



**BOARD OF EDUCATION  
OF  
DOUGLAS COUNTY SCHOOL DISTRICT 0001  
(OMAHA PUBLIC SCHOOLS)**

**REQUEST FOR PROPOSALS (RFP) FOR EMOTIONAL REGULATION & MINDSET  
FRAMEWORK TOOLS FOR ELEMENTARY, MIDDLE AND HIGH SCHOOLS**

Proposal No.: P004-23

Due Date: October 24th, 2022 2:00 PM Central Time

**INVITATION FOR PROPOSALS**

Douglas County School District 0001 (“District” or “OPS”) invites proposals from qualified Firms for Emotional Regulation & Mindset Framework Tools to be taught from the 2022-2023 school year forward, and requests that qualified Firms submit their proposals along with the requested materials and resources in accordance with and by the deadline listed in the RFP Documents (the materials, tools, resources and framework are collectively referred to in this RFP as the “Materials”). Firms may submit proposals for the Emotional Regulation & Mindset Framework Tools for Elementary, Middle, and/or High School. The District currently serves approximately 22,528 elementary school students in grades K-5, 11,293 middle school students in grades 6-8, and 14,467 high school students in grades 9-12.

**SCOPE SUMMARY**

The District seeks proposals Emotional Regulation & Mindset Framework Tools for Elementary, Middle, and/or High School students. Qualified and experienced Firms are invited to propose Social Emotional Learning (SEL) materials, teacher training, digital materials, and associated resources for this purpose. The District is seeking Materials that include K through 12<sup>th</sup> grade lessons corresponding to the emotional regulation tools to be provided through an online platform. Firm proposals may propose providing Materials for all grade levels K to12, or may propose Materials for one or more sets of grade levels (e.g., Elementary, Middle or High School), but not all, sets of grade levels. The proposals and the Materials submitted will be evaluated by the District’s evaluation committee. The District will negotiate with the selected Firm or Firms for the price for acquisition of the necessary Materials. After negotiations, a recommendation will be made by the evaluation committee to the Board of Education of the District. The Board will make the final decision as to which Firm or Firms, if any, will supply Materials. Once a satisfactory contract is negotiated by the District and the selected Firm or Firms (the “Contract”), it will be presented to the Board of Education for approval.

**PROPOSALS ARE DUE: October 24th, 2022, at 2:00 p.m. (CT)**

## **1.0 PROPOSAL SUBMISSION INFORMATION**

### **1.1 GENERAL**

The RFP Documents include the Invitation for Proposals, the Scope Summary, the Proposal Submission Information in Sections 1.0 to 1.19, the General Terms and Conditions in Sections 2.0 to 2.21, the Proposal Specifications in Sections 3.0 to 3.3, the contents of the Proposal in Section 4.0 to 4.12, the Proposal Form (Exhibit A), the Signature Page (Exhibit B), the References (Attachment A), the Data Protection Agreement (Exhibit C) and the Certification (Exhibit D). The RFP Documents are incomplete without all of these sections.

Proposals must be prepared and submitted in accordance with the requirements of the RFP Documents, together with all required information and attachments, and submitted electronically to the following email address: adoptionbids@ops.org. The proposal must include all attachments required by the RFP Documents. Any incomplete proposal or proposal not complying with the RFP Documents may be rejected by the District. Any proposal received after the deadline for submission of proposals will be rejected and will be deleted from the District's email unopened. The District will not be responsible for lateness of receipt of proposals due to email delay, for any email delivery failure or for any other delivery delays or delivery failures. The time stamp on the District's email will be the official clock utilized for purposes of determining when the deadline for proposal submission has been reached.

### **1.2 PROPOSAL PREPARATION**

Firms submitting proposals should prepare the proposal on the proposal form provided in the RFP Documents, provide all information and attachments requested with respect to the proposal and shall complete all pertinent blanks on the proposal form. Failure to do so shall be grounds for rejecting the proposal. Proposals should be prepared simply, providing straightforward, concise, and complete responses to the information requested. Firms must acknowledge on their proposal form receipt of all RFP addenda issued by the District. If a Firm is responding to part of the RFP scope of services, the proposal must indicate clearly and specifically the portion of the scope of services to be provided.

The information requested in Section 4.0 of the RFP Documents should be inserted into the proposal form in the space indicated. Please provide responses to all information requested. The responses should be made in the same order that the information is requested in Section 4.0 to assist in the review of the proposal by the District. Only include the information requested.

### **1.3 PROPOSAL SUBMISSION**

To be considered, one (1) copy the proposal prepared in compliance with the requirements of this RFP Document must be submitted to the District by no later than 2:00 p.m. (CT) on October 24th, 2022. Proposals must be submitted electronically to the following email address: adoptionbids@ops.org. All electronically submitted proposals must comply with the following requirements:

- a. The proposal must be submitted in a pdf format using the Proposal form attached as Exhibit A.
- b. The completed References sheet (Attachment A) must be attached (see Section 4.7 for the types of references the District wants to receive).

- c. If submitting digital materials/resources, the signed Data Protection Agreement (Exhibit C) must be included with the proposal.
- d. The completed and signed Certification (Exhibit D) must be included with the proposal
- e. The proposal must be attached to and submitted with a transmittal email that contains the following language in the subject line of the email: **“Proposal for Emotional Regulation & Mindset Framework Tools for Elementary, Middle, and/or High School, P004-23** or, if submitting a proposal for one program only the following language: “Proposal for Emotional Regulation & Mindset Framework Tools for [Elementary] or [Middle] or [High School], P004-23 (please indicate in the subject line the school level you are proposing).

Telephone, hard copy and facsimile proposals may not be submitted and will not be considered. The District will NOT accept links to shared files in any proposal. Any incomplete proposal or proposal not complying with the RFP Documents may be rejected by the District. Any proposal received after the deadline for submission of proposals will be rejected and returned to the submitting Firm unopened. All risk of timely delivery is with the Firm submitting the proposal, and the District will not be responsible for lateness of receipt of proposals due to email delays. The time stamp on the District’s email will be the official clock utilized to determine the time for the close of submissions.

#### **1.4 SUBMISSION OF MATERIALS**

For a proposal to be considered, in addition to timely submitting the proposal via email as set forth above, Firms should submit all Materials that need to be evaluated by the District and all other information required by this RFP, as stated in the RFP Documents. Such Materials and other information must be received by the District, in pdf format, on or before the deadline for submission of proposals. All such Materials must be submitted along with the proposal as attachments to the proposal and sent to the same email address that is specified in the RFP Documents for receipt of proposals.

The Materials to be furnished must include, at minimum one complete set of teacher Materials as follows:

- 1. Web address for online access to social emotional regulation tools for every teacher including, teacher training, and associated resource materials.

#### **1.5 DISTRICT’S RIGHT**

The District reserves the right to reject any or all proposals or any part thereof and to waive any or all technicalities and irregularities and award the proposal based on its determination of the best interests of the District.

#### **1.6 PROPOSAL QUESTIONS**

Any questions or requests for interpretation of this RFP must be submitted in writing and shall be submitted by e-mail to [adoptionbidsqa@ops.org](mailto:adoptionbidsqa@ops.org) by 2:00 p.m. CT on October 7th, 2022. Answers to questions will be provided to all Firms known to District to have requested the Request for Proposals (RFP) documents, without indicating which Firm submitted the question.

The communications requirements have been established by the District to ensure a fair and equitable process for all potential respondents. The email address listed above for questions is the only authorized location and representative of the District who can respond to questions regarding this RFP. Any attempt to communicate or contact any Board Member, employee, or consultant of the District in any manner having to do with any aspect of this RFP will result in disqualification of the firm as a potential supplier.

#### **1.7 FIRM'S REPRESENTATION**

In submitting a proposal, the Firm represents that it has read and understands the RFP Documents, that its proposal is submitted in accordance therewith, and that the Firm is familiar with the local conditions that may affect the proposal and performance required by the RFP Documents.

#### **1.8 COLLUSIVE ACTIONS**

The Firm's signature on the proposal is the Firm's guarantee that the Firm's proposal and the contents thereof have been arrived at without collusion with other eligible Firms and without any effort to preclude the District from obtaining the Materials specified in the RFP Documents at the lowest competitive rate.

#### **1.9 OPENING OF PROPOSALS**

Those submitting proposals can attend the opening of the proposals by accessing Microsoft Teams meeting at 1 tel: +402-509-3892, within the United States, Phone Conference ID: #298 163 441 731. These procedures allow the proposals to be opened in public immediately following the close of the time specified for submitting proposals in the presence of the Firms or representatives of the Firms submitting proposals.

#### **1.10 PROPOSAL TABULATIONS**

Notes may be taken at the public reading of the proposals at the specified time and date of the opening, or a personal inspection may be made of the proposals after award has been made and documents are placed in central files. In lieu of a visit, a tabulation of an awarded proposal may be obtained by a written request including the proposal number, a self-addressed envelope, and a check for \$5.00 for the first 20 pages and \$0.25 for each additional page over 20 pages, (do not send cash), payable to Douglas County School District 0001, for each proposal tabulation requested. The request may be included with a proposal or mailed to the Purchasing Division of the District.

#### **1.11 WITHDRAWAL OF PROPOSALS**

Prior to the opening of proposals, any Firm submitting a proposal may withdraw its proposal by e-mail notification that is actually received by the District Operational Services Office, at [adoptionbids@ops.org](mailto:adoptionbids@ops.org), prior to the time specified for close of proposal submission, with a notation in the subject line stating: "Withdrawal of Proposal for Emotional Regulation & Mindset Framework Tools for Elementary, Middle, and/or High School, P004-23". A hard copy, facsimile or telephone withdrawal request will not be honored. An e-mail proposal addendum or proposal modification in lieu of a withdrawal is not acceptable and will be rejected. Properly withdrawn proposals may be re-submitted up to the time for the close of proposal submission. After opening of proposals, the proposals shall remain open and subject to acceptance by the District

for ninety (90) days and may not be withdrawn or modified prior to the expiration of such ninety (90) day period.

### **1.12 FINANCIAL RESPONSIBILITY**

The District reserves the right, during the evaluation process, to request a current financial statement as evidence of the Firm's financial stability. This information must contain a statement on whether the financial statement is internally prepared or has been prepared by an outside accounting firm and whether it is audited. An internally prepared financial statement must be certified as accurate in all material respects by an officer or authorized employee of the firm.

### **1.13 PRELIMINARY SCHEDULE**

The District has tentatively determined the schedule for selection of the Materials as follows:

September 22 <sup>nd</sup> , 2022	Request for Proposals issued
October 7 <sup>th</sup> , 2022	Deadline for submitting questions by 2:00 p.m. CT
October 24 <sup>th</sup> , 2022	Proposals due by 2:00 p.m. CT
Week of October 24 <sup>th</sup> , 2022	Evaluation Committee review, Materials review, reference check, selection of firms for further review
Week of October 31 <sup>th</sup> , 2022	Notification of Firms selected for further review
Week of October 31 <sup>th</sup> , 2022	Potential interview and presentation of Materials selected for further review provided by Firm (may be in-person or a virtual recording).
November/December 2022	Recommendation of selected Materials to the Board of Education.

It is anticipated that the selected tools and resources will be utilized District-wide from the 2022-2023 school year onward. These schedules are subject to change depending on District needs as may be determined by the District. Any change will be communicated to all identified potential respondents.

At the District's option, and based on written notice to Contractor delivered on or before the expiration of the then existing term, the terms of the Contract may be extended for up to six (6) additional term(s) of one (1) year each.

### **1.14 REVIEW OF PROPOSALS**

All proposals received will be reviewed by an evaluation selection committee consisting of District staff members and selected community representatives who will be responsible for reviewing, evaluating the Proposals and corresponding Materials and determining the Materials that will be field tested.

### **1.17 FINAL PROPOSAL EVALUATION**

The evaluation committee will evaluate the field testing results, together with the proposals and other information from the initial evaluation of the Firms. On the evaluation criteria set forth below and such other additional criteria as the District believes in its discretion to be relevant to the evaluation, the selection committee will determine the Firm or Firms that it will recommend to the Board of Education to furnish the Materials that should be adopted for use District-wide. Upon Board approval of the adoption of the Materials, the District will negotiate the Contract with the successful Firm or Firms, which negotiation will include the cost of the Materials to the

District to be utilized District-wide starting with the 2022-2023 school year. If the District and the successful Firm cannot successfully negotiate the Contract the selection of the Firm will be withdrawn, and the District shall undertake negotiations for a contract with another Firm of the District's choosing. The Contract or the Contracts, when negotiated, will be presented to the Board of Education for approval.

## **1.18 PROPOSAL EVALUATION AND SELECTION CRITERIA**

The selection committee will utilize the following criteria, plus such other criteria as it deems relevant, to make its recommendation to the Board.

**1.18.1** Relevant qualifications of the Firm's tools, resources, and framework based on education and experience.

**1.18.2** Compliance of the tools, resources, and framework with legal requirements and RFP requirements.

**1.18.3** The experience of the Firm and personnel in the performance of providing tools, resources, and framework and services in large, diverse, and urban districts.

**1.18.4** Availability of firm resources to meet the schedule and project requirements.

**1.18.5** Information supplied by references.

**1.18.6** The results of interviews, if conducted.

**1.18.7** The results of the field testing.

**1.18.7** Cost of the tools, resources, and framework for social emotional learning tools.

## **1.19 COSTS INCURRED IN RESPONDING**

This RFP does not commit the District to pay any costs incurred by a Firm in the preparation and submission of proposals, in providing Materials to the District for evaluation or field testing, in participating in any field testing, in procuring or contracting for any services in connection with the proposal or in attending any post-submission interview.

## **2.0 GENERAL TERMS AND CONDITIONS**

### **2.1 GENERAL**

The Contract between the District and the selected Firm or Firms shall incorporate by reference the requirements of the Invitation for Proposals, Scope Summary, Sections 1.0 to 4.0 of the RFP Documents (Proposal Submission Instructions, the General Terms and Conditions, the Proposal Specifications and the Proposal Requirements), Exhibits A through D, Attachment A and the agreed upon portions of the Firm's proposal with any attachments. In the event of a conflict between firm's proposal and the remainder of the RFP Documents, the remainder of the RFP Documents shall control.

## **2.2 CIVIL RIGHTS**

The Firm will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended by the Equal Opportunity Act of 1972, all requirements imposed by or pursuant to the Regulations of the Department of Education (34 C.F.R. Part 100) issued pursuant to that title, the Pregnancy Discrimination Act of 1978, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education amendments of 1972, the Age Act of 1972, the Americans With Disabilities Act of 1990, the Genetic Information Nondiscrimination Act of 2008, and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. §48-1122. The Firm agrees no person in the United States shall on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which District receives federal financial assistance from the Department; and hereby gives assurance that the Firm will immediately take any measures necessary to effectuate this Contract. The Firm further agrees to comply with all applicable requirements of state and local laws, ordinances, and regulations regarding nondiscrimination in employment. The Firm agrees not to discriminate in its employment practices, and will render services under this Contract without regard to race, color, national origin, religion, sex (including pregnancy), marital status, sexual orientation, disability, age, genetic information, gender identity, gender expression, citizenship status, veteran status, political affiliation or economic status. Any act of discrimination committed by Firm or failure to comply with these statutory obligations when applicable shall be a default under the Contract with the Firm.

## **2.3 WORKER VERIFICATION**

The Firm contracting with the District shall be required to register with and utilize an electronic verification system or program, whether the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, now known as the "E-Verify Program" or an equivalent federal program designated by the Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Firm shall contractually require all subcontractor(s) performing work under such contract to also register and utilize such electronic verification system. The Firm awarded the contract and all of such Firm's subcontractor(s) shall use such electronic verification system to determine the work eligibility status of each new employee physically performing any services within the State of Nebraska under the contract. Any person whom the electronic verification system determines is ineligible or not authorized to work in the United States shall not be permitted by the Firm or any subcontractor to perform services in Nebraska under such contract. The Firm shall provide such reasonable documentation as District may request from time to time during the performance of the contract and for 5 years thereafter documenting compliance with the provisions of this Section. Failure to comply with the provisions of this Section shall constitute a default under the contract with the District.

## **2.4 INSURANCE REQUIREMENTS**

The Firm will maintain, at all times while under contract with the District, workers compensation insurance for all of its employees as required by law, and shall also be required to maintain the following insurance coverages:

Employer's Liability  
\$500,000 per accident  
\$500,000 disease, policy limit

\$500,000 disease, each employee

Commercial General Liability

Bodily injury and property damage liability:

\$1,000,000 for both bodily injury and property damage

Coverage shall include completion operations, broad form property damage, and personal injury and advertising liability coverage.

Automobile Liability Insurance

Bodily injury and property damage liability:

\$1,000,000 combined single limit

Cyber Liability Insurance

\$1,000,000.00 per occurrence

Coverage shall include losses arising out of or in connection with a data breach, security incident or privacy violation

Excess Liability

\$2,000,000 limit of liability

Professional/E&O Liability

\$1,000,000 limit of liability

The foregoing insurance can be provided by any combination of base and excess liability coverages and shall be primary and non-contributory. Liability coverages must be on an occurrence basis. The District shall be named as an additional insured on all such liability policies. The policies shall be endorsed to provide that the District shall receive at least 30 days' prior notice of any non-renewal, cancellation, material modification, or any reduction in coverages or coverage amounts. The Firm will provide certificates to the District evidencing such coverages.

## **2.5 PUBLIC BENEFIT**

For purposes of complying with Neb. Rev. Stat. §§ 4-108 through 4-114, if the Firm is a sole proprietorship or a general partnership, the Firm represents to the District that the sole proprietor or each general partner, as applicable, are citizens of the United States or that are qualified aliens under the federal Immigration and Nationality Act. Any qualified alien must provide to the District that person's immigration status, alien number and a copy of my USCIS documentation upon request by the District.

## **2.6 FEDERAL TAXES**

Where Federal statutes exempt the District from the payment of excise or manufacturer's taxes on Materials or equipment, the Firm shall exclude the amount of any applicable Federal excise or manufacturer's taxes from its proposal. The District will furnish the Firm, on request, the necessary exemption certificates to aid the Firm in the recovery of any such taxes paid.

## **2.7 STATE AND CITY TAXES**

The District, as a political subdivision, is exempt from the payment of state and city sales taxes, and no such taxes should be included in any amounts to be paid by the District under its Contract with the Firm. The District's tax exemption number is 5-0597767.



## **2.8 TARIFFS AND DUTIES**

All applicable tariffs or duties, including penalties and interest, shall be paid by the Firm and shall not be included in any payments by the District.

## **2.9 PERFORMANCE OF CONTRACT**

The Firm shall perform all of its duties hereunder in a good and professional manner and in accordance with accepted sound business practices.

## **2.10 ASSIGNMENT AND BINDING EFFECT**

The Firm shall not assign the Contract, or any part thereof, to any other person or entity without the prior written approval of the District, which the District may withhold at its discretion. Transfers aggregating fifty percent (50%) or more of the capital or voting stock of the Firm (if the Firm is a nonpublic corporation) or transfers aggregating fifty percent (50%) or more of the Firm's partnership interest (if the Firm is a partnership) or transfers aggregating fifty percent (50%) or more of the other ownership interests of the Firm (if Tenant is a limited liability company or other legal entity) shall be deemed to be an assignment of the Contract. The Contract between the District and Firm shall be binding on the successors and permitted assigns of the District and Firm.

## **2.11 DEFAULT AND REMEDIES**

In the event the Firm: (i) breaches or violates any of the terms and conditions of the Contract between the Firm and the District; or (ii) fails to perform any duty or obligation thereunder (iii) if the Firm should be adjudged bankrupt, make a general assignment for the benefit of creditors, or if a receiver should be appointed to take over the Firm's affairs, and provided any of the foregoing defaults are not cured by Firm, to the sole and complete satisfaction of the District, upon seven (7) days written notice to Firm, District may take any or all the following actions, in addition to such other remedies as are allowed by law:

- Suspension – The District may suspend its payments under the Contract without terminating the Contract and withhold any further payment pending corrective action by the Firm.
- Termination – The District may terminate the Contract at any time by notice to Firm, which termination shall take effect on the date specified in such notice. Upon such termination, District may obtain the Materials from a different Firm. In the event of such termination, the Firm shall not be entitled to any further payments under the Contract. If the remaining amount that is unpaid under the Contract with Firm is insufficient to pay for the cost of completing performance of the contract obligations by a substitute firm, the Firm shall pay to the District, in addition to all other damages suffered by District due to such default, the difference in the cost of performing such services by the substitute contractor or the District and the remaining unpaid funds held by the District.

The remedies set forth in this Section are in an addition to any other rights and remedies that the District pay have as a result of such default, including the recovery of damages.

## **2.12 TERMINATION WITHOUT CAUSE**

District may terminate the Contract with the Firm without cause, at any time prior to the completion of the term of the Contract and without penalty by providing sixty (60) days prior notification in writing to the Firm. In the event of a no cause termination, the District shall pay to the Firm the amount owed for any Materials furnished to the District by the Firm from the date of the Contract up to the date of termination and upon such payment shall be relieved of further obligation hereunder.

### **2.13 INDEMNIFICATION**

Firm, on behalf of itself and its successors and assigns, hereby agrees to indemnify, defend, and hold harmless District and its Board members, officers, agents and employees, from any or all losses, damages, claims, liabilities, judgments, costs and expenses (including reasonable attorney's fees and expenses) arising out of or in connection with: (i) any act or omission of Firm or Firm's agents, employees or contractors; (ii) any default, breach, violation or non-performance of the Contract between the Firm and the District; (iii) any injury to persons or property or loss of life caused by Firm or by Firm's agents, employees or contractors other than any such claims that are caused solely by the negligent or intentional act or omission of District, or its employees, agents, or contractors; or (iv) any violation or infringement of any copyright, patent, trademark or tradename or other intellectual property right by the Materials provided.

### **2.14 COMPLIANCE WITH LAWS**

The Firm in performance of the Contract will comply with all applicable Federal, State and local laws, ordinances, regulations and codes.

### **2.15 INVALIDITY**

If one or more of the provisions contained in the Contract are declared invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall remain in full force and effect and shall not in any way be affected, impaired or invalidated unless the effect of such invalidity, voidness or unenforceability materially alters the purposes of this Contract.

### **2.16 RECORDS**

The Firm shall retain District records for a period of not less than seven years after they are audited by the District's external auditors without additional cost to the District. The record retention obligation shall survive the expiration or termination of the contract with the Firm.

### **2.17 GOVERNING LAW AND FORUM SELECTION CLAUSE**

The laws of the State of Nebraska shall govern the interpretation and performance of the contract between District and the Firm, without regard to its conflicts of laws principles. Any action concerning any provision of the Contract or its formation must be brought in the appropriate courts of the State of Nebraska.

### **2.18 NO WAIVER**

The failure of District or the Firm to insist in any one or more instances upon performance of any terms or conditions of this Contract shall not be construed as a waiver of future performance of any such term, covenant or condition, but the obligations of such party with respect thereto shall continue in full force and effect.

## **2.19 ENTIRE CONTRACT**

This Contract, together with the RFP Documents incorporated therein and any attachments and any exhibits or schedules thereto, constitutes the entire Contract between the parties as to the subject matter hereof, and replaces any prior written and oral statements and understandings.

## **2.20 REQUIREMENTS RELATING TO FEDERAL AWARDS**

The following requirements must be met by Contractor, and where applicable, by subcontractors, in connection with the performance of the Contract with the District as required for any contracts involving a Federal award. This Contract is being funded through a Federal award.

**2.20.1** By submitting a proposal and entering into a Contract with the District, Contractor represents that it is not listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**2.20.2** If the amount of the Contract between the District and the Contractor is \$100,000 or more, Contractor shall file a certification (see Exhibit A to the RFP Documents). In the certification, recipients of each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the District.

**2.20.3** If the Contract between the District and the Contractor is in excess of the amount of \$150,000 Contractor will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the District, the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

## **2.21 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

All contracts awarded by the District for this Project in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with [40 U.S.C. 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)). Under [40 U.S.C. 3702](#) of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in

the work week. The requirements of [40 U.S.C. 3704](#) are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

### **3.0 PROPOSAL SPECIFICATIONS**

#### **3.1 GENERAL REQUIREMENTS**

The tools, resources, and framework to be furnished shall include both teacher and student materials such as SEL lesson materials, teacher training, digital materials, and associated resource materials.

**3.1.1** Content must align with the CASEL Framework ([casel.org](http://casel.org)).

**3.1.2** Tools and resources must incorporate evidence-based approaches, strategies, and resources so that all learners can access grade-level content.

**3.1.3** Tool and resources must incorporate multicultural education at all grades, including a balanced portrayal of demographics and characteristics represented throughout the District.

**3.1.4** Tools and resources should support a digital blended learning model, which includes instructional design where teacher-led instruction is enhanced with online learning.

#### **3.2 TECHNOLOGY REQUIREMENTS FOR MATERIALS**

The Firm's proposed Materials must meet the following technology requirements.

**3.2.1** Technology instructional tools must support digital citizenship, digital classroom management, and digital literacy.

**3.2.2** Materials must include traditional teacher and student Materials and digital components that can support integration with OPS digital learning platform (e.g., OPS Learning Management Systems: Canvas, Seesaw, Clever, and Microsoft Teams).

**3.2.3** Digital Materials may include a comprehensive online platform, digital manipulatives, professional learning resources, online planner, customizable assessment tools, and digital student and teacher resources.

**3.2.4** All applications must be compatible with current Windows, MAC OS, IOS, and iPad operating systems.

#### **3.3 REQUIREMENTS FOR EMOTIONAL REGULATION TOOLS**

**3.3.1** This social emotional learning framework should provide social emotional learning tools, instructional materials, and online professional development for teachers and staff around the

themes of emotional regulation and emotional intelligence. The District must approve all tools and supplies to be provided to students.

**3.3.2** The program must include an online digital platform option for teachers to use to be trained in the tools and resources, and to support a social emotional learning classroom using their online tools and resources. This may include teaching videos, mood scales, curriculum, and other supplemental activities.

#### **4.1 GENERAL**

In addition to submission of the tools and resources required in Section 1.4 of the RFP Documents, the Firm's proposal shall also contain, at a minimum, the following information under the following sections, which must be organized in the order given below. Firms may use a format of their choosing within the sections. Any proposal not containing the required information may be rejected by the District.

#### **4.2 FIRM PROFILE**

**4.2.1** Identification of the Firm, including address of its principal office, the principal contact person, telephone and fax number, e-mail address and date the Firm was organized. State whether the Firm is a corporation, limited liability company, partnership or other entity and the state of organization.

**4.2.2** Size of the Firm and the geographic scope of its operations (i.e., local, regional, national).

**4.2.3** Identify the person signing the proposal and his or her relationship to the Firm. If such person lacks legal authority to bind the Firm to a contract, provide a current power of attorney authorizing the proposal. Provide an address, telephone number, facsimile number and e-mail address (if applicable) for the person signing the proposal and for anyone who executed a power of attorney authorizing the proposal.

#### **4.3 TOOLS, RESOURCES, AND FRAMEWORK AND SERVICES PROPOSED**

Please state affirmatively in your proposal that your Firm can provide all the tools and resources and services required by this RFP for the grade-levels for which the Firm is submitting a proposal. If the Firm is proposing materials and services for only one set of grade levels, the proposal should indicate clearly and specifically those grade-levels (elementary, middle, or high school). Please state any reservation or qualification that the Firm may have regarding providing the required tools and resources and services. Please note that any qualification or reservation by the Firm regarding the required tools and resources and services may result in disqualification of the proposal.

#### **4.4 INFORMATION REGARDING TOOLS, RESOURCES, AND FRAMEWORK**

**4.4.1** List all the components included in the online platform that support teacher and student social emotional learning tools, teacher online professional development trainings, digital materials, and associated resource materials. Lessons and materials

should include at least 20 lessons and/or activities per grade level (K-12) and indicate what the purpose of each item is with objectives.

**4.4.2** Provide through these tools, resources, and framework the development of skills and behaviors that improve students' ability to "develop healthy identities, manage emotions, and achieve personal and collective goals, feel and show empathy for others, establish and maintain supportive relationships, and make responsible and caring decisions (CASEL, 2020),"

**4.4.3** Vender shall state whether their proposal meets or does not meet the specifications in Sections 4.4.3.1 to 4.4.3.3, Inclusive.

**4.4.3.1** Embedded in classroom processes and procedures:

**4.4.3.2** Help to create a systematic classroom culture where the processes, practices, and policies support the development and application of social and emotional learning skills and dispositions.

**4.4.3.3** Develop healthy identities such as: manage emotions, achieve personal and collective goals, feel and show empathy for others, establish and maintain supportive relationships, and help make responsible and caring decisions.

#### **4.5 TECHNOLOGY REQUIREMENTS FOR MATERIALS**

Please state how the Firm's tools, resources, and framework will satisfy the technology requirements set forth in Section 3.2 of the RFP Documents.

#### **4.6 PROFESSIONAL DEVELOPMENT**

Please state how the Firm's resources and tools will satisfy the professional development requirements set forth in Section 3.3 of the RFP Documents.

#### **4.7 REFERENCES**

Provide the names of at least three different school districts that have adopted district-wide the Materials included in your proposal in the past five (5) years who can be contacted as references by the District. Please include the date the tools and resources were acquired by the referenced school district, the name of the primary contact, the name of the school district, and the address, telephone number and e-mail address of each reference. A reference page form is attached as Attachment A.

#### **4.8 COST**

Please provide a cost projection for each program for the tools and resources required per school. State whether fees are one-time fees or recurring fees. If recurring, state the frequency of the fee and any change in the fee amount over the option years. Include any other costs for implementation of the program.

#### **4.9 ADDITIONAL INFORMATION**

Furnish any additional information regarding the firm or its tools and resources that the firm believes would be helpful in evaluation of the proposal. Do not include advertising brochures or other promotional material in the proposal.

**4.10 STATEMENT OF UNDERSTANDING**

The respondent is to provide with its proposal a written statement that it understands the scope and requirements of the Request for Proposals and understands that if an award is made, the award will be based on compliance with the Request for Proposal requirements and the District's determination of the proposal that will best serve the interests of the District.

**4.11 SIGNATURE**

An authorized individual must sign the proposal for the firm, and must certify that the information in the proposal is true and correct to the best of that person's knowledge and belief. The required signature page format is attached as Exhibit B. Failure to attach a completely executed signature page will be grounds for rejecting the proposal.

**EXHIBIT A**

**PROPOSAL P004-23**

**Emotional Regulation & Mindset Framework Tools for Elementary, Middle, and High School**

Proposal of \_\_\_\_\_, a  corporation organized and existing under the laws of the State of \_\_\_\_\_; a  limited liability company organized and existing under the laws of the State of \_\_\_\_\_; a  partnership, organized and existing under the laws of the State of \_\_\_\_\_; or an  individual (check appropriate box).

**TO: Omaha Public Schools locked email box: adoptionbids@ops.org**

*All proposals must be submitted electronically to the following email address: adoptionbids@ops.org. All electronically submitted proposals must comply with the following requirements:*

The RFP Documents convey the general style, type, character, and quality of the Materials and services desired. The undersigned acknowledged that the District will determine in its discretion which Materials and services are the best for the District.

The firm is responsible to clearly and specifically indicate the materials being offered and to provide sufficient descriptive literature, catalog cuts, pictures, and technical detail to enable the District to determine if the product offered meets the requirements of the RFP Documents. Failure to furnish adequate information for evaluation purposes may result in declaring a proposal non-responsive.

**[INSERT PROPOSAL CONTENT HERE]**



**EXHIBIT B  
SIGNATURE PAGE RFP P004-23**

The undersigned certifies that the Firm submitting the proposal understands: 1) the requirements of the proposal; 2) an award of the proposal by the District, if made, will be based on compliance with the RFP Document requirements and the District's determination of which proposal will best serve the interests of the District; and 3) that the proposal award will not be solely based on pricing. The undersigned further certifies that the Firm is capable of performing the specified services meeting the needs and requirements of the District, that it understands the scope of the work required by the RFP Documents and that other factors specified in the RFP Documents, in addition to the cost of Materials and services, will be considered in determining the successful proposal, if any. The undersigned further acknowledges that once the proposal is opened, it shall remain open and subject to acceptance by the District for ninety (90) days and may not be withdrawn or modified prior to the expiration of such ninety (90) day period. The undersigned further acknowledges that the District reserves the right to reject any or all proposals and any part thereof and to waive all technicalities.

**The undersigned certifies that the information in the foregoing proposal is submitted in accordance with the Request for Proposals P004-23, Emotional Regulation & Mindset Framework Tools for Elementary, Middle, and High School and is true and correct to the best of the undersigned's knowledge and belief.**

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY/STATE/ZIP: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

***Proposals must be signed to be valid.***

PRINTED NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

Proposal, with all required attachments, shall be emailed to the designated lockbox clearly labeled with:

**Proposal P004-23, Emotional Regulation & Mindset Framework Tools for Elementary, Middle and High School**

Delivered to: [adoptionbids@ops.org](mailto:adoptionbids@ops.org) by 2:00 PM (CT), October 24th, 2022

Acknowledge receipt of the following Addenda:

No. \_\_\_\_\_ Date \_\_\_\_\_

No. \_\_\_\_\_ Date \_\_\_\_\_

No. \_\_\_\_\_ Date \_\_\_\_\_

## ATTACHMENT A

### References RFP P004-23

Supply references of school district or other educational entities of the size of District for which you have provided the same or similar services within the last three years. If you have no educational references, please provide three references of such service provided to other governmental or private entities of a similar of the size within the last three years. A minimum of three (3) business references shall be included with the names and phone number of each contact listing.

1. Name of District: \_\_\_\_\_ Contact Name: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_  
Size of school district: \_\_\_\_\_ / students  
Date materials adopted: \_\_\_\_\_
  
2. Name of District: \_\_\_\_\_ Contact Name: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_  
Size of school district: \_\_\_\_\_ / students  
Date materials adopted: \_\_\_\_\_
  
3. Name of District: \_\_\_\_\_ Contact Name: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_  
Size of school district: \_\_\_\_\_ / students  
Date materials adopted: \_\_\_\_\_

**Exhibit C**  
**Data Protection Agreement**



**DATA PROTECTION AGREEMENT**

**THE DATA PROTECTION AGREEMENT** ("Agreement") is entered into between DOUGLAS COUNTY SCHOOL DISTRICT 0001, a Nebraska political subdivision, located in Douglas County, Nebraska, a/k/a Omaha Public Schools (hereinafter referred to as the "District") and \_\_\_\_\_ ("Partner Organization"). Hereafter, each may be referred to in the singular as, the "Party" or collectively, as the "Parties" in this Agreement.

**WHEREAS**, Partner Organization acknowledges and understands that the District is required to safeguard the privacy of its students' Education Records in a manner consistent with the mandates of the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g and the applicable regulations promulgated thereunder.

**WHEREAS**, Education Records may contain Personally Identifiable Information ("PII") as defined by Nebraska Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006 ("NFDP"), Neb. Rev. Stat. §§87-801–87-808.

**WHEREAS**, FERPA prohibits the unauthorized disclosure of PII contained in students' Education Records to anyone without the express written consent of the student or the student's representative.

**WHEREAS**, FERPA has regulatory exceptions to the general rule of confidentiality and non-disclosure of individually-identifiable data and information to allow its disclosure and use by organizations acting as school officials under certain circumstances.

**WHEREAS**, should Partner Organization be identified as satisfying the criteria associated with one or more recognized FERPA exceptions, the District may disclose the requested data to Partner Organization, provided the purpose, scope, and duration are clearly set forth in writing and satisfy the terms and conditions of this Agreement.

**WHEREAS**, Partner Organization will provide to the District, and/or its participating schools on behalf of the District, specified services the District could otherwise use its employees to perform, Partner Organization acknowledges that for the purposes of this Agreement it will be designated as a "school official" with "legitimate educational interests" as those terms have been interpreted and defined under FERPA and similar Privacy Laws and regulations, and Partner Organization agrees to abide by FERPA and those laws while performing its service for the District.

**WHEREAS**, the services Partner Organization will provide to the District are described in the Service Agreement, identified below.

**NOW, THEREFORE**, the Parties enter into this Agreement governing the disclosure of personally identifiable student information and provision of services described herein.

## **SECTION I DEFINITIONS**

**A.** "Confidential District Information" means any and all confidential or proprietary information of the District in any form, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche, and includes paper and electronic information. Confidential District Information includes all student or employee record information. Confidential District Information also includes all business, operational, and other information provided by District to Partner Organization hereunder, provided such information is marked or otherwise identified by District as confidential or proprietary, or is of a nature that Partner Organization knows or should know is confidential or proprietary. Confidential District Information includes Education Records and Personally Identifiable Information.

**B.** "Data Incident" means any access, acquisition, use or disclosure of Regulated Information by Partner Organization not authorized by law, this Agreement, or any other written agreements between District and Partner Organization related to Regulated Information.

**C.** "Education Records" has the same definition as in FERPA, 20 U.S. Code § 1232g(a)(4)(A), those records, files, documents, and other materials that (i) contain information directly related to a student; and (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

**D.** "Personally Identifiable Information" or "PII" includes but is not limited to (a) student names; (b) names of a student's parent, guardian, or other family members; (c) addresses of students, their guardians, or other family members; (d) personal identifiers such as social security numbers, student numbers, or biometric records; (e) other indirect personal identifiers such as dates of birth, places of birth, and maiden names; (f) other information that, alone or in combination, is linked or linkable to a specific student that would allow a person to identify the student with reasonable certainty; (g) "medical information" as may be defined in state law; (h) "protected health information" as that term is defined in the Health Insurance Portability and Accountability Act, 45 CFR Part 160.103; (i) "nonpublic personal information" as that term is defined in the Gramm-Leach-Bliley Financial Modernization Act of 1999, 15 USC 6809; (j) credit and debit card numbers or access codes and other cardholder data and sensitive authentication data as those terms are defined in the Payment Card Industry Data Security Standards; (k) other financial account numbers, access codes, and driver's license numbers; (l) state- or federal-identification numbers such as passport, visa, or state identity card numbers; (m) "personally identifiable information" as may be defined in state law, including Neb. Rev. Stat. § 87-802; and (n) Education Records.

**E.** "Privacy Laws" means all applicable state, federal, and local privacy confidentiality and security laws (including related regulations, orders, or findings) which govern any Confidential District Information including, but not limited to: FERPA, COPPA, the Protection of Pupil Rights Amendment ("PPRA") (20 U.S.C. § 1232h; 34 CFR Part 98), as currently in effect or as amended from time to time, including any successor statutes and implementing regulations and rules, and the NFDP, specifically Neb. Rev. Stat. § 87-808.

**F.** "Regulated Information" means Personally Identifiable Information and Education Records.

**G.** "Temporary Employees" means personnel employed and provided by Partner Organization to District for its supplemental staffing needs, including contractors, subcontractors, vendors, and suppliers of Partner Organization.

## **SECTION II CONFIDENTIAL DISTRICT INFORMATION**

**A. Ownership of Data and Information.** The disclosure of Confidential District Information to Partner Organization is not an assignment of ownership of the Confidential District Information to Partner Organization. The District retains ownership of all such information. Confidential District Information may only be re-disclosed by Partner Organization to a third-party with the prior written approval of the District.

**B. Confidentiality.** Partner Organization agrees to maintain the confidentiality of Confidential District Information provided by District to Partner Organization hereunder.

1. Partner Organization agrees to restrict access to Confidential District Information only to authorized representatives who (i) require access in the course of their assigned duties and responsibilities in connection with this Agreement, and (ii) have been informed of the provisions set forth in this Agreement.

2. The confidentiality obligations regarding the Confidential District Information shall not apply to any material or information that (i) is or becomes a part of the public domain through no act or omission by the Partner Organization, (ii) is independently developed by employees of the Partner Organization without use or reference to the Confidential District Information, (iii) is disclosed to the Partner Organization by a third party that, to the Partner Organization's knowledge, was not bound by a confidentiality obligation, (iv) is demanded by a lawful order from any court or anybody empowered to issue such an order, or (v), is requested by operation of law. With respect to (iv) or (v) above, Partner Organization agrees to provide notice to the District in a timely manner to allow the District to object to such disclosure should the District choose to do so.

3. Notwithstanding anything herein to the contrary and only to the extent consistent with the Privacy Laws, District hereby grants to Partner Organization a non-exclusive, royalty-free, nontransferable, revocable, limited license during the Term or any Renewal Term of this Agreement to collect, access, and use Confidential District Information provided Partner Organization: (1) collects, accesses, and uses Confidential District Information only as necessary and solely for meeting Partner Organization's performance obligations under this Agreement; (2) keeps records of any Partner Organization disclosures of Confidential District Information, including the names of the parties to which Partner Organization may have disclosed Confidential District Information and the legitimate interests under this Agreement or the Privacy Laws which such parties requested or obtained the Confidential District Information from Partner Organization; (3) destroys the Confidential District Information when it is no longer needed by Partner Organization for meeting its performance obligations under this Agreement; and (4) otherwise complies with the Privacy Laws.

**C. Limited Disclosure, Access and Use.** Partner Organization will abide by any and all conditions imposed by the District on the disclosure of Confidential District Information, including any de-identified or derived data from such information provided by the District, and agrees to manage and maintain it in accordance with the Privacy Laws.

1. Partner Organization and its officers, employees, and agents receiving Confidential District Information agrees to hold such information in strict confidence and use the information only for the limited purpose for which the disclosure was made.

2. Partner Organization affirms that its services will be conducted in a manner that does not disclose the Confidential District Information to anyone who is not an authorized representative of Partner Organization.

3. Partner Organization agrees not to use the Confidential District Information for any purpose other than the purposes for which the disclosure was sought from the District and made to Partner Organization.

4. The approval to use the Confidential District Information for one purpose does not confer approval to use the Confidential District Information for another or different purpose. Partner Organization shall not use any Confidential District Information, whether or not it is de-identified or aggregated, for any other commercial purpose than to provide the services which District has purchased from Partner Organization.

5. Partner Organization shall not store or transmit any Confidential District Information outside U.S. territory.

6. Upon termination, cancellation, expiration, or other conclusion of this Agreement, Partner Organization shall return all Confidential District Information to the District, or if return is not feasible, destroy any and all such information, except that backup files made in the normal course of business may be retained per Partner Organization's data retention policy, for regulatory compliance. Partner may destroy the Confidential District Information when it is no longer needed for purposes for which it was disclosed or as authorized in this Agreement. Partner Organization shall confirm the date that any Confidential District Information was returned or destroyed by delivering to the District the certificate attached hereto as Attachment 1.

#### **D. Reporting of Unauthorized Disclosures of Regulated Information**

1. Partner Organization shall, as soon as possible, but in no event more than five (5) business days of discovery, report to the District any Data Incident. Partner Organization's written report shall identify (i) the nature of the Data Incident, (ii) what information was used or disclosed, (iii) who or what was the cause of the Data Incident, (iv) who may have had access to any Confidential District Information, PII, or Regulated information, (v) what Partner Organization has done or shall do to mitigate harm from the Data Incident, and (vi) what corrective action Partner Organization has taken or shall take to prevent future similar Data Incidents. Partner Organization shall provide such other information, including a written report, as reasonably requested by the District. Partner Organization shall ensure that Temporary Employees comply with the terms of this section.

2. Partner Organization shall fully and completely cooperate with any investigation undertaken by the District to investigate, identify, remediate, or provide notification to affected individuals should any Data Incident occur.

3. In its sole discretion, the District may immediately terminate this Agreement, along with any other agreements with Partner Organization which incorporate this Agreement, if it determines it is not possible to repair or correct the Data Incident.

**E. Information Security Safeguards.** Partner Organization shall, at all times that it accesses, stores, transmits, maintains or processes Confidential District Information have in

place reasonable and appropriate administrative, physical, and technical safeguards to protect the confidentiality, integrity, and availability of such information. These industry standard controls will include at a minimum: access controls, including multifactor authentication to the systems and accounts which will house the Student Records; audit records; malware and virus protection; system, network, computer, and application protections; employee training as to cybersecurity threats; and encryption of all data at rest, including on any device or system including USB drive, internal or removable hard drive, or any cloud-based platform; and, encryption of all data in transit, including the transfer of any data via email or to/from cloud storage platform. Any encryption processes or procedures shall meet the requirements of Federal Information Processing Standard 140-2.

**F. Industry Standard Datacenter Audit.** On an annual basis, Partner Organization will have an SSAE-18 (or its successor standard), ISO, or other nationally recognized technology controls audit conducted, and any audit report should specifically address the controls of the systems in which any Confidential District Information, PII, or Regulated Information are housed, and related control objectives of Partner Organization. Such audit shall be performed by a third party experienced in performing system security audits. Partner Organization shall promptly provide District with a copy of the results of the audit upon District's written request. If such audit report indicates any deficiencies in the security standards utilized by Partner Organization, then Partner Organization shall provide District with a response to each identified deficiency, and shall promptly undertake, at Partner Organization's expense, to remedy any material deficiencies, and shall report to District when such material deficiencies have been remedied.

### **SECTION III SPECIAL PROVISIONS RELATED TO EDUCATION RECORDS**

**A. Purpose.** Partner Organization, by providing certain institutional services and functions on behalf of the District, may require access to a student's Education Records to effectively deliver its services. Partner Organization further agrees to be under the direct control of the District with respect to the maintenance of student Education Records relating to the governance, use, and re-disclosure of Personally Identifiable Information, which will be in accordance with, and contingent upon compliance with FERPA and the Children's Online Privacy Protection Act ("COPPA") (15 U.S.C. §§ 6501–6506).

**B. Minimum Necessary.** In order to perform the service(s) described in the Service Agreement, the Partner Organization agrees that it will limit the collection and/or utilization of Education Records to the minimum necessary.

**C. Qualified FERPA Exception.** Partner Organization understands and agrees that the purpose and contemplated use of the Education Records disclosed by the District is solely to provide the educational services for, or on behalf of the District described herein. The Partner Organization shall be designated a "school official" according to FERPA and District policy, as an organization to which the District has outsourced institutional services or functions for which the District would otherwise utilize its own employees. The Partner Organization acknowledges that it is under the direct control of the District for the purposes of use and maintenance of Education Records disclosed pursuant to this Agreement, and that the Partner Organization agrees to comply with the applicable provisions of FERPA in order to safeguard the confidentiality of Education Records and student information.

**D. Redisclosure.** Education Records may only be re-disclosed by Partner Organization to a third party with the prior written approval of the District, in accordance with this Agreement, or in compliance with FERPA and its regulations.

**E. Remedies, Penalties, Indemnification.** The failure to comply with the requirements of FERPA or COPPA could subject Partner Organization and third parties to penalties under state and federal law. Partner Organization acknowledges there may be no adequate remedy at law for any breach of its obligations hereunder, that any such breach will result in irreparable harm to the District, and therefore, that upon any such breach or threatened breach, the District shall be entitled to seek appropriate equitable relief including specific performance and any additional remedies the law may allow, including injunctive relief.

## **SECTION IV INDEMNIFICATION**

**A.** Partner Organization will indemnify, defend, and hold harmless District and District's affiliates, officers, directors, and employees from and against any third-party claims, demands, causes of action, judgments, damages, liabilities, costs, and expenses (including reasonable attorney's fees) arising from or relating to Partner Organization's or any of Partner Organization's employees (including Temporary Employees), agents, contractors, or representatives unauthorized use, misuse, or illegal use of Confidential District Information, Education Records, or Personally Identifiable Information, or for any breach of this Agreement by Partner Organization. The District and any indemnified party shall cooperate and comply with the reasonable requests of Partner Organization in connection with the defense of any such claim. The receipt or providing such assistance is not a waiver of any alleged breach nor does the acceptance of such assistance constitute a waiver of any such breach by the District. Partner Organization shall control the defense and settlement of any such claim.

**B.** If Partner Organization's conduct triggers any third-party notice requirements under applicable Privacy Laws, Partner Organization shall indemnify the District for any actual and reasonable notification-related costs incurred by the District.

## **SECTION V GENERAL TERMS AND CONDITIONS**

**A. Coordination with Partner Organization Authorized Representatives.** During the term of this Agreement, Partner Organization will fully coordinate all of its services provided hereunder with the District through its designated authorized representative.

1. The authorized representative signatory below has authority to bind Partner Organization to the terms and conditions of this Agreement.

2. The authorized representative signatory shall also be responsible for requiring Partner Organization personnel and other authorized representatives of Partner Organization accessing information from District records to execute affidavits of nondisclosure or other documentation indicating that each person will be held accountable for the proper management, use, and protection of all information and records provided by District.

**B. Temporary Employees.** Partner Organization shall ensure that Temporary Employees comply with the same terms and conditions set forth in this Agreement.

### **C. Examination of Records.**

1. Partner Organization will keep true and complete records of any and all data received, exchanged, and shared between and amongst its employees, agents, subcontractors, and volunteers



pursuant to this Agreement. Upon reasonable request, Partner Organization shall provide access to such records to District at a mutually agreed time.

2. Partner Organization agrees that it will keep and preserve all business records and reports created during the course of this Agreement for at least three (3) years from the date of receipt under this Agreement, except that Confidential District Information shall be returned or destroyed in accordance with the provisions of Section II.F.6 of this Agreement. Notwithstanding the foregoing, any reports generated under Section II, Subsection D (Reporting of Unauthorized Disclosures of Regulated Information), shall be preserved for a minimum of five (5) years.

**D. Modification.** This Agreement shall only be modified in writing signed by duly authorized representatives of both Partner Organization and the District. All requests for modifications should be directed to the authorized representative of the District and Partner Organization.

**E. Notice.** Any notice this Agreement requires must be in writing and will be effective only if sent by certified U.S. mail, return receipt requested, or via electronic mail, to an authorized representative provided in this Agreement, which is as follows:

Partner Organization: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

District: Bryan Dunne  
bryan.dunne@ops.org

With Copies to: Megan Neiles-Brasch  
Megan.Neiles-Brasch@ops.org  
Office of the General Counsel  
Omaha Public Schools  
3215 Cuming Street  
Omaha, NE 68131

**F. Term.** The effective date begins on the next business day that follows after each authorized representative of Partner Organization and the District executes this Agreement and it shall expire at the time Partner Organization no longer provides its services or is terminated in accordance with this Agreement; provided, however, a lapse or stoppage of services by Partner Organization as a result of the District's school year ending that timely resumes with the commencement of the next District school year shall not be construed or interpreted as the termination of this Agreement; furthermore, at the beginning of each school year, upon re-execution by each authorized representative of the District and Partner Organization, the parties mutually agree this Agreement is revived according to the same, or any amended terms and conditions contained herein.

**G. Subcontractors.** Partner Organization shall require any subcontractor to comply with the provisions of this Agreement, including, but not limited to, to use the same care to protect the confidentiality, integrity, and availability of such records as Partner Organization will use. Upon termination of any contractor or subcontractor agreement or engagement Partner Organization shall ensure all Confidential District Information, PII, or Regulated Information, in possession of any contractor or subcontractor will either be destroyed or returned, and Partner Organization will provide documentation of destruction or return of such records to the District. In no circumstances should a non-US based contractor or subcontractor be provided access to District information without prior approval of the District.

**H. Termination.** The District may terminate this Agreement for convenience with thirty (30) days' prior written notice with brief description of the reason for the termination to the Partner Organization.

**I. Compliance with Federal and State Confidentiality and Privacy Laws.** Partner Organization and the District agree and understand this Agreement must be in compliance with all relevant Privacy Laws. In the event of a conflict between this Agreement and any Privacy Laws, Privacy Laws shall control. In the event of conflict or uncertainty interpreting controlling law regarding the collection, access, use, or disclosure of Regulated Information, a party will resolve the uncertainty or conflict in favor of prohibiting the collection, access, use, or disclosure of such information.

**J. Compliance with District Policies.** Partner Organization agrees to comply with the applicable written District Board of Education policies, which hereafter by this reference are incorporated into and enforceable under this Agreement.

**K. Governing Law and Jurisdiction.** In the event that any disputes arise from this Agreement, the parties agree to submit such disputes to the state or federal courts located within Douglas County, Nebraska, and such courts shall have exclusive jurisdiction over the disputes. The parties agree that Nebraska law will govern such disputes that arise from this Agreement, without regard to rules regarding conflicts of law.

**L. Independent Contractor.** The parties are independent contractors in their relationship to one another and are not, by virtue of this Agreement or otherwise, made agents, employees, employers or joint venturers of one another. Neither party shall have authority to bind the other. In furtherance of the foregoing, and not in limitation thereof, no Partner Organization employee (including Temporary Employees), contractor, representative, or agent shall be entitled to participate in any group insurance program or to take advantage of any other rights, privileges or employee benefit plans established for employees of the District. The District shall not be obligated to pay employment taxes on or make withholdings in connection with compensation paid to any Partner Organization employee, contractor, representative, or agent. Partner Organization is responsible for all such taxes related to such compensation paid hereunder, including any federal and state income tax, employment tax, social security, or any other obligations under laws or requirements of governmental bodies, and shall indemnify the District against any taxes, liabilities, penalties or costs incurred by the District arising out of any failure of Partner Organization to pay such taxes or from reclassification of any Partner Organization employee, contractor, representative, or agent from an independent contractor to an employee of the District. The District will not reimburse Partner Organization for, or provide Partner Organization or Partner Organization's employees, representatives, or agents with, any form of insurance benefits, pension benefits, vacation or holiday benefits or any other benefits or expenses whatsoever.

**M. Work Eligibility.** Pursuant to Neb. Rev. Stat. §§ 4-108 through 114, Partner Organization shall use a federal electronic verification program authorized by the Illegal Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C. §1324 ("E-verify Program" or an equivalent federal program designated by the Department of Homeland Security or other authorized federal agency) to verify the work eligibility status of new employees physically performing services within the State of Nebraska.

**N. Non-Discrimination.** Partner Organization agrees to abide by the requirements of the following as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972 and the Pregnancy Discrimination Act of 1978, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education amendments of 1972, the Age Act of 1972, the Americans With

Disabilities Act of 1990, the Genetic Information Nondiscrimination Act of 2008, and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. §48-1122. Partner Organization agrees not to discriminate in its employment practices, and will render services under this Agreement without regard to race, color, national origin, religion, sex (including pregnancy), marital status, sexual orientation, disability, age, genetic information, gender identity, gender expression, citizenship status, veteran status, political affiliation or economic status. Any act of discrimination committed by Partner Organization or failure to comply with these statutory obligations when applicable shall be grounds for termination of this Agreement.

**O. Survival of Certain Provisions.** The terms and conditions of this Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable.

**P. No Agency Created.** Partner Organization agrees and understands that no authority exists through this Agreement permitting Partner Organization to enter into any third party contract, assume any obligation, or make any representation to third parties on behalf of, or which may bind the District.

**Q. Authorized Representative.** Partner Organization certifies that the individual signing below on its behalf is fully authorized to do so, is fully authorized to bind and commit Partner Organization to the obligations set forth herein, and that no other consents or authorizations are needed to bind Partner Organization to the terms of this Agreement.

**R. Contract Documents.** This Agreement consists of the following attachments which are incorporated herein and made a part hereof by reference which are found after the signature page:

- 1. Attachment 1, Certification of Destruction/Return of Confidential District Information.

Partner Organization hereby signifies its acceptance of the terms and conditions of this Agreement.

Service Agreement: \_\_\_\_\_

[signature page to follow]

Agreed to:

\_\_\_\_\_

Agreed to:

Douglas County School District 0001  
a/k/a Omaha Public Schools

3215 Cuming Street  
Omaha, Nebraska 68131

By: \_\_\_\_\_

By: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

Title: Superintendent

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

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

**EXHIBIT D**  
**Certification**

**CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

**(2)** If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

**(3)** The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print name)

\_\_\_\_\_  
(title)

\_\_\_\_\_  
(date)



**Attachment 1**  
**Certification of Destruction/Return of Confidential District Information**

I/We, \_\_\_\_\_, as the authorized representative(s) of the Partner Organization (identified below) do hereby acknowledge and certify under penalty of perjury that

[check one]:

\_\_\_\_\_ (a) the Confidential District Information provided Partner Organization pursuant to the District Data Protection Agreement was destroyed. Further, all Regulated Information was destroyed by: (a) shredding; (b) permanently erasing and deleting; (c) degaussing; or (d) otherwise modifying the Confidential Information in such records to make it unreadable, unreconstructable, and indecipherable through any means, in accordance with NIST 800-88 or an equivalent standard.

\_\_\_\_\_ (b) the Confidential District Information provided Partner Organization pursuant to the District Data Protection Agreement has been returned.

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

Title: \_\_\_\_\_

Partner Organization/Agency: \_\_\_\_\_

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