

INVITATION FOR BID (IFB)
NO. 19-006

BOTTLED WATER

Submission Deadline: Thursday, March 28, 2019

Time: 3:00 PM EST

Bidders shall submit one (1) sealed hard copy and
one (1) USB or CD electronic copy of their bid to:

Cooperative Purchasing Program
Attn: Jayme Hardy
Metropolitan Washington Council of Governments
777 North Capitol Street, N.E., Suite 300
Washington, D.C. 20002-4290

I. INTRODUCTION

A. The Metropolitan Washington Council of Governments (MWCOC) is the regional organization of 24 of the Washington area's major local governments and their governing officials, plus area members of the Maryland and Virginia legislatures and the U.S. Senate and House of Representatives. MWCOC provides a focus for action on issues of regional concern such as comprehensive transportation planning, air and water quality management plans, environmental monitoring, tracking economic development and population growth and their implications on the region, coordinating public safety programs, and promoting adequate child care and housing for the region. MWCOC is supported by financial contributions from its participating local governments, federal and state government grants and contracts and through donations from foundations and the private sector. More information on MWCOC may be found at www.mwcog.org.

B. Definitions used in this IFB include:

Participating Agencies	MWCOC members desiring to receive services and/or commodities as a result of procurement led by MWCOC.
Lead Agency	MWCOC serves as Lead Agency by facilitating the procurement process on behalf of its Participating Agencies.
Awarding Authority	MWCOC serves as Awarding Authority by evaluating bids for responsiveness and identifying the lowest bidder.
Bidder	Entity submitting a bid in response to this IFB.
Contractor	The term used throughout this document to describe the individual or organizations awarded the contract(s) based on this solicitation.

C. MWCOC, as Lead Agency, is soliciting bids for the delivery of bottled spring/distilled water and related water dispensing equipment/supplies (“**Bottled Water**”) on behalf of its Participating Agencies (See Section II).

D. MWCOC, as Awarding Authority, will identify the lowest, responsible Bidder. The resulting contract(s) will be executed between the Contractor and each of the Participating Agencies. MWCOC anticipates a contract award for an initial term of one (1) year, **beginning on or around June 1, 2019**, with four (4) annual renewal options.

E. Bidders who wish to respond to this IFB shall do so no later than **3:00 PM EST on Thursday, March 28, 2019**, at which time bids will be opened in the presence of witnesses. All bids must be signed by responsible company officials, sealed, and delivered no later than the time and date indicated herein.

It shall remain the Bidder’s responsibility to ensure that the bid will reach the address above on or before the deadline. Bids that are received by MWCOC after the deadline indicated above, for whatever reason, shall not be considered for evaluation unless it is the only bid received.

II. POTENTIAL PARTICIPATING AGENCIES

- A. Cecil County Public Schools
- B. Frederick County Public Schools
- C. Montgomery College
- D. Washington Metropolitan Area Transit Authority (“WMATA”)

This IFB is open to all Agencies in the MWCOG member region and includes the MWCOG Cooperative Rider Clause (See Attachment A) that allows those Agencies to use this IFB and/or the resulting contract award to make purchases in accordance with their own policies.

III. CONTRACTOR QUALIFICATIONS

In addition to meeting the specifications, purchase and delivery terms outlined in this IFB, the successful Bidder shall possess the following minimum qualifications:

- A. Licensed to do business in Maryland, Virginia and the District of Columbia;
- B. Three (3) years of experience providing **Bottled Water** to public agencies; and
- C. Not less than three (3) professional references demonstrating success providing **Bottled Water** to public agencies.

IV. SPECIFICATIONS

- A. The **Bottled Water** required by this IFB shall conform to the following specifications:
 - 1. Bottled Spring and Distilled Water
 - a. The **Bottled Water** required by this IFB shall include spring and distilled water and shall conform to the following regulations:
 - i. EPA National Primary Drinking Water Standards and Secondary Drinking Water Standards, found at <https://www.epa.gov/dwstandardsregulations>; and
 - ii. FDA Standards of Quality as outlined in the Code of Federal Regulations. See 21 CFR § 165.110 (b) found at <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?fr=165.110>.
 - b. The **Bottled Water** must be supplied in clear and reusable plastic bottles. The bottles must indicate the use-by date and compliance with EPA regulations stated above. **Bottled Water** shall be delivered in the following sizes:
 - i. 8 oz;
 - ii. 1 gallon; and
 - iii. 5 gallons (for water dispenser).
 - 2. Bottled Water Equipment and Supplies
 - a. Equipment

The **Bottled Water** cooler equipment proposed under this IFB may be new and/or refurbished and must meet the requirements of NSF/ANSI Standard 18. New coolers must be ready for operation and refurbished coolers must be sanitized and in good working condition. All **Bottled Water** coolers must include cup dispensers and be under warranty for the duration of the contract award

(not-to-exceed five (5) years).

The **Bottled Water** coolers sought by this IFB include:

- i. cold only rentals;
- ii. hot only rentals;
- iii. hot and cold rentals;
- iv. cold only purchases;
- v. hot only purchases; and
- vi. hot and cold purchases.

b. Supplies

The selected Bidder will be required to provide a variety of paper and plastic cups as **Bottled Water** supplies. The cups shall be compatible with the proposed cooler equipment and meet the following specifications:

- i. 5 oz. paper cone shaped;
- ii. 9 oz. plastic flat bottomed; and
- iii. 12 oz. plastic flat bottomed.

c. Emergency **Bottled Water**

The Contractor may be required to provide **Bottled Water** on an emergency basis. Emergency **Bottled Water** must be delivered within twenty-four hours of the request to the Contractor.

B. ESTIMATED ANNUAL USAGE & EQUIPMENT BY KNOWN PARTICIPATING AGENCIES

1. Estimated Annual Usage

Line Item Number	Line Item Description	Annual Usage by Participating Agency				Total Estimated Annual Usage
		Cecil County Public Schools	Frederick County Public Schools	Montgomery College	WMATA	
001	WATER, 5GAL BOTTLE		3,773	862		4,635
002	WATER, 24 COUNT, 500ML/16.9OZ	210				210
003	WATER, 24 COUNT, 20OZ				99	99
004	WATER, 32 COUNT, 500ML/16.9OZ					0
005	WATER, 35 COUNT, 8OZ					0
006	WATER, 48 COUNT, 8OZ					0
007	PLASTIC CUPS, COLD/TRANSLUCENT, 50 COUNT, 12OZ					0
008	PLASTIC CUPS, COLD/TRANSLUCENT, 100 COUNT, 9OZ					0
009	PAPER CUPS, CONE SHAPED, 200 COUNT, 4.5OZ		1,288			1,288
TOTALS		210	5,061	862	99	6,232

2. Equipment

Line Item Number	Line Item Description	Total Equipment by Participating Agency				Total Equipment
		Cecil County Public Schools	Frederick County Public Schools	Montgomery College	WMATA	
101	WATER DISPENSER, COLD ONLY, RENTAL		29	174		203
102	WATER DISPENSER, HOT & COLD, RENTAL		10			10
103	WATER DISPENSER, COLD ONLY, PURCHASED					0
104	WATER DISPENSER, HOT & COLD, PURCHASED					0
TOTALS		0	39	174	0	213

V. PURCHASE AND DELIVERY TERMS

A. Deliveries shall be made in accordance with the respective requirements of the Participating Agencies. Delivery locations, delivery requirements and points of contact

shall be provided to the Contractor subsequent to the contract award. Delivery dates, times, and requirements will vary by location.

- B. All deliveries shall be FOB destination.
- C. Bidder's price must include all transportation and freight costs to the point(s) of delivery. No taxes shall be included in the price.
- D. Price escalations may be considered on an annual basis by providing written notice to MWCOG at least ninety (90) days prior to the renewal option start date. Price escalations shall not exceed 5% each year.
- E. Purchasing methods will vary by Participating Agency. The Contractor must have payment processes for the use of purchase orders and purchase cards.
- F. The Contractor shall assign at least one (1) representative to address purchase, delivery and/or other customer service matters, upon contract award. Points of contact for Participating Agencies will be provided to the Contractor at the time of contract award.

VI. BID INSTRUCTIONS

1. Bidders must include the following documentation in the bid submission. Bids submitted omitting these documents may be deemed non-responsive and may be rejected pursuant to MWCOG's Procurement Policy.
 1. Attachment C (Certification Regarding Debarment, Suspension, and Other Responsibility Matters) – must be signed and returned in the bid submission.
 2. Attachment D (References Form) – Bidder must supply at least three (3), but no more than five (5) professional references demonstrating successful experience providing similar commodities and services.
 3. Attachment E (Qualifications Form)
 - a. Bidder must certify to meeting the qualifications of this IFB (See Section III). Qualifications Form must be signed and returned with bid submission.
 - b. Bidder must either accept or provide exceptions for consideration to Attachment A. Any proposed exceptions must also be included in the bid submission.
 4. Attachment F (Bid Form)
 - a. Bid Form must be completed in its entirety (even if no usage is shown in Section IV.B) and must be signed and dated.
 - b. Bidder must acknowledge any posted addenda (as applicable).
2. Clarifications via Addenda
 1. Technical questions concerning this IFB must be submitted **in writing** to Jayme Hardy at purchasing@mwkog.org no later than **5:00 PM EST, Friday, March 15,**

2019. No technical questions will be accepted after the cut-off date.

2. Procedural or administrative questions concerning this IFB must be submitted **in writing** to Jayme Hardy at purchasing@mwcog.org.
 3. All technical questions and pertinent procedural/administrative questions will be answered and posted on MWCOG’s website as an addendum to this IFB no later than **5:00 PM EST, Thursday, March 21, 2019**.
 4. It is the responsibility of the Bidder to check MWCOG’s website for any issued addenda. See www.mwcog.org/purchasing-and-bids/cog-bids-and-rfps/.
3. MWCOG, as Awarding Authority, reserves the right to cancel this IFB, or reject in whole or in part any all bids, if MWCOG determines that cancellation or rejection serves the best interests of the organization and/or its Participating Agencies.

VII. SPECIAL PROVISIONS

- A. Participating Agencies have the right to opt out of this solicitation prior to a contract award.
- B. Current non-Participating Agencies have the right to opt-in at a future date based on the MWCOG Cooperative Rider Clause (Attachment A).
- C. MWCOG, as Awarding Agency, reserves the right to extend all of the terms, conditions, specifications, and unit or other prices of any contract resulting from this IFB to other public and non-profit agencies. This is conditioned upon mutual agreement of MWCOG and the Contractor, based on the attached MWCOG Cooperative Rider Clause (Attachment A) and pursuant to special requirements which are appended thereto.
- D. Contractor agrees to notify MWCOG of the Participating Agencies that desire to use any contract resulting from this IFB within 30 days of receiving said requests and to provide reporting as required pursuant to this IFB (Attachment A).
- E. All contracts resulting from this IFB shall be between the Contractor and the Participating Agencies. MWCOG assumes no authority, liability or obligation on behalf of any Participating Agency using a contract resulting from this IFB, or any Contractor, or any other entity with respect to this procurement or any contract resulting from it.
- F. Participating Agencies may have other or additional terms and conditions that must be met by the Contractor.

ATTACHMENT A
MWCOG Cooperative Rider Clause

The MWCOG Cooperative Purchasing Program works to aggregate the public entity and non-profit purchasing volumes in the National Capital Region of Maryland, Virginia and Washington, D.C.

A. Format

MWCOG serves as the Lead Agency of this Procurement and has included this Rider Clause indicating its willingness to allow other public entities to participate in this Procurement pursuant to the following Terms and Conditions:

B. Terms

1. Participating Agencies, through their use of this Rider Clause, agree to the terms and conditions of this Procurement to the extent that they can be reasonably applied to the Participating Agency.
2. Participating Agencies may also negotiate additional terms and conditions specific to their local requirements upon mutual agreement between the parties. Contract obligations rest solely with the Participating Agencies.
3. The resulting Contract shall be governed by and "construed" in accordance with the laws of the State/jurisdiction in which the Participating Agency is officially located.

C. Other Conditions - Contract and Reporting

1. Public entities desiring to participate in this Procurement must receive written approval from MWCOG in the form of a MWCOG Rider Clause Approval Form signed by the public entity and MWCOG;
2. Contractor must provide semi-annual contract usage reporting information to MWCOG, including but not limited to quantity, unit pricing and total volume of sales by agency/entity, as well reporting other Participating Agencies added on the Contract, on demand and without further approval of Participating Agencies;

Semi-annual reporting Due Dates beginning from Contract execution:

- November 30, covering May 1 – October 31
 - May 31, covering November 1 – April 30
3. Contractor must provide to MWCOG a semi-annual administrative fee of **1%** on all gross sales at the time of the semi-annual report submission due dates listed above; and
 4. Significant changes in total contract value may result in further negotiations of contract pricing with the Lead Agency and Participating Agencies.

Contract usage reporting information and requests for MWCOG Rider Clause Approval Forms shall be submitted to MWCOG's Contracts and Purchasing inbox at purchasing@mwkog.org.

ATTACHMENT B
MWCOG Terms and Conditions

This document sets out provisions generally applicable to Metropolitan Washington Council of Governments (“MWCOG”) and our Participating Agencies’ contracts. The provisions herein do not constitute a complete agreement, and must be appended to a document, executed by all parties, which identifies the specific work to be performed, compensation, term, incorporated attachments, and special conditions, if any. This document and the Contract are intended to be complementary and shall be construed accordingly.

However, should there be a direct contradiction between the terms and conditions contained herein and the Contract, then the Contract shall govern and control those contradictory terms and conditions. As used herein, the term "MWCOG" includes MWCOG, its various Participating Agencies, employees or agents as may be appropriate. The term “Contract” shall include a document entitled “agreement” or any other title on a document that is denoting a contract.

- I. Amendment. This Contract constitutes the entire agreement between the parties and all other communications prior to its execution, whether written or oral, with reference to the subject matter of this Contract are superseded by this Contract. No amendment to this Contract shall be binding unless in writing and signed by the parties.

- II. Bankruptcy. Upon filing for any bankruptcy proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the Contractor must notify MWCOG immediately. Upon learning of the actions herein identified, MWCOG reserves the right at its sole discretion either to cancel the Contract or to affirm the Contract and hold the Contractor responsible for damages. The exercise of this right is in addition to any other rights MWCOG may have as provided in this agreement or by law.

- III. Compliance with Law. The Contractor hereby represents and warrants that:
 - A. It has the power and authority to enter into and perform the Contract, that the Contract, when executed and delivered, shall be a valid and binding obligation of Contractor, enforceable in accordance with its terms;
 - B. Its performance under the Contract shall be in a good and workmanlike manner and in accordance with all applicable professional standards;
 - C. It is qualified to do business in the jurisdictions covered by the Contract and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
 - D. It is not in arrears in the payment of any obligations due and owing to any agency involved in this agreement, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
 - E. It shall comply with all federal, state and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
 - F. It shall obtain, at its expense, all licenses, permits, insurance and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

- IV. Contingent Fee Prohibition. The Contractor, architect or engineer (as applicable) warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, architect or engineer, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation or other entity, other than a bona fide employee or agent, any commission, percentage, brokerage or contingent fee or other consideration contingent on the making of this Contract.
- V. Counterparts. This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute one and the same instrument.
- VI. Force Majeure. Neither MWCOG and/or its members nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, declaration of emergency, or war where such cause was beyond, respectively, MWCOG’s and/or its members or Contractor’s reasonable control. MWCOG and/or its members and Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- VII. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the District of Columbia or the Participating Agencies’ required jurisdiction without regard to principles of conflicts of law.
- VIII. Indemnification. The Contractor shall protect, hold free and harmless, defend and indemnify MWCOG and its Participating Agencies including their officers, agents and employees from all liability, penalties, costs, losses, damages, expenses, causes of action, claims or judgments (including attorney’s fees) resulting from injury to, or death of, any person or damage to property of any kind, which injury, death or damage arises out of, or is in any way connected with the performance of the work or failure to perform its obligations under this Contract.

This obligation of indemnification shall apply to any acts or omissions, negligent conduct, whether active or passive, including acts or omissions of Contractor’s agents or employees; except that it shall not be applicable to injury, death or damage to the property arising from the sole negligence of MWCOG and/or members, their officers, agents and employees.

- IX. Independent Contractor.
 - A. Contractor shall perform the work required by this Contract as an “Independent Contractor.” Although MWCOG and/or members reserves the right to determine the delivery schedule for the work to be performed and to evaluate the quality of the completed performance, MWCOG and/or members cannot and will not control the means or manner of the Contractor’s performance. The Contractor shall comply promptly with any requests by MWCOG and/or members relating to the emphasis or relative emphasis to be placed on various aspects of the work or to such other matters pertaining to the work under this Contract. Contractor is responsible for determining the appropriate means and manner of performing the work.
 - B. Contractor represents and warrants that Contractor is not an employee of MWCOG and/or members, is not currently employed by the Federal Government, and is not an officer, employee or agent of MWCOG and/or members.

- C. Contractor shall be responsible for all federal or state taxes applicable to any compensation or payments paid to Contractor under this Contract. Contractor is not eligible for any federal Social Security, unemployment insurance, or workers' compensation benefits from compensation or payments paid to Contractor under this Contract.
- D. Contractor agrees to immediately provide MWCOG and/or members notice of any claim made against Contractor by any third party. Contractor also agrees not to assign to any third party, without MWCOG's written consent, any obligation of MWCOG to indemnify Contractor for any actions under this Contract.

X. Insurance Requirements.

- A. Contractor shall obtain, and at all times keep in effect, Commercial General Liability Insurance in the amounts listed below for its activities and operations. The insurance shall include coverage for personal injury, discrimination and civil rights violation claims. All such insurance shall name the Participating Agency, individual members, their employees, and agents as ADDITIONAL INSURED. A copy of the certificate of insurance shall be filed with MWCOG and/or Participating Agencies prior to the time any services are rendered. Contractor shall maintain coverage in the amount of \$1,000,000 per occurrence and \$2,000,000 general aggregate and \$500,000 for property damage. Coverage shall be written on an occurrence form.
- B. Contractor shall obtain, and at all times keep in effect, automobile insurance on all vehicles used in this Contract with MWCOG and/or members to protect Contractor against claims for damages resulting from bodily injury, including wrongful death, and property damage that may arise from the operations of any owned or hired automobiles used by Contractor in connection with the carrying out of this Contract. All such insurance shall name MWCOG and/or individual members, their employees, and agents as ADDITIONAL INSURED.
- C. Contractor shall, upon request, provide MWCOG and/or members with certification of Workers' Compensation Insurance, with employer's liability in the minimum amount required the governing jurisdiction's law in effect for each year of this Contract.
- D. All insurance policies shall have a minimum 30 days' notice of cancellation. Immediate written notice to MWCOG and members involved in the contract shall be required in the event of cancellation or restriction by the insurance company of any insurance policy referred to in this section.
- E. When insurance coverage is renewed, Contractor shall provide new certificates of insurance prior to expiration of current policies to all contracting agencies.

XI. Nondiscrimination. A Contractor, who is the recipient of MWCOG and/or member funds, or who proposes to perform any work or furnish any goods under this Contract, shall not discriminate against any worker, employee or applicant because of religion, race, sex, age, sexual orientation, physical or mental disability, or perceived disability. Contractor further agrees that this provision will be incorporated in all sub-contracts entered into in connection with this Contract.

XII. Ownership of Documents and Materials.

- A. The Contractor agrees that all documents and materials, including but not limited to, reports, drawings, studies, specifications, estimates, maps, photographs, designs, graphics, mechanicals, artwork, and computations prepared by or for the Contractor under the terms of this Contract shall at any time during the performance of the services be made available to MWCOCG and/or members upon request and shall become and remain the exclusive property of MWCOCG and/or members upon termination or completion of the services. These jurisdictions shall have the right to use the same without restriction or limitation and without compensation to the Contractor other than that provided in this Contract. MWCOCG and/or members shall be the owner for the purposes of copyright, patent or trademark registration.
 - B. If the Contractor obtains or uses for purposes of this Contract, or subcontracts for, any design, device, material, or process covered by letters of patent for copyright, it shall provide an assignment to MWCOCG and/or members of ownership for purposes of copyright, patent or trademark and of all right to possess and to use such design, device, material or process and a legally sufficient agreement with the patentee or owner, and a copy of such agreement shall be filed with MWCOCG and/or members.
 - C. The Contractor shall indemnify and save harmless MWCOCG and/or members from any and all claims for infringement by reason of the use of any such patented design, device, materials, or process, or any trademark or copyright, and shall indemnify, protect and save harmless MWCOCG and/or members, their officers, agents, and employees with respect to any claim. Action, costs or infringement, for royalties or user fees, arising out of purchase or use of materials, construction, supplies, equipment or services covered by this Contract.
- XIII. Payments. Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after MWCOCG's and/or members receipt of a proper invoice from the Contractor.
- XIV. Records. Contractor shall maintain all fiscal records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Contract in such a manner as to clearly document Contractor's performance hereunder. Contractor acknowledges and agrees that the MWCOCG and/or members and their duly authorized representatives shall have access to such fiscal records and all other books, documents, papers, plans, and writings of the Contractor that are pertinent to this Contract. All such fiscal records, books, documents, papers, plans, and writing shall be retained by Contractor and kept accessible for a minimum of three (3) years, except as required longer by law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Contract, whichever date is later. All subcontracts shall also comply with these provisions.
- XV. Remedies.
- A. Corrections of errors, defect and omissions. Contractor agrees to perform the work as may be necessary to correct errors, defects, and omissions in the services required under this Contract, without undue delays and without cost to MWCOCG and/or members. The acceptance of the work set forth herein by MWCOCG and/or members shall not relieve the Contractor of the responsibility of subsequent corrections of such errors.

- B. Set Off. MWCOG and/or members may deduct from and set-off against any amounts due and payable to the Contractor any back-charges, penalties, or damages sustained by MWCOG and/or members, their agents, employees of recipients of its services, by virtue of any breach of this Contract by the Contractor or by virtue of the failure or refusal of the Contractor to perform the services or any part of the services in a satisfactory manner. Nothing herein shall be construed to relieve the Contractor of liability for additional costs resulting from a failure to satisfactorily perform the services.
- C. Cumulative. All rights and remedies of MWCOG/ members and Contractor shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of the MWCOG and/or members by law.

XVI. Responsibility of Contractor.

- A. The Contractor shall perform the services with the standard of care, skill, and diligence normally provided by a Contractor in the performance of services similar the services hereunder.
- B. Notwithstanding any review, approval, acceptance or payment for the services by MWCOG, the Contractor shall be responsible for the professional and technical accuracy of its work, design, drawings, specifications and other materials furnished by the Contractor under this Contract.
- C. If the Contractor fails to perform the services, or any part of the services, in conformance with the standard set forth in subparagraph A above, it shall, if required by MWCOG and/or members, perform at its own expense and without additional cost to MWCOG and/or members, those services necessary for the correction of any deficiencies or damages resulting, in whole or in part, from the Contractor's failure. This obligation is in addition to and not in substitution for any other remedy available to MWCOG and/or members under the "Remedies" paragraph, or otherwise available by law.

XVII. Severability/Waiver. MWCOG and/or members and Contractor agree that, if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid. The failure of either party to enforce any provision of this Contract shall not constitute a waiver by that party of that or any other provision of this Contract.

XVIII. Subcontracting or Assignment. The benefits and obligations hereunder shall inure to and be binding upon the parties hereto and neither this Contract nor the services to be performed hereunder shall be subcontracted, or assigned or otherwise disposed of, either in whole or in part, except with the prior written consent of MWCOG and/or members. MWCOG and/or members have the right to withhold such consent for any reason MWCOG and/or members deem appropriate.

XIX. Survival. The terms, conditions, representations, and all warranties contained in this Contract shall survive the termination or expiration of this Contract.

XX. Termination. If the Contractor fails to fulfill its obligations under the Contract properly

and on time, or otherwise violates any provision of the Contract, MWCOG and/or members may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at MWCOG's and/or members option, become MWCOG's and/or member's property. MWCOG and/or members shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and MWCOG and/or members can affirmatively collect damages.

- XXI. Termination of Contract for Convenience. The performance of work under this Contract may be terminated by MWCOG and/or members, in whole or in part, upon written notice to the Contractor, when MWCOG and/or members determines such termination is in the best interest of MWCOG and/or members. The termination for convenience is effective on the date specified in MWCOG's and/or members written notice. MWCOG and/or members will pay for all reasonable costs allocable to the Contract for work or costs incurred by the Contractor up to the date of termination. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination.
- XXII. Termination of Multi-Year Contract. If MWCOG and/or members fail to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be cancelled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either MWCOG's and/or members rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and MWCOG and/or members from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non- recurring costs incurred but not amortized in the price of the Contract. MWCOG and/or members shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.
- XXIII. Time is of the essence. Time is of the essence in Contractor's performance of each and every obligation and duty under this Contract.
- XXIV. Whole Contract. This Contract constitutes the complete and exclusive statement of the Contract between the parties relevant to the purpose described herein and supersedes all prior agreements or proposals, oral or written, and all other communication between the parties relating to the subject matter of this Contract.

(Revised 8/22/2017)

ATTACHMENT C
Certification Regarding Debarment, Suspension, and
Other Responsibility Matters

The Bidder certifies to the best of its knowledge and belief that it and its principals:

- Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any department or agency of the District of Columbia, State of Maryland or the Commonwealth of Virginia or any of the 24 jurisdictions comprising the membership of the Metropolitan Washington Council of Governments (MWCOG);
- Have not within a 3 year period preceding this date been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated above of this certification; and
- Have not within a 3-year period preceding this date had one or more public transactions (Federal, State or local) terminated for cause or default.

Bidder understands that a false statement on this certification may be grounds for rejection of any submitted proposal or quotation or termination of any award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both if federal funds are being used to support the procurement.

Typed Name of Bidder

Typed Name & Title of Authorized Representative

Signature of Authorized Representative

ATTACHMENT D
References Form

Name of Bidder _____

REFERENCES are to be provided from three (3) other clients who are being or have been provided by the Bidder similar products, services and scope of work.

Complete contact information for each reference, including name, telephone number, mailing address and E-mail address, must be included with the Bid.

A Bidder, which, in the sole judgment of MWCOG, lacks sufficient specific experience, may be deemed non-responsible, and may not be considered for award of subsequent contract(s).

1) Firm Name _____

Contact Name _____

Mail Address _____

Telephone Number _____ Email Address _____

2) Firm Name _____

Contact Name _____

Mail Address _____

Telephone Number _____ Email Address _____

3) Firm Name _____

Contact Name _____

Mail Address _____

Telephone Number _____ Email Address _____

ATTACHMENT E
Qualifications Form

Bidder Name: _____

Bidder certifies that it meets the qualifications in Section III of this IFB:

1. Bidder is licensed to do business in Maryland, Virginia, and the District of Columbia?

YES_____ NO_____

2. Bidder has at least three (3) years of experience providing **Bottled Water** to public agencies?

YES_____ NO_____

3. Bidder acknowledges the MWCOG Cooperative Rider Clause (Attachment A)?

YES_____ NO_____

Exceptions?*: YES_____ NO_____

**Please attach any exceptions to Attachment A on separate sheet(s) at the end of the bid submission.*

ATTACHMENT F
Bid Form

TO: Jayme Hardy, Cooperative Purchasing Program
Metropolitan Washington Council of Governments,
777 North Capitol Street, NE, Suite 300
Washington, DC 20002

BID: **19-005 – Bottled Water**

Please provide unit and annual price for **Bottled Water** for each Participating Agency in the table on the following page.

Please complete and sign below and return both pages of this Attachment in the bid submission.

<u>Bidders Check List</u>	<u>Acknowledged/Included</u>
Addendum #1 (Acknowledged)	_____
Attachment C - Certification Regarding Debarment, Suspension, and Other Responsibility Matters (Signed)	_____
Attachment D - References Form	_____
Attachment E – Qualifications Form	_____
Attachment F – Bid Form (Signed)	_____

I have read, understood, and agreed to the terms and conditions of all contents of this Bid. The undersigned agrees to furnish the commodity and/or service stipulated as stated in this Bid.

SIGNATURE: _____ DATE: _____

NAME: _____

COMPANY: _____

ADDRESS: _____

TELEPHONE: _____ FAX: _____

EMAIL: _____

{See Excel Attachment F to complete Bid Form submission.}