset bids that include at a minimum the following terms:

1. **Covered Computers.** OCS, through its Information Technology Department, agrees to sell certain surplus computers covered by this Agreement (“Computers”) to the vendor. These Computers are described in Exhibit A, attached hereto.
2. **OCS Responsibilities.**
  - (a.) OCS will contact the vendor when the Computers are available for pickup. OCS makes no warranties with respect to the fitness or suitability of the Computers for refurbishing, remarketing, teaching or any other purpose.
  - (b.) Through transfer of possession, OCS will convey title and all rights to the use and ultimate disposition of the Computers to the vendor, in consideration for the payment and educational, logistical, data destruction, recycling and discounted local remarketing services provided in Section 3 below.
  - (c.) OCS will prepare an inventory of the Computers to be conveyed including the OCS asset number and serial number of each to be delivered at time of pickup.
3. **Vendor Responsibilities.**

The vendor will provide the following: (i.) a payment for a minimum of 7,000 laptops with adapters as described in Exhibit A, payable to Orange County Schools within 30 days of transfer of possession, (ii.) secure pickup of the computers at designated OCS school locations, (iii.) destruction of all data on Computer hard drives to NIST 800-88 standards, (iv.) a Certificate of Destruction covering the data on the hard drives of the Computers, (v.) refurbishing and recycling of the Computers, (vi.) remarketing of the Computers, including working with OCS to make them available to OCS families at a discount of 15% off the retail market price, (vii.) general liability and professional liability insurance policies with coverage of up to \$1 million per incident that covers the services provided to OCS. The vendor shall name the Orange County Board of Education as an “Additional Insured.” Certificates of such insurance shall be furnished by the vendor to OCS. In addition, the vendor shall give OCS at least 10 days’ written notice of any intent to cancel or terminate such insurance by either the vendor or the insuring company. Failure to furnish insurance certificates or maintain such insurance shall be a default under this bid solicitation and shall be grounds for immediate termination of any resulting agreement.

4. **Monitoring and Auditing.** The vendor shall permit OCS or any other person or agency as directed by OCS on the vendor's site to verify that the Computers were wiped in accordance with Paragraph 3. The vendor shall provide any OCS designated auditors with access to any records and files related to the provision of services under this Agreement. OCS may perform onsite audits up to 4 times per year with 1 day's notice by email to the vendor. The vendor will be responsible for all of OCS's expenses, including travel, in conjunction with the performance of onsite audits. OCS agrees that its auditors will maintain the confidentiality of any trade secrets of the vendor accessed during an audit conducted under this Agreement.
5. **Records and Confidentiality of Student Information.** The vendor agrees that all student records obtained in the course of providing services to OCS under Paragraph 3 of this Agreement shall be subject to the confidentiality and disclosure provisions of applicable federal and state statutes and regulations, and OCS's policies. All student records shall be kept in a secure location preventing access by unauthorized individuals. The vendor will maintain an access log delineating date, time, agency, and identity of individual accessing student records who is not in the direct employ of the vendor. Upon termination of this Agreement, the vendor shall turn over to District all student records of District's eligible students to whom the vendor has provided services under this agreement.
6. **Lunsford Act/Registry Checks.** The vendor acknowledges that G.S. 14-208.18 prohibits anyone required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes from knowingly being on the premises of any school.
  - a. The vendor shall conduct or arrange to have conducted, at its own expense, sexual offender registry checks on each of its employees, agents, ownership personnel, or contractors ("contractual personnel") who will engage in any service, delivery, or pick-up of goods on OCS property or at an OCS sponsored event or activity, including OCS- the vendor 's internships. The vendor may satisfy this obligation by checking the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry, all of which may be completed online at no cost by accessing the North Carolina Sex Offender Registry website at <http://sexoffender.ncdoj.gov/>.
  - b. The vendor shall provide certification that the registry checks were conducted on each of its contractual personnel providing services or delivering goods under this Agreement prior to the commencement of such services or the delivery of such goods.
  - c. The vendor shall conduct a current initial check of the registries (a check done more than 30 days prior to the date of this Agreement shall not satisfy this contractual obligation). In addition, the vendor agrees to conduct the registry checks and provide a supplemental certification before any additional contractual personnel are used to deliver goods or provide services pursuant to this Agreement. The vendor further agrees to conduct annual registry checks of all contractual personnel and provide annual certifications at each anniversary date of this Agreement.

- d. The vendor shall not assign any individual to deliver/pick-up goods or provide services pursuant to the Agreement resulting from this solicitation if said individual appears on any of the listed registries.
  - e. The vendor agrees that it will maintain all records and documents necessary to demonstrate that it has conducted a thorough check of the registries as to each contractual personnel, and agrees to provide such records and documents to the OCS upon request.
7. **Term and termination.** The Agreement resulting from this solicitation shall remain in effect for a period of 3 years from the date in the first paragraph, unless cancelled, at any time and for any reason, by either party upon 90 days written notice to the other. Any Computers that have not been scrubbed and certified by the vendor at the time of termination in accordance with Paragraph 3(a)(iii) and (iv) shall be returned to OCS and become its property.
8. **Iran Divestment Act Certification.** As of the date listed above, the President of the vendor certifies that the vendor is not listed on the Final Divestment List created by the State Treasurer pursuant to G.S. 143-6A-4. The President of the vendor further certifies that he is authorized by the vendor to certify such compliance.
9. **Relationship of Parties.** The vendor shall be an Independent Contractor and nothing in this Agreement shall be construed as creating a partnership or joint venture; nor shall any employee or contactor of The vendor be construed as an employee, agent or principal of OCS.
10. **Law.** The Agreement resulting from this solicitation shall be governed in accordance with the laws of the State of North Carolina. Any action relating to this Agreement shall be brought in the General Court of Justice in Orange County, North Carolina.
11. **Entire Agreement/Severability.** The Agreement resulting from this solicitation constitutes the entire agreement and understanding between the parties and supersedes all prior understandings and agreements relative to the subject matter. If any provision shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.

**Exhibit A**

The Computers to be covered by this Agreement initially are the following:

| <b><u>Model</u></b>     | <b><u>Approximate Quantity</u></b> |
|-------------------------|------------------------------------|
| Lenovo x130e w/adapters | ___500___                          |
| Lenovo x131e w/adapters | ___6000___                         |
| Dell E6400 w/adapters   | ___500___                          |