

NICHOLAS

COUNTY BOARD OF EDUCATION

400 Old Main Drive, Summersville, WV 26651 • (304) 872-3611 • Fax: (304) 872-4626

03/24/23

TO: All Interested Bidders

Subject: Storage Building Unit for Glade Creek Site

IDENTIFICATION NUMBER (ID): 23.011

Please submit responses to:

NICHOLAS COUNTY BOARD OF EDUCATION
Attn Allen Stump, Maintenance Director
400 Old Main Drive
Summersville, WV 26651

Responses will be accepted until 3:00 pm, April 12, 2023. Please show the ID number on the outside of the return envelope. IMPROPERLY IDENTIFIED RESPONSES MAY NOT BE ACCEPTED. Any proposals received after the time and date stated above will not be considered.

RESPONSE

In compliance with the instructions, conditions and specifications herewith attached, we the undersigned, hereby submit this offer, and agree to enter into any written contract, and to furnish such security as may be required herein.

COMPANY NAME: _____

ADDRESS: _____

Submitted by: _____

(Please print or type)

Title: _____

(Signature)

Telephone Number: _____

Fax Number: _____

Email Address: _____

Date: _____

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INSTRUCTIONS TO VENDORS SUBMITTING BIDS
Bid 23-011: Storage Building Unit for Glade Creek Site

1. **REVIEW DOCUMENTS THOROUGHLY:** The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.
2. **MANDATORY TERMS:** The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.
3. **PREBID MEETING:** The item identified below shall apply to this Solicitation.

[] A **mandatory** pre-bid meeting will be held on

4. **VENDOR QUESTION DEADLINE:** Vendors may submit questions relating to this Solicitation to Nicholas County Board of Education. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are non-binding.

Question Submission Deadline: April 7, 2023, 3:00 p.m.

Submit Questions to:

Attn: Allen Stump
Nicholas County Board of Education
400 Old Main Drive
Summersville, WV 26651
Phone: 304/872-3611 ext. 1225
Fax: 304/872-4626
Email: mastump@k12.wv.us

5. **VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any County person nel is not binding. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Department is binding.
6. **BID SUBMISSION:** All bids must be signed and delivered by the Vendor to the Nicholas County Board of

Education, Attn. Allen Stump, at the address listed below on or before the date and time of the bid opening. Any bid received by Nicholas County Board of Education staff is considered to be in the possession of the Purchasing Department and will not be returned for any reason. The bid delivery address is:

Nicholas County Board of Education
Attn: Allen Stump
400 Old Main Drive
Summersville, WV 26651

The bid should contain the information listed below on the face of the envelope or the bid may not be considered:

SEALED BID
NO.: 23-011
BID OPENING DATE: April 12, 2023
BID OPENING TIME: 3:00 PM
FAX NUMBER: {304} 872-4626

- 7. BID OPENING:** Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when time stamped by an employee of Nicholas County Board of Education.

Bid Opening Date and Time: April 12, 2023 at 3:00pm

Bid Opening Location: Nicholas County Board of Education Office
400 Old Main Drive
Summersville, WV 26651

- 8. ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Department. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.
- 9. BID FORMATTING:** Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

GENERAL TERMS AND CONDITIONS:

1. **CONTRACTUAL AGREEMENT:** Issuance of an Award Document signed by the Purchasing Department Director and, if applicable, approved as to form by the Treasurer and Superintendent, and the Board of Education constitutes acceptance of this Contract made by and between Nicholas County Board of Education and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.
2. **DEFINITIONS:** As used in this Solicitation / Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation / Contract.
 - 2.1 **"County"** means the Nicholas County Board of Education or other Public School Board of Education located within the State of West Virginia seeking to procure goods or services under this Contract.
 - 2.2 **"Contract"** means the binding agreement that is entered into between the County and the Vendor to provide the goods and services requested in the Solicitation.
 - 2.3 **"Director"** means the Director of Nicholas County Board of Education, Purchasing Department.
 - 2.4 **"Purchasing Department"** means the Nicholas County Board of Education, Purchasing Department.
 - 2.5 **"Purchase Order"** means the document signed and approved by the Treasurer, that identifies the Vendor as the Contract holder.
 - 2.6 **"Solicitation"** means the official notice of an opportunity to supply the Purchasing Department with goods or services.
 - 2.7 **"Vendor" or "Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.
3. **CONTRACT TERM; RENEWAL; EXTENSION:** The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

☒ **Term Contract**

Initial Contract Term: This Contract becomes effective on the date the purchase order is issued and extends throughout the construction period.

4. NOTICE TO PROCEED: Vendor shall begin performance of this Contract immediately up receiving the notice to proceed unless otherwise instructed by the County. Unless otherwise specified, the fully executed Award Document will be considered the notice to proceed.

5. QUANTITIES: The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

☐ **Open End Contract:** Quantities listed in this Solicitation are approximations only, based on estimates supplied by the County. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

☒ **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

6. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the County. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the County in the Solicitation to do so, may result in bid disqualification.

7. EMERGENCY PURCHASES: The Purchasing Department Director may authorize the purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by Nicholas County Board of Education, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the County from fulfilling its obligations under a One Time Purchase contract.

8. REQUIRED BID DOCUMENTS: All the items checked below must be provided with submitted bid.

☒ **WEST VIRGINIA BUSINESS REGISTRATION:** The apparent successful Vendor shall have appropriate WV Business Registration Certificate and provide a copy in the bid proposal.

☒ **WEST VIRGINIA CONTRACTORS LICENSE:** The apparent successful Vendor shall have appropriate WV Contractors License and provide a copy in bid proposal.

☒ **WORKERS' COMPENSATION INSURANCE:** The apparent successful Vendor shall have appropriate workers' compensation insurance and shall provide a copy in bid proposal.

☒ **INSURANCE:** The apparent successful Vendor shall furnish proof of the following insurance and include a copy in the bid proposal.

☒ **Commercial General Liability Insurance:** The apparent successful vendor's Commercial General Liability Policy shall contain at a minimum, Contractual liability and Products/Completed Operations Liability which must meet or exceed the following limits: Bodily Injury of \$1,000,000.00 per person, \$1,000,000.00 per occurrence; Property Damage of at least \$1,000,000.00 per occurrence; Bodily Injury/Property Damage of at least \$2,000,000.00 combined single limit.

☒ **Comprehensive Automobile Liability Insurance:** The apparent successful vendor shall have and maintain at a minimum, during the life of this contract, Comprehensive Automobile Liability, including non-owned and hired vehicle, of at least \$1,000,000.00 per person, \$1,000,000.00 per occurrence; property damage of at least \$1,000,000.00 per occurrence, or bodily injury/property damage of at least \$2,000,000.00 combined single limit.

☐ **Professional Liability/Errors and Omission Coverage:** The apparent successful vendor shall have and maintain at a minimum, during the life of this contract Professional Liability/Errors and Omission Coverage of \$1,000,000.00 per occurrence, \$3,000,000.00 aggregate.

☒ **Agreement Addendum and Affidavit:** The apparent successful Vendor shall provide with the bid proposal, a signed copy of the attached Agreement Addendum and Affidavit.

☒ **Federal Form W9:** The apparent successful Vendor shall provide with the bid proposal, a completed Federal Form W9.

The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether that insurance requirement is listed above. The owner reserves the right to extend the submittal dates on any of the above documents, however points will be deducted if documents are omitted.

9. ADDITIONAL REQUIRED DOCUMENTS: All of the items checked below must be provided with submitted to the Nicholas County Board of Education, Attn: Allen Stump. All documents must be submitted within 48 hours or the close of the second business day.

☒ **PAYMENT and PERFORMANCE BOND:** If bid price exceeds \$25,000 bonding is required. The apparent successful Vendor shall provide a performance bond in the amount of 100% of the Contract value. The performance bond must be issued and received by the Purchasing Department prior to Contract award.

☒ **CITY BUSINESS LICENSE:** The apparent successful Vendor shall have appropriate and applicable city business license and shall provide proof thereof upon request.

☒ **CITY BUILDING PERMIT** – The successful Vendor shall have appropriate and applicable city building permit and shall provide proof thereof upon request.

[X] CITY B&O TAXES: The apparent successful Vendor shall remit appropriate B&O taxes to applicable city and submit proof of payment to the Nicholas County Board of Education with final billing invoice.

[X] Name Nicholas County Board of Education as an additional insured party – The apparent successful Vendor shall name the Nicholas County Board of Education as additional insured on their liability insurance certificate.

10. LITIGATION BOND: The Director reserves the right to require any Vendor that files a protest of an award to submit a litigation bond in the amount equal to one percent of the lowest bid submitted or \$5,000, whichever is greater. The entire amount of the bond shall be forfeited if the hearing officer determines that the protest was filed for frivolous or improper purpose, including but not limited to, the purpose of harassing, causing unnecessary delay, or needless expense for the County. All litigation bonds shall be made payable to Nicholas County Board of Education. In lieu of a bond, the protester may submit a cashier's check or certified check payable to Nicholas County Board of Education. Cashier's or certified checks will be deposited with and held by the County. If it is determined that the protest has not been filed for frivolous or improper purpose, the bond or deposit shall be returned in its entirety.

11. ALTERNATES: Any model, brand, or specification listed herein establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the County at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

12. EXCEPTIONS AND CLARIFICATIONS: The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

13. LIQUIDATED DAMAGES: Vendor shall pay liquidated damages in the amount of \$ 100.00 per day for failure to comply with the Bid Contract and delivery schedule. This clause shall in no way be considered exclusive and shall not limit the County's right to pursue any other available remedy.

14. ACCEPTANCE/REJECTION: The County may accept or reject any bid in whole, or in part. Vendor's signature on its bid signifies acceptance of the terms and conditions contained in the Solicitation and Vendor agrees to be bound by the terms of the Contract, as reflected in the Purchase Order, upon receipt.

- 15. REGISTRATION:** Prior to Contract award, the apparent successful Vendor must provide Nicholas County Board of Education a completed W9 form.
- 16. COMMUNICATION LIMITATIONS:** Communication with the County or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Department, is strictly prohibited without prior Purchasing Department approval. Purchasing Department approval for such communication is implied for all exempt purchases.
- 17. FUNDING:** This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the County or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.
- 18. PAYMENT:** Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears, to the County at the address on the face of the purchase order labeled "Invoice To."
- 19. UNIT PRICE:** Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.
- 20. DELIVERY:** All quotations are considered freight on board destination ("F.O.B. destination") unless alternate shipping terms are clearly identified in the bid. Vendor's listing of shipping terms that contradict the shipping terms expressly required by this Solicitation may result in bid disqualification. Vendor shall include the cost of standard order delivery charges in its bid pricing and is not permitted to charge the County separately for such delivery. The work shall be completed within 3 months of being awarded the bid.
- 21. INTEREST:** Interest attributable to late payment will only be permitted if authorized by the West Virginia Code. Presently, there is no provision in the law for interest on late payments.
- 22. TAXES:** The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The County is exempt from federal and state taxes and will not pay or reimburse such taxes.
- 23. CANCELLATION:** Nicholas County Board of Education reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract.
- 24. WAIVER OF MINOR IRREGULARITIES:** Nicholas County Board of Education reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Department of Education Policy 8200.
- 25. TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.

- 26. APPLICABLE LAW:** This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code, West Virginia Code of State Rules or the applicable policies of the West Virginia Department of Education and Nicholas County Board of Education is void and of no effect.
- 27. COMPLIANCE:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendors acknowledge that they have reviewed, understand, and will comply with all applicable law.
- 28. ARBITRATION:** Any references made to arbitration contained in this Contract or the Vendor's bid are hereby deleted, void, and of no effect.
- 29. MODIFICATIONS:** This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary, no modification of this Contract shall be binding without mutual written consent of the County, and the Vendor, with approval of the Purchasing Department and if applicable, approved as to form by the Treasurer and Superintendent, and the Board of Education. **No Change shall be implemented by the Vendor until such time as the Vendor receives an approved written change order from the Purchasing Department.**
- 30. WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in remain in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.
- 31. SUBSEQUENT FORMS:** The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the County or Purchasing Department such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.
- 32. ASSIGNMENT:** Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Purchasing Department, or if applicable, approved as to form by the Treasurer and Superintendent, and the Board of Education, and any office that may be required to approve such assignments. Notwithstanding the foregoing, Purchasing Department approval may or may not be required on certain exempt purchases.
- 33. WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the County; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

- 34. COUNTY EMPLOYEES:** County employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.
- 35. BANKRUPTCY:** In the event the Vendor files for bankruptcy protection, the County may deem this Contract null and void, and terminate this Contract without notice.
- 36. CONFIDENTIALITY:** The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the County, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the County's policies, procedures, and rules.
- 37. DISCLOSURE:** Vendor's response to the Solicitation and the resulting Contract are considered public documents and will be disclosed to the public in accordance with the laws, rules, and policies governing the Nicholas County Board of Education Purchasing Department. Those laws include, but are not limited to, the Freedom of Information Act found in West Virginia Code § 29B-1-1 et seq.
- If a Vendor considers any part of its bid to be exempt from public disclosure, Vendor must so indicate by specifically identifying the exempt information, identifying the exemption that applies, providing a detailed justification for the exemption, segregating the exempt information from the general bid information, and submitting the exempt information as part of its bid but in a segregated and clearly identifiable format. Failure to comply with the foregoing requirements will result in public disclosure of the Vendor's bid without further notice. A Vendor's act of marking all or nearly all of its bid as exempt is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor's act of marking a bid or any part thereof as "confidential" or "proprietary" is not sufficient to avoid disclosure and WILL NOT BE HONORED. In addition, a legend or other statement indicating that all or substantially all of the bid is exempt from disclosure is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor will be required to defend any claimed exemption for non-disclosure in the event of an administrative or judicial challenge to the State's nondisclosure. Vendor must indemnify the County for any costs incurred related to any exemptions claimed by Vendor. Any questions regarding the applicability of the various public records laws should be addressed to your own legal counsel prior to bid submission.
- 38. LICENSING:** Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Department Director or the County to verify that the Vendor is licensed and in good standing with the above entities.
- 39. ANTITRUST:** In submitting a bid to, signing a contract with, or accepting a Purchase Order from the County, the Vendor agrees to convey, sell, assign, or transfer to the County all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the

particular commodities or services purchased or acquired by the County. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

- 40. VENDOR CERTIFICATIONS:** By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the County.
- 41.** The individual signing this bid on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.
- 42. PURCHASING CARD ACCEPTANCE:** The County currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. The Vendor must accept the County's Purchasing Card for payment of all orders under this Contract.
- ☒ Vendor is not required to accept the County's Purchasing Card as payment for all goods and services. However, preferred method of payment is with the use of Purchasing Card.
- 43. VENDOR RELATIONSHIP:** The relationship of the Vendor to the County shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the County for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms and returns pertinent to all of the foregoing. Vendor shall hold harmless the County, and shall provide the County with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.
- 44. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the County, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection

with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

- 45. PURCHASING AFFIDAVIT:** In accordance with West Virginia Code § 5A-3-10a, all Vendors are required to sign, and submit the Purchasing Affidavit stating that neither the Vendor nor a related party owe a debt to the State in excess of \$1,000. The affidavit must be submitted prior to award, but should be submitted with the Vendor's bid. A copy of the Purchasing Affidavit is included herewith.
- 46. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire any interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the County.
- 47. REGISTERED SEX OFFENDERS:** In compliance with Nicholas County Board of Education Policy: Sex Offender Registry Notification Series 54 and as found in West Virginia Code § 15-12-1 et seq, the contractor (Vendor) shall not send any employee or agent who is a registered sex offender to any school building or school property. Quarterly, the contractor (Vendor) shall check the registry to determine if the employee is registered. For information regarding the Sex Offender Registry, Vendors should contact the West Virginia State Police.
- 48. BUY AMERICAN:** Vendor must be in compliance with the Buy American Provision. Purchases made in accordance with the Buy American Provision must still follow the applicable procurement rules calling for free and open competition.
- 49. LOBBYING:** Vendor shall certify that no federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence any federal agency or Congress with respect to the awarding of a federal contract, or in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. If the Vendor has paid, or will pay, any funds other than federal appropriated funds to any person for influencing or attempting to influence an officer or employee of any federal agency or Congress, the Vendor is required to submit a "Disclosure Form to Report Lobbying" at the time of the executed contract and at the time of any renewals. The attached "Lobbying Certification" form must be completed and returned in bid packet.
- 50. DEBARMENT AND SUSPENSION:** The Vendor certifies, by entering into this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State of West Virginia. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of Vendor.

The Vendor also further certifies that it has verified the suspension and debarment status for all sub-contractors receiving funds under this contract and is solely responsible for any paybacks and or penalties that might arise from non-compliance. The attached "Suspension and Debarment Certification" form must be signed and returned in the sealed bid packet.

51. OTHER FEDERALLY REQUIRED CONTRACT PROVISIONS: In addition to previously mentioned provisions, the Vendor shall abide by all Applicable Rules, Regulations, Guidance Memos and Instructions. Vendor shall follow all rules, regulations, guidance memos and instructions provided by the SFA (or local authority), the West Virginia Department of Education and Buy American provision; 7 CFR 3016; E.O. 11246, Equal Employment Opportunity, as amended by E.O. 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and as supplemented by regulations at 41 CFR part 60, Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor; applicable Labor and Civil Rights Laws; Civil Rights laws as amended including but not limited to Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR parts 15, 15a, and 15b; the Americans with Disabilities Act; Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15); the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 871.

52. ASSURANCE OF NONCOLLUSION: By signing this bid, the Vendor assures that, to the best of his/her knowledge:

- (a) Neither the Vendor nor any business entity represented by the Vendor has received compensation for participation in the preparation of the items specifications or the General Terms and Conditions related to this IFB,
- (b) This bid has been arrived at independently and is submitted without collusion with any other offer or, with any competitor or potential competitor, or with any other person or entity to obtain any information or gain any special treatment or favoritism that would in any way limit competition or give any offer or an unfair advantage over any other offer or with respect to this RRP.
- (c) The Vendor has not accepted, offered, conferred or agreed to confer, and will not in the future accept, offer confer, or agree to confer any benefit or anything of value to any person or entity related to the SFA or any of its members in connection with any information or submission related to this bid, any recommendations, decision, vote or award related to this bid, or the exercise of any influence or discretion concerning the sale, delivery, or performance of any product or served related to this bid,
- (d) Neither the Vendor, nor any business entity represented by the bidder, nor anyone acting for such business entity, has violated the Federal Antitrust Laws or the antitrust laws of the state of West Virginia with regard to this bid, and this bid has not been knowingly disclosed, and will not be knowingly disclosed to another offer or, competitor, or potential competitor prior to the opening of bids.
- (e) No attempt has been or will be made to induce any other person or entity to submit or to not submit a bid.

CERTIFICATION AND SIGNATURE PAGE

Bid# 23-011

By signing below, I certify that I have reviewed this Solicitation in its entirety; understand the requirements, terms and conditions, and other information contained herein; that I am submitting this bid or proposal for review and consideration; that I am authorized by the bidder to execute this bid or any documents related thereto on bidder's behalf; that I am authorized to bind the bidder in a contractual relationship; and that to the best of my knowledge, the bidder has properly registered with any State agency that may require registration.

(Company)

(Representative Name, Title)

(Contact Phone/Fax Number)

(Date)

ADDENDUM ACKNOWLEDGEMENT FORM

SOLICITATION NO.: 23-011

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:

(Check the box next to each addendum received)

<input type="checkbox"/>	Addendum No. 1	<input type="checkbox"/>	Addendum No. 6
<input type="checkbox"/>	Addendum No. 2	<input type="checkbox"/>	Addendum No. 7
<input type="checkbox"/>	Addendum No. 3	<input type="checkbox"/>	Addendum No. 8
<input type="checkbox"/>	Addendum No. 4	<input type="checkbox"/>	Addendum No. 9
<input type="checkbox"/>	Addendum No. 5	<input type="checkbox"/>	Addendum No. 10

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

Company

Authorized Signature

Date

NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.

REQUEST FOR QUOTATION
SOLICITATION NO.: Bid# 23-011

SPECIFICATIONS

- 1. PURPOSE AND SCOPE:** The Nicholas County Board of Education Purchasing Department is soliciting bids to establish the construction of chain link Storage Building Unit for Glade Creek Site.
- 2. DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
 - 2.2 "Solicitation"** means the official notice of an opportunity to supply the County with goods or services that is published by the Purchasing Department.
- 3. GENERAL REQUIREMENTS:** Vendor shall have the following minimum qualifications:

Contractor License

REQUEST FOR QUOTATION
SOLICITATION NO.: Bid 23-011

4. MANDATORY REQUIREMENTS:

- Contract Items and Mandatory Requirements: Vendor shall provide County with the Contract Items listed below. Contract Items must meet or exceed the mandatory requirements as shown below.
- The following list is the desired specifications for the installation of a Storage Building Unit for Glade Creek Site.
- The successful bidder will purchase and install a 40' x 40' X 16' Metal Storage Building with 14' Garage Door and Single Door on pre-existing concrete pad.
- The building should be garage style.
- The building should be installed and secured to pre-existing concrete pad.
- The building should be 40 feet in width, 40 feet length, and 16 feet leg height.
- The building should be center section and full enclosed.
- The Framing must be 12 guage with Vertical Side Wall Side Panels.
- All screws must match the color of the building.
- The building should be Caulked under Base Rail.
- The building should be full insulated with Double Bubble Moisture Barrier.
- The building should have a roll up garage door that is 14 feet in height and 14 feet in width.
- The building should have a walk in 36x80 single door.
- The roof and trim colors should be brown
- All Siding should be sandstone.

5.0 References

1. How long has your company been in business? _____

2. Provide three references from your customers:

A.

B.

C.

CONTRACT AWARD:

1.1 Contract Award: The Contract is intended to provide the County with a purchase price on all Contract Items. The Contract shall be awarded to the Vendors that provide the Contract Items meeting the required specifications for the lowest overall total cost as shown on the Pricing Pages.

1.2 Point of Contact: Allen Stump, Maintenance Director, Phone: (304)872-3611 ext. 1225 , email: mastump@k12.wv.us

PAYMENT:

1.3 Payment: Vendor shall accept payment in accordance with the payment procedures of the County.

VENDOR DEFAULT:

- 2.1** The following shall be considered a vendor default under this Contract.
- 2.2** Failure to provide Contract Items in accordance with the requirements contained herein.
- 2.3** Failure to comply with other specifications and requirements contained herein.
- 2.4** Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.
- 2.5** Failure to remedy deficient performance upon request.
- 2.6** The following remedies shall be available to County upon default.
- 2.7** Immediate cancellation of the Contract.
- 2.8** Immediate cancellation of one or more release orders issued under this Contract.
- 2.9** Any other remedies available in law or equity.

MISCELLANEOUS:

3.1 No Substitutions: Vendor shall supply only Contract Items submitted in response to the Solicitation unless a contract modification is approved in accordance with the provisions contained in this Contract.

3.2 Contract Manager: During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

Contract Manager:_____

Telephone Number:_____

Fax Number: _____

Email Address:_____

Exhibit A

Pricing Page – Storage Building for Glade Creek Site

RFQ#: 23-011

Total price for the Storage Building for Glade Creek Site \$ _____

Beginning date for the Storage Building for Glade Creek Site _____

Completion date for the Storage Building for Glad Creek Site _____

AFFIDAVIT

West Virginia Code §5A-3-10a states:

No contract or renewal of any contract may be awarded under this article to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor as defined in this section and the debt owed is an amount greater than one thousand dollars in the aggregate.

Definitions:

"Debt" means any assessment, penalty, fine, tax or other amount of money owed to the state because of a judgment, fine, permit violation, license assessment, penalty or other assessment presently due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon;

"Debtor" means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions;

"Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor, so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

Exception:

The prohibition does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the West Virginia Code, worker's compensation premium, permit fee or environmental fee or assessment, and the matter has not become final, or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

Under penalty of law for false swearing (West Virginia Code §61-5-3), it is hereby certified that the bidder and all related parties do not owe any debts or, if a debt is owed, that the provisions of the exception clause (above) apply.

Vendor's Name:

Authorized Signature: _____ Date: _____

Vendor FEIN# _____

Agreement Addendum

In the event of conflict between this addendum and the agreement, this addendum shall control:

1. **DISPUTES** - Any references in the agreement to arbitration or to jurisdiction of any court other than the Circuit Court of the county in which the Agency is located are hereby deleted. The parties may agree to nonbinding mediation prior to litigation.
2. **HOLD HARMLESS** - Any clause requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety.
3. **GOVERNING LAW** - The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law.
4. **TAXES** - Provisions in the agreement requiring the Agency to pay taxes are deleted. As a political subdivision of the State of West Virginia, the Agency is generally exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party.
5. **PAYMENT** - Any references to prepayment are deleted. Fees for software licenses, subscriptions, or maintenance are payable annually in advance. Payment for services will be in arrears.
6. **INTEREST** - Any provision for interest or charges on late payments is deleted. The Agency has no statutory authority to pay interest or late fees.
7. **NO WAIVER** - Any language in the agreement requiring the Agency to waive any rights, claims or defenses is hereby deleted.
8. **FISCAL YEAR FUNDING** - Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. **STATUTE OF LIMITATION** - Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.
10. **SIMILAR SERVICES** - Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.
11. **ATTORNEY FEES** - The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
12. **ASSIGNMENT** - Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to a State agency or another local governmental agency, board or commission of the State of West Virginia upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement.
13. **LIMITATION OF LIABILITY** - The Agency, as a political subdivision of the State, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages to a certain dollar amount or to the amount of the agreement is hereby deleted. Limitations on special, incidental or consequential damages are acceptable. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.
14. **RIGHT TO TERMINATE** - Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor. Agency agrees to pay Vendor for services rendered or goods received prior to the effective date of termination. In such event, the Agency will not be entitled to a refund of any software license, subscription or maintenance fees paid.
15. **TERMINATION CHARGES** - Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term.
16. **RENEWAL** - Any reference to automatic renewal is hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.
17. **INSURANCE** - Any provision requiring the Agency to purchase insurance for Vendor's property is deleted. The Agency is insured through the Board of Risk and Insurance Management, and will provide a certificate of property insurance upon request.
18. **RIGHT TO NOTICE** - Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right of repossession with notice.
19. **ACCELERATION** - Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
20. **CONFIDENTIALITY** - Any provision regarding confidentiality of the terms and conditions of the agreement is hereby deleted. Governmental contracts are public records under the West Virginia Freedom of Information Act.
21. **AMENDMENTS** - All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties. No amendment, modification, alteration or change may be made to this addendum without the express written approval of the Agency.

ACCEPTED BY:

Local Education Agency: _____

Signed: _____

Title: _____

Date: _____

Revised 07-12

VENDOR:

Company Name: _____

Signed: _____

Title: _____

Date: _____

Bid Advertisement

The Nicholas County Board of Education is accepting bids for the construction of a Pavilion at Nicholas County High School. Bid specifications may be obtained by contacting Allen Stump at mastump@k12.wv.us or 304.872.3611 x 1225. Bids are due by April 12, 2023 at 3:00pm. Bids will be opened and read aloud at that time. The Nicholas County Board of Education reserves the right to accept or reject any or all bids and waive minor informalities.