

**Cumberland County Schools
Request for Proposals**

**Monochromatic & Polychromatic Production Copiers for the
Cumberland County Schools Print Shop**

Bid Date: Tuesday, September 19, 2017 @ 2:00 p.m.

Section I. Introduction

The Cumberland County Schools Print Shop is a sub-department of six (6) employees under the General Services department, Auxiliary Services Division. It provides instructional support to the 87 schools in the district and many of the Central Services support offices. The Print Shop is seeking a qualified, responsible and responsive vendor to provide three (3) monochromatic, black and one (1) polychromatic, color high production copiers to include meter read reporting, toner replenishment and technical support for a lease agreement.

Section II. Bid requirements

A. Instructions for Vendors

1. DELIVERY INSTRUCTIONS:

SEALED PROPOSALS MUST BE SUBMITTED IN WRITING AND RECEIVED AT THE ADDRESS BELOW BY Tuesday, September 19th, 2017 @ 2:00 p.m. Proposals submitted electronically, or via facsimile (FAX) machine will not be accepted. A formal bid opening will be held at the Operations Center, Conference Room, 810 Gillespie Street, Fayetteville, NC on September 19th, 2017 @ 2:00 p.m. All interested parties are welcome to attend.

RFP DELIVERY ADDRESS: Cumberland County Schools
Operations Center- Operations Department
810 Gillespie Street
Fayetteville, NC 28306
Attn: Mr. Timothy H. Kinlaw

Attn: RFP for Monochromatic and Polychromatic Production Copiers for the Cumberland County Schools Print Shop

Vendors must deliver one (1) signed original and two (2) copies of the Proposal to this address in a sealed package with Company Name and RFP Name clearly marked on the front. Additionally, Appendix A (Execution of Proposal), properly filled out and signed by the Vendor representative, must accompany the proposal in order to be considered.

CONTACT FOR QUESTIONS: Written questions concerning the RFP specifications will be received until Tuesday, September 12th, 2017 by 5:00 p.m. These must be submitted via e-mail to Mr. Tim Kinlaw @ auxsrvcs@cc.k12.nc.us questions and responses will be posted to the CCS Bid Links Page located @ <http://operations.ccs.k12.nc.us/bid-links/> for viewing by all participants. For all

questions, please reference the RFP title in the subject matter of your e-mail. Every attempt will be made to respond to questions within 2 business days. A summary of all questions and answers will be posted to the CCS bid links page no later than Wednesday, September 13th, 2017 by 5:00 p.m..

2. PRE-BID CONFERENCE:

A pre-bid conference will be held at the Cumberland County Schools Operations Center Conference Room at 810 Gillespie Street, Fayetteville, NC at **2:00 p.m. on September 8th 2017**. All interested bidders are encouraged to attend. Interested bidders will be allowed a brief tour of the Print Shop to observe its daily operation.

3. TIME FOR CONSIDERATION:

Vendor's offer must be valid for at least 60 days from the date of proposal opening.

4. FAILURE TO MEET PROPOSAL REQUIREMENTS:

While it is not anticipated that the awarded Vendor will fail to meet the proposal requirements, if such should occur, the right is reserved to further evaluate the responses to this RFP and then to recommend an award to the next Vendor response that represents the best interest of CCS.

B. General Conditions for Proposals

1. Read and Review. It shall be the Vendor's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements and CCS's intent as specified herein. If a Vendor discovers an inconsistency, error or omission in this solicitation, the Vendor should request a clarification from CCS's contact person listed in section II (A) above.

2. Vendor Responsibility. The Vendor(s) are encouraged to present explanations of benefits and merits of their proposal. In-addition, the vendor(s) may provide information on other offered services, maintenance, and- warranties, value added services, etc.

3. Oral Explanations. CCS will not be bound by oral explanations or instructions given at any time during the bidding process or after award. Vendor contact regarding this RFP with anyone other than the contact person named above may be grounds for rejection of said Vendor's offer. Agency contact regarding this RFP with any Vendor may be grounds for cancellation of this RFP.

4. Insufficiency of References to Other Data. Only information that is received in response to this RFP will be evaluated. Reference to information previously submitted will not suffice as a response to this solicitation.

5. Conflict of Interest. Applicable standards may include: N.C.G.S. §§ 147-33.100, 14-234, 133-32. The Vendor shall not knowingly employ, during the period of this contract, nor in the preparation of any response to this solicitation, any personnel who are, or have been, employed by a Vendor also in the employ of CCS and who are providing services involving, or similar to, the scope and nature of this solicitation or the resulting contract.

6. Contract Term. A contract awarded pursuant to this RFP shall have an effective date as provided in the Notice of Award. Depending on final negotiations and considering the best interests of CCS, the term of may be as great at **five (5) years**, and will expire upon the anniversary date of the effective date unless otherwise stated in the Notice of Award, or unless terminated earlier. CCS retains the option to extend this contract for two (2) additional one (1) year periods at its sole discretion.
7. Start of Services. The delivery of equipment and services requested herein shall commence and be scheduled immediately after award.
8. Effective Date. This solicitation, including any Exhibits, or any resulting contract or amendment shall not become effective nor bind CCS until the appropriate CCS official has signed the document(s), contract or amendment; the effective award date has been completed on the document(s), by CCS purchasing official, and that date has arrived or passed. CCS shall not be responsible for reimbursing Vendor for goods provided nor services rendered prior to the appropriate signatures and the arrival of the effective date of the Contract. No contract shall be binding on CCS until an encumbrance of funds has been made for payment of the sums due under the contract.
9. Clarifications. Any and all amendments and/or revisions to this document shall be made by written addendum and posted to the CCS website, URL - <http://operations.ccs.k12.nc.us/bid-links/>. Vendors are responsible for reading and understanding any such addenda.
10. Rights Reserved. While CCS has every intention to award a contract as a result of this RFP, issuance of the RFP in no way constitutes a commitment by CCS to award a contract. Upon determining that any of the following would be in its best interests, CCS may:
- a. Waive any formality;
 - b. Amend the solicitation;
 - c. Cancel or terminate this RFP;
 - d. Reject any or all proposals received in response to this document;
 - e. Accept any proposal(s) in part;
 - f. Waive any undesirable, inconsequential, or inconsistent provisions of this document, which would not have significant impact on any proposal;
 - g. If the response to this solicitation demonstrates a lack of competition, negotiate directly with one or more Vendors;
 - h. Not award, or if awarded, terminate any contract if CSS determines adequate funds are not available; or
 - i. If all responses are deficient, determine whether Wavier of Competition criteria may be satisfied, and if so, negotiate with one or more Vendors.
11. Submitting a Proposal. Each Vendor submitting a proposal warrants and represents that:
- a. The proposal is based upon an understanding of the specifications and requirements described in this RFP.
 - b. Costs for developing and delivering responses to this RFP and any subsequent presentations of the proposal as requested by CCS are entirely the responsibility of the Vendor. CCS is not liable for any expense incurred by the Vendors in the preparation and presentation of their proposals, in-person interviews, presentations or any other expense incurred in conjunction with the bidding process.

12. All materials submitted in response to this RFP become the property of CCS and are to be appended to any formal documentation, which would further define or expand any contractual relationship between CCS and Vendor resulting from this RFP process.

C. Evaluation Process

1. Evaluation Criteria. Overall ranking, based on the table below, may be adjusted up or down when considered with, or traded-off against other non-price factors. Multiple configuration and pricing options offered by any Vendor may be evaluated separately, on a case-by-case basis. Overall cost will remain the most heavily weighted factor.

Proposals will be evaluated on the following ranking scale:

Cost	40%
Meeting uniform requirements & flexibility of pricing/service options	30%
Vendor references & track record	30%

2. Interviews/Presentations. The evaluation committee may request clarifications, an interview with, or presentation from any or all Vendors. However, CCS may refuse to accept, in full or partially, the response to a clarification request given by any Vendor. Vendors are cautioned that the evaluators are not required to request clarifications; therefore, all offers should be complete and reflect the most favorable terms. Vendors should be prepared to send qualified personnel to CCS, to discuss operational and contractual aspects of the proposal.

3. Best and Final Offers (BAFO). If negotiations or subsequent offers are solicited, the Vendors shall provide BAFOs in response. Failure to deliver a BAFO when requested shall disqualify the non-responsive Vendor from further consideration. CCS may establish a competitive range based upon evaluations of proposals, and request BAFOs from the Vendors within this range; e.g. "Finalist Vendors". CCS will evaluate BAFOs and add any additional points to the Vendors' respective scores. Points awarded from oral presentations and product demonstrations during negotiations, if any, will be added to the previously assigned points to attain final scores.

4. Award Of Contract. Qualified proposals will be evaluated and acceptance may be made in accordance with Best Value procurement practices as defined by GS §143-135.9, applicable administrative rules and all other applicable local procurement codes. The responsible Vendor whose proposal is most advantageous to CCS, taking into consideration the evaluation factors herein, will be recommended for contract award. Unless otherwise specified by CCS or the Vendor, CCS reserves the right to accept any item or group of items on a multi-item proposal.

5. Protest Procedures: Protests of an award resulting from this RFP must be submitted to CCS at the address given on the first page of this document. Protests must be received in this office within 15 calendar days from the date of the contract award and provide specific reasons and any supporting documentation for the protest. All protests will be governed by applicable state, local and federal laws and administrative codes.

Section III. Production Copier Service Requirements

The following service must be met by all proposals in order to be considered:

1. All meter reads need to be automatically transmitted by each copier to the vendor, monthly and reported to CCS Print Shop.
Monthly allowable minimum of 450,000 images per month is requested by CCS.
2. The vendor will provide replacement toner for all copiers at no additional cost at the request of the CCS Print Shop personnel and/or based on the meter reads as recorded.

3. Vendor will provide, at no additional charge, a service technician. The service technician must notify Print Shop personnel after receiving the service call. The service technician must arrive within one (1) to two (2) hours once a service call has been made. If the technician cannot arrive within an hour, he must notify the CCS Print Shop of the estimated time of arrival by phone. The service technician must be able to work during Cumberland County Schools Print Shop business hours.

Section IV. Copier Descriptions/Specifications

The following are the general specifications that the Print Shop requests:

Three (3) monochromatic (black) high production copiers with the following standard features:

- Minimum 120 pages per minute
- Production of 1,500,000 to 2,200,000 images per month
- Digital front end
- At least one, 2-tray feeder and one, 4-tray feeder, holding 4,600 to 8,000 sheets
- Ability to copy a variation of media types or weights, (plain, glossy, tab, letter, legal, cardstock, 20 lb to 90 lb)
- Maximum page size, 12 x 18 inches
- Large capacity stacker
- Trouble indicator light
- On board scanner
- Paper feeding process, air separation
- Booklet maker
- Saddle stitching
- Folding unit
- In addition, one copier must have the inline punch finisher to include spiral, comb and 3-hole).
- One copier must have the perfect binding/tape binding finisher feature.
- One copier must have the square back booklet maker finisher feature
- Not more than 32 feet in length
- All machines enclosed

One (1) Polychromatic (color) high production copier with the following standard features:

- Minimum 80 pages per minute
- Two large capacity paper feeders
- Ability to copy a variation of media types or weights, (plain, glossy, tab, letter, legal, cardstock, 20 lb to 90 lb)
- Maximum page size, 12 x 18 inches
- Large capacity stacker
- Trouble indicator light
- On board scanner
- Booklet maker
- Folding unit
- Not more than 13 feet in length.

- Enclosed machine

The Print Shop also requests that the four copies have a computer job management, setup/cue system with the capability to cue all four copiers from one PC with the largest memory possible already installed with software that will have the ability to scan and convert to printable files.

Section V. Proposal Content & Organization

A. Information and Descriptive Literature. Vendor must furnish all information requested; and if response spaces are provided in this document, the Vendor shall furnish said information in the spaces provided. Further, if required elsewhere in this proposal, each Vendor must submit with their proposal sketches, descriptive literature and/or complete specifications covering the products offered. References to literature submitted with a previous proposal will not satisfy this provision. Proposals that do not comply with these requirements may be rejected.

B. Proposal Content. Demonstrate compliance with all mandatory conditions, requirements and terms of performance.

1. Clearly state your understanding of the problem(s) presented by this RFP as follows:
 - a. Response to uniform service requirements
 - b. Cost proposal
2. Detailed description of Vendor's form must include all of the following:
 - a. Full name, Federal Tax identification number, address, and telephone number of the organization;
 - b. Date established;
 - c. Background of firm;
 - d. Ownership (public company, partnership, subsidiary, etc.);
 - e. If incorporated, state of incorporation must be included.
 - f. Number of full-time employees on January 1st for the last three years or for the duration vendor's firm has been in business, whichever is less.

C. Any errata or exceptions must be stated on a separate page, labeled "Errata and/or Exceptions" with references to the corresponding terms or provisions of the Solicitation.

D. Proposal Format. The proposals should be organized in the order in which the requirements and/or desirable performance criteria are presented in the RFP. The Execution page of this RFP must be placed at the front of the Proposal. Each page should be numbered. The proposal should contain a table of contents, which cross-references the RFP requirement and the specific page of the response in the Vendor's proposal.

E. Proposal Organization. The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated.

1. A completed and signed "Execution of Proposal Form" (Appendix A of this RFP). **NOTE: Failure to execute/sign bid, using this form, prior to submittal shall render bid invalid.**
2. A brief cover letter- (Optional, may include Conflict of Interest statement)
3. Table of Contents
4. Response to Uniform Service Requirements
5. Cost Proposal

6. Conflict of Interest (may be included in the cover letter instead):

- a. Provide a statement that no assistance in preparing the response was received from any current or former employee of CCS whose duties relate(d) to this RFP, unless such assistance was provided by the employee in his or her official public capacity and that neither such employee nor any member of his or her immediate family has any financial interest in the outcome of this RFP;
- b. State if the Vendor or any employee of the Vendor is related by blood or marriage to a CCS employee or resides with a CCS employee. If there are such relationships, list the names and relationships of said parties. Include the position and responsibilities within the Vendor's organization of such Vendor employees; and
- c. State the individual's title at CCS, and termination date, if applicable.

7. Errata and Exceptions, if any

8. Copy of Vendor's Maintenance Agreements, where applicable
9. Other Supporting Material Including Technical Documentation

F. Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

G. Vendors may attach other materials that they feel may improve the quality of their responses. However, these materials should be included as items in a separate appendix.

H. Confidentiality. Vendor may designate appropriate portions of its response as confidential or trade secret by marking the page(s) appropriately, per the terms in Section IV below. Such markings must read

"CONFIDENTIAL" or "TRADE SECRET." However, under no circumstances shall price information be designated as confidential. Additionally, entire proposals marked as confidential throughout may be rejected.

Section VI. General Contract Terms and Conditions

A. Personnel: Vendor shall not substitute key personnel assigned to the performance of this Contract without prior written approval by CCS. Any desired substitution shall be noticed to the Agency's Contract Administrator accompanied by the names and references of Vendor's recommended substitute personnel. The Agency will approve or disapprove the requested substitution in a timely manner. The Agency may, in its sole discretion, terminate the services of any person providing services under this Contract. Upon such termination, the Agency may request acceptable substitute personnel or terminate the contract services provided by such personnel.

B. Subcontracting. The Vendor may not subcontract the performance of required services with other Vendors or third parties, or change subcontractors, only with the prior written consent of the contracting authority. Vendor shall provide CCS with complete copies of any agreements made by and between Vendor and all subcontractors. The selected Vendor remains solely responsible for the performance of its subcontractors. Subcontractors, if any, shall adhere to the same standards required of the selected Vendor. Any contracts made by the Vendor with a subcontractor shall include an affirmative statement that CCS is an intended third party beneficiary of the contract; that the subcontractor has no agreement with CCS; and that CCS shall be indemnified by the Vendor for any claim presented by the subcontractor. Notwithstanding any other term herein, Vendor shall timely exercise its contractual remedies against any non-performing subcontractor and, when appropriate, substitute another subcontractor.

C. Vendor's Representation: Vendor warrants that qualified personnel will provide services in a professional manner. "Professional manner" means that the personnel performing the services will possess the skill and competence consistent with the prevailing business standards in the information technology industry. Vendor agrees that it will not enter any agreement with a third party that might abridge any rights of CCS under this Contract. Vendor will serve as the prime Vendor under this Contract. Should CCS approve any subcontractor(s), the Vendor shall be legally responsible for the performance and payment of the subcontractor(s). Names of any third party Vendors or subcontractors of Vendor may appear for purposes of convenience in Contract documents; and shall not limit Vendor's obligations hereunder. Third party subcontractors, if approved, may serve as subcontractors to Vendor. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractor(s).

D. Maintenance/Support Services: Vendor agrees to provide the following services:

1. Error Correction. Upon notice by CCS of a problem with the services (which problem can be verified), Vendor shall use reasonable efforts to correct or provide a working solution for the problem. CCS shall comply with all reasonable instructions or requests of Vendor in attempts to correct an error or defect in conjunction with these services. Vendor and CCS shall act promptly and in a reasonably timely manner in communicating error or problem logs, other related information, proposed solutions or workarounds, and any action as may be necessary or proper to obtain or affect maintenance services under this Paragraph.
2. Material Errors. Vendor shall notify CCS of any material errors or defects in the services known, or made known to Vendor from any source during the Contract term that could cause the production of inaccurate or otherwise materially incorrect or unfavorable, results. Vendor shall initiate actions, as may be commercially necessary or proper to effect corrections of any such errors or defects.
3. Telephone Assistance. Vendor shall provide CCS with telephone access to one point of contact for assistance in billing and to report and resolve uniform service failures and added needs, during normal business hours, 8:00AM-5:00PM Eastern Time, Monday-Friday. Vendor shall respond to the telephone requests for uniform service, within one week, for calls made at any time.

E. Governmental Restrictions: In the event any restrictions are imposed by governmental requirements that necessitate alteration of the material, quality, workmanship, or performance of the Deliverables offered prior to delivery thereof, the Vendor shall provide written notification of the necessary alteration(s) to CCS. CCS reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract. CCS may advise Vendor of any restrictions or changes in specifications required by North Carolina legislation, rule or regulatory authority that require compliance by CCS. In such event, Vendor shall use its best efforts to comply with the required restrictions or changes. If compliance cannot be achieved by the date specified by CCS, CCS may terminate this Contract and compensate Vendor for sums due under the Contract.

F. Prohibition Against Contingent Fees and Gratuities: Vendor warrants that it has not paid, and agrees not to pay, any bonus, commission, fee, or gratuity to any employee or official of CCS for the purpose of obtaining any contract or award issued by CCS. Vendor further warrants that no commission or other payment has been or will be received from or paid to any third party contingent on the award of any contract by CCS, except as shall have been expressly communicated to CCS in writing prior to acceptance of the Contract or award in question. Each individual signing below warrants that he or she is duly authorized by their respective Party to sign this Contract and bind the Party to the terms and conditions of this Contract. Vendor and their authorized signatory further warrant that no officer or employee of CCS has any direct or indirect financial or personal beneficial interest, in the subject matter of this Contract; obligation or contract for future award of compensation as an inducement or consideration for making this Contract. Subsequent discovery by CCS of non-compliance with these

provisions shall constitute sufficient cause for immediate termination of all outstanding contracts. Violations of this provision may result in debarment of the Vendor(s) as permitted by 9 NCAC 06B.1009(f), 06B.1030, or other provision of law.

G. Availability of Funds: Any and all payments to Vendor are expressly contingent upon and subject to the appropriation, allocation and availability of funds to the Agency for the purposes set forth in this Contract. If this Contract or any Purchase Order issued hereunder is funded in whole or in part by federal funds, the Agency's performance and payment shall be subject to and contingent upon the continuing availability of said federal funds for the purposes of the Contract or Purchase Order. If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is expressly contingent upon the appropriation, allocation and availability of funds by the N.C. Legislature for the purposes set forth in the Contract. If funds to effect payment are not available, the Agency will provide written notification to the Vendor. If the Contract is terminated under this paragraph, Vendor agrees to take back any affected Deliverables and terminate any services supplied to the Agency under this Contract, and relieve the Agency of any further obligation thereof. CCS shall remit payment for Deliverables and services accepted prior to the date of the aforesaid notice in conformance with the payment terms.

H. Payment Terms: Payment terms are Net 30 days after receipt of correct invoice or acceptance of the Deliverables, whichever is later; unless a period of more than 30 days is required by the Agency. CCS is responsible for all payments under the Contract. No additional charges to the Agency will be permitted based upon, or arising from, the Agency's use of a Business Procurement Card. CCS may exercise any and all rights of Set Off as permitted in Chapter 105A-1 et. seq. of the N.C. General Statutes and applicable Administrative Rules. Upon Vendor's written request of not less than 30 days and approval by the State or Agency, the Agency may:

- a. Forward the Vendor's payment check(s) directly to any person or entity designated by the Vendor, or
- b. Include any person or entity designated in writing by Vendor as a joint payee on the Vendor's payment check(s), however ,
- c. In no event shall such approval and action obligate CCS to anyone other than the Vendor and the Vendor shall remain responsible for fulfillment of all Contract obligations.

I. Acceptance Criteria: In the event acceptance of Deliverables is not described in additional Contract documents, CCS shall have the obligation to notify Vendor, in writing ten calendar days following installation of any Deliverable described in the Contract if it is not acceptable. The notice shall specify in reasonable detail the reason(s) a deliverable is unacceptable. Acceptance by CCS shall not be unreasonably withheld; but may be conditioned or delayed as required for installation and/or testing of Deliverables. Final acceptance is expressly conditioned upon completion of all applicable inspection and testing procedures. Should the Deliverables fail to meet any specifications or acceptance criteria CCS may exercise any and all rights hereunder, including such rights provided by the Uniform Commercial Code as adopted in North Carolina. Deliverables discovered to be defective or failing to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the Deliverables or non-compliance with the specifications was not reasonably ascertainable upon initial inspection. If the Vendor fails to promptly cure the defect or replace the Deliverables, CCS reserves the right to cancel the Purchase Order, contract with a different Vendor, and to invoice the original Vendor for any differential in price over the original Contract price. When Deliverables are rejected, the Vendor must remove the rejected Deliverables from the premises of CCS within seven (7) calendar days of notification, unless otherwise agreed by CCS. Rejected items may be regarded as abandoned if not removed by Vendor as provided herein.

J. Equal Employment Opportunity: Vendor shall comply with all Federal and State requirements concerning fair employment and employment of the disabled, and concerning the treatment of all

employees without regard to discrimination by reason of race, color, religion, sex, national origin or physical disability.

K. Inspection at Vendor's Site: CCS reserves the right to inspect, during Vendor's regular business hours at a reasonable time, upon notice of not less than two (2) weeks, and at its own expense, the prospective Deliverables comprising equipment or other tangible goods, or the plant or other physical facilities of a prospective Vendor prior to Contract award, and during the Contract term as necessary or proper to ensure conformance with the specifications/requirements and their adequacy and suitability for the proper and effective performance of the Contract.

L. Advertising/Press Release: The Vendor absolutely shall not publicly disseminate any information concerning the Contract without prior written approval from CCS or its Agent. For the purpose of this provision of the Contract, the Agent is the Purchasing Agency Contract Administrator unless otherwise named in the solicitation documents.

M. Confidentiality. In accordance with 9 NCAC 06B.0207 and 06B.1001 and to promote maximum competition in the competitive bidding process, CCS may maintain the confidentiality of certain types of information described in N.C. Gen. Stat. §132-1 et. Seq. Such information may include trade secrets defined by N.C. Gen. Stat. §66-152 and other information exempted from the Public Records Act pursuant to N.C. Gen. Stat. §132-1.2. Vendor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by marking the top and bottom of pages containing confidential information with a legend in boldface type "CONFIDENTIAL," or "TRADE SECRET" as appropriate. By so marking any page, the Vendor warrants that it has formed a good faith opinion, having received such necessary or proper review by counsel and other knowledgeable advisors, that the portions marked confidential meet the requirements of the Rules and Statutes set forth above. However, under no circumstances shall price information be designated as confidential. CCS may serve as custodian of Vendor's confidential information and not as an arbiter of claims against Vendor's assertion of confidentiality. If an action is brought pursuant to N.C. Gen. Stat. §132-9 to compel CCS to disclose information marked confidential, the Vendor agrees that it will intervene in the action through its counsel and participate in defending CCS, including any public official(s) or public employee(s). The Vendor agrees that it shall hold CCS and any official(s) and individual(s) harmless from any and all damages, costs, and attorneys' fees awarded against CCS in the action. CCS agrees to promptly notify the Vendor in writing of any action seeking to compel the disclosure of Vendor's confidential information. CCS shall have the right, at its option and expense, to participate in the defense of the action through its counsel. CCS shall have no liability to Vendor with respect to the disclosure of Vendor's confidential information ordered by a court of competent jurisdiction pursuant to N.C. Gen. Stat. §132-9 or other applicable law.

1. Care of Information: Vendor agrees to use commercial best efforts to safeguard and protect any data, documents, files, and other materials received from CSS during performance of any contractual obligation from loss, destruction or erasure.

2. Vendor warrants that all its employees and any approved third party Vendors or subcontractors are subject to a non-disclosure and confidentiality agreement enforceable in North Carolina. Vendor will, upon request of CCS, verify and produce true copies of any such agreements. Production of such agreements by Vendor may be made subject to applicable confidentiality, non-disclosure or privacy laws; provided that Vendor produces satisfactory evidence supporting exclusion of such agreements from disclosure under the N.C. Public Records laws in NCGS §132-1 et. Seq. CCS may, in its sole discretion, provide a non-disclosure and confidentiality agreement satisfactory to CCS for Vendor's execution. CCS may exercise its rights under this subparagraph as necessary or proper, in its discretion, to comply with applicable security regulations or statutes including, but not limited to 26 USC 6103 and IRS Publication1075, (fax Information Security Guidelines for Federal, State, and

Local Agencies), IHPAA, 42 USC 1320(d) (Health Information Portability and Accountability Act), any implementing regulations in the Code of Federal Regulations, and any future regulations imposed upon the Office of Information Technology Services or the N.C. Department of Revenue pursuant to future statutory or regulatory requirements.

3. Nondisclosure: Vendor agrees and specifically warrants that it, its officers, directors, principals and employees, and any subcontractors, shall hold all information received during performance of this Contract in the strictest confidence and shall not disclose the same to any third party without the express written approval of the State.

N. Late Delivery, Substitute Services: Vendor shall advise the Agency contact person or office immediately upon determining that services will not, or may not, be delivered at the time or place specified. Together with such notice, Vendor shall state the projected delivery time and date. In the event the delay projected by Vendor is unsatisfactory, the Agency shall so advise Vendor and may proceed to procure substitute services.

O. Access to Persons and Records: Pursuant to N.C. General Statute 147-64.7, CSS, its Agent, the State Auditor, appropriate federal officials, and their respective authorized employees or agents are authorized to examine all books, records, and accounts of the Vendor insofar as they relate to transactions with any department, board, officer, commission, institution, or other local or state governmental State of North Carolina pursuant to the performance of this Contract or to costs charged to this Contract. The Vendor shall retain any such books, records, and accounts for a minimum of five (5) years after the completion of this Contract. Additional audit or reporting requirements may be required by CCS, if in the opinion, such requirement is imposed by federal, state or local law or regulation.

P. Assignment: Vendor may not assign this Contract or its obligations hereunder except as permitted by 09 NCAC06B.1003 and this Paragraph. Vendor shall provide reasonable notice of not less than thirty (30) days prior to any consolidation, acquisition, or merger. Any assignee shall affirm this Contract: atoning to the terms and conditions agreed, and that Vendor shall affirm that the assignee is fully capable of performing all obligations of Vendor under this Contract. An assignment may be made, if at all, in writing by the Vendor, Assignee and CCS setting forth the foregoing obligation of Vendor and Assignee.

Q. Insurance Coverage: During the term of the Contract, the Vendor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract. As a minimum, the Vendor shall provide and maintain the following coverage and limits:

1. Worker's Compensation - The Vendor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$150,000.00, covering all of Vendor's employees who are engaged in any work under the Contract. If any work is sublet, the Vendor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under the Contract; and
2. Commercial General Liability -General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$2,000,000.00 Combined Single Limit (Defense cost shall be in excess of the limit of liability); and
3. Automobile - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the Contract. The minimum combined single limit shall be \$500,000.00 bodily injury and property damage; \$500,000.00 uninsured/under insured motorist; and \$25,000.00 medical payment.

R. Providing and maintaining adequate insurance coverage described herein is a material obligation of the Vendor and is of the essence of this Contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North

Carolina. The Vendor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Contract. The limits of coverage under each insurance policy maintained by the Vendor shall not be interpreted as limiting the Vendor's liability and obligations under the Contract.

S. Dispute Resolution: The parties agree that it is in their mutual interest to resolve disputes informally. A claim by the Vendor shall be submitted in writing to CCS for decision. A claim by CCS shall be submitted in writing to the Vendor's Contract Administrator for decision. The Parties shall negotiate in good faith and use all reasonable efforts to resolve such dispute(s). During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Contract. If a dispute cannot be resolved between the Parties within thirty (30) days after delivery of notice, either Party may elect to exercise any other remedies available under this Contract, or at law. This term shall not constitute an agreement by either party to mediate or arbitrate any dispute.

T. Default: In the event any Deliverable furnished by the Vendor during performance of any Contract term fails to conform to any material requirement of the Contract specifications, notice of the failure is provided by CCS and the failure is not cured within ten (10) days, or Vendor fails to meet the requirements of Paragraph 9 herein, CCS may cancel and procure the articles or services from other sources; holding Vendor liable for any excess costs occasioned thereby, subject only to the limitations provided in Paragraphs 24 and 25 and the obligation to informally resolve disputes as provided in Paragraph 20 of these Terms and Conditions. Default may be cause for debarment as provided in 09 NCAC 06B.1030. CCS reserves the right to require performance guaranties pursuant to 09 NCAC 068.1031 from the Vendor without expense to CCS. The rights and remedies of CCS provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

1. If Vendor fails to deliver Deliverables within the time required by this Contract, CCS may provide written notice of said failure to Vendor, and by such notice require payment of a penalty.
2. Should CCS fail to perform any of its obligations upon which Vendor's performance is conditioned, Vendor shall not be in default for any delay, cost increase or other consequences due to CCS's failure. Vendor will use reasonable efforts to mitigate delays, costs or expenses arising from assumptions in the Vendor's bid documents that prove erroneous or are otherwise invalid. Any deadline that is affected by any such failure in assumptions or performance by CCS shall be extended by an amount of time reasonably necessary to compensate for the effect of such failure.
3. Vendor shall provide a plan to cure any default if requested by CCS. The plan shall state the nature of the default, the time required for cure, any mitigating factors causing or tending to cause the default, and such other information as the Vendor may deem necessary or proper to provide.

U. Waiver of Default: Waiver by either party of any default or breach by the other Party shall not be deemed a waiver or any subsequent default or breach and shall not be construed to be a modification or notation of the terms of this Contract, unless so stated in a writing and signed by authorized representatives of the Agency and the Vendor, and made as an amendment to this Contract pursuant to Paragraph 26 (b) herein below.

V. Termination: Any notice or termination made under this Contract shall be transmitted via US Mail, Certified Return Receipt Requested. The period of notice for termination shall begin on the day the return receipt is signed and dated.

1. The parties may mutually terminate this Contract by written agreement at any time.
2. CCS may terminate this Contract, in whole or in part, pursuant to Paragraph 21, or pursuant to the Special Terms and Conditions in the Solicitation Documents, if any, or for any of the following:

- a. Termination for Cause: In the event any goods or service furnished by the Vendor during performance of any Contract term fails to conform to any material requirement of the Contract, and the failure is not cured within the specified time after providing written notice thereof to Vendor, CCS may cancel and procure the articles or services from other sources; holding Vendor liable for any excess costs occasioned thereby, subject only to the limitations provided in Paragraphs 24 and 25 herein. The rights and remedies of CCS provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract. Vendor shall not be relieved of liability to CCS for damages sustained by CCS arising from Vendor's breach of this Contract; and CCS may, in its discretion, withhold any payment due as a setoff until such time as the damages are finally determined or as agreed by the parties. Voluntary or involuntary Bankruptcy or receivership by Vendor shall be cause for termination.
- b. Termination For Convenience Without Cause: CCS may terminate service and indefinite quantity contracts, in whole or in part by giving 30 days prior notice in writing to the Vendor. Vendor shall be entitled to sums due as compensation for Deliverables provided and services performed in conformance with the Contract. In the event the Contract is terminated for the convenience of the CCS, CCS will pay for all work performed and products delivered in conformance with the Contract up to the date of termination.

W. Limitation of Vendor's Liability:

1. Where Deliverables are under CCS's exclusive management and control, the Vendor shall not be liable for direct damages caused by CCS's failure to fulfill any State responsibilities of assuring the proper use, management and supervision of the Deliverables and programs, audit controls, operating methods, office procedures, or for establishing all proper checkpoints necessary for CCS's intended use of the Deliverables.
2. The Vendor's liability for damages to CCS for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, shall be limited to two times the value of the Contract. Provided, however, that CCS's Solicitation Documents or the Supplemental Terms and Conditions for Software or Services, if any, may increase Vendor's maximum liability for damages, but in no event shall the liability for damages be less than the total value of the Contract.
3. The foregoing limitation of liability shall not apply to the payment of costs and damage awards referred to in the Paragraph entitled "Patent, Copyright, and Trade Secret Protection", to claims covered by other specific provisions calling for liquidated damages or specifying a different limit of liability, or to claims for injury to persons or damage to property caused by Vendor's negligence or willful or wanton conduct. This limitation of liability does not apply to the receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on this Contract.

X. Vendor's Liability for Injury to Persons or Damage to Property:

1. The Vendor shall be liable for damages arising out of personal injuries and/or damage to real or tangible personal property of CCS, employees of CCS, persons designated by CCS for training, or person(s) other than agents or employees of the Vendor, designated by CCS for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Vendor's site or at CCS's place of business, provided that the injury or damage was caused by the fault or negligence of the Vendor.
2. The Vendor agrees to indemnify, defend and hold CCS and its Officers, employees, agents and assigns harmless from any liability relating to personal injury or injury to real or personal property of any kind, 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, whether tangible

or intangible, arising out of the ordinary negligence, willful or wanton negligence, or intentional acts of the Vendor, its officers, employees, agents, assigns or subcontractors, in the performance of this Contract.

3. Vendor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by the Vendor, or for damage to alterations or attachments that may result from the normal operation and maintenance of the Vendor's goods.

Y. General Indemnity: The Vendor shall hold and save CCS, its officers, agents and employees, harmless from liability of any kind, including all claims and losses, with the exception of consequential damages, 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. The foregoing indemnification and defense by the Vendor shall be conditioned upon the following:

1. The Agency shall give Vendor written notice within thirty (30) days after it has actual knowledge of any such claim(s) or action(s) filed; and

2. The Vendor shall have the sole control of the defense of any such claim(s) or action(s) filed and of all negotiations relating to settlement or compromise thereof, provided, however, that the Agency or State shall have the option to participate at their own expense in the defense of such claim(s) or action(s) filed.

Z. Changes: This Contract and subsequent purchase order(s) is awarded subject to shipment of quantities, Qualities, and prices indicated by the order or Contract, and all conditions and instructions of the Contract or proposal on which it is based. Any changes made to this Contract or purchase order proposed by the Vendor are hereby rejected unless accepted in writing by the Agency or State Award Authority. CCS shall not be responsible for Deliverables or services delivered without a purchase order from the Agency or State Award Authority.

AA. Price Adjustments For Term Contracts: Changes in prices or costs quoted by Vendor may be permitted during the term of the Contract, but shall be subject to the requirements of this Paragraph, and any additional terms of the solicitation document. Permitted changes during the Contract period must be general, either by reason of market change, change in manufacturer's list price or price adjustments authorized by Contract.

1. Notification: Vendor must provide written notification of any proposed pricing change to the CCS Operations Dept. not less than sixty (60) days prior to the desired effective date of any proposed price adjustment. If Vendor is a reseller, MCL, VAR, or other party having a similar relationship with the manufacturer, the notification shall be accompanied by copy of manufacturer's official notice or other acceptable evidence that the price change is general in nature.

2. Decreases: CCS shall receive full proportionate benefit of any decrease immediately upon the effective date at any time during the Contract period.

3. Increases: All prices and costs shall be firm against any increase for 180 days from the effective date of the Contract. After this period, a request for increase may be submitted with CCS reserving the right to accept or reject the increase, or cancel the Contract. CCS shall exercise this right not later than 30 days after the receipt by of a properly documented request for price increase. Any increases accepted shall become effective not earlier than 30 days after the expiration of the original 30 days reserved to evaluate the request for increase.

BB. Time is of the Essence. Time is of the essence in the performance of this Contract.

CC. Date and Time Warranty: The Vendor warrants that any Deliverable, whether hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interface therein which performs any date and/or time data recognition function, calculation, or sequencing, will provide accurate date/time data and leap year calculations. This warranty shall survive termination or expiration of the Contract.

DD. Independent Contractors: Vendor and its employees, officers and executives, and subcontractors, if any, shall be independent Vendors and not employees or agents of CCS. This Contract shall not operate as a joint venture, partnership, trust, agency or any other business relationship.

EE. Transportation: Transportation of Deliverables shall be FOB Destination; unless otherwise specified in the solicitation document or purchase order. Freight, handling, hazardous material charges, and distribution and installation charges shall be included in the total price of each item. Any additional charges shall not be honored for payment unless authorized in writing by the Purchasing State Agency. In cases where parties, other than the Vendor ship materials against this order, the shipper must be instructed to show the purchase order number on allpackages and shipping manifests to ensure proper identification and payment of invoices. A complete packing list must accompany each shipment.

FF. Notices: Any notices required under this Contract should be delivered to the Contract Administrator for each party. Unless otherwise specified in the Solicitation Documents, any notices shall be delivered in writing by U.S. Mail; Commercial Courier or by hand.

GG. Titles and Headings: Titles and Headings in this Contract are used for convenience only and do not define, limit or proscribe the language of terms identified by such Titles and Headings.

HH. Amendment: This Contract may not be amended orally or by performance. Any amendment must be made in written form and signed by duly authorized representatives of CCS and Vendor in conformance with Paragraph 27 herein.

II. Taxes: CSS is exempt from Federal excise taxes and no payment will be made for any personal property taxes levied on the Vendor or for any taxes levied on employee wages. CSS may have additional exemptions or exclusions for federal or state taxes. Evidence of such additional exemptions or exclusions may be provided to Vendor by Agencies, as applicable, during the term of this Contract. Applicable State or local sales taxes shall be invoiced as a separate item.

JJ. Governing Laws, Jurisdiction, and Venue:

1. This Contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina. The place of this Contract or purchase order, its sites and forum, shall be Cumberland County, North Carolina, where all matters, whether sounding in contract or in tort, relating to its validity, construction, interpretation and enforcement shall be determined. Vendor agrees and submits, solely for matters relating to this Contract, to the jurisdiction of the courts of the State of North Carolina, and stipulates that Cumberland County shall be the proper venue for all matters.

2. Except to the extent the provisions of the Contract are clearly inconsistent therewith, the applicable provisions of the Uniform Commercial Code as modified and adopted in North Carolina shall govern this Contract. To the extent the Contract entails both the supply of "goods" and "services," such shall be deemed "goods" within the meaning of the Uniform Commercial Code, except when deeming such services as "goods" would result in a clearly unreasonable interpretation.

KK. Force Majeure: Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable

control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

LL. Compliance with Laws: The Vendor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

MM. Severability: In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, each such provision or requirement shall be enforced only to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Contract shall remain in full force and effect. All promises, requirement, terms, conditions, provisions, representations, guarantees and warranties contained herein shall survive the expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable federal or State statute, including statutes of repose or limitation.

**APPENDIX A Cumberland
County Schools**

**Monochromatic & Polychromatic Production Copiers for the Cumberland County Schools
Print Shop**

EXECUTION OF PROPOSAL FORM

OFFER AND ACCEPTANCE: This solicitation advertises Cumberland County Schools' (CCS's) needs for the services and/or goods described herein. CCS seeks proposals comprising competitive bids offering to sell the services and/or goods described in this solicitation. All proposals and responses received shall be treated as offers to contract. CCS's acceptance of any proposal must be demonstrated by execution of the acceptance found below, and any subsequent Request for Best and Final Offer, if issued. Acceptance shall create a contract having an order of precedence among terms as follows: Special terms and conditions specific to this RFP, Specifications of the solicitation documents, except as amended, CCS's General Terms and Conditions for Goods and Related Services, as may be amended by the Supplemental Terms annexed hereto, if any, Best and Final Offers, if any and the awarded Vendor's proposal.

EXECUTION: In compliance with this Request for Proposal, and subject to all the conditions herein, the undersigned offers and agrees to furnish any or all services or goods upon which prices are bid, at the price(s) offered herein, within the time specified herein. By executing this bid, I certify that this bid is submitted competitively and without collusion and is not otherwise in violation of state, local or federal procurement and antitrust laws. I furthermore certify that I have read and understand all addenda referencing this RFP. ***Failure to execute/sign bid, using this page, prior to submitted shall render bid invalid.***

Bidder:	Federal ID No.	
Street Address:	P.O. Box:	Zip:
City & State:		
Print Name & Title of Person Signing:	Telephone Number:	
Authorized Signature:	Fax Number:	
Date:	E-Mail:	
Minority Status *:	Form of Minority Certification**:	

*Non-minority, Black, Hispanic, Asian/American, White Female, American Indian, Socially and Economically Disadvantaged, Disabled

**Not Applicable, Local Agency, Self-Identified, State of NC HUB, Federal Agency, State of NC DOT, Out of State Agency, Unknown (Note: In July 2009, businesses will be required to be certified through the State of NC HUB)

ACCEPTANCE OF BID

If any or all parts of this bid are accepted, an authorized representative of Cumberland County Schools shall affix their signature hereto and this document and the provisions of the Instructions to Bidders of the Instructions to Bidders, special terms and conditions specific to this Invitation To Bid, the specifications, and the North Carolina General Contract Terms and Conditions shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful bidder(s).

FOR CUMBERLAND COUNTY SCHOOL USE ONLY

Offer accepted and contract awarded this _____ day of _____, 20_____, as indicated on attached certification or purchase order,

By _____
Schools).

The Owner reserves the right to reject any and all proposals.

