

Specification No.: 12-250023
Advertisement Date: May 4, 2012

**BID SOLICITATION FOR
EPINEPHRINE AUTO INJECTORS
FOR THE
BOARD OF EDUCATION OF THE CITY OF CHICAGO**

Required for use by the Office of Physical Health

**Contract Period: Three (3) years from Contract commencement
with the Board having two (2) options to extend for additional one (1) year periods each**

THREE (3) HARD COPIES OF THIS BID ARE TO BE PROVIDED, INCLUDING TWO (2) ORIGINAL SIGNATURE SETS TO BE SWORN TO BEFORE A NOTARY PUBLIC. IN ADDITION, THREE (3) COMPACT DISCS (CDs) ARE TO BE PROVIDED CONTAINING ELECTRONIC COPIES IN PDF AND IN MICROSOFT EXCEL (FOR THE BID TABULATION PAGES ONLY) FORMATS. THE THREE (3) CDs MUST CONTAIN ALL THE INFORMATION THAT THE HARD COPIES CONTAIN (EXCLUDING FINANCIAL STATEMENTS). BID CONTRACTS AWARDED WILL BE POSTED ONLINE ON THE CPS WEBSITE. IF BIDDER DESIGNATES ANY PORTION OF ITS SUBMITTAL AS EXEMPT UNDER THE ILLINOIS FREEDOM OF INFORMATION ACT ("FOIA"), BIDDER SHALL ALSO PROVIDE ONE (1) HARDCOPY OF THE REDACTED BID AND A CD CONTAINING AN ELECTRONIC VERSION OF THE REDACTED BID.

ALL BIDS SHALL BE ADDRESSED AND RETURNED TO:

**Sébastien de Longeaux, Chief Procurement Officer
Department of Procurement and Contracts
Board of Education of the City of Chicago
Bid/Bond Room
125 S. Clark Street, 10th Floor
Chicago, IL 60603**

BIDS MUST BE RECEIVED PRIOR TO, BUT NO LATER THAN MAY 22, 2012 11:00 A.M. CENTRAL STANDARD TIME AT THE ABOVE ADDRESS. LATE BIDS WILL NOT BE ACCEPTED.

A Pre-Submittal Conference will be held on May 16, 2012, 2012 at 11:00 a.m. Central Standard Time, at the Chicago Public Schools Headquarters, 125 S. Clark Street, 17th Floor, Conference Room 1, Chicago, Illinois. Attendance is not mandatory, but encouraged. A MBE/WBE Networking Session will follow immediately after the Pre-Submittal Conference.

ISSUED BY THE DEPARTMENT OF PROCUREMENT AND CONTRACTS

**RAHM EMANUEL
MAYOR**

**JEAN-CLAUDE BRIZARD
CHIEF EXECUTIVE OFFICER**

**DAVID J. VITALE
PRESIDENT
CHICAGO BOARD OF EDUCATION**

**SÉBASTIEN DE LONGEAUX
CHIEF PROCUREMENT OFFICER**

**For current Bid/RFP/RFQ information, Log in at:
www.csc.cps.k12.il.us/purchasing**

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I. GENERAL INVITATION

REQUEST FOR BID FOR EPINEPHRINE AUTO INJECTORS

The Board of Education of the City of Chicago (the "Board") invites the submission of bids from firms ("Bidders") that wish to provide Epinephrine Auto Injectors ("Products") to the Board. The Board reserves the right to (i) select one or more Bidders to provide the Products outlined herein; (ii) accept portions of the bid from one or more Bidders; or (iii) reject any and all bids.

A Bidder may only bid in one capacity, either individually, as a joint venture, a partnership, or other type of legal entity. A "Person", "Partnership", "Joint Venture" or "Sole Proprietorship" operating under an Assumed Name must be registered with the Illinois county in which located, as provided in 805 ILCS 405.

Bids must be submitted in sealed envelopes or packages. The outside of the envelope or package must clearly indicate the name of the project ("Epinephrine Auto Injectors Bid") the time and dates specified for receipt (11:00 A.M., May 22, 2012) and the name and address of the Bidder.

Where bids are sent by mail to the Chief Procurement Officer, the Bidder shall be responsible for their delivery to the Chief Procurement Officer before the advertised date and hour for the receipt of the bids. If the mail is delayed beyond the date and hour set for the bid receipt, bids thus delayed will not be considered and will be returned unopened.

Bidder shall bear all costs of responding to this Bid.

Downloaded Bid Solicitations

This Bid and all attachments are available for download from the Board's website at:

http://www.csc.cps.k12.il.us/purchasing/bid_openings.html

Bidders who download the solicitation document waive their right to have clarifications and/or addenda sent to them. Such Bidders are responsible for checking the web site for clarifications and/or addenda. Failure to obtain clarifications and/or addenda from the web site shall not relieve such Bidders from being bound by additional terms and conditions, the clarifications and/or addenda, if any, or from considering additional information contained therein in preparing their proposals. Note that there may be multiple clarifications and/or addenda. Any harm to a Bidder resulting from such failure shall not be valid grounds for a protest against award(s) made under this Bid.

Questions regarding the bidding process should be addressed to:

ATTN: Nicole Waites-Moore

Tel. (773) 553-2267
Fax (773) 553-2251
Email: nlwaites@cps.edu

NOTE: ALL QUESTIONS MUST BE SUBMITTED IN WRITING VIA E-MAIL NO LATER THAN MAY 11, 2012 AT 12:00 NOON (CENTRAL STANDARD TIME).

Questions received by the deadline will be answered at the Pre-Submittal Conference and the written clarification will also be posted on the Board's website at: <http://www.csc.cps.k12.il.us/purchasing>. Oral clarifications offered by any Board employee will not be binding to the Board. Late questions will not be answered.

II. GENERAL TERMS AND CONDITIONS

1. **Contract:** If selected to provide the Products herein, the Bidder shall adhere to the terms and conditions contained in this bid solicitation. The term "Contract" hereinafter refers collectively to this bid solicitation, all exhibits attached hereto and/or incorporated herein by reference, all addenda, the Bidder's response to this bid solicitation, and acceptance by the Board of such bid. In case of any conflict between the terms and conditions of this bid solicitation and the Bidder's response, the terms and conditions of the bid solicitation shall govern and control for all purposes.
2. **Term of Contract:** The term of this Contract shall commence on the date stated on the Bid Execution Page and end three (3) years) thereafter ("Term"), unless terminated sooner as provided herein. The Board shall have the unilateral right to extend this Contract for two (2) additional one (1) year periods each, or any shorter period of time as determined by the Board, upon the same terms, conditions and pricing (each an "Extended Term"). No later than thirty (30) calendar days prior to the expiration of the then current term, the Chief Procurement Officer of the Board ("CPO") shall give the Bidder written notice of the Board's intent to exercise its option to extend for the approaching option period. The date on which the CPO gives notice is the date the notice is mailed, if it is mailed; or, the date the notice is sent by confirmed facsimile. The Board's option to extend is contingent upon formal Board approval, which may be subsequent to notice from the CPO, and the appropriation of sufficient funds for the procurement of Products provided for in this bid.
3. **Quantity, Purchase Orders, Delivery of Products, Inspection:**
 - A. **Quantity:** The Board assumes no obligation hereunder to purchase any quantity of Products other than those identified on a purchase order issued by the Board.
 - B. **Purchase Orders:** Orders must be on the Board's Standard Purchase Order Form ("PO"). The pre-printed terms and conditions found on the ("PO") shall apply to the extent that such terms supplement and are not inconsistent with the terms and conditions contained in this Contract.
 - C. **Packaging and Shipment, Risk of Loss:** Bidder shall package and ship all Products in a commercially reasonable manner. All shipments shall be F.O.B. destination (as indicated on the PO or some other notification from Board) with freight prepaid. Bidder shall purchase insurance to cover the shipping period. It is understood and agreed that the Board shall have no liability for any shipping or insurance charges not included in the prices quoted on the Bid Tabulation Pages. The Board may adjust the PO or shipping destination any time up to five (5) business days prior to shipment. The risk of loss and damage to Products ordered by the Board shall pass to the Board only after delivery to the destination designated by the Board. Time is of the essence to the delivery of all Products ordered hereunder.
 - D. **Inspection and Out-Of-Box Failures:** The Board reserves the right to inspect all Products upon delivery and to perform any test the Board deems necessary to adequately demonstrate that the Products meet all of the Specifications, as more particularly described in Section IV herein. Final inspection resulting in acceptance or rejection of the Products will be made as soon as practicable, but failure to inspect shall not be construed as a waiver by the Board of its rights to reject Products or to claim reimbursement or damages for such Products which are later found to be defective or not in conformance with the Specifications. Products which do not conform to the Specifications or that are otherwise damaged must either, at the Boards discretion, be retrieved by Bidder (at Bidder's expense) for replacement at no charge to the Board, or the Board may cancel that portion of the purchase order relating to the nonconforming Products at no charge to the Board. For any such returned Products, the Board shall either debit or offset from Bidder the cost of such Product plus freight, or receive a refund for such, at Board's discretion.
 - E. **Uniform Commercial Code:** In the absence of a governing provision under this Contract or should any provision of this Contract be construed by a court of competent jurisdiction as vague, the corresponding provision of the Uniform Commercial Code, Article 2, shall apply.

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F. Survival: The provisions of this Section shall survive the expiration or termination of this Contract.

4. Standards of Performance: Bidder shall devote, and shall cause all of its staff and subcontractors to devote, such of their time, attention, best skill and judgment, knowledge and professional ability as is necessary to supply all Products effectively and efficiently and to the satisfaction of the CPO. Bidder shall use efficient business administration methods and supply the Products in the most expeditious and economical manner so as to assure, among other things, that the Products are supplied at a reasonable cost to the Board and that Products supplied by other entities or persons in connection with this Contract are efficiently and cost-effectively delivered. Bidder acknowledges that, if in the course of providing the Products hereunder, it is entrusted with or has access to valuable and confidential information and records of the Board, that with respect to that information, Bidder agrees to be held to the standard of care of a fiduciary. Any review, approval, acceptance of Products or payment for any of the Products by the Board does not relieve Bidder of its responsibility for any nonconformity with the Specifications or any defects in the Products. Bidder shall remain responsible for all Products supplied hereunder, whether furnished by Bidder or its subcontractors or others on its behalf.

5. Compensation and Pricing:

A. Compensation: The total maximum compensation amount payable to Bidder pursuant to this Contract shall not exceed the amount specified in Attachment VIII, on the Bid Execution Page, with no reimbursement for expenses except as specifically set out in this Contract. Bidder is not entitled to any payment nor is the Board obligated to pay Bidder any amount solely by virtue of entering into this Contract. The maximum payment amount for any Extended Term shall be established by the Board. Unless the Board has requested that Products ordered before the effective termination or expiration date be delivered after the effective date of termination or expiration, the Board shall not have any liability for any Products delivered after the effective expiration or termination date.

B. Prices: The prices indicated on the Bid Tabulation Pages shall be firm for the duration of this Contract and any extensions thereof.

6. Billing and Payment Procedures; Electronic Payments:

A. Billing and Payment Procedures: All invoices must include: a valid purchase order number, itemized description of the Products delivered, date the Products were delivered, invoice date, and invoice amount. Invoices shall be submitted in a timely manner. The final invoice shall be submitted no later than ninety (90) days after the expiration or termination of this Contract. If Bidder has more than one contract with the Board, separate invoices must be submitted for each contract. The Board shall process payments in its normal course of business after receipt of invoices and all supporting documentation necessary for the Board to verify the Products supplied under this Contract. Original invoices must be submitted to:

Chicago Public Schools
Accounts Payable
P.O. Box 661
Chicago, Illinois 60690-0661

B. Electronic Payments: Bidder agrees that, at the Board's sole discretion, the Board may make payment electronically to Bidder for any and all amounts due to Bidder pursuant to this Contract by means of the Board's procurement charge card account. Bidder recognizes that any charge to the Board's procurement charge card that is in excess of the open remaining amount as stipulated in the applicable Purchase Order, or any charge unaccompanied by the requisite

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documentation and data as required by the Board, shall be deemed invalid and disputed by the Board. Bidder further recognizes that, in the absence of any supporting documentation as may be required by the Board, payments associated with disputed charges shall be rescinded by the Board and deemed not owed by the Board. Bidder agrees to comply with the rules, procedures and documentation required for electronic payment via the Board's procurement charge card as established by the Board's Department of Procurement and Contracts.

7. **Non-appropriation:** Expenditures not appropriated by the Board in its current fiscal year budget are deemed to be contingent liabilities only and are subject to appropriation in subsequent fiscal year budgets. In the event sufficient funds are not appropriated in a subsequent fiscal year by the Board for performance under this Contract, the Board shall notify Bidder and this Contract shall terminate on the last day of the fiscal period for which funds were appropriated. In no event shall the Board be liable to the Bidder for any amount in excess of the current amount appropriated and budgeted by the Board to fund payments under this Contract.

8. **Audit and Document Retention:** Bidder shall permit and cooperate in good faith in any audits by the Board, including its Department of Procurement and Contracts, or its agents for compliance by the Bidder with this Contract. Bidder shall furnish the Board with such information, supporting documentation and reports as may be requested relative to the progress, execution and costs of the Products, and compliance with applicable MBE/WBE requirements. Failure of the Bidder to comply in full and cooperate with the requests of the Board or its agents shall give the Board, in addition to all other rights and remedies hereunder, the right to charge the Bidder for the cost of such audit. Bidder shall maintain all records, correspondence, receipts, vouchers, memoranda and other data relating to Bidder's supply of Products under this Contract. All records referenced above shall be retained for five (5) years after the termination or expiration of this Contract and shall be subject to inspection and audit by the Board. Bidder shall require all of its subcontractors to maintain the above-described records and allow the Board the same right to inspect and audit said records as set forth herein.

9. **Termination, Events of Default, and Remedies:**

A. **Early Termination:** The Board may terminate this Contract in whole or in part without cause, at any time by a notice in writing from the Board to Bidder in accordance with the notice provisions herein. The effective date of termination shall be thirty (30) calendar days from the date the notice is received or the date stated in the notice, whichever is later.

After notice is received, Bidder must restrict its activities and those of its subcontractors, to winding down all activities under this Contract. No costs incurred after the effective date of the termination are allowed. Unless the Board has requested that Products ordered before the effective termination or expiration date, be delivered after the effective termination or expiration date, the Board shall not have any liability for any Products delivered after the expiration/termination date.

Bidder must include in its contracts with subcontractors an early termination provision in form and substance equivalent to this early termination provision to prevent claims against the Board arising from termination of subcontracts after the early termination of this Contract.

Bidder shall not be entitled to make any early termination claims against the Board resulting from any subcontractor's claims against Bidder or the Board to the extent inconsistent with this provision.

B. **Suspension of Product Delivery:** The Board may, upon thirty (30) calendar days written notice, direct Bidder to suspend the supply of Products. Bidder shall promptly resume delivery of Products upon written notice from the Board and upon such equitable extension of time as may be mutually agreed upon in writing by the Board and Bidder. Responsibility for any additional

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costs or expenses actually incurred by Bidder as a result of remobilization shall be determined by mutual agreement of the parties.

C. Bidder's Events of Default: Events of default ("Events of Default") include, but are not limited to, the following:

- 1) Any material misrepresentation by Bidder in the inducement or the performance of this Contract.
- 2) Breach of any term, condition, representation or warranty made by Bidder in this Contract.
- 3) Failure of Bidder to perform any of its obligations under this Contract, including, but not limited to, the following:
 - a) Failure to supply any portion of the Products herein at the time fixed for performance and in the manner specified herein;
 - b) Failure to maintain sufficient personnel and equipment or sufficient material to ensure the timely delivery of the Products;
 - c) Failure to supply the Products in a manner reasonably satisfactory to the Board or the CPO;
 - d) Failure to promptly re-supply, within a reasonable time and at no cost to the Board, Products that were determined by the Board to be defective or failing to meet the Specifications;
 - e) Discontinuance of the supply of the Products for reasons within Bidder's reasonable control; or
 - f) Failure to comply with any term of this Contract, including but not limited to, the provisions concerning insurance and nondiscrimination, and any other acts specifically and expressly stated in this Contract constituting an Event of Default.
- 4) Default by Bidder under any other agreement Bidder may presently have or may enter into with the Board;
- 5) Any action or failure to act by Bidder which affects the safety and/or welfare of students or Board staff; and
- 6) Assignment by Bidder for the benefit of creditors or consent by Bidder to the appointment of a trustee or receiver or the filing by or against Bidder of any petition or proceeding under any bankruptcy, insolvency or similar law.

D. Remedies: The occurrence of any Event of Default which Bidder fails to cure within fifteen (15) calendar days (or such other period as the CPO may authorize in writing) after receipt of notice given in accordance with the terms of this Contract and specifying the Event of Default or which, if such Event of Default cannot be reasonably cured within said cure period after notice, Bidder fails to commence and continue diligent efforts to cure in the sole opinion of the Board, may permit the Board to declare Bidder in default. Whether to declare Bidder in default is within the sole discretion of the CPO. Written notification of an intention of the CPO to terminate this Contract, in whole or in part, shall be provided and shall be final and effective upon Bidder's receipt of such notice or on the date set forth in the notice, whichever is later. Upon the giving of such notice as provided in this Contract, the Board may invoke any or all of the following remedies:

- 1) The right to take over and complete the supply of Products or any part thereof, by contract or otherwise as agent for and at the cost of Bidder either directly or through others. Bidder shall be liable to the Board for any excess costs incurred by the Board. Any amount due Bidder under this Contract or any other agreement Bidder may have with the Board may be offset against amounts claimed due by the Board;

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- 2) The right to terminate this Contract, in whole or in part, as to any or all of the Products yet to be supplied effective at a time specified by the Board;
- 3) The right to suspend the supply of Products during the fifteen (15) day cure period if the default results from Bidder's action or failure to act which affects the safety or welfare of students or Board staff;
- 4) The right to specific performance, an injunction or any other appropriate equitable remedy;
- 5) The right to receive from Bidder any and all damages incurred as a result or in consequence of an Event of Default;
- 6) The right to money damages;
- 7) The right to withhold all or part of Bidder's compensation under this Contract; and
- 8) The right to use an Event of Default as a basis to deem Bidder non-responsible in future contracts to be awarded by the Board and/or seek debarment of the Bidder pursuant to the Board's Debarment Policy on Non-Responsible Persons in Procurement Transactions (08-1217-PO1), as may be amended from time to time.

The Board may elect not to declare Bidder in default or to terminate this Contract. The parties acknowledge that this provision is solely for the benefit of the Board and that if the Board permits Bidder to continue to supply the Products despite one or more Events of Default, Bidder shall in no way be relieved of any responsibilities, duties or obligations under this Contract nor shall the Board waive or relinquish any of its rights under this Contract, at law, equity or statute, nor shall the Board be deemed to have waived or relinquished any of the rights it has to declare an Event of Default in the future.

The remedies under the terms of this Contract are not intended to be exclusive of any other remedies provided, but each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon the occurrence of any Event of Default shall be construed as a waiver of any Event of Default or acquiescence thereto, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

If the Board's election to terminate this Contract for default under this Section is determined by a court of competent jurisdiction to have been wrongful, then in that case the termination is to be considered an early termination pursuant to 9.a above.

E. Turnover of Documents and Records: Upon demand of the Board after termination of this Contract for any reason or the expiration of this Contract by its terms, Bidder shall turn over to the Board or its designee within five (5) days of demand, all materials, supplies, equipment owned or purchased by the Board, completed or partially completed work product or analyses, data, computer disks, documents and any other information relating in any way to this Contract or the furnishing of Products, except that Bidder may keep a copy of such information for its own records.

10. Confidential Information, Dissemination of Information, Ownership, Survival:

A. Confidential Information: In the performance of this Contract, Bidder may have access to or receive certain information that is not generally known to others ("Confidential Information"). Bidder acknowledges that Confidential Information includes, but is not limited to, proprietary

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information, copyrighted material, educational records, employee data, information relating to health records, and other information of a personal nature. Bidder shall not use or disclose any Confidential Information or any finished or unfinished, documents, screens, reports, writings, procedural manuals, forms, source code, object code, work flow charts, methods, processes, data, data studies, drawings, maps, files, records, computer printouts, designs, equipment descriptions, or other materials prepared or generated as a result of this Contract ("Work Product") without the prior written consent of the Board. Bidder shall use at least a commercially reasonable standard of care in the protection of the Confidential Information of the Board. Upon the expiration or termination of this Contract, Bidder shall promptly cease using and shall return or destroy (and certify in writing destruction of) all Confidential Information furnished by the Board along with all copies thereof in its possession including copies stored in any computer memory or storage medium.

B. Dissemination of Information: Bidder shall not disseminate any Confidential Information to a third party without the prior written consent of the Board. Bidder shall not issue publicity news releases or grant press interviews related to this Contract, except as may be required by law or with the prior written consent of the Board. In the event that Bidder is presented with a request for documents by any administrative agency or with a *subpoena duces tecum* regarding any Confidential Information or Work Product which may be in Bidder's possession, Bidder shall immediately give notice to the Board and its General Counsel with the understanding that the Board shall have the opportunity to contest such process by any means available to it prior to submission of any documents to a court or other third party. Bidder shall not be obligated to withhold delivery of documents beyond the time ordered by a court of law or administrative agency, unless the request for production or *subpoena* is quashed or withdrawn, or the time to produce is otherwise extended.

C. Ownership: Bidder agrees that, to the extent permitted by law, any and all Work Product shall exclusively be deemed "works for hire" within the meaning and purview of the United States Copyright Act, 17 U.S.C. 101§ *et seq.* To the extent any Work Product does not qualify as a "work for hire," Bidder irrevocably grants, assigns, and transfers to the Board all right, title, and interest in and to the Work Product in all media throughout the world in perpetuity and all intellectual property rights therein, free and clear of any liens, claims, or other encumbrances, to the fullest extent permitted by law. All intellectual property, Confidential Information, and Work Product shall at all times be and remain the property of the Board. Bidder shall execute all documents and perform all acts that the Board may request in order to assist the Board in perfecting or protecting its rights in and to the Work Product and all intellectual property rights relating to the Work Product. All of the foregoing items shall be delivered to the Board upon demand at any time and in any event, shall be promptly delivered to the Board upon expiration or termination of this Contract within five (5) business days of demand. In addition, Bidder shall return the Board's data in the format requested by the Board. If any of the above items are lost or damaged while in Bidder's possession, such items shall be restored or replaced at Bidder's expense.

D. Staff and Subcontractors: Bidder agrees to cause its personnel, staff and subcontractors, if any, to undertake the same obligations of confidentiality and ownership agreed to herein by Bidder.

E. Freedom of Information Act: Bidder acknowledges that this Contract and all documents submitted to the Board related to this contract award are a matter of public record and are subject to the Illinois Freedom of Information Act (5 ILCS 140/1) and any other comparable state and federal laws and that this Contract is subject to reporting requirements under 105 ILCS 5/10-20.44. Bidder further acknowledges that this Contract shall be posted on the Board's Internet website.

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F. Survival: The provisions of this Section shall survive the termination or expiration of this Contract.

11. Representations and Warranties of Bidder: Bidder represents and warrants that the following shall be true and correct as of the effective date of this Contract and shall continue to be true and correct (as may be modified from time to time subject to Board approval) during the Term of this Contract:

A. Contractor's Disclosure Form: The disclosures in the Contractor's Disclosure Form submitted by Bidder to the Department of Procurement and Contracts are true and correct. Bidder shall promptly notify the Board of any material change in information set forth therein, including, but not limited to, change in ownership or control, and any such change shall be subject to Board approval which shall not be unreasonably withheld.

B. Financially Solvent: Bidder warrants that it is financially solvent, is able to pay all debts as they mature and is possessed of sufficient working capital to supply all Products and perform all obligations under this Contract.

C. Compliance with Laws: Bidder is and shall remain in compliance with all applicable federal, state, county, and municipal, statutes, laws, ordinances, and regulations relating to this Agreement and the supply of Products in effect now or later and as amended from time to time, including but not limited to the Prevailing Wage Act, 820 ILCS 130/1 *et seq.*, the Drug-Free Workplace Act, the Illinois Student Records Act, the Family Educational Rights and Privacy Act, the Protection of Pupil Rights Act and any others relating to non-discrimination. Further, Bidder is and shall remain in compliance with all Board policies and rules. Board policies and rules are available at <http://www.cps.edu/>.

D. Gratuities: No payment, gratuity or offer of employment was made by Bidder, any of its members if a joint venture or, to the best of Bidder's knowledge, by any subcontractors, in relation to this Contract or as an inducement for award of this Contract. Bidder is and shall remain in compliance with all applicable anti-kickback laws and regulations.

E. Ethics: No officer, agent or employee of the Board is or shall be employed by Bidder or has or shall have a financial interest, directly or indirectly, in this Contract or the compensation to be paid hereunder except as may be permitted in writing by the Board's Ethics Policy adopted May 25, 2011 (11-0525-PO2), as may be amended from time to time, which policy is hereby incorporated by reference into and made a part of this Contract as if fully set forth herein.

F. Good Standing: Bidder, each of its joint venture members if a joint venture, and each of its subcontractors, if any, are not in default or have not been deemed by the Board's Chief Procurement Officer to be in default under any other Contract with the Board during the five (5) year period immediately preceding the effective date of this Contract, and have not been debarred under the Board's Debarment Policy during the three (3) year period immediately preceding the effective date of this Contract.

G. Authorization: Bidder has taken all action necessary for the approval and execution of this Contract, and execution by the person signing on behalf of Bidder is duly authorized by Bidder and has been made with complete and full authority to commit Bidder to all terms and conditions of this Contract which shall constitute valid, binding obligations of Bidder.

H. Background Investigations: Bidder represents and warrants that, at its own cost and expense, it shall have a complete fingerprint-based criminal history records check ("**Records Check**") conducted on any and all employees, agents and subcontractors ("**Staff**") who may have direct, daily contact with CPS students under this Agreement in accordance with the Illinois School Code (§105 ILCS 5/34-18.5); the Sex Offender and Child Murderer Community Notification Law, created under Illinois Public Act 94-219, eff. August 2005; and the Child

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Murderer Violent Offender Against Youth Notification Law, created under Public Act 94-945. Such complete Records Check consists of the following:

- fingerprint-based checks through the Illinois State Police (ISP) and the FBI.
- check of the Illinois Sex Offender Registry (IL-SOR), and
- check of the Violent Offender Against Youth Registry (see below).

The purpose of the Records Check is to confirm that none of these persons have been convicted of any of the criminal or drug offenses enumerated in subsection (c) of §105 ILCS 5/34-18.5 or any offenses enumerated under the *Sex Offender and Child Murderer Community Notification Law*, or the *Child Murderer Violent Offender Against Youth Notification Law*, or have been convicted within the past seven (7) years of any other felony under the laws of Illinois or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in the State of Illinois, would have been punishable as a felony under the laws of Illinois.

Bidder understands and agrees that it shall not allow any of its employees or subcontractors to have direct regular contact with a CPS student until a Records Check has been conducted for such person and the results of the Records Check satisfies the requirements of §105 ILCS 34-18.5 and the requirements of the Acts and Laws referenced in the preceding paragraph, as amended from time to time.

If Bidder is an individual, Bidder represents and warrants that Bidder is in compliance with Section 5/34-18.5 of the Illinois School Code as from time to time amended, and has never been convicted of the offenses enumerated therein. Further, Bidder agrees to submit to the above procedure regarding background investigations, and to fully cooperate and provide Board with all necessary information in order for the Board to perform all such above checks on Bidder, all at Bidder's expense.

It is understood and agreed that Bidder's non-compliance with this Section 11.H will constitute a material breach of this Contract, and the Board also will have the right to withhold payments due hereunder until Bidder remedies such non-compliance to the Board's reasonable satisfaction, or take any other action or remedy available under this Contract or by law.

I. Warranty of Title: Bidder warrants title to the Products and that the Products are free and clear from all liens, contracts, chattel mortgages or other encumbrances; that the Bidder has the lawful right to dispose of and sell the Products and that the Bidder shall warrant and defend its title against all claims.

J. Prohibited Acts: Within the three (3) years prior to the effective date of this Contract, Bidder or any of its members if a joint venture or a limited liability company, or any of its or their respective officers, directors, shareholders, members, managers, other officials, agents or employees (i) have not been convicted of bribery or attempting to bribe a public officer or employee of any public entity and (ii) have not been convicted of agreeing or colluding among contractors or prospective contractors in restraint of trade, including bid-rigging or bid-rotating, as those terms are defined under the Illinois Criminal Code.

12. Independent Contractor: It is understood and agreed that the relationship of Bidder to the Board is and shall continue to be that of an independent contractor and neither Bidder nor any of Bidder's staff, agents, employees or subcontractors shall be entitled to receive Board employee benefits. It is further understood and agreed that the Board shall not be responsible for, nor incur any liability for, any State or Federal withholding or other taxes or for FICA or State unemployment insurance for Bidder, its agents, employees or subcontractors, and the payment of any such taxes incurred or due by Bidder shall be the sole responsibility of Bidder. Bidder agrees

II. GENERAL TERMS AND CONDITIONS

that neither Bidder nor its staff or subcontractors shall represent themselves as employees or agents of the Board. Bidder shall provide the Board with a valid taxpayer identification number as defined by the United States Internal Revenue Code, including, but not limited to, a social security number or a federal employer identification number.

13. **Indemnification:** Bidder agrees to defend, indemnify and hold harmless the Board, its members, employees, agents, officers and officials from and against liabilities, losses, penalties, damages and expenses, including costs and attorney fees, arising out of all claims, liens, damages, obligations, actions, suits, judgments or settlements, or causes of action, of every kind, nature and character arising or alleged to arise out of the negligent or willful acts or omissions of the Bidder, its officers, agents, employees and subcontractors in the performance of this Contract. This includes, but is not limited to, the unauthorized use of any trade secrets, patent infringement, or trademark or copyright violation.

Bidder shall, at its own cost and expense, appear, defend and pay all attorney fees and, other costs and expenses arising hereunder. In addition, if any judgment shall be rendered against the Board in any such action, the Bidder shall, at its own expense, satisfy and discharge such obligation of the Board. The Board shall have the right, at its own expense, to participate in the defense of any suit, without relieving the Bidder of any of its obligations hereunder. The Board retains final approval of any and all settlements or legal strategies which involve the interest of the Board.

However, if Bidder, after receiving notice of any such proceeding, fails to immediately begin the defense of such claim or action, the Board may (without further notice to Bidder) retain counsel and undertake the defense, compromise, or settlement of such claim or action at the expense of Bidder, subject to the right of Bidder to assume the defense of such claim or action at any time prior to settlement, compromise or final determination thereof. The cost and expense of counsel retained by the Board in these circumstances shall be borne by Bidder and Bidder shall be bound by, and shall pay the amount of, any settlement, compromise, final determination or judgment reached while the Board was represented by counsel retained by the Board pursuant to this paragraph, or while Bidder was conducting the defense.

To the extent permissible by law, Bidder waives any limits to the amount of its obligations to defend, indemnify, hold harmless, or contribute to any sums due under any losses, including any claim by any employee of Bidder that may be subject to the Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other related law or judicial decision (such as *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2nd 155 (1991)). The Board, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code, any other statute or judicial decision.

The indemnities set forth herein shall survive the expiration or termination of this Contract.

14. **Non-Liability of Board Officials:** Bidder agrees that no Board member, employee, agent, officer and/or official shall be personally charged and/or held personally liable by Bidder, its members if a joint venture, and/or any subcontractors with any liability or expense under this Contract.
15. **Insurance:** Bidder, at its own expense, shall procure and maintain insurance covering all operations under this Contract, whether performed by Bidder or by subcontractors. All insurers shall be licensed by the State of Illinois and rated A-VII or better by A.M. Best or a comparable rating service. Bidder shall submit to the Board satisfactory evidence of insurance coverage prior to commencement of Services under this Contract. Minimum insurance requirements include the coverage set forth below and when applicable, any additional insurance will be specified in Section III, Specific Terms and Conditions, Insurance:

II. GENERAL TERMS AND CONDITIONS

A. Workers' Compensation and Employers' Liability Insurance: Workers' Compensation Insurance affording workers' compensation benefits for all employees as required by law and Employers' Liability Insurance with limits of not less than Five Hundred Thousand Dollars (\$500,000.00) per occurrence. The workers' compensation policy must contain a waiver of subrogation clause.

B. Commercial General Liability Insurance: Commercial General Liability Insurance or equivalent with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, and Two Million Dollars (\$2,000,000.00) in the aggregate for bodily injury, personal injury and property damage liability. Coverage shall include, but not be limited to: all operations, contractual liability, independent contractors, products/completed operations (for a minimum of two (2) years following completion), and defense.

C. Automobile Liability Insurance: Automobile Liability Insurance when any motor vehicle (whether owned, non-owned or hired) is used in connection with this Contract, with limits of not less than One Million Dollars (\$1,000,000.00 per occurrence for bodily injury and property damage.

D. Additional Insured: Bidder shall have its General and Automobile Liability Insurance policies endorsed to provide that "the Board of Education of the City of Chicago, a body politic and corporate, and its members, employees and agents, and any other entity as may be designated by the Board are named as additional insured on a primary basis without recourse or right of contribution from the Board".

The insurance company, or its representative, shall submit an insurance certificate evidencing all coverage as required hereunder and indicating the Additional Insured status as required above. The Board reserves the right to withhold payment under this Contract pending receipt of satisfactory proof of insurance meeting the requirements set forth herein. The Certificate must provide thirty (30) days prior written notice of material change, cancellation, or non-renewal be given to:

Risk Management
Board of Education of the City of Chicago
125 S. Clark Street, 7th Floor
Chicago, Illinois 60603

Copy to: Chief Procurement Officer
Board of Education of the City of Chicago
125 S. Clark Street, 10th Floor
Chicago, Illinois 60603
ATTN: Nicole Waites-Moore

Any failure of the Board to demand or receive proof of insurance coverage shall not constitute a waiver of Bidder's obligation to obtain the required insurance. The receipt of any certificate does not constitute agreement by the Board that the insurance requirements in this Contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all Contract requirements. Bidder's failure to carry or document required insurance shall constitute a breach of the Bidder's Contract with the Board. In the event Bidder fails to fulfill the insurance requirements of this Contract, the Board reserves the right to stop all work until proper evidence of insurance is provided, or this Contract may be terminated.

Any deductibles or self-insured retentions on referenced insurance coverage must be borne by Bidder. Any insurance or self-insurance programs maintained by the Board of Education do not contribute with insurance provided by the Bidder and subcontractors under this Contract. All Bidder and subcontractor insurance is considered by the parties to this Contract to be primary

II. GENERAL TERMS AND CONDITIONS

and collectible above all other coverage, including, but not limited to, the Board's insurance and self insurance.

All subcontractors are subject to the same insurance requirements of Bidder unless otherwise specified in this Contract. The Bidder shall require any subcontractors under this Contract to maintain comparable insurance naming the Bidder, the Board inclusive of its members, employees and agents, and any other entity designated by the Board, as Additional Insureds. The Bidder will maintain a file of subcontractor's insurance certificates evidencing compliance with these requirements.

The coverages and limits furnished by Bidder in no way limit the Bidder's liabilities and responsibilities specified within this Contract or by law. The required insurance is not limited by any limitations expressed in the indemnification language in this Contract, if any, or any limitation that might be placed on the indemnity in this Contract given as a matter of law.

The Bidder agrees that insurers waive their rights of subrogation against the Board.

16. **Non-Discrimination:** It shall be an unlawful employment practice for Bidder or any of its subcontractors to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, or other terms, conditions, or privileges of employment, because of such individual's race, color, national origin, religion, sex, gender identity/expression, sexual orientation, age or disability; or to limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual from equal employment opportunities or otherwise adversely affect an individual's status as an employee because of such individual's race, color, national origin, religion, sex, gender identity/expression, sexual orientation, age or disability. Bidder shall particularly remain in compliance at all times with: the Civil Rights Act of 1964, 42 U.S.C.A. §2000a, *et seq.*, as amended; the Age Discrimination in Employment Act, 29 U.S.C.A. §621, *et seq.*; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A. §701, *et seq.*, as amended; the Americans with Disabilities Act, 42 U.S.C.A. §12101, *et seq.*; the Illinois Human Rights Act, 775 ILCS 5/1-101, *et seq.*, as amended; the Illinois School Code, 105 ILCS 5/1-1 *et seq.*; the Illinois Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et seq.*; the Individuals with Disabilities Education Act (IDEA) 20 U.S.C.A. §1400; and, the Chicago Human Rights Ordinance, ch. 2-160 of the Municipal Code of Chicago, and all other applicable federal statutes, regulations and other laws. Nothing in this paragraph is intended nor shall be construed to create a private right of action against the Board or any of its employees. Furthermore, no part of this paragraph shall be construed to create contractual or other rights or expectations for the Bidder's employees or the Bidder's subcontractors' employees.
17. **Assignment:** This Contract shall be binding on the parties and their respective successors and assigns; provided, however, Bidder may not assign this Contract or any obligations imposed hereunder without the prior written consent of the Board.
18. **Entirety of Agreement and Amendments:** This Contract, including all attachments and addenda, constitutes the entire agreement of the parties with respect to the matters contained herein. No modification of or amendment to this Contract shall be effective unless such modification or amendment is in writing and signed by both parties. Any prior agreements or representations, either written or oral, relating to the subject matter of this Contract are of no force or effect. The Board shall not be bound by any terms and conditions in any packaging, service catalogue, brochure, technical data sheet or other document which attempts to impose any conditions that waive, abridge, or abrogate the terms and conditions contained in this bid solicitation or Contract, or the Board's contractual rights as provided under state or federal law.
19. **Continuing Obligation To Perform:** In the event of any dispute between Bidder and the Board, Bidder shall expeditiously and diligently proceed with the performance of all of its obligations under this Contract with a reservation of all rights and remedies it may have under or pursuant to

II. GENERAL TERMS AND CONDITIONS

this Contract at law or in equity.

20. **Survival/Severability:** All express representations or indemnifications made or given in this Contract shall survive the expiration or termination of this Contract for any reason. If any provision or part of this Contract is held to be unenforceable, this Contract shall be considered divisible and such provision shall be deemed inoperative to the extent it is deemed unenforceable, and in all other respects this Contract shall remain in full force and effect; provided, however, that if any such provision may be made enforceable by limitation thereof, then such provision shall be deemed to be so limited and shall be enforceable to the maximum extent permitted by applicable law.
21. **Governing Law:** This Contract shall be governed by and construed in accordance with the laws of the State of Illinois without regard to any conflict of law or choice of law principles.

Bidder irrevocably submits itself to the original jurisdiction of those courts located in the County of Cook, State of Illinois, with regard to any controversy arising out, or relating to, or in any way concerning the execution or performance of this Contract. Bidder agrees that service of process on the Bidder may be made, at the option of the Board, by either registered or certified mail to the address specified on the Bid Execution Page, by registered or certified mail addressed to the office actually maintained by the Bidder, or by personal delivery on any officer, director, or managing or general agent of the Bidder. If any action is brought by the Bidder against the Board concerning this Contract, the action shall only be brought in those courts located within the County of Cook, State of Illinois.

22. **Waiver:** No delay or omission, or series of delays or omissions, by the Board to exercise any right hereunder shall be construed as any type of waiver of any such right, and the Board reserves the right to exercise any such right from time to time as often as may be deemed expedient.
23. **Conflict of Interest:** This Contract is not legally binding on the Board if entered into in violation of the provisions of 105 ILCS 5/34-21.3 which restricts the employment of, or the letting of contracts to, former Board members during the one year period following expiration or other termination of their terms of office.
24. **Indebtedness:** Bidder agrees to comply with the Board's Indebtedness Policy adopted June 26, 1996 (96-0626-PO3), as may be amended from time to time, which policy is hereby incorporated by reference as if fully set forth herein.
25. **Inspector General:** Each party to this Contract hereby acknowledges that in accordance with 105 ILCS 5/34-13.1, the Inspector General of the Chicago Board of Education has the authority to conduct certain investigations and that the Inspector General shall have access to all information and personnel necessary to conduct those investigations.
26. **Right of Entry:** Bidder and any of its Staff supplying Products shall be permitted to enter upon a school site or other Board property in connection with the supply of the Products hereunder, subject to the terms and conditions contained herein and those rules established by the Board. Bidder shall provide advance notice to the Board whenever applicable, of any such intended entry. Consent to enter upon a school site or other Board property given by the Board shall not create, nor be deemed to imply, the creation of any additional responsibilities on the part of the Board. Bidder shall use, and shall cause each of its Staff to use, the highest degree of care when entering upon any property owned by the Board in connection with the supply of the Products. In the case of any property owned by the Board, or property owned by and leased from the Board, Bidder shall comply and shall cause each of its Staff, to comply with any and all instructions and requirements of Board or authorized Board representative for the use of such property. Any and

II. GENERAL TERMS AND CONDITIONS

all claims, suits or judgments, costs, or expenses, including, but not limited to, reasonable attorneys fees, arising from, by reason of, or in connection with any such entries shall be treated in accordance with the applicable terms and conditions of this Bid including without limitation the indemnification provisions contained in Section 13.

27. **Joint and Several Liability:** In the event that Bidder, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination thereof) then, and in that event, each and every obligation or undertaking herein stated to be fulfilled or performed by Bidder shall be the joint and several obligation or undertaking of each such individual or other legal entity.
28. **MBE/WBE Program:** Bidder acknowledges that it is familiar with the requirements of the Board's "*Remedial Program for Minority and Women Owned Business Enterprise Participation in Goods and Services Contracts*", which is incorporated herein by reference as if fully set forth herein. Bidder agrees to adhere to the minimum participation goals set forth herein and to all other applicable MBE/WBE requirements as set forth in the program. Bidder agrees to submit such documentation in connection with the program as may be requested by the Board
29. **Notices:** All notices required under this Contract shall be in writing and sent to (1) the Bidder at the address and to the person set forth on the Bid Execution Page or to such other addresses or person as may be designated by Bidder in writing, and (2) to the Board at the addresses set forth below. All notices shall be deemed received when (i) delivered personally; (ii) sent by confirmed telex or facsimile (followed by the actual document); or (iii) one (1) day after deposit with a commercial express courier specifying next day delivery, with written verification of receipt.

IF TO THE BOARD:

Chief Procurement Officer
Board of Education of the City of Chicago
Office of Procurement and Contracts
125 South Clark Street, 10th Floor
Chicago, Illinois 60603

Copy to:

General Counsel
Board of Education of the City of Chicago - Law Department
125 South Clark Street, 7th Floor
Chicago, Illinois 60603

30. **Debarment Policy:** Bidder acknowledges that, in supplying the Products for the Board, Bidder shall not utilize any firms that have been debarred from doing business with the Board under the Board's Debarment Policy, 08-1217-PO1, as amended from time to time.

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III. SPECIFIC TERMS AND CONDITIONS

1. **Authority:** Bidder understands and agrees that Bidder is not an authorized representative of the Board or the Chicago Public Schools. All agreements and approvals (written or verbal) of the Board or the Chicago Public Schools must be made by authorized Board employee(s).
2. **Account Management:** Bidder shall provide account management services and strategies (i.e., working with the Board on cost reduction strategies and problem solving) that will include a single point of contact (account manager) for all issues and reporting. Bidder shall attend meetings at the discretion of the Board.
3. **Deliver/Time of Performance:** Bidder shall provide delivery for all Products within ten (10) business days free of any delivery charges. All deliveries will be made to 125 S. Clark, Chicago, IL 60603, Suite 800, Office of Physical Health. Bidder shall deliver Products during the hours of 8:00 a.m. to 3:00 p.m. or at a time agreed upon by both parties.
4. **Orders/Service:**
 - a. Order for Products will be requested by prescription from a Board Certified Physician. Prescriptions will be sent to Bidder via facsimile.
 - b. Within twenty-four (24) hours of the receipt of an order, Bidder must notify the Board if delivery of any Products will be delayed.
 - c. Under no circumstances shall Bidder deliver any Products/Services without an approved Purchase Order.
5. **Training:** Bidder shall provide one (1) day of training that includes a written agenda and/or course documentation, and hands-on exercises with a one (1) training Auto Injector per user ratio. Authorized Board training personnel must be trained by the Bidder at a CPS location to be determined at the discretion of the Office of Physical Health for one (1) full day (approximately six (6) hours) with two (2) instructors).
6. **Program Monitoring and Evaluation:** In order for the Board to monitor and evaluate Bidder's performance throughout the Term of the Contract. Bidder must work closely with the Board to create project-specific measurements utilizing data collection and a data management system. Bidder shall provide quarterly reports to the Department of Procurement and Contracts, which shall include, but not be limited to: Product(s) sold and defective parts.
7. **Warranty:** Bidder hereby warrants that all Products furnished hereunder shall be new and conform to the specifications in Section IV ("Specifications of Products and Scope of Services"). The Products shall be of merchantable quality and in good working order, and shall be free from defects in material, workmanship and design for a period of Fifteen (15) months minimum from date of receipt of shipment. The Board shall have the option to require Bidder to replace defective Products without charge or expense, or to reject any defective Products and obtain a full refund or credit for any payment made therefore. The warranty period for any Product replaced pursuant to this Section shall be fifteen (15) months from the date the replaced Product is received by the Board. Bidder shall be responsible for transportation charges for all warranty shipments. This warranty shall survive inspection, acceptance, payment and expiration or termination of this Contract.
8. **Product Recall:** In accordance with Section II, paragraph 29 of the Contract, Bidder shall notify the Board within forty-eight (48) hours of Bidder's receipt of any manufacturer or government issued recalls on Products purchased by the Board pursuant to the Contract. All Products purchased by the Board subject to a recall shall be replaced at no cost to the Board by Bidder with the same make and model Product within ten (10) business days of Bidder notifying the Board of the recall. If the same make and model Product is not available due to the recall, then Bidder shall provide a Product comparable to the recalled Products in terms of quality and price.

III. SPECIFIC TERMS AND CONDITIONS

Acceptance of the comparable Product shall be at the sole discretion of the Chief Procurement Officer. If the Chief Procurement Officer rejects in writing the comparable Product, Bidder shall remove all the recalled Products from the Board sites and provide a full refund for each recalled Product within ten (10) business days of receiving the Chief Procurement Officer's rejection of the comparable Products. Replacement of the recalled Products shall include delivery of the same make and model Products or the comparable Products (if accepted) to the sites where the recalled Products are located and removal of the recalled Products at no cost to the Board. Bidder shall so remove all recalled Products from Board property at the time the replacement Products are delivered.

9. **Participation by Other Local Government Agencies:** Other local government agencies ("Local Government Agencies") may be eligible to purchase Products pursuant to the terms and conditions of this Contract if such agencies are authorized, by law or their governing bodies, to execute such purchases, and if such authorization is allowed by the Board of Education's Chief Procurement Officer, and if such purchases have no significant net adverse effect on the Board and result in no observed diminished ability on the Bidder to supply the Products to the Board or Board's user departments pursuant to such purchases. Local Government Agencies shall include without limitation: City of Chicago, Chicago Park District, City Colleges of Chicago, Chicago Transit Authority, Chicago Housing Authority, Chicago Board of Elections, Metropolitan Pier & Exposition Authority (McCormick Place, Navy Pier), and the Municipal Courts. All purchases and payment transactions shall be made directly between the Bidder and the requesting Local Government Agency; the Board shall not be responsible for payment of any amounts owed by any Local Government Agency to Bidder. The Board assumes no authority, liability or obligation on behalf of any Local Government Authority.
10. **Insurance:** Bidder, at its own expense, shall procure and maintain insurance covering all operations under this Contract, whether performed by the Bidder or by subcontractors as delineated in General Terms and Conditions, Section 15, Insurance. In addition to the requirements stated in the referenced section, Bidder will maintain the following requirements under the same terms and conditions:
 - a) **Umbrella/Excess Liability Insurance** Umbrella or Excess Liability Insurance with limits of not less than Two Million and 00/100 Dollars (\$2,000,000.00) per occurrence, which will provide additional limits for general liability and auto insurance subject to that of the primary coverage and terms stated in the General Terms & Conditions/Insurance section. Subcontractors performing work for the vendor are not required to provide this coverage.
 - b) **Professional Liability/Errors and Omissions** If professional services are rendered, proposer shall maintain such coverage with limits of not less than Two Million and 00/100 Dollars (\$2,000,000.00) per claim for errors and omissions in conjunction with professional services inclusive of assumption of contractual liability. The policy shall have a retroactive date effective with the commencement of professional services and have an extended reporting period of not less than two (2) years following completion of such professional service. Subcontractors performing work for the vendor who do not render professional services are required to provide this coverage.
 - c) **Insurance Certificate Registration:** Winning Bidder(s) must register with the insurance certificate monitoring company designated by the Board (see below), and must maintain a current insurance certificate on file during the entire Term of the Contract. Winning Bidder(s) must register and pay the initial annual monitoring fee to the insurance certificate monitoring company prior to performing services for the Board. The initial annual monitoring fee is currently Twelve Dollars (\$12.00) per year, but the fee may be subject to change.

Each year, Board-approved, registered vendors will be notified 30 to 45 days prior to the expiration date of their required insurance coverage (highlighted on their latest submitted insurance certificate on file) in order to submit an updated insurance

III. SPECIFIC TERMS AND CONDITIONS

certificate with the insurance certificate monitoring company. Insurance certificate submissions and related annual fees are required to be made online at the dedicated website established by the certificate monitoring company (see URL below). Should you have any questions on submissions and payment options, you can contact the certificate monitoring company.

Certificate Monitoring Company:

Topiary Communications Inc.

676 N. LaSalle - Suite 230

Chicago, IL 60654

Phone - (312) 494-5709

Email - dans@topiarycomm.net

URL - <http://www.cpsvendorcert.com> (designated website for online registration, insurance certificate submissions and annual fee payments)

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IV. SPECIFICATION OF PRODUCTS

GENERAL INFORMATION

1. Manufacturers listed in the Bid Tabulation Page are to establish the general quality required. Items of other manufacturers of equal or better specifications will be considered. The CPO will be the sole determiner as to whether the substituted item is of equal or better specification.
2. If an awarded brand/model is discontinued during the award period, the awarded Bidder may offer a replacement item at the same or lower price as the original item. The replacement item must meet or exceed minimum specifications listed herein as well as current industry standards. Replacement units must be made available to the Board's CPO for review and approval prior to substitution. The Board reserves the right to accept or reject the replacement item.
3. Quantities/amounts shown on the Bid Tabulation Page or in this Bid Solicitation are estimates. Bidders are advised that the actual number purchased/required may vary from those indicated herein, depending upon the needs of the Board and the availability of funds. Unit prices bid shall apply regardless of any increase or decrease in the estimated quantities shown herein.
4. If after the award of the bid there is a decrease in the price of product from the manufacturer, or a rebate, the successful Bidder will pass that price decrease and/or rebate onto the Board.

SPECIFICATION OF PRODUCT

Bidder shall supply and deliver Products as specified below:

Unit No.	Product Description
1-1	Adult Epinephrine Auto Injectors - 0.3mg 1:1,000 Solution, 0.3ml
1-2	Junior Epinephrine Auto Injectors - 0.15mg 1:2,000 Solution, 0.3ml
1-3	Training Kits – one (1) training Epinephrine Auto Injector and handouts/brochures

- Provide a Bar Code on each Epinephrine Auto Injector for scanning and tracking purposes.
- Include any applicable service materials and manufacturer's reference books as needed.
- Provide instructions on how to administer an Epinephrine Auto Injector as recommended by the manufacturer and best practices.

TRAINING REQUIREMENTS

Bidders must provide and meet the minimum training requirements for the Products:

- Provide brochures or handouts, and posters providing step-by-step instructions, best practices, and helpful tips on the administration of the Epinephrine Auto Injector.
- Provide brochures or hand-outs and posters providing step-by-step instructions, best practices, and helpful tips on the prevention of Anaphylaxis via food and non-food allergies.
- Provide media files of online training modules on the administration of an Epinephrine Auto Injector that can be used district-wide to train Board staff.

V. SUBMITTAL REQUIREMENTS

FAILURE TO SUBMIT ANY OF THE SUBMITTAL REQUIREMENTS WILL DEEM THE BIDDER AS NON-RESPONSIVE AND THE BID WILL NOT BE FURTHER CONSIDERED.

All original signature bids shall be submitted with pages numbered in a plastic three-ring binder with section dividers for each item listed below. Please do not send in spiral or velo binders. Each bid shall be submitted on standard 8 1/2" x 11" bond paper bound on one side. Expensive papers and bindings are discouraged since no materials will be returned to the Bidder.

1. **Format of Bid Response:** All bids shall be submitted with pages numbered in a plastic three-ring binder with section dividers for each item listed in Section 2 below. Please do not send in spiral or velo binders. Each bid shall be submitted on standard 8 1/2" x 11" bond paper bound on one side. Expensive papers and bindings are discouraged since no materials will be returned to the Bidder.
2. **Contents of Response:**
 - A. **Bid Tabulation Pages:** The Bid Tabulation Spreadsheet must be completed by Bidder in compliance with Section VII.
 - B. **Bid Execution Page:** The Bid Execution Page must be appropriately completed.
 - C. **Contractor Disclosure Form (Refer to Attachment A):** The Contractor's Disclosure Form must be filled out in its entirety, signed and notarized and submitted with bid response.
 - D. **W-9 Tax Form (Refer to Attachment B):** W-9 Form Request for Taxpayer Identification Number and Certification Affidavit properly completed.
 - E. **MBE/WBE Compliance Plan (Refer to Attachment C):** All sections of the *Remedial Program for Minority and Women Owned Business Enterprise Participation in Goods and Services Contracts* that apply to your business entity must be filled out in their entirety. Any sections that do not apply must be clearly marked *N/A*. These completed documents must be submitted with the required copies of your Bid. Please note that all MBE/WBE documents in reference to your business that require a notarized signature must also be included in the submittal package. For the term of this Contract, Bidder shall adhere to the minimum goals set at 5% for MBE and 5% for WBE participation and shall adhere to all other applicable MBE/WBE requirements as set forth in the program.
 - F. **References:** A minimum of three (3) references from entities for which the Bidder is currently providing, or has in the past provided programs of similar scope and magnitude. Bidder shall provide the name and telephone number of all contact persons. The Board reserves the right to contact these references.
 - G. **Longevity of Business Organization:** List, and briefly describe how long your organization has been in business including any documentation that will support this information.
 - H. **Financial Statements (to be submitted only in the original signature sets):** Copies of audited financial statements or tax returns signed by the preparer for the three (3) previous fiscal years and the most recent quarterly report must be provided. Financial Statements must include auditor's letter of opinion, auditor's notes, balance sheet, and statement of income/loss. Each prime or joint venture partner must submit this information. The Board reserves the right to accept alternative information and/or documentation submitted by Bidders.
 - I. **Insurance requirements (to be submitted only in the original signature sets):** Evidence of current insurance coverage must be submitted. If awarded this Contract, and Bidder's current coverage does not meet the requirements stated in this Bid, the Bidder shall acquire the required insurance coverage, prior to supplying any Products.

V. SUBMITTAL REQUIREMENTS

J. **Licenses (to be submitted only in the original signature sets):** Submit copies of your entities' applicable City of Chicago, State of Illinois licenses, and all other licenses relevant to the performance of this Contract.

K. **Joint Ventures:** A copy of the executed joint venture agreement, if applicable, must be submitted.

L. **Legal Actions:** List, and briefly describe, any and all legal actions for the past three (3) years in which the Bidder has been a debtor in bankruptcy, a defendant in a lawsuit for deficient performance under a contract or agreement; a respondent in an administrative action for deficient performance, or a defendant in a criminal action. Indicate *N/A* if Proposer does not have any legal actions as described above.

M. **Work History with Board:** List, and briefly describe, any past work history with the Board, including the specific project worked on or the specific products delivered to the Board.

N. **Technology Capabilities of Bidder:** The Board has implemented Oracle's I-Procurement and I-Supplier Portal for purchasing transaction processing including the creation and maintenance of purchase requisitions and purchase orders. The Board also has the capability of using Procurement Cards (P-cards) and may elect to use P-Cards to pay suppliers for filled purchase orders. The P-card currently uses a MasterCard issued by Citi Bank. The Board, at its discretion, reserves the right to change cards or banks at any time. It is preferred that bidder(s) selected have the technical capabilities listed below. Briefly describe whether Proposer has the following technical capabilities:

- i. Ability to provide the Board with punch-out or transparent punch-out capabilities to the bidder's web site or through a business to business portal, such as Oracle Exchange.
- ii. Ability to provide the Board with an item catalog, and a content management process to ensure current and accurate content.
- iii. Ability to exchange data electronically for the following transactions, through EDI (Electronic Data Interchange).
 - 1)Purchase Orders (ANSI-X12 Format, 850 Transaction Set).
 - 2)Purchase Order Acknowledgements (ANSI-X12 Format, 855 Transaction Set).
 - 3)Purchase Order Change Request (ANSI-X12 Format, 860 Transaction Set).
 - 4)Advance Shipment Notice (ANSI-X12 Format, 856 Transaction Set).
 - 5)Invoice (ANSI-X12 Format, 810 Transaction Set).
 - 6)Receiving Advice (ANSI-X12 Format, 861 Transaction Set).
- iv. Ability to use iSupplier portal (provided by the Board) to receive and acknowledge purchase orders, and query invoice and payment information.
- v. Ability to accept ACH (Automatic Clearing House) payments.
- vi. Ability to accept MasterCard for payment (as a P-card Transaction).
- vii. Ability to pass Level II or Level III data in the credit card transaction.

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VI. EVALUATION CRITERIA AND BASIS OF AWARD

1. **SELECTION PROCESS**

- a) **Evaluation Committee:** An Evaluation Committee, which will include representatives from the Office of Physical Health, the Department of Procurement and Contracts and may include representatives from other Board Departments, will review and evaluate the bids, in accordance with the evaluation criteria set forth below. The Evaluation Committee will submit its recommendation to the Chief Procurement Officer for review and concurrence, and request that the Chief Procurement Officer recommend to the Board that those Bidder(s) meeting the Board's criteria be awarded this Contract.
- b) **Competency of Bidder:** No award will be made to any person, firm or corporation that is in arrears or is in default with the Board, the City of Chicago, the State of Illinois and/or the County of Cook upon any debt or contract, or that is a defaulter upon any obligation to the Board, or has failed to perform faithfully on any previous contract with the Board.
- c) **Consideration of Bids:** The Chief Procurement Officer shall represent the Board in all matters pertaining to this bid. The Chief Procurement Officer reserves the right to reject any Bid and to disregard any informality in the Bids when, in his opinion, the best interest of the Board will be served by such action.
- d) **Addenda to this Bid Solicitation:** If Bidder is in doubt as to the true meaning of a part of this bid solicitation, a written request for interpretation thereof may be submitted to the Chief Procurement Officer. Any revisions of this bid solicitation deemed necessary by the Chief Procurement Officer will be made only by an addendum issued by the Department of Procurement and Contracts prior to the due date of this bid. A copy of any such addendum will be mailed, faxed or delivered to each Bidder receiving this bid solicitation. Failure on the part of the Bidder to receive any written addenda will not be grounds for withdrawal of a bid. Bidder must acknowledge receipt of each addendum issued on the Bid Execution Page. Oral clarifications offered by any Board employees will not be binding on the Board.

2. **EVALUATION CRITERIA**

Bidder shall be evaluated on the following criteria:

- a) Longevity of business organization.
- b) Experience with other contracts of a similar type.
- c) The financial stability of the Bidder.
- d) The past performance of the Bidder on other contracts with the Board and any other entity in terms of quality of work and compliance with performance schedules. The Evaluation Committee may solicit from previous clients, including the Board, other government agencies, or any other available sources, relevant information concerning the Bidder's record of past performance.
- e) The quality of the responses received from the three (3) references.
- f) Capacity of the Bidder to supply the Products on a timely basis.
- g) Submission of all submittal requirements.
- h) The evaluation of the MBE/WBE Compliance Plan will be based on the quality of proposed MBE/WBE participation as demonstrated by the level, relevance and quality of participation by MBE/WBE's. It should be noted that failure to submit a complete and

VI. EVALUATION CRITERIA AND BASIS OF AWARD

comprehensive MBE/WBE Compliance Plan demonstrating compliance may cause Bidder to be deemed non-responsive and Bidder may be disqualified. Proposed MBE's and WBE's must be identified through the submission of Forms 100, 101, 102 (if applicable), 103A and 103B (if applicable) 104 and 106 (if applicable). refer to Attachment C.

- i) Legal actions which may affect performance under this Contract.
- j) Compliance with the Insurance Requirements cited herein.
- k) Licenses to do business in the City of Chicago and/or the State of Illinois, as applicable, and all other licenses and certifications as may be necessary to supply the Products.
- l) Lowest, responsive, responsible Bidder.

3. BASIS OF AWARD

This Contract will be awarded to the Bidder who meets the Board's Evaluation Criteria set forth herein. The Board reserves the right to award a Contract to one or more than one Bidder or to reject any or all bids, when, in the Board's opinion the best interest of the Board will be served.

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VII. BID TABULATION PAGES

NOTE: ALL BID SUBMISSIONS ARE SUBJECT TO REVIEW FOR COMPLETENESS, ACCURACY AND COMPLIANCE WITH ALL TERMS AND CONDITIONS PROVIDED IN THE BID SPECIFICATION. PRICING MUST BE SUBMITTED ON THE BID TABULATION PAGES WITHOUT CONDITIONS. ANY CHANGES, MODIFICATIONS, ADDITIONAL TERMS AND CONDITIONS, EXCEPTIONS OR OTHER REVISIONS TO THIS BID, INCLUDING THE TABULATION PAGES, OR FAILURE TO COMPLETE ALL REQUIRED INFORMATION, MAY CAUSE THE BID TO BE DEEMED NON-RESPONSIVE.

Bid Tabulation Pages are required for completion in a Microsoft Excel Spreadsheet only. The spreadsheet(s) must be downloaded from the Procurement and Contracts website. The Bid Tabulation spreadsheets completed by Bidder must be inserted into Section VII of this Contract. No ink or pencil submissions will be accepted.

Instructions for Completing the Bid Tabulation Spreadsheets:

Bidder is responsible for electronically entering information into the unlocked cells in the Bid Tabulation Pages in the Excel spreadsheet. Bidder **must complete all unlocked cells in the following fields** below:

- Manufacturer Name
- Product Number
- Bidder's Unit Price

The following fields will be filled in automatically within the Excel spreadsheet:

- **Aggregate Total:** The Aggregate Total equals the sum of the Total Bid Prices for each Product (calculated automatically).

Explanation of Columns:

- **Column A (Unit Number):** The Unit Number is a unique identifier for each Product. The Unit Number will be used for internal procurement tracking.
- **Column B (Product Description):** The Product Description column lists the required specifications for the biddable item as described in Section IV, Specification of Products.
- **Column C (Manufacturer Name):** Bidder must provide the Manufacturer Name.
- **Column D (Product Number):** Bidder must provide the Product Number.
- **Column E (Bidder's Unit Price):** Bidder shall list the Bidder's Unit Price. Bidder's Unit Price shall be for the two (2) year Term of the Contract. Bidder's Unit Price shall be F.O.B. destination and shall include all shipping and insurance charges.
- **Column F (Estimated Quantities):** Estimated Quantities provides an estimate of the number of items that the Board may be purchasing over the life of the resulting Contract. However, the Estimated Quantities provided are informational only and do not obligate the Board to purchase any minimum or maximum amounts. The Bid Prices provided in the Bid Tabulation Pages must be extended to the Board for all quantities purchased, regardless of the number of Estimated Quantities listed.
- **Column G (Total Bid Price):** The Total Bid Price equals the Bidder's Unit Price multiplied by the Estimated Quantities (calculated automatically).

Signature and Contact Information

The Bid Tabulation Page must include a printed name, signature, title, telephone number and name of company by an authorized Bidder representative.

VII. BID EXECUTION PAGE

The undersigned, hereby acknowledges having received Specification No.12-250023 containing a full set of documents, including, 1) General Invitation, 2) General Terms and Conditions, 3) Specific Terms and Conditions, 4) Specification of Products, 5) Submittal Requirements, 6) Evaluation Criteria and Basis of Award, 7) Bid Tabulation Pages, 8) Bid Execution Page, 9) Attachments A, B, C ; and 10) Addenda Nos. _____ (none unless indicated here). The Bidder is responsible for reading and understanding all sections of this bid, and affirms that the Bidder shall be bound by all of the terms and conditions contained in this bid.

The undersigned understands, by signing this document, that all documents submitted to the Board of Education of the City of Chicago ("Board") are a matter of public record and are subject to the Illinois Freedom of Information Act, 5 ILCS 140/1-11 ("FOIA"). Bidder acknowledges that if the Board receives a FOIA request for your bid the Board must release those documents to the requester. However, the Board will consider redacting any Addendum to your bid which is attached under separate cover and designated "Trade secrets and commercial or financial information where the trade secrets or information are proprietary or where disclosure may cause competitive harm". (5 ILCS 140/7(1)(g)). Any portion of this Addendum designated as trade secrets or proprietary information which does not fall directly within this FOIA exemption will be subject to release by the Board pursuant to FOIA. The Board will not honor Bidder's request to mark the entire bid or substantial parts of the bid as confidential. In such cases, the entire bid will be subject to disclosure under FOIA.

If Bidder is awarded this Contract, Bidder acknowledges that the bid Contract will be posted online on the CPS website. If Bidder designates any portion of the Bid proposal as exempt under FOIA, Bidder shall be responsible for submitting a redacted copy of the bid proposal and the redacted version shall be posted online.

Bidder agrees to indemnify, defend and hold the Board harmless from and against any loss, damage, expense, penalty, or cost, including any and all legal fees, sought in every claim or suit of any kind arising out of the Board redacting those portions of the bid, proposal or Addenda designated as trade secrets or proprietary information.

Further, the undersigned, being duly sworn, states on oath that no disclosures of ownership have been withheld from the Board, that the information provided herein is current, and Bidder and its officers and employees have not entered into any agreement with any other bidder or prospective bidder or with any other person, firm or corporation relating to any prices or other terms named in this bid or any other bid, nor has it entered into any agreement or arrangement under which a person, firm or corporation is to refrain from responding to this bid.

BIDDER'S NAME: BIDRIDGE PHARMA

ADDRESS: 100 CAMPUS DR

By: [Signature]
(Signature)

CITY: FLORHAM PARK

NAME: BOB ANDERSON

TELEPHONE: 973 564 8204

TITLE: CEO
(Printed)

ATTEST BY: [Signature]
(Signature)

Subscribed and Sworn to before me this 18th
day of May, 2012.

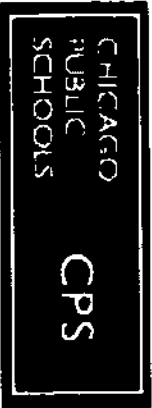
NAME: CONG NGUYEN

TITLE: FINANCE

Corporate Seal (requested, not required)

[Signature]
Notary Public Signature
Seal of Notary

ERICA STARLING
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 2/17/2015



SECTION VII. BID TABULATION PAGES

Specification No.: 12-250023
Epinephrine Auto Injectors

See instructions for completing this spreadsheet in Section VII. Bid Tabulation Pages

A	B	C	D	E	F	G
Unit No.	Name of Product	Manufacturer Name	Product Number	Estimated Quantities	Bidder's Unit Price	Total Bid Price (Estimated Quantities x Bidder's Unit Price)
1-1	Adult Epinephrine Auto Injectors (0.3mg 1:1,000 Solution, 0.3ml)	Dey Labs	49502-0500-02	6600	\$ 56.05	\$ 369,930.00
1-2	Junior Epinephrine Auto Injectors (0.15mg 1:2,000 Solution, 0.3ml)	Dey Labs	49502-0501-02	5000	\$ 56.05	\$ 280,250.00
1-3	Training Kits – one (1) training Epinephrine Auto Injector and handouts/brochures	Dey Labs		700	\$ -	\$ -
Aggregate Total						\$ 650,180.00

Signature of Authorized Bidder Representative

Telephone Number

973-564-8004

Print Name of Bidder Representative

Bob Anderson

Title

CEO

Name of Company

Bioridge Plasma LLC

Bidder is responsible for electronically entering information into the unlocked cells in the Bid Tabulation Pages

VII. BID EXECUTION PAGE

AWARD OF CONTRACT

Date of Award: June 27, 2012 Term of Contract: July 1, 2012 - June 30, 2015

By execution below, the Board accepts the offer of BioRidge Pharma, LLC, in an amount not to exceed \$650,180.00.

BOARD OF EDUCATION OF THE CITY OF CHICAGO

Board Report No.: 12-0627-PR11

By: David J. Vitale
David J. Vitale, President

Attest: Estela G. Beltran 7/2/12
Estela G. Beltran, Secretary

Approved as to legal form:

Patrick J. Rocks
Patrick J. Rocks, General Counsel