

# **Request for Proposals (RFP) #501**

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## **HVAC Replacement Project**

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**Due Date: Friday, September 24th, 2021 @ 10:00 A.M.**

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# **SECTION I**

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**NOTICE TO BIDDER**

**RFP RESPONSE FORM**

The undersigned, in submitting this RFP and endorsement of same, represents that he/she is authorized to obligate his/her firm, that he/she is an equal opportunity employer and will not discriminate with regard to race, color, religion, national origin, sexual orientation, or age or disability unrelated to job performance of this RFP; and that he/she has read this entire RFP package, is aware of the covenants contained herein and will abide by and adhere to the expressed requirements in **all** sections of this RFP. **Must be in ink to be considered responsive.**

SUBMITTED BY:

Firm: \_\_\_\_\_  
(Official Firm Name)

By: \_\_\_\_\_  
(Original Signature)

Name \_\_\_\_\_  
(Typed or Printed Name)

Title: \_\_\_\_\_  
(Type or Printed Title)

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

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

City/ST/Zip: \_\_\_\_\_

Phone #: \_\_\_\_\_

Fax #: \_\_\_\_\_

Email: \_\_\_\_\_ Taxpayer Identification #: \_\_\_\_\_

**East Fort Worth Montessori Academy**  
**Proposal #501**  
**HVAC Replacement Project**  
**Closing Date & Time: Friday, September 24th 2021 @ 10:00 A.M.**

East Fort Worth Montessori Academy is accepting proposals for the HVAC Replacement Project Phase I, **as per the attached scope of work, terms and conditions**. Proposals will be accepted by East Fort Worth Montessori Academy until **10:00 a.m. central time, September 24, 2021.**

**No verbal responses will be provided.**

**QUESTIONS:**

All questions regarding the scope of work must be e-mailed simultaneously to Sukai Durosimi, Superintendent at [sukai.durosimi@efwma.org](mailto:sukai.durosimi@efwma.org)

Proposals received after the deadline will be rejected. All proposals which are in order and properly signed shall be opened and reviewed. No immediate decisions shall be rendered concerning the submitted proposals. East Fort Worth Montessori Academy School EFWMA reserves the right to reject any and all proposals. Vendors must submit their necessary insurance forms and HVAC Certifications.

**ALL FORMS MUST BE COMPLETED AND SUBMITTED.** Any deviations from those instructions will result in Proposal not being considered.

**ESTIMATED QUANTITIES:**

East Fort Worth Montessori Academy makes no guarantee or commitment of any kind concerning quantities that will actually be purchased.

**BONDS:**

Payment and Performance Bonds are required. A Bid Bond in the amount of 5% of the total proposal amount is required.

**Sealed Proposals must be MAILED or HAND DELIVERED to:**

East Fort Worth Montessori Academy  
Attn: Purchasing Dept. - Aida Aguilar, Facilities Manager  
501 Oakland Blvd  
Fort Worth, TX 76103

**The EFWMA cautions respondents to ensure actual delivery and receipt of mailed or hand-delivered proposals to the EFWMA, at the address above, prior to the response deadline. The EFWMA will in no way be responsible for delays caused by any occurrence.**

The successful bidder(s)/proposer(s) will be notified in writing (manifested by an award letter or properly executed purchase order) after review and acceptance by EFWMA.

**BID DATE:**

All proposals are due: Friday, September 24th, 2021 @ 10:00 A.M.

**Completion Date:**

On or before November 4th, 2021

## HVAC Replacement Project

### Scope of Work:

The scope of this project is to remove and replace 30 HVAC systems to 6 at East Fort Worth Montessori Academy. The awarded contractor or contractors, will be responsible for, but not limited to, providing new split systems, new adaptor curbs, electrical disconnects, pre-installed VFD driver for all units and VFD driver for Trane 6 Ton unit, surge protectors, provide new thermostat controls, central thermostat panels (as per EFWMA's specification), sheet metal work if needed, all labor, supervision, materials, transportation, equipment and services necessary to complete the job that meet the EFWMA's expectations. Provide pricing and specifications for both 19 SEER and 21 SEER units.

**Preferred brand would be "Trane" or equal to.** The awarded contractor or contractors will perform the manufacturer recommended "startup" procedure on all newly installed units and will submit all forms to the EFWMA as part of the closeout process to include all warranty documents. In addition, the awarded contractor shall provide job superintendent during the entirety of the project, general liability insurance, builders risk insurance, performance and payment bonds for 100% of bid amount, overhead and profit. All work shall be performed at times to minimize the exposure of students, staff members, employees and their vehicles. The awarded contractor shall have flexibility during all breaks in terms of scheduling. Provide bid bond for 5 % of bid and Provide date of completion. Proposals to be valid 60 days from date of submission.

### General Description:

The contractor or contractors are responsible for, but not limited to, the following listed below (Please see Equipment List Unit Information for more detail on each unit):

- 1) *Pre-Construction Walk-Through* – Conduct pre-construction walk-through of the campus to inspect and verify current units and check measurements prior to purchasing units.
- 2) *HVAC Equipment* – remove ONLY old units and install units that meet or exceed efficiency requirements. Provide all units with electric heat sized for approximately a 20-degree temperature rise, or the largest kW the existing electrical service can support. Provide 0-100% economizers on RTUs. All units must have pre-installed VFD drivers and VFD drivers for Trane 6 Ton unit. Provide surge protectors on all equipment. Provide hail guards on all equipment. Provide curb adaptors meeting all building codes for RTUs as required.
- 3) *Protective Coating* – Provide condenser coil coatings with minimum 5,000 hour ASTM B-117 salt spray rating for the RTU and split system condenser coils.
- 4) *Refrigerant* – Remove, properly dispose of and replace refrigerant as required by EPA and industry standards. New systems shall use R-410a. If existing lines are reused, flush them thoroughly with approved agents prior to reusing with a new refrigerant.
- 5) *Electrical* – Install new disconnects and conduit to the new units. Do not reuse existing disconnects. If a disconnect does not exist, install a new one. (Must meet electrical code requirements)
- 6) *Plumbing* – any and all plumbing as needed to remove or install new units. Ensure that condensation drains properly. If condensation does not drain properly, make the necessary adjustments. Include new drain pans for all new HVAC systems (Must meet all plumbing code requirements)
- 7) *Insulation* – insulate all pipes and ductwork to ensure that condensation does not drip on the ceiling tiles
- 8) *Ducting and Air Distribution* – Reuse existing duct if possible. Test and balance all modified systems
- 9) *Controls* – Remove all existing thermostats, replace new wires with new thermostats. Must have a complete lock out system, no partial lockouts and thermostat covers.
- 10) *Smoke detectors* - disconnect or re-connect to existing fire alarm systems as required by code. Notify school personnel so that it can be communicated to the proper authorities.
- 11) *Portable Toilets* - Contractor shall furnish its own portable toilet. The EFWMA will not allow contractors to utilize campus restrooms.
- 12) *Clean Up* - Contractor shall keep all EFWMA site free from the accumulation of waste materials, rubbish; implements and surplus materials. The surrounding premises where the work has been performed must be

cleaned. For safety purposes, neither tools, ladders nor any equipment can be left in the area of the job site.

- 13) *Material* - All materials must and will be verified by the selected contractor prior to commencing the project.
- 14) *Warranty* - Specify warranty provided.
- 15) *Equipment* - Contractor must have own equipment, HVAC cooling rental equipment (if necessary) and lifts/cranes for the project.
- 16) *Commissioning* – Commission all equipment and controls to ensure all HVAC equipment is in proper working order.
- 17) *Provide all Closeout Submittals* – Operation and Maintenance Manuals, Warranties (Manufacturer’s warranties and product registration shall be completed with the manufacturer as required by the contractor within 10 days after completion of the applicable item of work), and all submittals and drawing.
- 18) *Liability and Workers Compensation* - Selected contractor must provide proof of General Commercial Liability and Workers Compensation insurance to include EFWMA as an additional issuer.
- 19) *Payment and Performance Bond* – Please include in the bid.
- 20) *Contingency* – include a \$5,000 contingency allowance.
- 21) *Submittals*- Provide manufacture engineered spec submittals.

**New Thermostat Specifications (Controls):**

- 1) Multi-stage
- 2) 2 Heat, 2 Cool
- 3) Touchscreen
- 4) 7 day or 5/1/1 programmable
- 5) Auto Changeover (Cool to Heat depending on the season)
- 6) Easy menu driven programming
- 7) Intuitive wake, leave, return, sleep programming icons
- 8) 13 sq. inch display or comparable
- 9) Programmable fan
- 10) Electric or Gas configurable
- 11) Separate heating and cooling swing (cycle rate) adjustments
- 12) Room temperature calibration adjustment
- 13) Easy wire color coded terminal blocks
- 14) Mounts on wall
- 15) Thermostat cover
- 16) Battery or 24v power
- 17) 5 year warranty
- 18) Screen Lock (Ensure that unauthorized personnel cannot change settings, temperatures etc...)
- 19) Recommended brands – Trane, White-Rodgers, Top Tec, Honeywell or any brand that is equal to and meet the specifications mentioned above.

**Numbers and Types of Replacement Units Needed for Each Campus**



<b>East Fort Worth Montessori Academy</b>	<b>Type of Units</b>	<b>Number of Units</b>
5 Ton	S/S	2
3 Ton	S/S	8
<b>Number of Replacement Units</b>		<b>10</b>
<b>SCHOOL NAME</b>	<b>Type of Units</b>	<b>Number of Units</b>
6 Ton	S/S	4

## **INSTRUCTIONS TO PROPOSERS**

This portion of the RFP includes instructions on the format proposers must follow in preparing and submitting their proposals. It further identifies how questions can be raised and will be addressed.

### **Compliance with Specifications**

Proposers are required to respond to all requests identified in this RFP and indicate their acceptance or objection to the terms of the RFP and the terms of the Agreement. Any exceptions to the terms and conditions in the RFP or the Agreement must be clearly identified. Each proposer, by making its proposal, represents that the proposer has read and understands the RFP and the Agreement.

### **Required Proposal Format**

The forms included in the Packet must be completed and signed.

### **References**

The EFWMA may contact you with respect to your firm's work performance within the past five years. For each reference, include a contact in both the client's Finance and Legal areas:

- name of client
- your firm's role with client
- name/title of contact persons
- phone numbers/email addresses

### **Addendum**

Any interpretations, corrections, additions, or changes to this RFP will be communicated to proposers by the issuance of an addendum. It is the responsibility of the proposer, prior to submitting the proposal, to determine whether an addendum was issued. All proposers shall comply with the requirements specified in any addendum issued by EFWMA.

### **Disqualification**

A proposer may be disqualified before or after the proposals are opened, upon evidence of collusion with the intent to defraud, or evidence of intent to perform other illegal activities for the purpose of obtaining an unfair competitive advantage.

### **Environmental Initiatives**

EFWMA is committed to reducing waste and promoting energy conservation. Toward that end, proposers responding to this solicitation are encouraged to provide their company's environmental policy and green initiative.

### **Interpretation**

This solicitation represents the basis for any award and supersedes all prior offers, negotiations, exceptions and understandings (whether orally or in writing). Submitted proposals should be self-explanatory and should not require any clarification or additional information.

### **No Return of Proposals; Withdrawal of Proposals**

Once submitted, EFWMA will not return proposals to proposers. A proposal that has been submitted may be withdrawn prior to the deadline for submission of proposals.

### **Non-Collusion Statement**

Proposers are required to certify a Non-Collusive Statement. Proposers are required to state the party submitting a proposal or bid, that such proposal or bid is genuine and not collusive or sham; that proposer has not colluded, conspired, connived or agreed, directly or indirectly, with an entity or person, to put in a sham proposal or bid or to refrain from bidding, and has not in any manner, directly

or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the proposal price or of any other proposer, or to fix any overhead, profit or cost element of said proposal price, or of that of any other proposer, or to secure any advantage against EFWMA or any person interested in the proposed contract, and that all statements in said proposal or bid are true.

### **Open Records Policy**

EFWMA is a governmental body subject to the Texas Public Information Act. Proposals submitted to EFWMA as a result of this solicitation may be subject to release as public information after contracts are executed or the procurement is terminated. If a proposer believes that its response, or parts of its response, may be exempted from disclosure under Texas law, the proposer must specify page-by-page and line-by-line the parts of the response which it believes are exempt. In addition, the proposer must specify which exception(s) to the Texas Public Information Act are applicable and provide detailed reasons to substantiate the exception(s). Vague or general claims to confidentiality will not be accepted. EFWMA assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by proposers.

### **Preferences**

EFWMA may apply applicable preferences for Texas resident proposers in the event of a tie bid. Preferences must be explicitly claimed by proposer and may not be applicable in procurements and/or contracts involving federal funds unless the procurement and/or contract involves unprocessed locally grown or locally raised agricultural products for use by EFWMA in a Child Nutrition Program. See Texas Government Code §§ 2252.001 - .004; 2 C.F.R. § 200.319.

### **Responsible Vendor**

A responsible vendor is a vendor who has adequate financial resources (or the ability to obtain such resources), can comply with the delivery requirements, and is a qualified and established firm regularly engaged in the type of business that provides the items listed herein.

### **Responsive Proposal**

Proposals shall be deemed responsive if they comply with all material and administrative aspects of this solicitation.

### **Similar Products**

Whenever an article or material is defined by EFWMA in this solicitation by describing a proprietary product or by using the name of a manufacturer or brand name, the term "or equal" if not inserted shall be implied (as applicable). The specified article or material shall be understood as indicating type, function, minimum standard of design, efficiency and quality desired and shall not be construed as to exclude other manufactured products or comparable quality, design and efficiency (as applicable).

### **EFWMA is tax-exempt**

EFWMA is tax-exempt. Proposal prices should not include taxes.

### **Sole Source**

In order to become a Sole Source Vendor, a proposer must meet the requirements of Texas Education Code

§ 44.031 (j) Sole Source, as described below.

Selected purchases may be exempt from competitive procurement if they meet the established criteria for a sole source purchase:

- Identification and confirmation that competition in providing the item or product to be purchased is precluded by the existence of a patent, copyright, secret process or monopoly
- Identification and confirmation that the product is a film,

manuscript, book, utility service (including electricity, gas, or water), or a captive replacement part or component for equipment

- Sole source does not apply to mainframe data-processing equipment and peripheral attachments with a single item purchase price in excess of \$15,000.

*It is incumbent upon the Department to obtain and retain documents from the proposer which clearly delineate the reasons that qualify the purchase to be made on a sole source basis. In order to do business with EFWMA as a Sole Source Vendor, EFWMA must receive a notarized Sole Source Affidavit along with proof of your company qualifying as a sole source.*

Please mail this information to:

East Fort Worth Montessori  
Academy  
Attn: Aida Aguilar  
501 Oakland Blvd  
Fort Worth, TX 76103

EFWMA reserves the right to decide if your company is a qualified Sole Source Vendor.

**Conflict of Interest (CIQ Form - must be filled out and attached to proposal in the Response)**

East Fort Worth Montessori Academy is required to comply with Texas Local Government Code Chapter 176, Disclosure of Certain Relationships with Local Government Officers. House Bill 23 significantly changed Chapter 176 as well as the required disclosures and the corresponding forms. As of September 1, 2019, any vendor who does business with EFWMA or who seeks to do business with EFWMA must fill out the new Conflict of Interest Questionnaire (CIQ) whether or not a conflict of interest exists. A conflict of interest exists in the following situations:

- 1) If the vendor has an employment or other business relationship with a local government officer of East Fort Worth Montessori or a family member of the officer, as described by section 176.003(a)(2)(A) of the Texas Local Government Code; or
- 2) If the vendor has given a local government officer of East Fort Worth Montessori Academy, or a family member of the officer, one or more gifts with the aggregate value of \$100, excluding any gift accepted by the officer or a family member of the officer if the gift is: (a) a political contribution as defined by Title 15 of the Election Code; or (b) a gift of food accepted as a guest; or
- 3) If the vendor has a family relationship with a local government officer of EFWMA.

**"Vendor"** means a person who enters or seeks to enter into a contract with a local governmental entity. The term includes an agent of a vendor. The term includes an officer or employee of a state agency when that individual is acting in a private capacity to enter into a contract. The term does not include a state agency except for Texas Correctional Industries. *Texas local Government Code 176.001(7).*

**"Business relationship"** means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on: (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity; (B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency. *Texas Local Government Code 176.001(3).*

**"Family relationship"** means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Subchapter B, Chapter 573, Government Code. *Texas Local Government Code 176.001(2-a)*.

**"Local government officer"** means: (A) a member of the governing body of a local governmental entity; (B) a director, superintendent, administrator, president, or other person designated as the executive officer of a local governmental entity; or (C) an agent of a local governmental entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor. *Texas Local Government Code 176.001(4)*.

● ***East Fort Worth Montessori Academy Board of Trustees and Superintendent include:***

Mr. Troy Gardner, President

Dr. Carlos Walker, Vice-President

Mrs. Sandy Joyce, Secretary

Mr. Jason Richmond, Member

Mr. Michael

Washington,

Member

Dr. Kayunta

Winters,

Member

Mrs. Sukai Durosimi, Superintendent

**If no conflict of interest exists, you must fill out Box 1 and type N/A on Box 3 of the CIQ form, sign and date it.**

In the event of changed circumstances, an updated CIQ must be filed within seven (7) business days after the vendor becomes aware a conflict of interest exists.

**EDGAR Conflict of Interest Requirements**

In accordance with federal EDGAR requirements, 2 CFR § 318(c)(1), no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, and agents of EFWMA may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, through EFWMA's written procedures, EFWMA has set a de minimis amount of less than \$50 per year for items that are unsolicited and of minimal value and promotional items.

Violations of this standard by an employee will be reported to the Superintendent's Office and addressed through EFWMA's personnel policies. Violations of this standard by an officer or the Superintendent shall be addressed to the **Board President and addressed through EFWMA's Board policies.**

**Certificate of Interested Parties (Form 1295 - must be filled out electronically with the Texas Ethics Commission's online filing application and attached to the proposal.**

EFWMA is required to comply with House Bill 1295 (84<sup>th</sup> Leg. Session), which amended the Texas Government Code by adding Section 2252.908, Disclosure of Interested Parties. Section 2252.908 prohibits EFWMA from entering into a contract resulting from this RFP with a business entity unless the business entity submits a Disclosure of Interested Parties (Form 1295) to HCDE at the time the business entity submits the signed contract. Effective January 1, 2018, the Form 1295 requirement does not apply to: (1) a contract with a publicly traded business entity or wholly owned subsidiary of the same; (2) an electric utility; or (3) a gas utility. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Texas Ethics Commission. The following **definitions** apply:

- (1) **"Business Entity"** means an entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation. TEX. GOV'T CODE § 2252.908(1).
- (2) **"Interested Party"** means a person:
  - a) who has a controlling interest in a business entity with whom EFWMA contracts; or
  - b) who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity. TEX. GOV'T CODE §2252.903(3).
- (3) **"Controlling interest"** means:
  - a) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent;
  - b) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or
  - c) service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers. *Subsection (c) does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries.* TEX. ETHICS COMM. RULE 46.3(c).
- (4) **"Intermediary"** means a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:
  - a) receives compensation from the business entity for the person's participation;
  - b) communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and
  - c) is not an employee of the business entity. TEX. ETHICS COMM. RULE 46.3(e).

**As a "business entity," all vendors must:**

- (1) **complete Form 1295 electronically** with the Texas Ethics Commission using the online filing application, which can be found at [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_forn1295.htn](https://www.ethics.state.tx.us/whatsnew/elf_info_forn1295.htn) - **All vendors must complete Form 1295, even if no interested parties exist**
  - In Section 2, insert "The School EFWMA"
  - In Section 3, insert the EFWMA RFP # for this proposal
- (2) **print a copy of the completed form (make sure that it has a computer-generated certification number in the "Office Use Only" box)**
- (3) **have an authorized agent of the business entity sign the form**
- (4) **notarize the form (not required after January 1, 2018)**
- (5) **submit the completed Form 1295 by attaching the form to your proposal in the Response Attachment**

EFWMA must acknowledge the receipt of the filed Form 1295 by notifying the Texas Ethics Commission of the receipt of the filed Form 1295 no later than the 30<sup>th</sup> day after receipt by EFWMA. After EFWMA acknowledges the Form 1295, the Texas Ethics Commission will post the completed Form 1295 to its website with seven business days after receiving notice from EFWMA.

<b>CERTIFICATE OF INTERESTED PARTIES</b>		<b>FORM 1295</b>	
Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.		<b>OFFICE USE ONLY</b>	
<b>1 Name of business entity filing form, and the city, state and country of the business entity's place of business.</b>		Must file online at <a href="http://www.ethics.state.tx.us/File">www.ethics.state.tx.us/File</a>	
<b>2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.</b>  Donna Independent School District			
<b>3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.</b>  DISD RFP # [insert "RFP" # here]			
<b>4</b>		<b>Nature of Interest (check applicable)</b>	
<b>Name of Interested Party</b>	<b>City, State, Country (place of business)</b>	<input type="checkbox"/> <b>Controlling</b>	<input type="checkbox"/> <b>Intermediary</b>
<b>5</b> Check only if there is no interested party. <input type="checkbox"/>			
<b>6 UNSWORN DECLARATION</b> My name is _____, and my date of birth is _____. My address _____ (street) _____ (city) _____ (state) _____ (zip code) _____ (country). I declare under penalty of perjury that the foregoing is true and correct. Executed in _____ County, State of _____, on the _____ day of _____, 20____. <div style="text-align: center;">             _____              Signature of authorized agent of contracting business entity              (Declarant)           </div>			
<b>ADD ADDITIONAL PAGES AS NECESSARY</b>			



## **GENERAL TERMS AND CONDITIONS**

The words "bids," "requests for proposals," "quotes," "RFPs," "solicitation," "procurement," and their derivatives may be used interchangeably in these terms and conditions. These terms and conditions apply to all bids, requests for proposals, quotes, competitive sealed proposals, and other procurement solicitations to which they are attached. The term "Vendor" means each awarded vendor chosen by EFWMA.

These General Terms and Conditions are part of the final contract in each commodity and/or service contract and are part of the terms and conditions of each purchase order or other bid/proposal forms issued in connection with this solicitation.

Proposers are responsible for identifying any exceptions to these terms and conditions.

### **ANY EXCEPTIONS MUST BE NOTED IN THE "SUPPLIER NOTES TO BUYER SECTION" OF THE EBID SYSTEM.**

Proposals that are qualified with conditional clauses, items not called for, or other irregularities may be considered non-responsive by EFWMA and eliminated from further consideration by EFWMA.

This Agreement is entered into between The School EFWMA (East Fort Worth Montessori Academy) and Vendor, having submitted a proposal in response to a procurement solicitation issued by EFWMA and whose proposal has been accepted and awarded by EFWMA. In consideration of the mutual covenants and conditions contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, EFWMA and Vendor, intending to be legally bound, and subject to the terms, conditions, and provisions of this Agreement, agree as follows:

### **Agreement Terms; Amendment**

The terms of this Agreement shall govern all procurements conducted hereunder. No pre-published terms on the Vendor's order acknowledgments, invoices, or other forms shall have any force or effect. Further, no amendment of this Agreement shall be permitted unless first approved in writing by EFWMA, and no such amendments shall have any effect unless and until a written amendment to this Agreement is executed by EFWMA's Superintendent or its Business Manager (or their designees) after any necessary approvals have been obtained from the EFWMA Board of Trustees.

### **Assignment of Agreement**

Vendor may not assign this Agreement or any of its rights, duties, or obligations hereunder without the prior written approval of EFWMA. Any attempted assignment of this Agreement by Vendor shall be null and void. Any purchase or work order made as a result of this Agreement may not be transferred, assigned, subcontracted, mortgaged, pledged, or otherwise disposed of or encumbered in any way by Vendor without the prior written approval of EFWMA. Vendor is required to notify EFWMA when any material change in operations occurs, including but not limited to, changes in distribution rights for awarded products, bankruptcy, material changes in financial condition, change of ownership, and the like, within three (3) business days of such change.

### **Captions**

The captions herein are for convenience and identification purposes only, are not an integral part hereof, and are not to be considered in the interpretation of any part hereof.

### **Catalog Discounts**

In the event of a catalog discount type proposal, Vendor may be allowed to make addition



and/or deletions from Vendor's offerings on an annual basis during the Agreement renewal period, in EFWMA's sole discretion, provided the item(s) substituted are of a like quality and category. These changes will be compliant with the format of Vendor's original proposal (i.e. manufacturer name, product category, or entire catalog discount). EFWMA will send notification to Vendor(s) seeking any additions and/or deletions, and Vendor will return these proposed changes on company letterhead within the given timeframe. If EFWMA, in its sole discretion, accepts Vendor's proposed changes, such changes will remain in effect for the entire year until the next renewal period.

### **Certifications**

Vendor hereby certifies that it is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State. Vendor further certifies and verifies that neither Vendor, nor any affiliate, subsidiary, or parent company of Vendor, if any (the "Vendor Companies"), boycotts Israel, and Vendor agrees that Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include terminating business activities or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli- controlled territory.

Vendor certifies and agrees that it shall not assist an employee, contractor, or agent of EFWMA or of any other school EFWMA in obtaining a new job if the Vendor knows, or has probable cause to believe, that the individual engaged in sexual misconduct regarding a minor or student in violation of the law. Routine transmission of an administrative or personnel file does not violate this prohibition.

### **Compliance with Laws**

Vendor shall comply with all applicable federal, state, and local laws, statutes, ordinances, standards, orders, rules, and regulations, including, as applicable, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, prompt payment and licensing laws and regulations, the Davis-Bacon Act (40 U.S.C. § 276a I 29 CFR Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. § 874 I 29 CFR Part 5), the Equal Opportunity Employment requirements (Executive Orders 11246 and 11375 I 41 CFR Chapter 60), the McNamara-O'Hara Service Contract Act (41 U.S.C. 351), Section 306 of the Clean Air Act (42 U.S.C. § 1857h, Section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, Environmental Protection Agency regulations (40 CFR Part 15), the Contract Work Hours and Safety Act (40 U.S.C. § 3701- 3708; 29 C.F.R. Part 5), the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), the Education Department General Administrative Regulations, 2 C.F.R. Parts 200 and 3474, and 34 C.F.R. Parts 75-77 and 81 ("EDGAR"), mandatory standards and policies contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94- 163, 89 Stat. 871), and all applicable requirements and regulations, including those related to reporting, patent rights, copyrights, data rights and those mandated by federal agencies making awards of federal funds to EFWMA. Vendor understands that Vendor is ineligible to receive a contract award with EFWMA if Vendor or its principal(s) is listed on the government wide exclusions in the System for Award Management (Debarment and Suspension Orders Executive Orders 12549 and 12689) or is 30 days or more delinquent in paying child support (Tex. Fam. Code § 231.006). For the entire duration of this Contract, Vendor and all subcontractors shall maintain all required licenses, certifications, permits, and any other documentation necessary

to perform this Contract. Vendor must comply with all state and local building code requirements unless otherwise specifically provided in the EFWMA's Purchase Order, and Vendor must pay all fees and charges for connections to outside services and for use of property outside the project site.

When required or requested by EFWMA, Vendor shall furnish the EFWMA with satisfactory proof of Vendor's compliance with this provision.

### **Confidentiality**

Vendor and EFWMA agree to secure the confidentiality of all information and records in accordance with applicable federal and state laws, rules, and regulations. Vendor and EFWMA understand that the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, governs the privacy and security of educational records and information and agree to abide by FERPA rules and regulations, as applicable. Vendor also acknowledges that EFWMA is subject to the Texas Public Information Act, and Vendor waives any claim against and releases from liability EFWMA, its officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Agreement or otherwise created, assembled, maintained, or held by Vendor and determined by EFWMA, the Attorney General of Texas, or a court of law to be subject to disclosure under the Texas Public Information Act.

### **Contract Term**

The initial term of the Agreement is for a period of one (1) year, with EFWMA having the option to renew the Agreement for four (4) additional years in one (1) year increments. Consequently, the total term of the Agreement may be for a period of five (5) years. The phrase "Term" in this Agreement shall mean the then- current Term of the Agreement, whether the initial term or a renewal term.

### **Criminal History Review (SB 9 Contractor Certification: Contractor Employees Form; SB 9 Contractor Certification: Subcontractor Form - must be filled out and attached to proposal in the Response Attachment section, if applicable)**

Prior to commencing any work under the Agreement, if Vendor contracts with the EFWMA to provide services, Vendor must certify, on the form provided herein, that for each covered employee of Vendor who will have direct contact with students, Vendor has obtained, as required by Texas Education Code Section 22.0834: (a) state criminal history record information from a law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) for each covered employee of Vendor employed before January 1, 2008; and (b) national criminal history record information for each employee of Vendor employed on or after January 1, 2008. Vendor must also obtain similar certifications of compliance with Texas Education Code Chapter 22's requirements from any subcontractors on the form provided herein. Covered employees with disqualifying criminal history are prohibited from serving at EFWMA; Vendor and any subcontracting entity may not permit a covered employee to provide services at a school if the employee has been convicted of a felony or misdemeanor offense that would prevent a person from being employed under Tex. Educ. Code § 22.085(a) (i.e., Title 5 felony or an offense requiring registration as a sex offender and victim was under 18 years of age or was enrolled in a public school at the time the offense occurred).

Covered employees do not include employees of a contracting or subcontracting entity that is providing engineering, architectural, or construction services on a project to design, construct, alter, or repair a public work if: (1) the public work does not involve the construction, alteration, or repair of an instructional facility as defined by Texas Education Code Section 46.001; (2) the employee's duties will be completed

more than seven (7) days before a new instructional facility will be used for instruction; or (3) for an existing instructional facility, the work area contains sanitary facilities separated from all areas used by students by a fence at least six (6) feet high, and the Contractor adopts, informs employees of, and enforces a policy prohibiting employees and any subcontractor's employees from interacting with students or entering areas used by students. Tex. Educ. Code §§ 22.0834(a-1), .08341. The criminal history record information review obligation applies if Vendor contracts with EFWMA to provide services; it does not apply to a contract for the purchase of goods or real estate.

**Customer Reference List**

Vendor agrees to submit a customer reference list upon request by EFWMA.

**Customer Support**

Vendor shall provide timely and accurate technical advice and sales support to EFWMA and EFWMA staff. Vendor shall respond to requests for customer support within one (1) business day after receipt of the request. Vendor shall provide training to EFWMA staff regarding products and/or services supplied by Vendor, at no additional charge, if requested by the EFWMA.

**Entire Agreement**

This Agreement, the procurement solicitation issued by EFWMA, and Vendor's proposal submitted in response to EFWMA's procurement solicitation, and the attached and incorporated addendum or exhibits, if any, contain the entire agreement of the parties relative to the purpose(s) of the Agreement and supersede any other representations, agreements, arrangements, negotiations, or understanding, oral or written, between the parties to this Agreement. In the event of a conflict between this Agreement and the procurement solicitation issued by the EFWMA or Vendor's proposal submitted in response to the EFWMA's procurement solicitation, this Agreement shall control. In the event of a conflict between the procurement solicitation issued by EFWMA and Vendor's proposal submitted in response to the EFWMA's procurement solicitation, EFWMA's procurement solicitation shall control. This Agreement supersedes any conflicting terms and conditions on any purchase or work orders, invoices, checks, order acknowledgements, forms, purchase orders, or similar commercial documents relating hereto and which may be issued by Vendor after the Effective Date of this Agreement.

**Equal Opportunity**

It is the policy of EFWMA not to discriminate on the basis of race, color, National origin, gender, limited English proficiency or handicapping conditions in its programs. Vendor agrees not to discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), sex (except where based on a bona fide occupational qualification) or race, color, religion, national origin, or ancestry. Vendor further agrees that every subcontract entered into for the performance of this Agreement shall contain a provision requiring non-discrimination in employment herein specified, binding upon each subcontractor. Breach of this covenant may be regarded as a material breach of the Agreement.

**Force Majeure**

Neither the EFWMA or Vendor shall be deemed to have breached any provision of this Agreement as a result of any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, energy crises, fires, transportation contingencies, interruptions in third-party telecommunications or Internet equipment or service, other catastrophes, or any other occurrences which are reasonably beyond such party's control.

The parties to this Agreement are required to use due caution and preventive measures to protect against the effects of force majeure, and the burden of proving that a force majeure event has occurred shall rest on the party seeking relief under this provision. The party seeking relief due to force majeure is required to promptly notify the other party in writing, citing the details of the force majeure event and relief sought, and shall resume performance immediately after the obstacles to performance caused by a force majeure event have been removed, provided the Agreement has not been terminated. Delay or failure of performance, by either party to this Agreement, caused solely by a force majeure event, shall be excused for the period of delay caused solely by the force majeure event. Neither party shall have any claim for damages against the other resulting from delays caused solely by force majeure. Notwithstanding any other provision of this Agreement, in the event the Vendor's performance of its obligations under this Agreement is delayed or stopped by a force majeure event, the EFWMA shall have the option to terminate this Agreement. This section shall not be interpreted as to limit or otherwise modify any of EFWMA's contractual, legal, or equitable rights.

### **Governing Law and Venue**

The laws of the State of Texas, without regard to its provisions on conflicts of laws, govern this Agreement. The mandatory, exclusive jurisdiction for any dispute under this Agreement is in the state and federal courts located in Hidalgo, County, Texas.

### **EFWMA Property**

In the event of loss, damage, or destruction of any property owned by or loaned by EFWMA that is caused by Vendor or Vendor's representative, agent, employee, or contractor, Vendor shall indemnify EFWMA and pay to EFWMA the full value of or the full cost of repair or replacement of such property, whichever is greater, within thirty (30) days of Vendor's receipt of written notice of EFWMA's determination of the amount due. If Vendor fails to make timely payment, EFWMA may obtain such money from Vendor by any means permitted by law, including, without limitation, offset or counterclaim against any money otherwise due to Vendor by the EFWMA.

### **Indemnification**

**VENDOR SHALL INDEMNIFY AND HOLD EFWMA HARMLESS FROM ALL CLAIMS, LIABILITIES, COSTS, SUITS OF LAW OR IN EQUITY, EXPENSES, ATTORNEYS' FEES, FINES, PENALTIES OR DAMAGES ARISING FROM THE ACTS OR OMISSIONS OF VENDOR, VENDOR'S EMPLOYEES, AGENTS, OR SUBCONTRACTORS, IN CONNECTION WITH THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE ARISING FROM CLAIMED INFRINGEMENT OF ANY PATENTS, TRADEMARKS, COPYRIGHT OR OTHER CORRESPONDING RIGHT(S) WHICH IS RELATED TO ANY**

**ITEM VENDOR IS REQUIRED TO DELIVER.** Vendor's obligations under this clause shall survive acceptance and payment by EFWMA.

### **Insurance**

Vendor is required to provide EFWMA with copies of certificates of insurance, naming EFWMA as an additional insured, for Texas Workman's Compensation and General Liability Insurance. Certificates of Insurance, name and address of Vendor, the limits of liability, the effective dates of each policy, and policy number shall be delivered to EFWMA prior to commencement of any work under this Agreement. The insurance company insuring Vendor shall be licensed in the State of Texas and shall be acceptable to EFWMA. Vendor shall give the EFWMA a minimum of ten (10) days' notice prior to any modifications or cancellation of said policies of insurance. Vendor shall require all subcontractors performing any work under or relating to this Agreement to maintain coverage as specified below.

**Minimum Insurance Requirements**

- Vendor shall, at all times during the Term of this Agreement, maintain insurance coverage with not less than the type and requirements shown below. Such insurance is to be provided at the sole cost of Vendor. These requirements do not establish limits of Vendor’s liability.
  - All policies of insurance shall waive all rights of subrogation against EFWMA, its officers, employees, and agents.
  - Upon request, certified copies of original insurance policies shall be furnished to EFWMA.
  - EFWMA shall be named as an "additional insured" on all insurance policies.
  - EFWMA reserves the right to require additional insurance should EFWMA deem additional insurance necessary, in EFWMA's sole discretion.
- 
- A. Workers' Compensation (with Waiver of subrogation to EFWMA) Employer's Liability, including all states, U.S. Longshoremen, Harbor Workers and other endorsements.
  - B. Statutory, and Bodily Injury by Accident: \$100,000 each employee.
  - C. Bodily Injury by Disease: \$500,000, policy limit \$100,000 each employee. Commercial General Liability Occurrence Form including, but not limited to, Premises and Operations, Products Liability Broad Form Property Damage, Contractual Liability, Personal and Advertising Injury Liability and where the exposure exists, coverage for watercraft, blasting collapse, and explosions, blowout, catering and underground damage.
    - \$300,000 each occurrence Limit Bodily Injury and Property Damage Combined
    - \$300,000 Products-Completed Operations Aggregate Limit \$500,000 per Job Aggregate
    - \$300,000 Personal and Advertising Injury Limit
  - D. Automobile Liability Coverage
    - \$300,000 Combined Liability Limits Bodily Injury and Property Damage Combined.

**Interpretation**

Vendor agrees that the normal rules of construction that require that any ambiguities in this Agreement are to be construed against the drafter shall not be employed in the interpretation of this Agreement.

**Invoices - Payments**

Invoices shall be directed to EFWMA's Accounts Payable Department. All invoices shall be itemized to include the type of good(s) and/or service(s) rendered. Vendors shall submit invoices within a timely manner during EFWMA's fiscal year in which the good(s) and/or services are purchased. In accordance with Texas Government Code § 2251.021, payments are due to Vendor within forty-five (45) days after the later of the following: (1) the date EFWMA receives the goods under the Agreement; (2) the date the performance of the service under the Agreement is completed; or (3) the date EFWMA receives an invoice for the goods or service. Vendor agrees to pay any subcontractors, if any, the appropriate share of the payment received from EFWMA not later than the tenth (10th) day after the date Vendor receives the payment from EFWMA. The exceptions to payments made by EFWMA and/or Vendor listed in Texas Government Code § 2251.002 shall apply to this Agreement.

**IRS W-9**

In order to receive payment under this Agreement, Vendor shall have a current I.R.S. W-9 Form on file with EFWMA.

**Multiple Contract Awards; Non-Exclusivity**

EFWMA reserves the right to award multiple contracts for each commodity category. Commodity categories are established at the sole discretion of EFWMA. Nothing in this Agreement may be construed to imply that Vendor has the exclusive right to provide products and/or services to

EFWMA. During the Term of this Agreement, EFWMA reserves the right to use all available resources to procure other products and/or services as needed and doing so will not violate any rights of Vendor.

**New Products**

New products that meet the specifications detailed in the solicitation may be added to this Agreement, with prior written approval from EFWMA. Pricing of any new products shall be equivalent to the percentage discount or proposed prices for other similar products. Vendor may replace or add products to an existing contract if: the replacing products are equal to or superior to the original products offered; are discounted in a similar or to a greater degree; and the products meet the requirements of the original solicitation. No products may be added to avoid competitive procurement procedures. EFWMA may reject any proposed additions, without cause, in its sole discretion.

**No Substitution**

Any order issued pursuant to this Agreement shall conform to the specifications and descriptions identified in this Agreement and in the solicitation. Unless otherwise agreed to in advance by EFWMA, Vendor will not deliver substitutes without prior authorization from the EFWMA.

**No Agency or Endorsements**

EFWMA and Vendor are independent contractors and have no power or authority to assume or create any obligation or responsibility on behalf of the other party. This Agreement shall not be construed or deemed an endorsement of a specific company or product. It is the intention of the parties that Vendor is independent of the EFWMA and is not an employee, agent, joint venturer, or partner of the EFWMA, and nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee, agent, joint venturer or partner, between the EFWMA and Vendor or the EFWMA and any of Vendor's agents. Vendor agrees that the EFWMA has no responsibility for any conduct of any of Vendor's employees, agents, representatives, contractors, or subcontractors.

**Non-Appropriation Clause**

Renewal of this Agreement, if any, will be in accordance with Texas Local Government Code §271.903 concerning non-appropriation of funds for multi-year contracts. Notwithstanding any other provision of this Agreement or obligation imposed on EFWMA by this Agreement, the EFWMA shall have the right to terminate

this Agreement without default or liability to Vendor resulting from such termination, effective as of the expiration of each budget period of EFWMA if it is determined by EFWMA, in the EFWMA's sole discretion, that there are insufficient funds to extend this Agreement. The parties agree that this Agreement is a commitment of the EFWMA's current revenue only.

**Notice**

Any notice provided under the terms of this Agreement by either party to the other shall be in writing and shall be given by hand-delivery or by certified or registered mail, return receipt requested. Notice shall be sufficient if made or addressed to the address listed in the signature line of this Agreement. Notice shall be deemed effective upon receipt. Each party may change the address at which notice may be sent to that party by giving notice of such change to the other party by certified or registered mail, return receipt requested.



**Penalties**

If Vendor is unable to provide the goods or services at the prices quoted in Vendor's proposal or if Vendor fails to fulfill or abide by the terms and conditions of the Agreement, EFWMA may take the following action(s), in EFWMA's sole discretion, and Vendor agrees to comply with EFWMA action(s):

- (a) insist that Vendor honor the quoted price(s) specified in Vendor's proposal;
- (b) have Vendor pay the difference between Vendor's price and the price of the next acceptable proposal (as determined by EFWMA);
- (c) have Vendor pay the difference between Vendor's price and the actual purchase price of the good or service on the open market; and/or
- (d) recommend to EFWMA's Board of Trustees that Vendor no longer be given the opportunity to submit a proposal to EFWMA and/or that this Agreement be terminated.

**Performance**

Vendor agrees to use best efforts to provide the good(s) and/or service(s) subject to this Agreement.

**Performance and Payment Bonds**

Vendor agrees to provide performance bonds and/or payment bonds as required by Texas law on specified contracts and/or projects, as applicable. The EFWMA will include the performance and payment bonds requirement in the specifications section of any solicitation if performance bonds and/or payment bonds are required.

**Prevailing Wage Rates**

Vendor and all subcontractors of Vendor shall comply with all laws regarding wage rates including, but not limited to, Texas Government Code Chapter 2258 and any related federal requirements applicable to this Agreement and to this solicitation by the EFWMA.

**Prices**

All prices in Vendor's proposal shall be firm for the Term of the Agreement. All price changes shall be presented to EFWMA for acceptance or rejection by the EFWMA, in its sole discretion, using the same format as was accepted in Vendor's original proposal; all price changes for goods and/or services provided under this Agreement must be approved, in writing, by the EFWMA prior to taking effect. The following documentation shall be provided to support a request for a price change: justification for change/increase; terms and conditions; market conditions; manufacturers/distributors' impact (if any).

**Quantities**

Because all commodities will be provided on an "as needed" basis, the EFWMA makes no representation either orally or in writing to the amount of commodities, services, or related items the EFWMA will use during the Term of the Agreement.

**Records Retention**

Vendor shall maintain its records and accounts in a manner that shall assure a full accounting for all goods and/or services provided by Vendor to EFWMA under this Agreement. These records and accounts shall be retained by Vendor and made available for audit by the EFWMA for a period of not less than three (3) years from the date of completion of the services, receipt of the goods, or the date of the receipt by the EFWMA of Vendor's final invoice or claim for payment in connection with this Agreement, whichever is later. If an audit has been announced, Vendor shall retain its records and



accounts until such audit has been completed.

When federal funds are expended by EFWMA pursuant to this Contract, Vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. Vendor further certifies that Vendor will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or sub grantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

### **Right to Audit**

EFWMA, upon written notice, shall have the right to audit all of Vendor's records and accounts relating to this Agreement. Records subject to audit shall include, but are not limited to, records which may have a bearing on matters of interest to EFWMA in connection with Vendor's work for EFWMA and shall be open to inspection and subject to audit and/or reproduction by EFWMA or its authorized representative(s) to the extent necessary to adequately permit evaluation and verification of:

- (a) Vendor's compliance with this Agreement and the requirements of the solicitation,
- (b) compliance with the EFWMA procurement policies and procedures,
- (c) compliance with provisions for computing billings to the EFWMA, and/or
- (d) any other matters related to this Agreement.

### **Safety**

Vendor, its subcontractors, and their respective employees shall comply fully with all applicable federal, state, and local safety and health laws, ordinances, rules, and regulations in the performance of services under this Agreement, including, without limitation, those promulgated by EFWMA and by the Occupational Safety and Health Administration ("OSHA"). In case of conflict, the most stringent safety requirements shall govern. Vendors shall comply with all other safety guidelines and standards as required by the EFWMA. Vendor shall indemnify and hold the EFWMA harmless from and against all claims, demands, suits, actions, judgments, fines, penalties, and liability of every kind arising from the breach of Vendor's obligations under this provision.

### **Severability**

In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

### **Shipments**

Vendor shall ship ordered products within seven (7) working days for available goods and within four (4) to six (6) weeks for special-order items after the receipt of the purchase order unless otherwise previously agreed to, in writing, by EFWMA. If a product cannot be shipped within that time frame, Vendor shall notify the EFWMA of the reasons why the product has not shipped and shall provide an estimated shipping date, if applicable. The EFWMA may cancel the order if the estimated shipping time is not acceptable to The EFWMA, in its sole discretion.

### **Subcontractors**

If Vendor uses subcontractors in the performance of any part of this Agreement, Vendor shall be fully responsible to EFWMA for all acts and omissions of the subcontractors just as Vendor is responsible for Vendor's own acts and omissions. Nothing in this Agreement shall create for the benefit of any such subcontractor any contractual relationship between EFWMA and any such subcontractor, nor shall it create any obligation on the part of the EFWMA to pay or to see to the

payment of any monies due any such subcontractor except as may otherwise be required by law.

### **Taxes**

EFWMA is tax-exempt, and the EFWMA shall not pay taxes for goods and/or services provided under this Agreement. Vendor represents and warrants that it shall pay all taxes or similar amounts resulting from this Agreement, including, without limitation, any federal, state, or local income, sales or excise taxes of Vendor or its employees. The EFWMA shall not be liable for any taxes resulting from this Agreement.

### **Tax Responsibilities of Vendor and Indemnification for Taxes**

Vendor and all subcontractor(s) of Vendor shall pay all federal, state, and local taxes applicable to their operation and any persons employed by Vendor and all subcontractors of Vendor.

Vendor shall require all subcontractors to hold EFWMA harmless from any responsibility for taxes, damages, and interest. If applicable, contributions required under federal, state, and/or local laws and regulations and any other costs including, but not limited to, transaction privilege taxes, unemployment compensation insurance, Social Security, and Worker's Compensation, shall be the sole responsibility of Vendor.

### **Termination of Contract**

This Agreement shall remain in effect until (1) the Agreement expires by its terms or (2) the Agreement is terminated by mutual agreement of EFWMA and Vendor. In the event of a breach or default of the Agreement and/or the procurement solicitation by Vendor, the EFWMA reserves the right to enforce the performance of the Agreement and/or the procurement solicitation in any manner prescribed by law or deemed to be in the best interest of the EFWMA. EFWMA further reserves the right to terminate the Agreement immediately in the event Vendor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in this Agreement, the procurement solicitation, and/or a purchase or work order; (2) make any payments owed; or

(3) otherwise perform in accordance with this Agreement and/or the procurement solicitation. EFWMA also reserves the right to terminate the Agreement immediately, with written notice to Vendor, if EFWMA believes, in its sole discretion, that it is in the best interest of EFWMA to do so. Vendor agrees that EFWMA shall not be liable for damages in the event that EFWMA declares Vendor to be in default or breach of this Agreement and/or the procurement solicitation. Vendor further agrees that upon termination of the Agreement for any reason, Vendor shall, in good faith and with reasonable cooperation, aid in the transition to any new arrangement and/or vendor.

### **Title and Risk of Loss**

Whenever EFWMA is purchasing (and not leasing) an item under this Agreement, title and risk of loss shall pass upon the later of EFWMA's acceptance of the item or payment of the applicable invoice.

All deliveries under this Agreement shall be delivered: Freight Prepaid, F.O.B. Destination, Full Freight Allowed, Inside Delivery and shall be included in all pricing in Vendor's proposal unless otherwise clearly stated in writing in Vendor's proposal.

### **Waiver**

No failure on the part of either party at any time to require the performance by the other party of any term hereof shall be taken or held to be a waiver of such term or in any way affect such party's right to enforce such term, and no waiver on the part of either party of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof. No waiver,

alteration, or modification of any of the provisions of this Contract shall be binding unless in writing and signed by duly authorized representatives of the parties hereto.

**Warranty**

All goods and/or services provided by Vendor under this Agreement must be warranted to be free from defects in material, workmanship, and free from such defects in design for a period of one (1) year upon the later of EFWMA's acceptance of the product and/or service or payment of the applicable invoice. Vendor warrants that all goods and/or services furnished under this Agreement shall conform in all respects to the terms of this Agreement, including any drawings, specifications, and/or standards incorporated herein, including, without limitation, those detailed in the procurement solicitation issued by EFWMA. In addition, Vendor warrants that goods and/or services are suitable for and will perform in accordance with the purposes for which they are intended. Vendor shall assume all liabilities incurred within the scope of consequential damages and incidental expenses, as set forth in the vendor or manufacturer's warranty, which result from either delivery or use of product, which does not meet the specifications within this Agreement or the solicitation procurement.

**Website Support**

Vendor agrees to cooperate with EFWMA in publicizing contract particulars on EFWMA's website. Vendor agrees to work with EFWMA in updating and maintaining current information on Vendor's activities related to the Agreement on the website. Vendor agrees to provide an electronic version of its logo for use on EFWMA's website upon request and provide other information as reasonably requested by EFWMA to help ensure that EFWMA's website is current and consistently updated.

**Workforce**

Vendor shall employ only orderly and competent workers, skilled in the performance of the services, if any, which shall be performed under this Agreement. Vendor, its employees, subcontractors, and subcontractor's employees may not use or possess any firearms, alcoholic or other intoxicating beverages, illegal drugs or controlled substances while on the job or on EFWMA's property, nor may such workers be intoxicated or under the influence of alcohol or drugs on EFWMA's property.

It is understood and agreed that any modification or amendment to this agreement by either party shall be done in writing and shall be signed by both parties.

I have read these standard terms and conditions and fully understand them, and will fully execute them, if I am awarded this proposal.

\_\_\_\_\_  
Print - Type Name of Company Officer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone No.                      Fax No.

\_\_\_\_\_  
Date

\_\_\_\_\_

Email address: \_\_\_\_\_

## EVALUATION AND AWARD OF PROPOSALS

In accordance with applicable laws, rules, and regulations for public purchasing, award(s) will be made to the responsible proposer(s) whose proposal(s) is/are determined, after evaluation by the EFWMA Procurement Division, to be the best value to EFWMA. To qualify for evaluation, a proposal must have been submitted on time and must materially satisfy all mandatory requirements identified in this document.

### Evaluation Criteria

A committee selected by EFWMA will review and evaluate all proposals and make a recommendation to the EFWMA Board of Trustees. EFWMA will base a recommendation for contract award on the following factors, in accordance with Texas Education Code § 44.031:

<b>Evaluation Factors</b>	<b>Weighted Value</b>
1. Project Cost	35 points
2. Number of similar HVAC Replacement projects completed by the contractor	10 points
3. Timeline for (earliest) completion of the project. Contractor must submit points timeline for the completion of this project together with the proposal response	10
4. Favorable & Unfavorable references of contractor for similar HVAC Replacement Project	10 Points
5. Impact on the ability of the EFWMA to comply with laws and rules relating to Historically Underutilized Businesses	05 Points
6. HVAC Replacement Project contractor's proposed personnel. Contractor must submit a list of proposed personnel and their experience with HVAC Replacements together with the proposal	05 Points
7. HVAC Replacement project contractor's safety record	05 Points
8. Warranties (materials & labor)	10 Points
9. HVAC Replacement Project Subcontractors to be used. Contractor must Submit a list of proposed subcontractors (if any) together with the proposal. Information must include company name, address, phone number, Email address (optional), and references on those subcontractors.	10 Points
<b>Total Points</b>	<b>100 Points</b>

### Awards

Awards will be made to the successful proposer(s) for the total line of products and services submitted. Awards will be based on the criteria set forth within this document. The EFWMA reserves the right to award contracts to multiple vendors if these vendors offer items that are unique and have value to the EFWMA. The EFWMA shall comply with the Texas Public Information Act in the event EFWMA receives an open records request for information relating to proposals submitted in response to this RFP.

### Competitive Range

It may be necessary for EFWMA to establish a competitive range of acceptable proposals as part of the evaluation process. Proposals not in the competitive range are unacceptable and do not receive further award consideration.

### Estimated Quantities

The EFWMA makes no guarantee or commitment of any kind concerning quantities that will actually be purchased. EFWMA makes no guarantee or commitment of any kind regarding usage of any contracts resulting from this.

<sup>1</sup> As a general rule, EFWMA may not apply geographic preferences for procurements involving federal funds.

*See* 2 C.F.R. §

200.319. However, EFWMA may apply an optional geographic preference in the procurement of unprocessed locally grown or locally raised agricultural products for use in a Child Nutrition Program. *See* 2 C.F.R. §§ 210 (National School Lunch Program), 215 (Special Milk Program for Children), 220 (School Breakfast Program), 225 (Summer Food Service Program), 226 (Child and Adult Care Food Program) solicitation.

**Inspection & Acceptance**

Awarded vendor(s) shall deliver the goods or services procured on this contract to the EFWMA division issuing a Purchase Order. If delivery is not or cannot be made within the proper time period, the awarded vendor must receive authorization from the issuing EFWMA division for the delayed delivery. If defective or incorrect goods are delivered, EFWMA may make the determination, in its sole discretion, to return the goods to the vendor at no cost to EFWMA. The vendor agrees to pay all shipping and handling costs for any such return shipment. The vendor also shall be responsible for arranging the return of the defective or incorrect goods.

**Minority & Women's Business Enterprise (MWBE), Historically Underutilized Business (HUB), and Small Business Enterprise (SBE) participation**

EFWMA encourages the use of HUB, MWBE, and SBE both as prime and subcontractors. However, these entities must meet the same minimum standards and requirements as the prime contractor. It will be the responsibility of the prime contractor to pre-qualify any subcontractors offered as HUB, MWBE and SBE participants. Proposers shall indicate on their submitted proposals whether or not they are a HUB, MWBE, or SBE vendor and with whom they are certified, e.g., State, City, Federal.

**Formation of Contract (Execution of Offer)**

A response to this solicitation is an offer to contract with EFWMA based upon the terms, conditions, scope of work, and specifications contained in this procurement solicitation. A solicitation/proposal does not become a contract unless and until it is accepted by EFWMA after approval by the EFWMA Board of Trustees. A contract is formed when the Purchasing Agent signs the Execution of Offer form.

**Non-Exclusive Contract**

Any contract resulting from this solicitation is non-exclusive and shall be awarded with the understanding and agreement that it is for the sole convenience of EFWMA. EFWMA is free to have multiple contracts for the awarded goods and services and may initiate other procurement solicitations or purchasing activity with other vendors at any time, in EFWMA's sole discretion.

**Pricing**

EFWMA requires that the pricing submitted in proposals be offered as a quantity one price. EFWMA may request the awarded vendor(s) to provide discounts or other adjustments to the quantity one price for larger orders, on a per-purchase order basis. If discounts or quantity prices are offered by an awarded vendor, the vendor must also offer the same reductions in pricing to be available for orders of similar size.

# **SECTION II**

## **EFWMA Forms**



**DEVIATIONS FORM**

If the Undersigned Vendor intends to deviate from the specifications set forth by utilizing any different materials, items, treatments, finishes, tailoring details, under construction, etc., contrary to those listed as standards in the specifications, then the Vendor shall enter the deviations on this form. If no deviations exist, Vendor shall enter "No Deviations". The Proposer then assures the Buyer of their full compliance with the specifications and conditions set forth.

**FAILURE TO LIST SUCH DEVIATIONS, IN DETAIL, WILL RESULT IN DISQUALIFICATION OF THE PROPOSAL/BID.**

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\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Fax

## REFERENCES

List at least three references (Texas School EFWMA or other Texas public entity) the EFWMA may contact with respect to your company's work performance within the past three years. For each reference, include a contact in both the client's Finance and Legal areas:

: • name of client • your firm's role with client • name/title of contact persons • phone numbers/email addresses

Name of Client	
Contact's Name and Title	Your firm's Role with Client
Street Address	City, State, Zip Code
Phone Number	Length of Time

Name of Client	
Contact's Name and Title	Your firm's Role with Client
Street Address	City, State, Zip Code
Phone Number	Length of Time

State of Texas Legislative Senate Bill No. 1, Section 44.034, Notification of Criminal History, Subsection (a), states “a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony”.

Subsection (b) states “a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract”.

**THIS NOTICE IS NOT REQUIRED OF A PUBLICLY-HELD CORPORATION**

## FELONY CONVICTION NOTICE FORM

Statutory citation covering notification of criminal history of contractor is found in the Texas Education Code §44.034.

### FELONY CONVICTION NOTIFICATION

I, the undersigned agent for the firm named below, certify that the information concerning notification of felony convictions has been reviewed by me and the following information furnished is true to the best of my knowledge.

**VENDOR'S NAME:** \_\_\_\_\_

**AUTHORIZED COMPANY OFFICIAL'S NAME:** \_\_\_\_\_

- A. My firm is a publicly-held corporation, therefore, this reporting requirement is not applicable.

**Signature of Company Official:** \_\_\_\_\_

- B. My firm is not owned nor operated by anyone who has been convicted of a felony.

**Signature of Company Official:** \_\_\_\_\_

- C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony.

Name of Felon(s): \_\_\_\_\_  
(Attach additional sheet if necessary)

Details of Conviction(s): \_\_\_\_\_  
(Attach additional sheet if necessary)

**Signature of Company Official:** \_\_\_\_\_

**DEBARMENT OR SUSPENSION CERTIFICATION FORM**

Non-federal entities are prohibited from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement of goods or services. Vendors receiving awards of contracts and all sub recipients must certify that the organization and its principals are not suspended or debarred.

Your signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by a federal department or agency.

Your signature also certifies that no suspension or debarment is in place, which would preclude receiving a federally funded contract under the Federal OMB, A-102, Common Rule (.36)

Vendor Name: \_\_\_\_\_

Authorized Company Official's Name: \_\_\_\_\_

Title of Authorized Representative: \_\_\_\_\_

Email Address: \_\_\_\_\_

Signature of Authorized Company Official: \_\_\_\_\_

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

# Request for Taxpayer Identification Number and Certification

**Give Form to the requester.  
 Do not send to the IRS.**

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2  Business name/disregarded entity name, if different from above

3 Check the appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

Individual/sole proprietor or single-member LLC	C Corporation	S Corporation	Partnership	Trust/estate	Exempt payee code (if any)
<input type="checkbox"/>					

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶

Exemption from FATCA reporting code (if any)  
(Applies to accounts maintained outside the U.S.)

**Note:** Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

Other (see instructions) ▶

5 Address (number, street, and apt. or suite no.) See instructions.

6 City, state, and ZIP code

7 List account number(s) here (optional)

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Requester's name and address (optional)

## Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Social security number

- -

or

Employer identification number

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**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

# General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

## What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.



**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note: ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

### Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

### Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the EFWMA of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the EFWMA of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in



The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

- A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)
- B—The United States or any of its agencies or instrumentalities
- C—A state, the EFWMA of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)
- E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)
- F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state
- G—A real estate investment trust
- H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940
- I—A common trust fund as defined in section 584(a)
- J—A bank as defined in section 581
- K—A broker
- L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

**Line 5**

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

**Line 6**

Enter your city, state, and ZIP code.

**Part I. Taxpayer Identification Number (TIN)**

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/Businesses](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

**Part II. Certification**

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

1. **Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

2. **Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. **Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

4. **Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. **Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABL accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

**\*Note:** The grantor also must provide a Form W-9 to trustee of trust.

**Note:** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## What Name and Number To Give the Requester

## Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information.

Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the EFWMA of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

## Instructions for the Conflict of Interest Questionnaire

Section 176.006 requires disclosure of a person's "affiliations or business relations that might cause a conflict of interest." The term "affiliation" is not defined in Chapter 176. However, the general definition of the word "affiliation" would mean any association or connection. So any affiliation, including such things as friendship, membership in some group or organization, relationship by blood or marriage, or any other connection, must be disclosed.

### How to fill out the Conflict of Interest Questionnaire (each number corresponds with the number on Form CIQ).

1. Name of person doing business with the EFWMA. If the business is a corporation, partnership, etc., then each person who acts as an agent for the business in dealings with School ISD must complete the form. Also state the company name.
2. Check the box if you are filing an update to a previously filed questionnaire. Updates are required by law by September 1 of each year in which the person submits a proposal or bid, or begins contract discussions or negotiations with the EFWMA. Updates are also required by the 7<sup>th</sup> business day after an event that makes a statement in a previously filed questionnaire incomplete or inaccurate.
3. Describe how you are affiliated or related to a EFWMA employee or school board member who may make recommendations to the EFWMA regarding expenditures of money.

#### **EFWMA Board of Trustees and Superintendent include:**

Ms. Eva C. Watts, President, Dr. Maricela Valdez, Vice-President, Lieutenant Colonel Roberto Perez, Secretary, Mr. David De los Rios, Member, Dr. School Mery, Member, Ms. Alicia Reyna, Member, Valentin Guerrero, Member, Dr. Hafedh Azaiez, Superintendent of Schools. **Name the EFWMA employee or school board member with whom you have a relationship; if there is no relationship in question, state "NONE". Answer questions A, B, C, and D with "Yes" or "No", as applicable.**

#### **Examples:**

- If your spouse, parent, or child is the EFWMA's Purchasing Agent and a bid is being submitted to the Purchasing Department, this relationship must be reported.
- If your spouse, parent, or child is the Principal at a school and your business may sell items directly to that school, this relationship must be reported.
- If you or your spouse, parent, or child is in business with an EFWMA employee that would be making a recommendation concerning a purchase or sales transaction involving you, the relationship must be reported.
- If you employ or do business with a spouse, parent, or child of an EFWMA employee that would be making a recommendation concerning a purchase or sales transaction involving you, the relationship must be reported.
- If you are an EFWMA employee and would be making a recommendation concerning a purchase or sales transaction involving you, the relationship must be reported.
- If your neighbor or friend is an EFWMA employee that would be making a recommendation concerning a purchase or sales transaction involving you and you feel that your relationship with this employee could affect their recommendation, this relationship must be reported.
- If any other situation exists that would result in a conflict of interest, the relationship must be reported.
- If your spouse, parent, or child is a teacher that does not make recommendations concerning purchasing or sales transactions, this relationship should not be reported. If your spouse, parent, or child is a Principal at a school and a bid is being considered by a separate department such as Facilities & Planning (Construction Department),

this relationship should not be reported.

4. Signature Box: Date and Sign the form. A signature is required from the person completing the form even if "No" is entered in Box 3, A, B, C, or D.



# CONFLICT OF INTEREST QUESTIONNAIRE

# FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

## OFFICE USE ONLY

Date Received

1 | Name of person who has a business relationship with local governmental entity.

2 | Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 | name of local government officer with whom filer has employment or business relationship.

\_\_\_\_\_  
Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

Yes                      No

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

Yes                      No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

Yes                      No

D. Describe each employment or business relationship with the local government officer named in this section.

4 |

VENDOR NAME: (Please print): \_\_\_\_\_

\_\_\_\_\_  
Signature of person doing business with the governmental entity

\_\_\_\_\_  
Date

Adopted 06/29/2007



## **CONFLICT OF INTEREST QUESTIONNAIRE**

### **For vendor doing business with local governmental entity**

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):**

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

\*\*\*

(2) the vendor:

- (A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that
  - (i) a contract between the local governmental entity and vendor has been executed; or
  - (ii) the local governmental entity is considering entering into a contract with the vendor;
- (B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:
  - (i) a contract between the local governmental entity and vendor has been executed; or
  - (ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

- (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

- (1) the date that the vendor:
  - (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
  - (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or
- (2) the date the vendor becomes aware:
  - (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
  - (B) that the vendor has given one or more gifts described by Subsection (a); or
  - (C) of a family relationship with a local government officer.



PROPOSER VENDOR CERTIFICATION FORMS REQUIRED  
CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS  
UNDER FEDERAL AWARDS -APPENDIX II TO 2 CFR PART 200

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The following provisions are required and apply when federal funds are expended by EFWMA for any contract resulting from this procurement process.

**(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.**

Pursuant to Federal Rule (A) above, when federal funds are expended, The School EFWMA reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does the vendor agree ? YES \_\_\_\_\_(If yes, insert initials of Authorized Representative of vendor.)

**(B) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)**

Pursuant to Federal Rule (8) above, when federal funds are expended, EFWMA reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Vendor , in the event vendor fails to: (1) meet schedules , deadlines , and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the procurement solicitation. The School EFWMA also reserves the right to terminate the contract immediately, with written notice to the vendor, for convenience , if The School EFWMA believes, in its sole discretion, that it is in the best interest of The School EFWMA to do so. The vendor will be compensated for work performed and accepted and goods accepted by The School EFWMA as of the termination date if the contract is terminated for convenience of The School EFWMA. Any award under this procurement process is not exclusive and The School EFWMA reserves the right to purchase goods and services from other vendors when it is in the best interest of The School EFWMA to do so.

Does the vendor agree to abide by the above?

YES \_\_\_\_\_(If yes, insert initials of Authorized Representative of vendor.)

**(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."**

Pursuant to Federal Rule (C) above, when federal funds are expended by The School EFWMA on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein .

Does the vendor agree to abide by the above?

YES \_\_\_\_\_(If yes, insert initials of Authorized Representative of vendor.)

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when federal funds are expended by The School EFWMA, during the time of an award for all contracts and subgrants for construction or repair, the vendor will be in compliance with all applicable Davis Bacon Act provisions.

Does the vendor agree? YES \_\_\_\_\_ (If yes, insert initials of Authorized Representative of vendor.)

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when federal funds are expended by The School EFWMA, the vendor certifies that during the time of an award for all contracts by The School EFWMA resulting from this procurement process, the vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act.

Does the vendor agree? YES \_\_\_\_\_ (If yes, insert initials of Authorized Representative of vendor.)

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Pursuant to Federal Rule (F) above, when federal funds are expended by School IS O, the vendor certifies that during the term of an award for all contracts by The School EFWMA resulting from this procurement process, the vendor agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

Does the vendor agree? YES \_\_\_\_\_ (If Yes, initials of Authorized Representative of vendor.)

**(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended-Contracts and sub-grants of amounts in excess of \$150,000 must contain a provision that requires the non Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EJ>A).**

Pursuant to Federal Rule (G) above, when federal funds are expended by The School EFWMA, the vendor certifies that during the term of an award for all contracts by The School EFWMA resulting from this procurement process, the vendor agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

Does the vendor agree? YES \_\_\_\_\_(If Yes, insert the initials of Authorized Representative of vendor.)

**(H) Debarment and Suspension (Executive Orders 12549 and 12689}-A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.**

Pursuant to Federal Rule (H) above, when federal funds are expended by School IS O, the vendor certifies that during the term of an award for all contracts by School ISO resulting from this procurement process, the vendor certifies that neither it nor its principals is presently debarred , suspended , proposed for debannent, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

Does the vendor agree? YES \_\_\_\_\_ \_ (If yes, insert the initials of Authorized Representative of vendor.)

**(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352}-Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.**

Pursuant to Federal Rule (I) above, when federal funds are expended The School EFWMA, the vendor certifies that during the term and after the awarded term of an award for all contracts by The School EFWMA resulting from this procurement process, the vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) . The undersigned further certifies that:

- (1) No Federal appropriated funds have been paid or will be paid for on behalf of the undersigned , to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension , continuation , renewal, amendment, or modification of a Federal contract, grant, lo an, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions .

- (3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all sub-recipients shall certify and disclose accordingly.

Does the vendor agree? YES \_\_\_\_\_(If yes, insert the initials of Authorized Representative of vendor.)

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**RECORD RETENTION REQUIREMENTS FOR CONTRACTS PAID FOR WITH FEDERAL FUNDS-  
2 CFR § 200.333**

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When federal funds are expended by The School EFWMA for any contract resulting from this procurement process, the vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The vendor further certifies that the vendor will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or sub-grantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Does the vendor agree? YES \_\_\_\_\_(If yes, insert the initials of Authorized Representative of vendor.)

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**CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT**

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When federal funds are expended by The School EFWMA for any contract resulting from this procurement process, the vendor certifies that the vendor will be in compliance with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 , et seq.; 49 C.F.R. Part 18).

Does the vendor agree? YES \_\_\_\_\_(If yes, insert the initials of Authorized Representative of vendor.)

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**CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS**

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Vendor certifies that vendor is in compliance with all applicable provisions of the Buy America Act. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

Does the vendor agree? YES \_\_\_\_\_(If yes, insert the initials of Authorized Representative of vendor.)

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**CERTIFICATION OF NON-COLLUSION STATEMENT**

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Vendor certifies under penalty of perjury that its responses to this procurement solicitation is in all respects bona fide, fair, and made without collusion or fraud with any person, joint venture , partnership, corporation or other business or legal entity.

Does the vendor agree? YES \_\_\_\_\_(If yes, insert the initials of Authorized Representative of vendor.)



**Vendor agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that the vendor certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above under Proposed Vendor Certification Forms.**

Vendor ' s Name/Company Name: \_\_\_\_\_

Address , City, State, and Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Printed Name and Title of Authorized Representative: \_\_\_\_\_

Email Address: \_\_\_\_\_

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

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

**SB252**  
**CHAPTER 2252 CERTIFICATION**

I, \_\_\_\_\_, the undersigned representative of  
\_\_\_\_\_  
(Company or business name) being an adult over the age of eighteen (18) years of age, pursuant to Texas Government Code, Chapter 2252, Section and Section 2252.153, certify that the company named above is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I hereby certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify The School EFWMA's Purchasing Department.

\_\_\_\_\_  
Name of Company Representative (Print)

\_\_\_\_\_  
Signature of Company Representative

\_\_\_\_\_  
Date

## House Bill 89 VERIFICATION

I, \_\_\_\_\_, the undersigned representative of

\_\_\_\_\_ Company or Business name

(hereafter referred to as company) being an adult over the age of eighteen (18) years of age, verify that the company named-above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract the above-named Company, business or individual with EFWMA.

*Pursuant to Section 2270.001, Texas Government Code:*

1. *"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*
2. *"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.*

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Company Representative

# CERTIFICATE OF INTERESTED PARTIES

# FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY**

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

**The DISTRICT (EFWMA)**

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**

**EFWMA RFP # [insert "RFP" # here]**

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

**5 Check only if there is NO Interested Party.**

**6 UNSWORN DECLARATION**

My name is \_\_\_\_\_, and my date of birth is \_\_\_\_\_.

My address is \_\_\_\_\_  
 . (street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in \_\_\_\_\_ County, State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
 (month) (year)

\_\_\_\_\_  
 Signature of authorized agent of contracting business entity  
 (Declarant)

**ADD ADDITIONAL PAGES AS NECESSARY**

Form provided by Texas Ethics Commission

[www.ethics.state.tx.us](http://www.ethics.state.tx.us)

Revised 12/22/2017

**Must file online at [www.ethics.state.tx.us/File](http://www.ethics.state.tx.us/File)**



It is understood and agreed that any modification or amendment to this agreement by either party shall be done in writing and shall be signed by both parties.

I have read these standard terms and conditions and fully understand them, and will fully execute them, if I am awarded this proposal.

\_\_\_\_\_  
Print - Type Name of Company Officer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone No.                      Fax No.

\_\_\_\_\_  
Date

\_\_\_\_\_

Email address: \_\_\_\_\_