




## Memorandum from Purchasing Department

### *Letter of Instruction for RFP #251-23-483*

**To: Prospective Parties**

Thank you for your interest in the Wake County Public School System. Please review the following instructions prior to submitting your proposal.

- Prior to submitting and executing the proposal, please make sure you read and understand the terms and conditions referenced. All proposals are subject to the terms and conditions outlined herein. All responses will be controlled by such terms and conditions and the submission of other terms and conditions, price lists, catalogs, and/or other documents as part of an offeror's response will be waived and have no effect either on this Request For Proposals or on any contract that may be awarded resulting from this solicitation. The attachment of any other terms and conditions by the Offeror may be grounds for rejection of that proposal. Offeror specifically agrees to the conditions set forth in the above paragraph by signature to the proposal.
- Please read carefully the section titled **CONFIDENTIALITY AND PROHIBITED COMMUNICATIONS DURING THE RFP PROCESS**. All questions should be directed to [bids-pgooding@wcpss.net](mailto:bids-pgooding@wcpss.net).
- Offerors are cautioned that this is a request for offers, not a request to contract, and WCPSS reserves the unqualified right to reject any and all offers when such rejection is deemed to be in the best interest of WCPSS.
- In submitting a proposal, the Offeror agrees not to use the results there from as part of any news release or commercial advertising.
- **Submit one (1) signed, original executed proposal response, one (1) photocopy, and one (1) electronic copy on a flash drive (emails not accepted) of your proposal simultaneously to the address identified below.**
- Clearly mark each package with: (1) Vendor name; (2) the RFP number; and (3) the due date. Address the package(s) for delivery as shown in the table below. If Vendor is submitting more than one (1) proposal, each proposal shall be submitted in separate envelopes and marked accordingly. For delivery purposes, separate envelopes from a single Vendor may be included in the same outer package. Proposals are subject to rejection unless submitted with the information above included on the outside of the proposal package.

 <b>WAKE COUNTY</b> PUBLIC SCHOOL SYSTEM	<b>Request for Proposal #251-23-483</b>	
1551 Rock Quarry Rd – Bldg. F  Raleigh, NC 27610	<b>VOLUNTEER CRIMINAL RECORD CHECK &amp; MANAGEMENT SYSTEM</b>	
Refer <b><u>ALL</u></b> Inquiries to: Petra Gooding Telephone No: 919-588-3456	Contract Type: Agency Specific Term Contract	
E-Mail: <a href="mailto:bids-pgooding@wcpss.net">bids-pgooding@wcpss.net</a>	Commodity: Human Resources Services	
	Using Agency Name: WAKE COUNTY PUBLIC SCHOOL SYSTEM	

### **NOTICE TO VENDORS**

Sealed proposals, subject to the conditions made a part hereof, will be received at this office (1551 Rock Quarry Road, Building F, Raleigh, NC) until **2:00 p.m.** on the day of opening and then opened, for furnishing and delivering the commodity as described herein. Refer to page 2 for proper mailing instructions.

Proposals submitted via facsimile (FAX) machine or email in response to this Request for Proposal will not be acceptable. Proposals are subject to rejection unless submitted on this form.

### **EXECUTION**

In compliance with this Request for Proposal, and subject to all the conditions herein, the undersigned offers and agrees to furnish and deliver any or all items upon which prices are proposed, at the prices set opposite each item within the time specified herein. By executing this proposal, I certify that this proposal is submitted competitively and without collusion.

**Failure to execute/sign proposal prior to submittal shall render bid invalid. Late proposals are not acceptable.**

VENDOR:		FEDERAL ID OR SOCIAL SECURITY NO.	
STREET ADDRESS:		P.O. BOX:	ZIP:
CITY & STATE & ZIP:		TELEPHONE NUMBER:	TOLL FREE TEL. NO (800)
PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE			
TYPE OR PRINT NAME & TITLE OF PERSON SIGNING:		FAX NUMBER:	
AUTHORIZED SIGNATURE:	DATE:	E-MAIL:	

Offer valid for 60 days from date of proposal opening unless otherwise stated here: \_\_\_\_ days Prompt Payment  
 Discount: \_\_\_\_\_ % \_\_\_\_\_ days.

Submit **one (1) signed, original executed** proposal response, one ( ) photocopy, and one (1) electronic copy on a flash drive (emails will not be accepted) of your proposal simultaneously to the address identified below.

Clearly mark each package with: (1) Vendor name; (2) the RFP number; and (3) the due date. Address the package(s) for delivery as shown in the table above. If Vendor is submitting more than one (1) proposal, each proposal shall be submitted in separate envelopes and marked accordingly. For delivery purposes, separate envelopes from a single Vendor may be included in the same outer package. Proposals are subject to rejection unless submitted with the information above included on the outside of the proposal package.

**MAILING INSTRUCTIONS:** Mail only one fully executed proposal with copies, unless otherwise instructed, and only one proposal package with copies per envelope. **Address envelope and include proposal number as shown below.** It is the responsibility of the Vendor to have the proposal in this office by the specified time and date of opening.

<b><u>DELIVER TO:</u></b>
PROPOSAL NO. RFP 251-23-483  Wake County Public School System  Purchasing Department, Building F  1551 Rock Quarry Road  Raleigh NC 27610-4145

### **RFP SCHEDULE**

The table below shows the *intended* schedule for this RFP. WCPSS will make every effort to adhere to this schedule.

Event	Responsibility	Date and Time
Issue RFP	WCPSS	3-30-23
Submit written questions to <a href="mailto:bids-pgooding@wcpss.net">bids-pgooding@wcpss.net</a> (Reference RFP # in the subject line)	Vendor	4-4-23 by 2:00 pm ET
Provide Responses to Questions	WCPSS	4-6-23 by end-of-business
Submit Proposals	Vendor	4-14-23 @ 2:00 PM ET

### **PROPOSAL QUESTIONS**

Upon review of the RFP documents, Vendors may have questions to clarify or interpret the RFP in order to submit the best proposal possible. To accommodate the Proposal Questions process, Vendors shall submit any such questions, in written form by the above due date. WCPSS will not respond to questions via telephone or telephone message(s). Written questions must be emailed to [bids-pgooding@wcpss.net](mailto:bids-pgooding@wcpss.net) by the date and time specified above. Vendors should enter “RFP #251-23-483 Questions” as the subject for the email. Questions submittals should include a reference to the applicable RFP section and be submitted in a format shown below:

Reference	Vendor Question
RFP Section, Page Number	Vendor question ...?

Questions received prior to the submission deadline date, WCPSS’ response, and any additional terms deemed necessary by WCPSS will be posted in the form of an addendum to the Interactive Purchasing System (IPS), <http://www.ips.state.nc.us> and WCPSS Purchasing website <http://www.wcpss.net/domain/101>, and shall become an Addendum to this RFP. No information, instruction or advice provided orally or informally by any WCPSS personnel, whether made in response to a question or otherwise in connection with this RFP, shall be considered authoritative or binding. **Vendors shall rely *only* on written material contained in an Addendum to this RFP.**

## **PROPOSAL EVALUATION**

All proposals will be evaluated by representatives of WCPSS. WCPSS may, at its sole discretion, ask for additional information and/or elect to conduct interviews with finalists to clarify information provided in the proposals.

The services that are the subject of this RFQ/P are not required to be bid under North Carolina law, and none of the statutory requirements regarding public bidding apply to this RFQ/P. This document, and not those statutes, will govern the selection process.

WCPSS shall not be required to award the contract to the lowest proposed compensation; nor shall WCPSS have any obligation to explain its decision to recommend or not to recommend any particular vendor or to invite or exclude any particular vendor from consideration at any stage of the process. Instead of recommending that contracts be awarded to one or more vendors who presented proposals, WCPSS may, at its sole discretion, reject the proposals and repeat the process, enter into direct contract negotiations with one or more vendors (possibly including vendors who have not previously submitted proposals) or take any other action WCPSS deems advisable under all the circumstances.

WCPSS is expected to make any final selection(s) based upon any factors or considerations WCPSS deems relevant. Factors often considered include qualifications, relevant experience, fee, and ability to perform work in a timely manner. WCPSS retains sole discretion to award the contract to the vendor(s) it believes will best serve the interests of WCPSS and may consider any factors, documents, or information it deems relevant in making that determination. WCPSS shall not have any obligation to explain its decision to select or not select any individual vendors or to invite or exclude any individual vendors from consideration at any stage of the process. The decision of WCPSS to accept or reject any proposals and to award contract(s) to any one or more vendor(s) shall be final and not subject to further review.

Vendors are subject to *immediate disqualification* at any stage of the selection process for any of the following:

- The submission of false or misleading information in the vendor's proposal.
- Any efforts to dissuade or discourage other vendors from submitting proposals.
- Any efforts to influence, dictate, or change the terms of another vendor's proposal.
- Any form of bid collusion or bid rigging.

## **METHOD OF AWARD**

**All qualified proposals will be evaluated, and awards will be made to the Vendor(s) meeting the RFP requirements and achieving the highest and best final evaluation which is best for WCPSS. Vendors SHALL not be considered who are not approved or authorized by The State of North Carolina to do business with The State of North Carolina. WCPSS reserves the right to waive any minor informality or technicality in proposals received.**

## **IMPORTANT: CONFIDENTIALITY AND PROHIBITED COMMUNICATIONS DURING EVALUATION**

***During the evaluation period—from the date proposals are opened through the date the contract is awarded—each Vendor submitting a proposal (including its representatives, sub-contractors and/or suppliers) is prohibited from having any communications with any person inside or outside of WCPSS regarding this solicitation. All communication should be directed in written form to the WCPSS contact indicated on pages 1, 2, and 3.***

## **BACKGROUND AND PROJECT OBJECTIVES**

The Wake County Public School System (WCPSS) is seeking pricing proposals for services related to a volunteer management and registration system and criminal background checks for volunteers. Note that “criminal record checks” and “criminal background checks” are used interchangeably to reference the product requested under this project.

For informational purposes, WCPSS is the nation’s 15<sup>th</sup> largest school district, and the largest in the state of North Carolina. With 198 schools (119 elementary, 38 middle schools, 31 high schools, and 10 specialized schools), we serve approximately 160,000 students and have approximately 20,000 staff in the district.

## **SCOPE OF WORK**

WCPSS has approximately 40,000 volunteers and runs criminal background checks for approximately 20,000 new volunteers each year.

The initial term of the contract shall be for (1) one year, with the option to renew for two additional one-year extensions at the discretion of the district.

## **Minimum Requirements**

- I. Vendor must deliver a sample report or full description that, at a minimum, addresses the methodology in which the vendor proposes to perform and report results from volunteer criminal background checks.
- II. Vendor shall provide assurance that the system meets the following criteria:
  - a. Provide an online system through which Human Resource employees may access the provider’s criminal database(s) to perform a criminal background check on applicants by social security number, name and/or date of birth.
  - b. Vendor must have the necessary systems, software, support, and procedures to provide the services required, and must comply with the WCPSS Technology RFP Specifications (See Attachment D).
  - c. System must ensure that confidential information about volunteers is protected from unauthorized disclosure, and the Vendor must sign the WCPSS Data Confidentiality and Security Agreement (See Attachment E).
  - d. System must perform state and national criminal background and sex offender registry checks. System must also perform motor vehicle reporting checks.
  - e. There must be no limits placed on the number of checks HR employees may perform related to daily, weekly, monthly, quarterly, or annually.
  - f. Vendor must have the capacity to validate daily (nightly) submittals against database and provide daily reports of any volunteer who is found to have criminal activity.
  - g. Background check should be completed within 24 hours of submission, and the system should have the capacity to complete faster searches when necessary.
  - h. Online system shall be capable of producing criminal background checks in online and PDF format and should include relevant criminal record information such as convictions, charges, case

disposition, court notes, sex offender registry outcomes, addresses, date of birth, duplicate names, etc.

- i. System must be capable of tracking, recording, and performing criminal background checks, and must be able to limit information flowing through the application system to just approved, approved for driving, or denied, without including the full criminal background record.
- j. System must permit schools to view a list of volunteers who have been approved for the specific school and should be able to notify schools when a volunteer has been removed from the school's approved list. The list must be customizable so that WCPSS can remove confidential information that should not be displayed. The system also should include the capability of providing a district-wide list of volunteers that have been approved, that is visible by all schools.
- k. System must be capable of notifying HR employees via email or other notification process or otherwise clearly indicate when a criminal record check has been completed and needs to be reviewed. The system must also notify HR employees of any responses that perpetuate a "hit" or activity response.
- l. System must provide a single sign-in for searches.
- m. System must include the ability to add links to additional information as needed for the volunteer registration or management process.
- n. System must be capable of purging former volunteers from the database.
- o. System must be capable of providing data reports in PDF and Excel formats which include any applicant information such as name, address, email address, phone #, schools selected, etc.
- p. System must be capable of storing criminal background checks to comply with state records retention requirements and any additional WCPSS requirements.
- q. System must be capable of providing all records, including criminal record checks and user data, to WCPSS if we need to request the data or end the contract.
- r. System must be able to provide for annual registration and/or updating of volunteer information to include a process to identify and remove inactive volunteers. System must allow for completing this process without running a new background check annually.
- s. System must be able to permit electronic communication with volunteers by individual schools or Human Resources staff.
- t. System must provide notice to each volunteer that the volunteer has been approved or not approved to volunteer.
- u. System should be able to track volunteer participation hours.
- v. System must allow volunteers without a social security number to register to volunteer.
- w. System must allow volunteers to register for multiple schools.
- x. System must be customizable to meet the needs of WCPSS at no additional or minimal costs.

III. Vendor shall provide quarterly and annual summary reports in Excel or CSV format of metrics and

data, such as data related to the number and costs of searches, the number of active volunteers and the average time taken to complete the criminal background checks.

- IV. Vendor shall provide a digital excel spreadsheet with each invoice. The spreadsheet shall include the name of the person for whom the search was conducted and an itemized cost of each type of search performed.
- V. Vendor must provide a response to the additional questions/requests for information provided in the **REQUIRED SUBMITTALS** section.
- VI. Vendor must provide a comprehensive fee schedule for all aspects of the project, including itemized pricing as provided in the **COST PROPOSAL** section.
- VII. Vendor must complete attachment B. Additional information may be included that affects the total cost to WCPSS.
- VIII. Vendor shall provide information that coincides with responses from section II above to verify that their proposal meets the specified criteria. If unable to meet criteria and vendor wishes to propose a separate solution, they must do so in detail with all product and specifications related to said alternate proposal.

## **QUALIFICATIONS**

- **VENDOR shall be licensed (when applicable) and approved to do business in the State of North Carolina.**
- No fewer than five years of experience in performing the required duties will be accepted. Please provide contacts for CURRENT verifiable references. WCPSS may not be used as a reference.
- Insurance requirements referenced within as well as any Federal, State and Local requirements shall be required and maintained.
- Present sufficient qualified personnel to carry out the project in a timely fashion. Please include staffing information and whether any temporary staff are used.
- Demonstrated experience in performing similar projects with public school district volunteer criminal background checks. Experience with larger school districts is preferred. Please describe.
- Vendor must acknowledge that they are aware of all federal, state, and local laws and requirements as it pertains to Public School System (K-12) operations.

**Vendor Acknowledgement:** \_\_\_\_\_

- Vendor will be disqualified for consideration if they are listed on either the State of North Carolina debarred vendor registry, or the Federal Government debarred vendor registry.  
(Federal Government)  
<https://www.sam.gov/SAM/pages/public/searchRecords/searchResults.jsf>  
(State of North Carolina)  
<https://ncadmin.nc.gov/documents/nc-debarred-vendors>

## **REQUIRED SUBMITTALS**

- Signed, original execution page (page 2)
- Completed attachments A, B, & C
- Qualifications, including years in business, office locations, number of full-time, part-time and temporary staff, and services offered.
- Relevant experience and project methodology.
- Fee proposal (see **COST PROPOSAL** section below)
- Proof of liability insurance and any required licenses
  - Required limits for Professional Liability or Errors & Omissions - \$1,000,000 coverage
  - Required limits for Cyber Insurance - \$5,000,000 minimum coverage
- Responses to the following questions:

### **Criminal Record Check Laws**

1. Describe your understanding of the laws that govern “pre-employment” screening (including screening for volunteers) and your methodology for ensuring compliance with the laws pertaining to this service.
2. How do you communicate legal changes in the process to WCPSS?

### **Setup and Integration**

3. Describe the setup/integration process and the timeline for implementation of the system, with implementation to be completed preferably by May 15, 2023, but no later than June 15, 2023.
4. Can your system be integrated with a visitor management (i.e., school front office check-in) system? Please include a list of current integrated systems and the methodology of establishing, supporting, and maintaining the integration with such a system.

### **System Overview**

5. Describe how you acquire and track online candidate consent forms? Does your system allow for the integration of specific WCPSS consent forms or questions? If so, how is this done.
6. Describe the different types of users available in your system. For example, how do you provide for different user types such as those who would only review results (approved/not approved) compared with those who need full access to the results or those who need to be able to send invitations to users.
7. How do you inform WCPSS of the results of the criminal background check?
8. Describe in detail how you will protect the privacy and data security information received.
9. Describe how long searches can remain in the system for record retention purposes.
10. Describe how schools and the Human Resources staff can use your system to communicate electronically to volunteers.
11. How do you allow volunteers without a social security number to register to volunteer?
12. How does your system track volunteer participation hours?
13. Describe how your system permits volunteers to register to volunteer at multiple schools. Is there a limit to the number of schools at which a volunteer can register? What is the process if a volunteer wants to add a new school or remove a prior school at which they were registered.
14. Describe in detail your process for annual renewal (or other similar renewal timeframe) of



volunteers. Include an example of renewal notification.

15. Describe how you notify volunteers as to whether they have been approved, pre-adversed or denied/adverse decision. Include an example.
16. Describe how you notify applicants if they are missing information or if there are questions regarding the information they submitted? Include an example.
17. Describe the circumstances under which you provide a copy of the criminal background check to applicants.

#### **Criminal Record Check Reports**

18. How many years of criminal record information do you provide in your searches? If a jurisdiction provides criminal records with no limit to the number of years reported, do you report all years or do you limit it to seven years? Are there differences in costs based upon the number of years you provide?
19. Do you report criminal records if the offender was under 18 at the age of the offense and was tried in adult court? If not, why not?
20. Do you have a process for expediting a criminal record check? If so, what is the cost of an expedited check and how much quicker would it be available?
21. Provide a sample copy of a criminal record check that includes at least one conviction and a copy of a motor vehicle report.

#### **Specific Search Types**

22. Do you provide a nationwide database search and, if so, describe it. Explain any difference between your nationwide database search and a multi-state search based only upon an applicant's address or residency history.
23. Describe how your system handles duplicate searches for the same applicant (for example, if an applicant attempts to sign up to volunteer after previously being approved to volunteer). If an applicant has previously submitted a volunteer application, does your system prevent a duplicate application for the applicant? If not, do you charge if the applicant registers again? If you do charge, what is the time period before which you would charge for a new search for the applicant?
24. What is the process for adding a motor vehicle search to an applicant after they were previously checked for a background search that did not include a motor vehicle check?
25. Are motor vehicle offenses included in your overnight search? If not, is there a way to check nightly reports of motor vehicle offenses and what cost, if any, is there?
26. Do you require an initial fee in addition to any fees for overnight monitoring? If so, what is the initial fee?
27. What is the process to remove people from or add people to the overnight search?
28. Provide a sample of an overnight monitoring report which shows a "hit."
29. Describe your process for providing pre-adverse and adverse letters to applicants through your system.

#### **Training & Reporting**

30. Describe your online reporting tools and what reports are available for WCPSS approved staff to run.
31. Please describe the training that will be provided to WCPSS regarding online tools, the software utilized and any training pertaining to regulations and laws as it relates to background screening. Include whether training is available online and/or in person.

### Miscellaneous

32. Are there opportunities to customize your product? If so, describe the process if WCPSS wants to suggest or request changes to your product and how you consider such changes. Please provide details about what minimal costs, if any, would be required to customize the product.
33. Describe how WCPSS will have access to completed searches if we decide to end the contract. What is the process for providing completed searches and the applicant database to WCPSS?

## **COST PROPOSAL**

Fee proposal, to include the following (including a chart or description of any pass-through fees):

Service/Report	Cost	Methodology	Turnaround Time (specify calendar or business days)	Comments (optional)
NC only search				
Nationwide database search				
State and national sex offender registry search				
Federal search				
Overnight searches for all volunteers (monthly cost)				
Maiden name search				
Detailed address search using SSN				
Motor vehicle report search				
International search				
Government watch-list search				
Pre-adverse and final adverse letters				

- Cost of Sample Search
  - Please provide the cost related to conducting the following specific searches for applicant Sandra Elizabeth Jeffers (other names used: Sandy Jeffers; Beth Brown)).
    - Statewide searches in NC
    - National database search
    - Maiden name search
    - Alias name search
    - SSN address verification
    - State and national sex offender registry search
  - Please provide the total cost of your search. If you would suggest a specific package to conduct this search, please describe the package and its cost.
- Identify the total annual price for providing the following searches for 20,000 people. If you would suggest a specific package to conduct this search, please include cost and description of the package.
  - NC statewide search
  - National database search
  - SSN address verification

- Maiden name search
  - Alias name search
  - State and federal sex offender registry search
  - Pre-adverse and final adverse letters
- Identify the total annual cost for overnight monitoring (for the state of North Carolina only) of 20,000 people.

## **ATTACHMENTS**

### **TERMS & CONDITIONS**

**AWARD OF CONTRACT:** It is the general intent to award this contract to a single vendor, unless otherwise described in the RFP. The right is reserved, however, to make awards to multiple vendors, if such shall be considered by Wake County Public School System to be most advantageous or to constitute its best interest. Vendors should show any required unit prices but are requested also to offer a lump sum price where appropriate.

**RFP EVALUATION:** Proposals are requested for the services in the RFP. Wake County Public School System reserves the right to reject any proposal for any reason. Vendor(s) are cautioned that any/all information furnished or not furnished on this proposal may be used as a factor in determining the award of this contract.

**DEVIATIONS:** Any deviations from specifications and requirements herein must be clearly pointed out by vendor. Otherwise, it will be considered that the services offered are in strict compliance with these specifications and requirements, and successful vendor will be held responsible therefor. Deviations must be explained in detail below or on an attached sheet. However, no implication is made by Wake County Public School System that deviations will be acceptable. Vendor is advised that the response (or lack thereof) on this question does not take precedence over specific responses or non-responses provided elsewhere in this RFP.

**FIRM PROPOSAL:** Prices and any other entry made hereon by the vendor shall be considered firm and not subject to change or withdrawal.

WCPSS Purchasing Department Ethics Policy and Standards of Conduct shall apply to this RFP.

**CONFIDENTIALITY AND PROHIBITED COMMUNICATIONS DURING EVALUATION:** During the proposal process from the date proposals are issued through the date the contract is awarded—each Vendor submitting a proposal (including its representatives, sub-contractors and/or suppliers) is prohibited from having any communications with any Wake County Board of Education member, any employee of WCPSS, or any other person in any way involved in the award of this contract, if the communication refers to the content of Vendor's proposal or qualifications, the contents of another Vendor's proposal, another Vendor's qualifications or ability to perform the contract, and/or the transmittal of any other communication of information that could be reasonably considered to have the effect of directly or indirectly influencing the evaluation of proposals and/or the award of the contract. A Vendor not in compliance with this provision shall be disqualified from contract award. A Vendor's proposal may be disqualified if its sub-contractor and supplier engage in any of the foregoing communications during the time that the procurement is active (i.e., the issuance date of the procurement to the date of contract award). Only those discussions, communications or transmittals of information authorized or initiated by WCPSS for this RFP or general inquiries directed to the purchaser regarding requirements of the RFP (prior to proposal submission) or the status of the contract award (after submission) are excepted from this provision. Notwithstanding the above, the vendor may direct any written concerns, questions, or issues to Debra Wallace at [dwallace2@wcpss.net](mailto:dwallace2@wcpss.net).

### **TERMS AND CONDITIONS**

1. **READ, REVIEW AND COMPLY:** It shall be the vendor's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements specified herein. Vendor shall review WCPSS's Purchasing Department Ethics Policy and Standards of Conduct and shall refrain from any actions that would cause an employee to be in violation of the policies.
2. **NOTICE TO VENDORS:** All proposals are subject to the provisions of special terms and conditions specific to this RFP, the specifications. Wake County Public School System (WCPSS) objects to and will not evaluate or consider any additional terms and conditions submitted with a vendor's response. This applies to any language appearing in or attached to the document as part of the vendor's response. DO NOT ATTACH ANY ADDITIONAL TERMS AND CONDITIONS. By execution and delivery of this document, the vendor agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect.
3. **EXECUTION:** Failure to sign under EXECUTION section may render proposal invalid.
4. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this RFP, the order of precedence shall be (1) special terms and conditions specific to this RFP, (2) specifications, and (3) Instructions to Vendors.
5. **TIME FOR CONSIDERATION:** Unless otherwise indicated on the first page of this document, vendor's proposal shall be valid for 45 days from the date of proposal opening. Preference may be given to responses allowing not less than 45 days for consideration and acceptance.
6. **SPECIFICATIONS:** Any deviation from specifications indicated herein must be clearly pointed out; otherwise, it will be considered that items offered are in strict compliance with these specifications, and vendor will be held responsible, therefore. Deviations shall be explained in detail. The vendor shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable.

**7. CLARIFICATIONS/INTERPRETATIONS:** Any and all questions regarding this document must be addressed to the WCPSS representative named on the cover sheet of this document. Do not contact the school or department directly. Any and all revisions to this document shall be made only by written addendum from WCPSS Purchasing Department. The vendor is cautioned that the requirements of this RFP can be altered only by written addendum and that verbal communications from whatever source are of no effect.

**8. ACCEPTANCE AND REJECTION:** WCPSS reserves the right to reject any and all proposals, to waive any informality in proposals and, unless otherwise specified by the vendor, to accept any item in the proposal.

**9. AWARD OF CONTRACT:** Qualified proposals will be evaluated and acceptance may be made to the proposal most advantageous to WCPSS as determined upon consideration of such factors as: prices offered; the quality of the services offered; the general reputation and performance capabilities of the vendors; the substantial conformity with the specifications and other conditions set forth in the RFP; the suitability of the services; the date or dates of delivery and performance; and such other factors deemed by WCPSS to be pertinent or peculiar to the services in question. WCPSS also reserves the right to reject any and all proposals.

**10. HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order #150, WCPSS invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.

**11. CONFIDENTIAL INFORMATION:** As provided by statute and rule, WCPSS will consider keeping trade secrets which the vendor does not wish disclosed confidential. Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the vendor. Cost information shall not be deemed confidential. In spite of what is labeled as a trade secret, the determination whether it is or not will be determined by North Carolina law.

**12. AWARD PROCEDURES:** Contract award notice shall be posted on WCPSS website. Contract award notices are sent only to those actually awarded contracts, and not to every person or firm responding to this solicitation.

**13. RECIPROCAL PREFERENCE:** G.S. 143-59 establishes a reciprocal preference law to discourage other states from applying in-state preferences against North Carolina's resident vendors. The "Principal Place of Business" is defined as the principal place from which the trade or business of the vendor is directed or managed.

**14. DEFAULT AND PERFORMANCE BOND:** In case of default by the vendor, WCPSS may procure the articles or services from other sources and hold the vendor responsible for any excess cost occasioned thereby. WCPSS reserves the right to require performance bond or other acceptable alternative guarantees from successful vendor without expense to WCPSS.

**15. GOVERNMENTAL RESTRICTIONS:** In the event any Governmental restrictions are imposed which necessitate alteration of the services prior to their delivery, it shall be the responsibility of the vendor to notify in writing WCPSS, indicating the specific regulation which required such alterations. WCPSS reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the contract.

**16. TAXES:** Any applicable taxes shall be invoiced as a separate item.

**17. SITUS:** The place of this contract, its situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation, and enforcement shall be determined.

**18. GOVERNING LAWS:** This contract is made under and shall be governed and construed in accordance with the laws of the state of North Carolina.

**19. INSPECTION AT VENDOR'S SITE:** WCPSS reserves the right to inspect, at a reasonable time, the equipment, plant, or other facilities of a prospective vendor prior to contract award, and during the contract term as necessary for WCPSS determination that such services conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the contract.

**20. PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice or acceptance of goods, whichever is later. Payment may be made by procurement card, and it shall be accepted by the vendor for payment if the vendor accepts that card (Visa, Mastercard, etc.) from other customers.

**21. PATENT:** The vendor shall hold and save WCPSS, its officers, agents, and employees, harmless from liability of any kind, including costs and expenses, on account of any confidential information, copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this contract, including use by WCPSS or disclosure of any information pursuant to the NC Public Records Act.

**22. ASSIGNMENT:** No assignment of the vendor's obligations nor the vendor's right to receive payment hereunder shall be permitted. However, upon written request approved by the purchasing department and solely as a convenience to the vendor, WCPSS may: a. Forward the vendor's payment check directly to any person or entity designated by the vendor, and b. Include any person or entity designated by vendor as a joint payee on the vendor's payment check. In no event shall such approval and action obligate WCPSS to anyone other than the vendor and the vendor shall remain responsible for fulfillment of all contract obligations.

**23. INSURANCE:**

a. Worker's Compensation including Occupational Disease and Employer's Liability Insurance. Statutory - Amount and coverage as required by state of North Carolina Worker's Compensation laws. Employer's Liability - At least

Part A Bodily Injury Statutory Limits

Part B By Accident \$500,000 each accident

By Disease \$500,000 policy limit

\$500,000 each employee

b. Public liability and Property Damage Insurance - The Vendor shall procure insurance coverage for direct operations, contractual liability and completed operations with limits not less than those stated below:

Occurrence:

General Aggregate \$2,000,000

Premises Operations \$1,000,000

Personal & Advertising Injury \$1,000,000

c. Comprehensive Automobile Liability Insurance, including coverage for owned, hired and non-owned vehicles: A Combined Single Limit for bodily injury and property damage limit of not less than \$1,000,000; and \$2,000 medical payments.

d. Certificates of Insurance acceptable to WCPSS shall be filed with WCPSS prior to commencement of the Work. These Certificates shall contain a provision that coverage afforded under the policies will not be canceled until at least thirty (30) days' prior written notice has been given to WCPSS, and that the Wake County Board of Education is listed as additional insured on general liability.

The successful vendor agrees to hold harmless and indemnify the Wake County Board of Education (WCBOE) for any liability that may arise from the negligent or illegal acts of the vendor's employees or agents.

**24. GENERAL INDEMNITY:** The vendor shall hold and save WCPSS, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses, accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the vendor in the performance of this contract and that are attributable to the negligence or intentionally tortious acts of the vendor. The vendor represents and warrants that it shall make no claim of any kind or nature against WCPSS agents who are involved in the project. This section shall survive the termination or expiration of this contract.

**25. LUNSFORD ACT/CRIMINAL BACKGROUND CHECKS:** The Vendor shall conduct at its own expense sexual offender registry checks on each of its employees, agents, ownership personnel, or contractors ("contractual personnel") who will engage in any service on or delivery of goods to school system property or at a school-system sponsored event. The checks shall include at a minimum check of the state Sex Offender and Public Protection Registration Program, the state Sexually Violent Predator Registration Program, and the National Sex Offender Registry ("the Registries"). For the Vendor's convenience only, all of the required registry checks may be completed at no cost by accessing the North Carolina Sex Offender Registry website at <http://sexoffender.ncdoj.gov/>. The Vendor shall provide certification on Sexual Offender Registry Check Certification Form that the registry checks were conducted on each of its contractual personnel providing services or delivering goods under this Agreement prior to the commencement of such services or the delivery of such goods. The Vendor shall conduct a current initial check of the registries (a check done more than 30 days prior to the date of this Agreement shall not satisfy this contractual obligation). In addition, Vendor agrees to conduct the registry checks and provide a supplemental certification form before any additional contractual personnel are used to deliver goods or provide services pursuant to this Agreement. Vendor further agrees to conduct annual registry checks of all contractual personnel and provide annual certifications at each anniversary date of this Agreement. Vendor shall not assign any individual to deliver goods or provide services pursuant to this Agreement if said individual appears on any of the listed registries. Vendor agrees that it will maintain all records and documents necessary to demonstrate that it has conducted a thorough check of the registries as to each contractual personnel and agrees to provide such records and documents to the school system upon request. Vendor specifically acknowledges that the school system retains the right to audit these records to ensure compliance with this section at any time in the school system's sole discretion. Failure to comply with the terms of this provision shall be grounds for immediate termination of the Agreement. In addition, the school system may conduct additional criminal records checks at Vendor's expense. If the school system exercises this right to conduct additional criminal records checks, Vendor agrees to provide within seven (7) days of request the full name, date of birth, state of residency for the past ten years, and any additional information requested by the school system for all contractual personnel who may deliver goods or perform services under this Agreement. Vendor further agrees that it has an ongoing obligation to provide the school system with the name of any new contractual personnel who may deliver goods or provide services under the Agreement. WCPSS reserves the right to prohibit any contractual personnel of Vendor from delivering goods or providing services under this Agreement if WCPSS determines, in its sole discretion, that such contractual personnel may pose a threat to the safety or well-being of students, school personnel or others.

**26. ACCESS TO PERSONS AND RECORDS:** WCPSS and its internal auditors shall have access to persons and records as a result of this contract. Vendor shall provide reasonable access to all documents, invoices, pay records and other materials involved in this contract.

**27. COMPLIANCE WITH E-VERIFY:** Vendor shall comply with all applicable laws and regulations in providing services under

this Contract. In particular, Vendor shall not employ any individuals to provide services to the School System who are not authorized by federal law to work in the United States. Vendor represents and warrants that it is aware of and in compliance with the Immigration Reform and Control Act and North Carolina law (Article 2 of Chapter 64 of the North Carolina General Statutes) requiring use of the E-Verify system for employers who employ twenty-five (25) or more employees and that it is and will remain in compliance with these laws at all times while providing services pursuant to this Contract. Vendor shall also ensure that any of its subcontractors (of any tier) will remain in compliance with these laws at all times while providing subcontracted services in connection with this Contract.

**28. COMPLIANCE WITH AFFORDABLE CARE ACT:** Vendor is responsible for providing affordable health care coverage to all of its full-time employees providing services to the School System. The definitions of “affordable coverage” and “full-time employee” are governed by the Affordable Care Act and accompanying IRS and Treasury Department regulations.

**29. RESTRICTED COMPANIES LIST:** Bidder represents that as of the date of this bid, Bidder is not included on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.58. Bidder also represents that as of the date of this bid, Bidder is not included on the list of restricted companies determined to be engaged in a boycott of Israel created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.81.

**30. Termination for Default.** At any time, the School System may terminate this Contract immediately and without prior notice if Vendor is unable to meet goals and timetables or if the School System is dissatisfied with the quality of services provided. The Vendor shall reimburse the School System for any for any costs and expenses incurred by the School System resulting from the Vendor’s default. In the event of a termination pursuant to this section, the school system reserves its rights to pursue all remedies to which it may be entitled at law or in equity.

**31. Termination for Convenience.** The School System may terminate this Contract at any time at its complete discretion upon twenty (20) calendar days’ notice in writing from the School System to Vendor prior to the date of termination. In addition, all finished or unfinished documents and other materials produced by Vendor pursuant to this Contract shall, at the request of the School System be turned over to it and become its property. If the Contract is terminated by the School System in accordance with this section, the School System will pay Vendor for all services performed and accepted as of the date of termination.

**32. BUSINESS AUTHORIZATION:** Bidder is duly qualified to do business in North Carolina. If Bidder is a business entity that is not registered in North Carolina, prior to providing any products or beginning any services described by this bid, Bidder shall either (i) obtain a certificate of authority from the Secretary of State for North Carolina, pursuant to N. C. Gen. Stat. § 55-15-03, or (ii) provide a letter from an attorney indicating that the attorney has reviewed N. C. Gen. Stat. § 55-15-01 and determined that Bidder is not required to obtain a certificate of authority pursuant to N. C. Gen. Stat. § 55-15-01(b).

**COMPANIES LIST:** Bidder represents that as of the date of this bid, Bidder is not included on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.58. Bidder also represents that as of the date of this bid, Bidder is not included on the list of restricted companies determined to be engaged in a boycott of Israel created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.8133.

## **ETHICS AND THE PURCHASING FUNCTION *Policy Code: 6401/9100***

The Wake County Board of Education is committed to conducting the purchasing function in an ethical manner and in compliance with state and federal laws and regulations. The Board expects all employees who are directly or indirectly involved in any aspect of the purchasing function to be aware of and comply with all current state and federal laws and regulations as these standards apply to the school system’s purchasing activities. The Board’s purchasing goals and principles will not be compromised by individuals motivated by personal gain.

Employees directly or indirectly involved in any aspect of the school system’s procurement, purchasing, and/or contracting process for apparatus, materials, equipment, supplies, services, real property, or construction or repair projects, regardless of source of funds, must adhere to the following standards of conduct and those established in any policies regarding employee conflict of interest and 8305: Federal Grant Administration.

1. Employees are expected to make all purchasing-related decisions in a neutral and objective way based on what is in the best interest of the school system and not in consideration of actual or potential personal benefit.

2. Employees shall not participate, directly or indirectly, in making or administering any contract from which they will obtain a direct benefit, unless an exception is allowed pursuant to law.

An employee obtains a direct benefit when the employee or his or her spouse will receive income, commission, or property under the contract, or the employee or spouse has more than a 10 percent interest in an entity that is a party to the contract. See G.S. 14-234 and any policies regarding employee conflict of interest.

Participation in making or administering a contract includes, but is not limited to, participating in the development of

specifications or contract terms; obtaining or reviewing bids; preparation or award of the contract; and having the authority to make decisions about, interpret, or oversee the contract.

3. Employees shall not participate, directly or indirectly, in the selection, award, or administration of a contract supported in whole or part by a federal grant or award if the employee has a real or apparent conflict of interest. See 2 C.F.R. 200.318 and policy 8305: Federal Grant Administration.

A real or apparent conflict exists when the employee, his or her immediate family member or partner, or an organization which employs or is about to employ any of those individuals, has a financial or other interest in or receives a tangible personal benefit from a firm considered for a contract. For purposes of this subsection, a “financial interest” means a financial interest which comprises more than five percent of the equity of the firm or business or more than five percent of the assets of the economic interest in indebtedness. It does not include an ownership interest held through a fiduciary, such as *Policy Code: 6401/9100* a mutual fund or blind trust, where the individual or individual’s employer has no control over the selection of holdings.

4. Employees shall not influence or attempt to influence any person involved in making or administering a contract from which the employee will obtain a direct benefit as described in paragraph 2, above.

5. Employees shall not solicit or receive any gift, favor, reward, service, or promise of reward, including a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a contract by the school system.

6. Employees shall notify the superintendent or designee in writing if they have an actual or potential conflict of interest under this policy or applicable state or federal law that would disqualify them from performing any aspect of their job responsibilities.

7. Employees shall not solicit or accept trips, meals, gratuities, gifts, favors, or anything of monetary value from current or recent (within the past year) contractors, subcontractors, or suppliers, or any persons or entities that foreseeably may bid on a contract in the future, unless the item is an unsolicited gift of nominal value (\$50 or less), and is one of the following: an advertising item or souvenir that is widely distributed; an honorarium for participating in a meeting; a meal provided at a banquet; or other item that is clearly permitted by state and federal law. Multiple permitted items from a single contractor may not exceed an aggregate value of \$100 in a twelve-month period.

Employees shall inform existing and potential contractors, subcontractors, and suppliers about these restrictions.

8. Employees shall not solicit or accept any gift from a current or potential provider of E-rate services or products in violation of applicable federal E-rate program gifting rules.

9. Employees shall not divulge confidential information to any unauthorized person. Confidential information includes but is not limited to (1) the school system’s cost estimate for any public contract, prior to bidding or completion of other competitive purchasing processes; and (2) the identity of contractors who have obtained proposals for bid purposes for a public contract, until the bids are opened in public and recorded in the Board minutes.

10. An employee shall not misuse information in violation of G.S. 14-234.1. Specifically, an employee shall not, in contemplation of the employee’s own official action or that of the Board or others acting on behalf of the school system, or in reliance on information known to the employee in his or her official capacity and not made public, to: a. acquire a financial interest in any property, transaction, or enterprise; b. gain a financial benefit that may be affected by the information or contemplated action; or c. intentionally aid another to acquire a financial interest or gain a financial benefit from the information or contemplated action.

The superintendent or designee shall ensure that all affected personnel are aware of Board policy requirements and applicable laws. Any individual aware of any violation of this policy, policy 2121: Board Member Conflict of Interest, any policies regarding employee conflict of interest, the conflict-of-interest provisions of policy 8305: Federal Grant Administration, or applicable conflict of interest laws shall report such violation in accordance with policy 1760/7280: Prohibition Against Retaliation. Employees who violate this policy, policy 2121, any policies regarding employee conflict of interest, or the conflict-of-interest provisions of policy 8305, will be subject to disciplinary action.

Legal References: 2 C.F.R. 200.318(c); 47 C.F.R. 54.503; FCC Sixth Report and Order 10-175; G.S. 14-234, -234.1; 133-32, -33; Attorney General Opinion requested by L.W. Lamar regarding G.S. 133-32, the Applicability to Attorneys and Law Firms Providing Professional Services to Local Boards of Education, dated May 13, 1993.



**VENDOR INFORMATION SHEET**

Company Name (include dba): \_\_\_\_\_

Phone number: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

Contact: \_\_\_\_\_

Corporate Office Address: \_\_\_\_\_

Wake County Office Address (if different from Corporate): \_\_\_\_\_

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

Length of time in business: \_\_\_\_\_ Number of permanent employees: \_\_\_\_\_

DOT #: \_\_\_\_\_ (if applicable) MC License #: \_\_\_\_\_ (if applicable)

Insurance Contact: \_\_\_\_\_ Phone: \_\_\_\_\_

The Wake County Public School System reserves the right to reject or disqualify any and all vendors, waive informalities and irregularities in the bid process, and to accept vendors, which are considered to be in the best interest of the School System.

**MINORITY, WOMEN, SMALL BUSINESS ENTERPRISE INFORMATION**

Pursuant to WCPSS Board of Education policy and NC General Statutes, WCPSS invites and encourages participation in this procurement process by businesses owned by minorities, women, small business enterprise, disabled business enterprises and non-profit work centers for the blind and severely disabled.

Parties are required to complete the following information when submitting their response to this request:

Check all that apply:

- ☐ Minority Owned Business
- ☐ Woman Owned Business
- ☐ Small Business Enterprise

\_\_\_\_\_ Yes, I certify that that my company has been certified by the North Carolina Department of Administration (HUB Office) as a Historically Underutilized Business.

\_\_\_\_\_ No, my company has not yet received HUB or MWBE certification but meet the above criteria.

\_\_\_\_\_ No, my company is not a minority, woman, or small business enterprise.

Vendor Signature: \_\_\_\_\_

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

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

**IDENTIFICATION OF HISTORICALLY UNDERUTILIZED BUSINESS PARTICIPATION****SUB-CONTRACTORS**

Bid / Solicitation Number: \_\_\_\_\_

Bid / Solicitation Description: \_\_\_\_\_

I, \_\_\_\_\_,  
(Name of Bidder)

do hereby accept that on this project, we will use the following certified Historically Underutilized Businesses (HUBs) as vendors, suppliers, subcontractors, or providers of professional services.

Self-Performing: Check here if bidder will be doing all work with no subcontractors or suppliers: \_\_\_\_\_Bidder's HUB Certification Status:      HUB Certified? (Circle one)      **Yes**      **No**

Sub-Contract HUB Firm Name, Address and Phone #	Type of Work	\$ Amount*	HUB Category**

\*\*Minority categories: Black / African American (**B**), Hispanic (**H**), Asian American (**A**) American Indian (**I**), Female (**F**), Socially and Economically Disadvantaged (**D**), Disabled Business Enterprise (**DBE**), Nonprofit Work Center for the Blind and Severely Disabled (**NPWC**)

Total value of Certified HUB sub-contracting will be (\$)\_\_\_\_\_.

Total Bid Amount (\$): \_\_\_\_\_

HUB Participation Percentage: Total value of Certified HUB sub-contracting = \_\_\_\_\_%

## **Technology RFP Specifications (for Volunteer CRC RFP)**

*Please indicate how your proposal will address the following specifications in each area.* In terms of rostering, integration, and user authentication, our acceptable methods are listed below, in order of preference. Bids must identify which methods are available.

### **User Account Provisioning**

Users must have individual and unique login credentials. System must support the same email prefix assigned to both a staff user and to a student user. (e.g., jsmith@wcpss.net and [jsmith@students.wcpss.net](mailto:jsmith@students.wcpss.net))

User accounts must become inactive when they drop out of the data feed.

Preferred	Classlink Roster Server
Accepted	IMS Global Learning Tool Interoperability (LTI) 1.3 or greater
Accepted	Clever
Accepted	Log in with Google
Accepted	SFTP (SSH File Transfer Protocol/Secure File Transfer Protocol) using public/private keys in lieu of static passwords

### **User Authentication**

User sessions must timeout (i.e. require logging in again) after a specified length of inactivity (typically 30 minutes.)

The system must store any local authentication credentials in a salted, encrypted format.

Preferred	Security Assertion Markup Language (SAML) 2.0 as a Service Provider (SP)
Accepted	Sign in with Google
Accepted	Sign in with Classlink (No Form Fill)
Accepted	Sign in with Clever

### **Accessibility**

Must comply with the Americans with Disabilities Act (ADA) section 508 compliance found at: <http://www.dol.gov/dol/topic/disability/ada.htm>

### **User Roles**

At a minimum, software must provide the user roles listed below. The ability to create custom user roles is ideal.

Super Administrator	Full administrative control over all settings to include data integration settings, manage user roles/permissions, etc.
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District Administrator	Able to view all users and all data, system-wide reporting, but CANNOT access/change any technical settings.
School/Department Administrator (e.g., principal, assistant principal, volunteer coordinator)	Able to view all users and user data for a specific school or WCPSS department.

## Data Portability

The system shall allow for the export of data to be used with other data systems such as Student Information Systems (SIS), Instructional Management Systems (IMS), and Learning Management Systems (LMS) (or in case of staff systems, Oracle, or other data systems). Data will be provided in a spreadsheet or database format. Describe how the solution provides for the export or transfer of data, including all formats and methods supported.

## Browsers

Must provide support for the most recently released versions of Google Chrome Browser

## Additional Software

If the solution requires the use of additional software components such as plugins or proprietary packages, please provide details. List if they are required or if this would give an enhanced experience.

- Software installs (Is this required, optional for enhanced experience, or not needed?)
- Browser plugin required.
- Browser extension required.
- Application required.

## Supported Devices

List any limitations.

- Windows 10
- Apple MacOS
- Chromebook (the three most recent versions of ChromeOS)
- iPhone
- iPad

## Data Retention and Deletion

- User data will be deleted no longer than six months after a user has been removed from the provisioning view.

## Customer Support

- Customer support must be available to district and school administrative users by phone and email during regular business hours (M-F, 8-5 Eastern Standard Time).
- Identify any additional support avenues that may be available such as online chat.

## Technical Support

Technical support, licensing fees, upgrades and patches must be included in the annual solution fee.

## Server Uptime

Describe your uptime Service Level Agreement. The system is expected to be utilized 24 hours a day.

**Wake County Board of Education**  
**Data Confidentiality and Security Agreement for Online Service and Instructional Technology Providers**

\_\_\_\_\_ (“Provider”) hereby agrees to the terms of this Data Confidentiality and Security Agreement (“Agreement”) for the purpose of sharing confidential or sensitive information between the Wake County Board of Education (“WCPSS” or “District”), and Provider (collectively “Parties”).

**1. Definitions.**

- a. **“Services”** shall mean the online educational services and/or instructional technology products provided or otherwise made available to WCPSS and its users, including WCPSS employees, agents, parents, students, and other end users (collectively, “WCPSS End Users”). The Services are more specifically described in Attachment A to this Agreement.
- b. **“WCPSS Data.”** “WCPSS Data” includes any data, information, records, or other content that WCPSS or WCPSS End Users upload, create, modify, or share with Provider, including but not limited to any PII about students, employees, or other users. “WCPSS Data” also includes user identification information and metadata which may contain WCPSS Data or from which WCPSS Data may be ascertainable, and any de-identified data or aggregated data sets that may be generated from the underlying data provided. “WCPSS Data” also includes any “Student Data” as defined below.
- c. **“Student Data.”** “Student Data” is a subset of “WCPSS Data.” “Student Data” includes any data that directly relates to WCPSS students, including but not limited to education records as defined in the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g and other applicable law, any personally identifiable information (“PII”) about students, as well as any aggregated or de-identified data about WCPSS students. Any restrictions, limitations, or conditions regarding Provider’s use of WCPSS Data apply equally to Provider’s use of Student Data or Confidential Student Data.
- d. **“Confidential Student Data.”** “Confidential Student Data” is a subset of “Student Data.” “Confidential Student Data” includes education records as defined in the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g and other applicable law, any personally identifiable information (“PII”) about students, but not any aggregated or de-identified data about students that would not, when considered in isolation or in conjunction with other reasonably available information, allow a reasonable person in the school community to discern the identity of individual student. Any restrictions, limitations, or conditions regarding Provider’s use of WCPSS Data or Student Data apply equally to Provider’s use of Confidential Student Data

2. **Authorized Use of WCPSS Data.** WCPSS Data will be used by Provider solely for the purpose of providing the Services. When WCPSS Data includes Confidential Student Data, Provider agrees such use will be limited to institutional functions of WCPSS that could otherwise be provided by a school official and which WCPSS is “outsourcing” to Provider pursuant to 34 CFR 99.31(a)(1)(B). Provider agrees that WCPSS Data and all rights to WCPSS Data, including all intellectual property rights, shall remain the exclusive property of WCPSS, and Provider has a limited, nonexclusive, license solely for the purpose of providing such Services.

3. **Compliance with Applicable Laws, Policies, and Procedures.** Provider shall comply with all federal, state, and local laws and WCPSS policies that are applicable to the provision of Services hereunder, including but not limited to all applicable WCPSS policies regarding Confidential Student Data. Provider acknowledges that it may access the applicable WCPSS policies online at <https://www.wcpss.net/Page/45862> or by contacting the WCPSS Purchasing Department. Regarding Confidential Student Data, Provider specifically agrees to comply with the provisions of FERPA, PPRA, COPPA, and all other applicable laws and regulations in all respects, as well as any state law and applicable WCPSS policies. For purposes of this Agreement, FERPA includes 20 U.S.C. 1232g, Part 99 of Title 34 of the Code of Federal Regulations; PPRA includes 20 U.S.C 1232h, Part 98 of Title 34 of the Code of Federal Regulations; and COPPA includes 5 U.S.C. 6501-6505, Part 312 of Title 16 of the Code of Federal

Regulations. Nothing in this Agreement shall be construed to allow Provider to maintain, use, or disclose any WCPSS Data in a manner inconsistent with any applicable law, regulation, or policy.

**4. Procedures for the Maintenance and Security of WCPSS Data.** While in the possession, custody, or control of Provider, all WCPSS Data shall be stored in a secure environment with access limited to the least number of employees needed to provide the Services. Provider shall develop, implement, maintain, and use appropriate administrative, technical, and physical security measures to preserve the confidentiality, integrity, security, and availability of all WCPSS Data. Such measures shall include processes for transmission and storage of such data.

- a. **WCPSS Data.** Provider shall protect WCPSS Data from loss, destruction, unauthorized physical and electronic access, and unauthorized uses or disclosures in accordance with commercially reasonable standards and no less rigorously than it protects its own confidential information. All WCPSS Data shall be kept in a secure location preventing access by unauthorized individuals. Provider agrees to handle any and all WCPSS Data using appropriate access control and security, including password-protection and encryption in transport and electronic storage, and periodic auditing of data at rest. Provider will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.
- b. **Student Data.** Provider shall not forward to any person or entity other than WCPSS any Student Data except as expressly authorized in this Agreement without the advance written consent of WCPSS. Provider shall designate one or more individuals as the primary data custodian(s) of the Student Data and shall notify WCPSS of the name(s) and title(s) of such individual(s) prior to any such data being shared. The primary data custodian(s) shall ensure that the Services shall be conducted in a manner that does not permit personal identification of WCPSS students by anyone other than representatives or authorized subcontractors of Provider who need such information for the purposes described in Paragraph 2 of this Agreement and shall ensure that a log is maintained of all Student Data received pursuant to this Agreement. The provisions described above related to WCPSS Data also apply to Student Data.
- c. **Confidential Student Data.** Provider will maintain an access log delineating the date, time, and identity of any person or entity given access to any Confidential Student Data who is not in the direct employ of Provider and the reason(s) for such access. No such access shall be granted except in compliance with the terms and conditions of this Agreement and applicable law. The primary data custodian(s) described above shall ensure the timely destruction or return of any Confidential Student Data as required by this Agreement. Confidential Student Data shall not be emailed in plain text. The provisions described above related to WCPSS Data and Student Data also apply to Confidential Student Data.

**5. Prohibition on Unauthorized Use or Disclosure of WCPSS Data.**

- a. Provider agrees to hold all WCPSS Data in strict confidence. Provider shall not use or disclose WCPSS Data except as authorized by this Agreement, as separately authorized in writing by WCPSS, or as required by law. Provider agrees not to disclose any WCPSS Data in a manner that could identify any individual employee, student, or user to any other individual or entity, directly or by means of deduction.
- b. Provider is prohibited from mining or scanning WCPSS Data for any purposes other than those agreed to in advance by this Agreement or by separate written authorization of WCPSS.
- c. Provider shall not use any Confidential Student Data, including but not limited to student and parent names, addresses, email addresses, or similar information, for its own commercial marketing or advertising purposes, or for the commercial marketing or advertising purposes of any third-party without the advance written consent of WCPSS. Provider shall not use any Confidential Student Data to advertise or market products or services to WCPSS employees, students, families, or to any WCPSS-affiliated users of the Services without the advance written consent of WCPSS.
- d. In the event of any unauthorized use or disclosure, Provider shall report the incident to WCPSS as promptly as possible, but no more than three (3) business days after Provider learns of such use or disclosure. Such report shall identify:
  - i. The nature of the unauthorized use or disclosure,

- ii. The data used or disclosed,
- iii. Who made the unauthorized use or received the unauthorized disclosure,
- iv. What Provider has done and shall do to mitigate the effects of the unauthorized use or disclosure, and
- v. What corrective action Provider has taken or shall take to prevent future similar unauthorized use or disclosure.

Provider shall also provide such other information related to the unauthorized use or disclosure that may be reasonably requested by WCPSS. WCPSS also may require that Provider promptly provide a written notice of the breach or disclosure, as well as a description of the corrective actions taken, to any WCPSS employee, student, or user directly impacted by the breach or disclosure. Any such corrective action and notice shall be subject to prior review and approval by WCPSS.

- e. Provider may use de-identified, aggregated WCPSS Data, including de-identified, aggregated Student Data, for product development and research purposes only as specifically authorized and consented to in advance in writing by WCPSS. Any such de-identified data will have all direct and indirect personal identifiers removed, including but not limited to names, ID numbers, dates of birth, home addresses, phone numbers, email addresses, and similar information. Provider agrees not to attempt to re-identify any de-identified Student Data and not to transfer de-identified Student Data to any other party except as specifically authorized in this Agreement or with WCPSS's advance written consent. Provider will not release any research or publications pertaining to Student Data without WCPSS's advance written consent.

- 6. Subcontractors.** Provider may share Student Data with its subcontractors only for purposes of providing the Services or with the advance written permission of WCPSS. Any such request from Provider shall be in writing and shall identify the person(s) or entity(ies) to whom disclosures will be made and the purposes of the disclosures. For any authorized disclosure of Student Data to a subcontractor, Provider shall ensure that each approved subcontractor is contractually bound to adhere to all of the terms of this Agreement and is aware of its obligations under applicable law with respect to its possession, use, and re-disclosure of any Confidential Student Data. Nothing in this paragraph shall relieve Provider of any of its obligations under this Agreement, including its responsibilities to ensure the confidentiality and security of any WCPSS Data provided by WCPSS pursuant to this Agreement.

- 7. Monitoring and Auditing.** Any WCPSS Data held by Provider will be made available to WCPSS for review and inspection upon request of WCPSS. Provider shall cooperate with WCPSS or with any other person or agency as directed by WCPSS, in monitoring, auditing, or investigating activities related to Provider's use and safeguarding of the WCPSS Data, including but not limited to allowing reasonable inspection of the data logs or security measures described in Paragraph 4 of this Agreement. Consistent with Section 132-1.2 of the North Carolina General Statutes, WCPSS and its auditors will maintain the confidentiality of any trade secrets of Provider that may be accessed during an audit conducted under this Agreement.

- 8. Term; Post-Termination.** This Agreement takes effect upon the date of full execution and shall continue in full force and effect for so long as Provider has possession, custody, or control of any of the WCPSS Data. Upon the termination of the applicable subscription, contract, purchase order, agreement, memorandum of understanding, or terms of service between WCPSS and Provider, or upon written notice of termination of the Services by WCPSS, all Confidential Student Data shall, at WCPSS' sole option, be destroyed or returned to WCPSS unless WCPSS specifically authorizes its post-termination retention in writing. No other entity, including any subcontractors of Provider, shall be authorized to continue possessing or using any Confidential Student Data following termination without the written consent of WCPSS. Any Confidential Student Data remaining on any computers, servers, or other devices of Provider or its employees, agents, or subcontractors, shall be permanently deleted unless WCPSS specifically authorizes its post-termination retention in writing. Provider shall complete such destruction or return as promptly as possible, but not more than thirty (30) days after termination of the applicable subscription, contract, purchase order, agreement, or terms of service between WCPSS and Provider, or written notice of termination of the Services by WCPSS, unless WCPSS extends such deadline in writing. This section shall survive the expiration or earlier termination of this Agreement.

**9. Breach and Default; Indemnification; Remedies.**

- a. In the event of a material data or security breach, or, if WCPSS determines, in its sole discretion, that any WCPSS Data has been mishandled or disclosed in a manner inconsistent with this Agreement, WCPSS may demand the immediate return or destruction of any and all of the WCPSS Data.



- b. Provider shall fully indemnify and hold harmless the Wake County Board of Education and its past, current, and future members, agents, and employees from and against all claims, actions, demands, reasonable costs, damages, losses, and/or expenses of any kind whatsoever proximately resulting from any material data breach of this Agreement or any unauthorized use or disclosure of the WCPSS Data by Provider or its subcontractor(s). The parties agree that this indemnification clause is “evidence of indebtedness” for purpose of N. C. Gen. Stat. § 6-21.2. This section shall survive the expiration or earlier termination of this Agreement.
- c. Nothing in this Agreement shall restrict WCPSS from seeking any other rights or remedies to which it may be entitled at law or equity.

**10. No Right or Entitlement to Data.** This Agreement sets out the terms and conditions under which WCPSS may, in its sole discretion, provide WCPSS Data to Provider. Nothing in this Agreement creates any right, title, or interest in Provider to receive any such information.

## **11. Miscellaneous.**

- a. Governing Law. This Agreement and the rights and obligations of the parties hereto shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina.
- b. Relationship of Parties. The parties shall be independent contractors, and nothing herein shall be construed as creating a partnership or joint venture; nor shall any employee of either party be construed as employees, agents, or principals of any other party hereto.
- c. No Third-Party Beneficiaries. Nothing in this Agreement shall confer upon any person other than the parties to this Agreement any rights, remedies, obligations, or liabilities whatsoever.
- d. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- e. Headings. The headings and other captions in this Agreement are for convenience and reference only and shall not be used in interpreting, construing, or enforcing any of the provisions of this Agreement.
- f. Execution. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- g. Assignment of Rights. Neither this Agreement, nor any rights, duties, nor obligations described herein shall be assigned by Provider without the prior express written consent of WCPSS.
- h. Severability. If any provision of this Agreement shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.
- i. Authority to Enter Agreement. The persons executing this Agreement have authority to do so as an official, binding act of the respective parties.
- j. Relationship to Other Agreements. This Agreement governs Provider’s maintenance, use, and disclosure of WCPSS Data, Student Data, and/or Confidential Student in the course of providing the Services. It is a data confidential and security agreement which may stand on its own or serve as a rider to a separate service contract. In the event Provider is to receive payment from WCPSS for all or any part of the Services, the Parties will enter a separate service agreement setting out payment terms, as well as other provisions relating to insurance and other issues, and such service agreement and this Agreement shall be harmonized to the fullest extent possible. To the extent of any conflict between this Agreement and such separate service agreement as they relate to Provider’s maintenance, use, and disclosure of WCPSS Data, Student Data, and/or Confidential Student in the course of providing the Services, the terms of this Agreement will control. In the event the Parties do not enter such a separate service contract requiring the payment of money to Provider, WCPSS shall be under no obligation to compensate Provider for all or any part of the Services.

- k. Amendment. Any modification or amendments to this Agreement shall be effective only if made in writing and signed by authorized representatives of both parties.
- l. Enforceability. The parties agree that this Agreement is supported by mutual and adequate consideration and is fully enforceable by its terms independent of any other agreement that may or may not exist regarding the provision of the Services.
- m. WCPSS Authorizations. The specific persons or position classifications authorized to issue any of the written authorization or consents described in this Agreement are identified in Attachment B. If no such Attachment exists or if no persons or position classifications are identified in such attachment, then only the WCPSS signatory is authorized to issue such written authorizations or consents.
- n. Incorporation by Reference. Attachment A and Attachment B are incorporated and made a part of this Agreement by reference.
- o. Conflicts. In the event of any conflict between this Agreement and any existing or future contract, purchase order, agreement, or terms of service between WCPSS and Provider (including but not limited to Privacy policies or Acceptable Use policies) regarding the subject matter of this Agreement, the terms and conditions of this Agreement shall control.

IN WITNESS THEREOF, the parties to this Agreement have set their hands and seals on the dates indicated below.

**PROVIDER**

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
[Printed Name, Title]

**WAKE COUNTY BOARD OF EDUCATION**

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
[Printed Name, Title]

**ATTACHMENT A**  
**DESCRIPTION OF THE SERVICES**

[INSERT CLEAR AND FAIRLY DETAILED DESCRIPTION OF THE SERVICES HERE.]

**ATTACHMENT B**  
**WCPSS AUTHORIZATIONS**

For purposes of this Agreement, the following WCPSS position classifications are authorized to provide the written WCPSS authorizations described in this Agreement:

**POSITION CLASSIFICATION**

Chief Technology Officer  
Information Security Officer  
Senior Administrator, Contract Administrator