

TULARE COUNTY OFFICE OF EDUCATION

REQUEST FOR PROPOSAL

#19.03 Early Childhood Education Wireless Access Points E-RATE

Wireless Access Points

Issuing Date: 12/19/18

Due Date and Time: 1/23/19 @ 3:00:00 pm

**Tulare County Office of Education
6200 S. Mooney Blvd.
Visalia, CA 93277**

REQUEST FOR PROPOSAL

#19.03 Early Childhood Education Wireless Access Points E-RATE

TULARE COUNTY OFFICE OF EDUCATION

E-RATE YEAR 2019-2020

Service Provider Criteria and Contract Requirements

E-RATE SUPPLEMENTAL TERMS AND CONDITIONS

The Telecommunications Act of 1996 established a fund by which Schools and Libraries across the Country could access discounts on eligible telecommunications products and services. The program is commonly known as the E-Rate Program. The eligibility for discounts on internet access, telecommunications products and services, internal connection products, services and maintenance is determined by the Federal Communications Commission (FCC). Funding is made available upon application approval by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC), which was established by the Act. The amount of discount is based on the numbers of students receiving free and reduced price meals.

- The Tulare County Office of Education (District) project herein is contingent upon the approval of funding from the Universal Service Fund's Schools and Libraries Program District reserves the right to cancel this Request for Proposal (RFP) at any time or limit quantities due to insufficient or non-appropriation of funds.
- The District expects Service Providers (SP) to make themselves thoroughly familiar with any rules or regulations regarding the E-Rate program.
- SP are required to be in full compliance with all current requirements and future requirements issued by the SLD throughout the contractual period of any contract entered into as a result of this RFP.
- SP are responsible for providing a valid SP Identification Number (SPIN). More information about obtaining a SPIN may be found on the USAC website.
- SP are responsible for providing a valid FCC Registration Number (FRN) at the time the bid is submitted. More information about obtaining an FRN may be found on the FCC website.
- SP are responsible for providing evidence of FCC Green Light Status at the time the bid is submitted. Any potential bidder found to be in Red Light Status will be disqualified from participation in the bidding process and will be considered non-responsive. More information about FCC Red and Green Light Status may be found on the FCC website

- Products and services must be delivered before billing can commence. At no time may SP invoice before July 1, 2019.
- Prices must be held firm for the duration of the associated E-Rate Funding Year(s) or until all work associated with the project is complete (including any contract and USAC approved extensions).
- The SP agrees to bill and receive a portion of the payment for the provisions of goods and services described herein directly from USAC via the Form 474 SP Invoice (SPI). The District will only be responsible for paying its non-discounted share of costs and does not intend to use the BEAR process (Form 472). The maximum percentage the District will be liable for is the pre-discount amount minus the funded amount as shown on the FCC Form 471 Block 5 and any identified ineligible costs.
- All SP invoicing to USAC must be completed within 120 days from the last day of service. Should the SP fail to invoice USAC in a timely manner, the District will only be responsible for paying its non-discounted share.
- SP shall retain all documentation related to the purchase, payment, delivery and/or installation, including Forms 474 and receipt of payment from USAC, for all products and services provided to the District. Related documentation must be retained in accordance with USAC policy.
- The District retains the right to cancel this project in whole or in part, regardless of contract award or E-Rate funding approval. Execution of the project, in whole or in part, is solely at the discretion of the District.
- Within one (1) week of award, the awarded SP will provide the District with a bill of materials suitable for the Form 471 Item 21 Attachment. Approval for any deviation from the Item 21 Attachment must be obtained from District. Subsequent schedules of values and invoices for each site must match Item 21 Attachment or subsequent service substitutions.
- In the event of questions during an E-Rate pre-commitment review, post-commitment review and/or audit inquiry, the awarded SP is expected to reply within 3 days to questions associated with its proposal.
- No change in the products and/or services specified in this document orders will be allowed without prior written approval from the District and a USAC service substitution approval with the exception of a Global Service Substitutions.
- The SP acknowledges that all pricing and technology infrastructure information in its bid shall be considered as public and non-confidential pursuant to §54.504 (2)(i)(ii).
- The SP acknowledges that its offer is considered to be the Lowest Corresponding Price (LCP) pursuant to § 54.511(b). Should it not be the LCP, the SP must disclose the conditions leading to the District being charged in excess of LCP.

- This offer is in full compliance with USAC’s Free Services Advisory, located on the USAC website. There are no free services offered that would predicate an artificial discount and preclude the District from paying its proportionate non-discounted share of costs. The SP agrees to provide substantiating documentation to support this assertion should the District, USAC, or the FCC request it.
- The awarded SP is required to send copies of all forms and invoices to the District prior to invoicing USAC for pre-approval. Failure to comply with this requirement may result in the District placing the vendor on an “Invoice Check” with USAC. Details on “Invoice Check” can be obtained from the USAC website.
- Services providers must comply with the FCC rules for LCP. Details on LCP can be obtained from the USAC website.

Prospective SP will be required to submit the following:

Three (3) references describing SP portfolio experience with comparable projects within a K-12 customer market; SP SPIN number; and SP FCC FRN. Failure of SP to supply these documents shall be considered grounds for disqualification.

SP must meet the following qualifications to be considered for award. Documentation regarding the following qualifications MUST be included in the SP proposal. Non-inclusion of applicable documents is basis for disqualification.

1. When providing electronic equipment quotes for switches/hubs/routers/access points, SP must have at least one (1) Certified Engineer or equivalent on staff.
2. If requested by the District, SP must be willing to have employees fingerprinted at no cost to the District.
3. All product pricing provided for Form 471 purposes must be functional equivalent or better, once the District has received USAC approval for purchase.
4. SP shall provide references for staff to be associated with project work and implementation.
5. SP shall provide **three (3)** original RFP Responses; and **one (1)** digital copy of the RFP submittal, including the summary sheet.

Right to Reject Any and All Quotes

The District reserves the right to reject any or all quotation submittals and to waive any informalities or regularities. The SP quotation submission is recognition of this right.

In addition, the District reserves the right to fund, (proceed with project or purchase) or not to fund, regardless of E-Rate approval.

Evaluation Criteria

Tulare County Office of Education, in compliance with FCC rules, will award to the SP providing the most cost-effective service offering. Per the Sixth Report and Order, FCC 10-175, FCC rules dictate the following:

§ 54.503 (c)(2)(vii) *All bids submitted for eligible products and services will be carefully considered, with price being the primary factor, and the bid selected will be for the most cost-effective service offering consistent with § 54.511.*

§ 54.511 Ordering Services (a) *Selecting a provider of eligible services. In selecting a provider of eligible services, schools, libraries, library consortia, and consortia including any of those entities shall carefully consider all bids submitted and must select the most cost-effective service offering. In determining which service offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers, but price should be the primary factor considered.*

Therefore, the District may consider factors other than price in the consideration of bids; price for E-Rate eligible goods and services will be the primary factor considered.

Trade Names and Alternatives

For convenience in designation on the plans or in the specifications, certain articles or materials to be incorporated in the work may be designated under a trade name or in the name of a manufacturer. Whenever in specifications any materials, process, or article is indicated or specified by grade, patent, or proprietary name or by name of manufacturer, such specification shall be deemed to be used for the purpose of facilitating description of material, process or article desired and shall be deemed to be followed by the words "or equal," and SP may, unless otherwise stated, offer any material, process or article which shall be substantially equal or better in every respect to that so indicated or specified. Burden of proof as to equality of any material, process or article shall rest with service provider. SP shall submit request together with substantiating data for substitution of any "or equal" item within the sealed bid packet at the closing of bids. Provision authorizing submission of "or equal" justification data shall not in any way authorize an extension of time of bid response.

Please note: All "or equal" components must not void and must be supported by corresponding manufacturer warranty.

Submission Instructions

SP shall provide **three (3)** original RFP Responses; and **one (1)** digital copy of the RFP submittal. Any questions regarding RFP shall be submitted in writing to the Form 470 contact contained herein. Email inquiries are acceptable. The District will not respond to phone call inquiries.

E-mail inquiries are to be sent to the following e-mail address no later than **1/11/19**

ERate@TCOE.org

There is no mandatory walk-thru

RFP's should include line item by item pricing inclusive of all taxes, shipping and delivery.

All RFP responses must be submitted in writing **BY 1/23/19 @ 3:00:00 pm** to the contact information contained herein:

Tulare County Office of Education
ATTN: General Services
6200 S. Mooney Blvd.
Visalia, CA 93277

REQUEST FOR PROPOSAL
TULARE COUNTY OFFICE OF EDUCATION
E-RATE YEAR 2019/2020

PROJECT SPECIFICATIONS

Scope of Bid

Provide quote for the purchase of:

- 38 Meraki MR52 Access Points
- Licensing for the device configuration (cloud) interface for all units for the duration of the product life, set to be seven (7) years based on current technology available
- No end user equipment is to be included in the quote

Specifications

The overall outcome of this purchase is to provide an extremely cost-effective, user manageable wireless access local network that can be installed and fundamentally maintained by existing District staff with little to no additional training necessary. **Access Points must be fully compatible with existing Cisco Catalyst / Meraki switching already in place. If submitting a bid with functional equivalent hardware, please include proof of compatibility with Cisco Catalyst / Meraki switches.**

Access Points must utilize centralized management via the cloud, without the need for onsite wireless controllers, also capable of “hands-off” access point provisioning, network-wide visibility and control, cloud-based RF optimization, and automatic firmware updates. Configuration should utilize a browser-based user interface, without the need for extensive training or a dedicated installation staff.

APs must have and/or support:

- Cloud management
- Network-wide visibility and control
- Self-provisioning for rapid deployment
- Automatic reporting
- Seamless firmware updates
- Integrated Layer 7 firewall with mobile device policy management
- Global L7 traffic analytics reporting per network, per device, & per application
- Layer 7 application traffic identification and shaping
- TKIP and AES encryption
- EAP-TLS, EAP-TTLS, EAP-MSCHAPv2, EAP-SIM
- WEP, WPA, WPA2-PSK, WPA2-Enterprise with 802.1X
- Embedded location analytics reporting and device tracking
- WEP, WPA, WPA2-PSK, WPA2-Enterprise with 802.1X
- Real-time WIDS/WIPS with alerting and automatic rogue AP containment with Air Marshal
- Flexible guest access with device isolation
- SU-MIMO and MU-MIMO support

Functionality should allow for: administrator to end user device specific policies that can be automatically applied to restrict, quarantine, or throttle user owned devices by type, class, MAC, or IP. Also for Layer 7 identification and application QoS to permit bandwidth throttling and traffic shaping from the cloud interface for all the AP devices inclusively across the network.

Please provide a quote based on the following:

Sites

Burton CDC		2375 W Morton Porterville, CA 93257	Quantity
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		1
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		1
Clinite CDC		1073 W Sonora Tulare, CA 93274	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		2
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		2
Cutler 2 CDC		12890 School Ave Cutler, CA 93615	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		3
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		3
Dinuba 1 CDC		355 E Saginaw Dinuba, CA 93618	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		2
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		2
Doyle CDC		1045 E Orange Porterville, CA 93257	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		1
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		1
Earlimart CDC		949 E School Ave Earlimart, CA 93219	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		3
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		3
Fairview CDC		2645 N Conyer Visalia, CA 93291	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		2
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		2
Granite Hills CDC		1701 E Putnam Porterville, CA 93257	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		1
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		1

Ivanhoe CDC		15916 Ave 332 Ivanhoe, CA 93235	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		2
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		2
London CDC		5772 Ave 378 Dinuba, CA 93618	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		3
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		3
Maple CDC		501 W Maple Tulare, CA 93274	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		3
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		3
N Visalia CDC		247 W Ferguson St. Visalia, CA 93291	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		1
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		1
Porterville Educational Complex		914 Pioneer Ave Porterville, CA 93257	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		2
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		2
Pixley CDC		210 N School St. Pixley, CA 93256	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		1
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		1
Porterville CDC		254 W Orange Ave Porterville, CA 93257	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		2
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		2
Richgrove CDC		20812 Grove Dr. Richgrove, CA 93261	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		3
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		3
Senaida Garcia CDC		528 S Chinowth Visalia, CA 93277	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		2
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		2
Snowden CDC		301 S Farmersville Blvd. Farmersville, CA 93223	
Product	Description		
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP		1
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License		1

Tipton CDC 370 N Evans Rd. Tipton, CA 93272

Product	Description	
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP	1
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License	1

Woodlake CDC 560 Sequoia Woodlake, CA 93286

Product	Description	
MR52-HW	Preliminary US GPL - Meraki MR52 Cloud Managed AP	2
Cloud License	Minimum 7 year Preliminary US GPL – Meraki MR Ent License	2

PROPOSAL SUBMISSION FORM

Tulare County Office of Education
Attn: General Services

Re: E-Rate RFP #19.03
Early Childhood Education Wireless Access Points

Name of Company _____

Address _____

Tax I.D. Number _____

SPIN _____

The undersigned, doing business under the full and complete legal firm name as set forth below, having examined the Request for Proposal , Instructions to Proposers, the General Conditions, the Specifications, the Agreement, and all other documents forming a part of the RFP package for the above-referenced RFP, hereby proposes to perform the Agreement, including all of its component parts, and to furnish all materials called for by them for the entire order for the prices set forth in the quotations sheets contained in said RFP package. The entire package is submitted, together with this RFP Proposal Form.

Authorized Representative:

Signature Date

Name

Title

Phone

Fax

Email

PRICING FORM

Pursuant to and in compliance with the Contract Documents, the undersigned Proposer, having thoroughly examined and familiarized himself with the terms of the Contract and the local conditions affecting the performance of the Contract hereby proposes and agrees to perform, within the time stipulated, the Contract, including all of its component parts, and everything required to be performed, including its acceptance by the District and to provide and furnish any and all of the labor, materials, tools, expendable equipment, and all utility and transportation services necessary to perform the Contract and complete in a workmanlike manner all of the work required in connection with the Projects described herein.

Proposers are advised that the scope of work may be added to or reduced depending upon E-Rate funding and District budgets.

Item No.	Model No.	Description	E-Rate Eligible	Non-E-Rate Eligible	Sales Tax	Shipping	Total
1	MR52-HW	Preliminary US GPL - Meraki Cloud Managed AP					
2	Cloud License	Minimum 7 year Preliminary US GPL - Meraki MR Ent License					
Grand Total							

BID BOND

KNOW ALL MEN BY THESE PRESENTS that we the undersigned _____ as Principal and _____ as Surety, are hereby held and firmly bound unto the _____ "Owner" in the sum of _____ Dollars (\$_____) for payment of which sum, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

The condition of the above obligation is such that whereas the Principal has submitted to the Owner a certain bid, attached hereto and hereby made a part hereof, to enter into a Contract in writing for the construction of _____ in strict accordance with Contract Documents.

NOW, THEREFORE,

- a. If said bid shall be rejected, or, in the alternative;
- b. If said bid shall be accepted and the Principal shall execute and deliver a contract in the form of agreement attached hereto and shall execute and deliver Performance and Payment Bonds in the forms attached hereto (all properly completed in accordance with said bid), and shall in all other respects perform the agreement created by the acceptance of said bid;

Then this obligation shall be void, otherwise the same shall remain in full force and effect, it being expressly understood and agreed that the liability of the Surety for any and all default of the Principal hereunder shall be the amount of this obligation as herein stated.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract on the call for bids, or to the Work to be performed hereunder, or the specifications accompanying the same, shall in any way affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of said Contract or the call for bids, or to the Work, or to the specifications.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under several seals this ____ day of _____, _____, the name and corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body. In the presence of:

(Notary Seal)

(Principal)

(Business Address)

(Corporate Surety)

(Business Address)

By: _____

The rate or premium of this bond is _____ per thousand, the total amount of premium charged, \$_____.

(The above must be filled in by Corporate Surety).

**NONCOLLUSION DECLARATION
TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID**

Owner: Tulare County Office of Education

Contract for: Early Childhood Education Wireless Access Points E-Rate

The undersigned declares:

I am the _____ of _____, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____, 20__, at _____ [city], _____ [state].

Signature

Print Name

DRUG-FREE WORKPLACE CERTIFICATION

This Drug-Free Workplace Certification is required pursuant to Government Code Sections 8350 *et seq.*, the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for the procurement of any property or services from any State agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract awarded by a State agency may be subject to suspension of payments or termination of the contract, or both, and the contractor may be subject to debarment from future contracting if the state agency determines that specified acts have occurred.

Pursuant to Government Code Section 8355, every person or organization awarded a contract or grant from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the person's or organization's workplace and specifying actions which will be taken against employees for violations of the prohibition;
- (b) Establishing a drug-free awareness program to inform employees about all of the following:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The person's or organization's policy of maintaining a drug-free workplace;
 - (3) The availability of drug counseling, rehabilitation and employee-assistance programs;
 - (4) The penalties that may be imposed upon employees for drug abuse Violations;
- (c) Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code Section 8355 listed above and will publish a statement notifying employees concerning (a) the prohibition of controlled substance at the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by Section 8355(a) and requiring that the employee agree to abide by the terms of that statement.

I also understand that if the Owner determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of Section 8355, that the contract or grant awarded herein is subject to suspension of payments, termination, or both. I further understand that should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of Section 8350 *et seq.*

I acknowledge that I am aware of the provisions of Government Code Section 8350 *et seq.* and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

Name of Contractor

Date

Print Name

Signature

WORKERS' COMPENSATION CERTIFICATE

Labor Code Section 3700, in relevant part, provides:

"Every employer except the state shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer or as one employer in a group of employers. Said certificate may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees, ... "

I am aware of the provisions of the Labor Code Section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract. I shall supply the Owner with certificates of insurance evidencing that Workers' Compensation Insurance is in effect and providing that the Owner will receive thirty (30) days' notice of cancellation.

Name of Contractor

Date

Print Name

Signature

(In accordance with Article 5 (commencing at Section 1860), Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under the contract.)