STATE OF NORTH CAROLINA **DEPARTMENT OF PUBLIC SAFETY** Juvenile Justice and Delinquency Prevention	**INVITATION FOR BIDS NO. 19-IFB-1262256947-PTW**
	Offers will be publicly opened: September 8, 2025, at 2:00pm, ET
	Issue Date: August 4, 2025
Refer ALL inquiries regarding this IFB to: Tim Pendergrass Procurement Specialist III (919) 324-6473	**Commodity Number:** 721517 Safety and Security System Installation Services
	Description: Electronic Security and Control Systems
	Using Agency: Department of Public Safety
See page 3 for mailing instructions.	**Requisition No.:** RQ136570

OFFER AND ACCEPTANCE

The State seeks offers for the goods, software, and/or services described in this solicitation. The State's acceptance of any offer must be demonstrated by execution of the acceptance found below and any subsequent Request for Best and Final Offer, if issued. Acceptance shall create a contract having an order of precedence as follows: In cases of conflict between documents comprising the contract, the order of precedence shall be (1) Best and Final Offers, if any, (2) special terms and conditions specific to this IFB, (3) specifications, (4) Department of Information Technology Terms and Conditions of this IFB, and (5) the agreed portions of the awarded Vendor's offer. **No contract shall be binding on the State until an encumbrance of funds has been made for payment of the sums due under the contract.**

The State reserves the right to make partial, progressive or multiple awards: where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated specifications as to quantity, quality, delivery, service, geographical areas; and where other factors are deemed to be necessary or proper to the purchase in question.

EXECUTION

In compliance with this Invitation for Bid, and subject to all the conditions herein, the undersigned offers and agrees to furnish any or all Services or goods upon which prices are offered, at the price(s) offered herein, within the time specified herein. By executing this offer, I certify that this offer is submitted competitively and without collusion.

Failure to execute/sign offer prior to submittal shall render offer invalid. Late offers are not acceptable.

OFFEROR:			
STREET ADDRESS:		P.O. BOX:	ZIP:
CITY, STATE & ZIP:		TELEPHONE NUMBER:	TOLL FREE TEL. NO
PRINT NAME & TITLE OF PERSON SIGNING:		FAX NUMBER:	
AUTHORIZED SIGNATURE:	DATE:	E-MAIL:	

Offer valid for sixty (60), days from date of offer opening unless otherwise stated here: ____ days

ACCEPTANCE OF OFFER

If any or all parts of this IFB are accepted, an authorized representative of North Carolina Department of Public Safety shall affix their signature hereto. A copy of this acceptance will be forwarded to the successful vendor(s).

FOR STATE USE ONLY

Offer accepted and contract awarded this ______ day of _____________________, 20____, as indicated on attached certification,

by ____ (Authorized representative of North Carolina Department of Public Safety).

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1.0 INTENT, USE, DURATION AND SCOPE

The purpose of this IFB is to obtain pricing for and procure services for the Section 1: Evaluation & Confidence Testing (E&CT), Section 2: Annual Service, and Section 3: Annual Preventive Maintenance of all Electronic Security & Control Systems currently installed in the NCDPS Division of Juvenile Justice & Delinquency Prevention facilities. Products and Services will be provided in accordance with the terms and conditions of this IFB.

2.0 GENERAL INFORMATION

2.1. SITE VISIT

MANDATORY PRE-OFFER CONFERENCE

Due Date: August 26, 2025.
Time: 10:00AM Eastern Time

Instructions: It shall be MANDATORY that each Vendor representative be present for a *pre-offer conference* on August 28, 2025. Attendees must meet promptly at **10:00AM Eastern Time at 3040 Hammond Business Place, Raleigh, NC. 27610, Building 1, Room #: 144**. All attendees must sign in upon arrival. LATE ARRIVALS WILL NOT BE ALLOWED TO SIGN IN, NOR SHALL THEIR OFFER BE CONSIDERED. Late arrivals may be excluded from the meeting room until all on-time attendees have completed sign-in and the sign-in sheet secured. Once the sign-in process is complete, all other persons wishing to attend may do so to the extent that space and circumstances allow. On-time attendance will be strictly enforced.

The purpose of this visit is for all prospective Vendors to apprise themselves with the conditions and requirements which will affect the performance of the work called for by this IFB. Vendors shall be required to sign a Non-Disclosure to attend the pre-offer conference and bid on this IFB. Vendors must stay for the duration of the site visit. No allowances will be made for unreported conditions that a prudent Vendor would recognize as affecting the work called for or implied by this offer.

Vendors are cautioned that any information released to attendees during the site visit, other than that involving the physical aspects of the facility referenced above, and which conflicts with, supersedes, or adds to requirements in this IFB, must be confirmed by written addendum before it can be considered to be a part of this offer.

2.2. VENDOR QUESTIONS

All inquiries regarding the solicitation specifications or requirements are to be addressed to the contact person listed on Page One (1) of this solicitation. Vendor contact regarding this Solicitation with anyone other than the contact person listed on Page One of this Solicitation may be grounds for rejection of said Vendor's offer.

Written questions concerning this Solicitation will be received until August 27, 2025, at 2:00 pm Eastern Time. They must be submitted to the contact person listed on Page One (1) of this Solicitation via tim.pendergrass@ncdps.gov. Please enter "Questions Solicitation XXXX" as the subject for the message. Questions should be submitted in the following format:

REFERENCE	VENDOR QUESTION
IFB Section, Page Number	

2.3. ADDENDA

The State may issue addenda if Vendor questions are permitted as described above, or if additional terms, specifications, or other changes are necessary for this procurement. It is important that all Vendors bidding on this IFB periodically check the NC eVP for any and all Addenda that may be issued prior to the offer opening date. All addenda shall become an Addendum to this IFB.

2.4. OFFER SUBMITTAL

Due Date:	September 8, 2025
Time:	2:00pm, Eastern Time

MICROSOFT TEAMS BID OPENING:

Microsoft Teams Need help?
Join the meeting now
Meeting ID: 248 942 736 935
Passcode: Nv3Jm7Xa

Dial in by phone
+1 984-204-1487,,681339092# United States, Raleigh
Find a local number
Phone conference ID: 681 339 092#
Join on a video conferencing device
Tenant key: ncgov@m.webex.com
Video ID: 114 561 245 8

IMPORTANT NOTE: Vendor shall bear the risk for late submission due to unintended or unanticipated delay—whether submitted electronically, delivered by hand, U.S. Postal Service, courier or other delivery service. **Vendor must include all the pages of this solicitation in their response.** It is the Vendor's sole responsibility to ensure its offer has been delivered to this Office by the specified time and date of opening. Any proposal-delivered after the proposal deadline will be rejected.

Offer Submission Details:

IMPORTANT NOTE: This is an absolute requirement. Late bids, regardless of cause, will not be opened or considered, and will be automatically disqualified from further consideration. Vendor shall bear the sole risk of late submission due to unintended or unanticipated delay. It is the Vendor's sole responsibility to ensure its bid has been received as described in this IFB by the specified time and date of opening. Failure to submit a bid in strict accordance with instructions provided shall constitute sufficient cause to reject a Vendor's bid(s). Solicitation responses are subject to Sealed Bidding requirements.

Vendor's bids for this procurement must be submitted through the Sourcing Tool. For training on how to use the Sourcing Tool to view solicitations, submit questions, develop responses, upload documents, and submit offers to the State, Vendors should go to the following site: https://eprocurement.nc.gov/training/vendor-training

Questions or issues related to using the Sourcing Tool itself can be directed to the North Carolina eProcurement Help Desk at 888-211-7440, Option 2. Help Desk representatives are available Monday through Friday from 7:30 AM EST to 5:00 PM EST.

Tips for Using the Sourcing Tool

1. Vendors should review available training and confirm that they are able to access the Sourcing Event, enter responses, and upload files well in advance of the date and time response are due to allow sufficient time to seek assistance from the North Carolina eProcurement Help Desk.

2. Vendors may submit their responses early to make sure there are no issues, and then submit a revised response any time prior to the response due date and time. The State will only review the most recent response.

3. Vendors should respond to all relevant sections of the Sourcing Event. Certain questions or items are required in order to submit a response and are denoted with an asterisk. The Sourcing Tool will not allow a response to be submitted unless all required items are completed. The Sourcing Tool will provide error messages to help identify any required information that is missing when response is submitted.

4. Simply saving your response in the Sourcing Tool is not the same as submitting your response to the State. Vendors should make sure they complete the submission process and receive a message that their response was successfully submitted.

Only Bids submitted through the Content Section of the Ariba Sourcing Event will be considered. Bids submitted through the Message Board will not be accepted or considered for award.

2.5. BASIS FOR REJECTION

Pursuant to 9 NCAC 06B.0401, the State reserves the right to reject any and all offers, in whole or in part; by deeming the offer unsatisfactory as to quality or quantity, delivery, price or service offered; non-compliance with the specifications or intent of this solicitation; lack of competitiveness; error(s) in specifications or indications that revision would be advantageous to the State; cancellation or other changes in the intended project, or other determination that the proposed requirement is no longer needed; limitation or lack of available funds; circumstances that prevent determination of the best offer; or any other determination that rejection would be in the best interest of the State. Vendor contact regarding this IFB with anyone other than Tim Pendergrass may be grounds for rejection of said Vendor's offer.

2.6. LATE OFFERS

Regardless of cause, late offers will not be accepted and will automatically be disqualified from further consideration. It shall be the Vendor's sole risk to ensure delivery at the designated office by the designated time. Late offers will not be opened and may be returned to the Vendor at the expense of the Vendor or destroyed if requested.

2.7. NON-RESPONSIVE OFFERS

Vendor offers will be deemed non-responsive by the State and will be rejected without further consideration or evaluation if statements such as the following are included:

- "This offer does not constitute a binding offer",
- "This offer will be valid only if this offer is selected as a finalist or in the competitive range",
- "Vendor does not commit or bind itself to any terms and conditions by this submission",
- "This document and all associated documents are non-binding and shall be used for discussion purposes only",
- "This offer will not be binding on either party until incorporated in a definitive agreement signed by authorized representatives of both parties", or
- A statement of similar intent.

2.8. NOTICE TO VENDORS

The State objects to and will not be required to evaluate or consider any additional terms and conditions not previously agreed to by the State and submitted with an Offeror's response. This applies to any language appearing in or attached to the document as part of the Offeror's response. By execution and delivery of this Invitation for Bids and response(s), the Offeror agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect.

2.9. E-PROCUREMENT SOLICITATION

This is an E-Procurement solicitation. See Paragraph #47 of the attached Department of Information Technology Terms and Conditions.

The Terms and Conditions made part of this solicitation contain language necessary for the implementation of North Carolina's statewide E-Procurement initiative. It is the Vendor's responsibility to read these terms and conditions carefully and to consider them in preparing the offer. By signature vendor acknowledges acceptance of all terms and conditions including those related to E-Procurement.

a) General information on the E-Procurement service can be found at http://eprocurement.nc.gov/

b) Within two (2) days after notification of award of a contract, vendor must register in NC E-Procurement @ Your Service at the following web site: https://vendor.ncgov.com/vendor/login

c) As of the IFB submittal date, the Vendor must be current on all e-Procurement fees. If the Vendor is not current on all E-Procurement fees, the State may disqualify the Vendor from participation in this IFB.

2.10. DISTRIBUTORS AND RESELLERS - RESERVED

2.11. POSSESSION AND REVIEW

During the evaluation period and prior to award, possession of the bids and accompanying information is limited to personnel of the issuing agency, and to the committee responsible for participating in the evaluation. Vendors who attempt to gain this privileged information, or to influence the evaluation process (i.e. assist in evaluation) will be in violation of purchasing rules and their offer will not be further evaluated or considered.

After award of contract the complete bid file will be available to any interested persons with the exception of trade secrets, test information or similar proprietary information as provided by statute and rule. Any proprietary or confidential information, which conforms to exclusions from public records as provided by N.C.G.S. §132-1.2 **must be clearly marked as such in the offer when submitted.**

2.12. BEST AND FINAL OFFERS (BAFO)

The State may establish a competitive range based upon evaluations of offers, and request BAFOs from the Vendor(s) within this range; e.g. "Finalist Vendor(s)". If negotiations or subsequent offers are solicited, the Vendor(s) shall provide BAFO(s) in response. Failure to deliver a BAFO when requested shall disqualify the non-responsive Vendor from further consideration. The State will evaluate BAFO(s), oral presentations, and product demonstrations as part of the Vendors' respective offers to determine the final rankings.

2.13. AWARD

It is the general intent to award this contract to one (1) Vendor. As provided by statute, award will be based on Best Value Analysis, Lowest Price Technically Acceptable Source Selection Method in accordance with N.C.G.S. §143B-1350(h), which provides that the offer must be in substantial conformity with the specifications herein, and 09 NCAC 06B.0302.

A link to the NC Electronic Vendor Portal (eVP) allows the public to retrieve contract award information electronically from the web site: https://evp.nc.gov/ Results may be found by searching by IFB number or agency name. This information may not be available for several weeks dependent upon the complexity of the acquisition and the length of time to complete the evaluation process.

2.14. POINTS OF CONTACT (FOR COMPLETION BY VENDOR)

Contact by the Offeror with the persons shown below for contractual and technical matters related to this IFB is only permitted if expressly agreed to by the purchasing lead named on page 5, or upon award of contract:

Vendor Contractual Point of Contact	Vendor Technical Point of Contact
Name of Vendor: ____________________________ **Street: ____________________________________** **City, State, Zip: ____________________________** **Attn: ______________________________________**	**Name of Vendor: ____________________________** **Street: ____________________________________** **City, State, Zip: ____________________________** **Attn: ______________________________________**

3.0 SPECIFICATIONS

3.1. VENDOR STANDARD AGREEMENT(S)

The terms and conditions of Vendor's standard services, license, maintenance or other agreement(s) applicable to Services, Goods, Software and other Products acquired under this Agreement may apply to the extent such terms and conditions do not materially change the terms and conditions of this Agreement. In the event of any conflict between the terms and conditions of this Agreement and the Vendor's standard agreement(s), the terms and conditions of this Agreement relating to audit and records, jurisdiction, choice of law, the State's electronic procurement application of law or administrative rules, the remedy for intellectual property infringement and the exclusive remedies and limitation of liability in the DIT Terms and Conditions herein shall apply in all cases and supersede any provisions contained in Vendor's relevant standard agreement or any other agreement. The State shall not be obligated under any standard license and/or maintenance or other Vendor agreement(s) to indemnify or hold harmless the Vendor, its licensors, successors or assigns; nor arbitrate any dispute, nor pay late fees, legal fees or other similar costs.

3.2. VENDOR UTILIZATION OF WORKERS OUTSIDE U.S.

In accordance with N.C.G.S. §143B-1361(b), Vendor must detail in the IFB response, the manner in which it intends to utilize resources or workers located outside the U.S. The State of North Carolina will evaluate the additional risks, costs, and other factors associated with such utilization prior to making an award for any such Vendor's offer. The Vendor shall provide the following for any offer or actual utilization or contract performance:

a) The location of work performed under a state contract by the Vendor, any subcontractors, employees, or other persons performing the contract and whether any of this work will be performed outside the United States.

b) The corporate structure and location of corporate employees and activities of the Vendors, its affiliates or any other subcontractors.

c) Notice of the relocation of the Vendor, employees of the Vendor, subcontractors of the Vendor, or other persons performing Services under a state contract outside of the United States.

d) Any Vendor or subcontractor providing call or contact center Services to the State of North Carolina shall disclose to inbound callers the location from which the call or contact center Services are being provided.

Will any work under this contract be performed outside the United States? ☐ YES ☐ NO

If Vendor answered "YES" above, list the location(s) outside the United States where work under this contract will be performed by Vendor, any sub-contractors, employees, or other persons performing work under the contract.

____

3.3. E-VERIFY

Pursuant to N.C.G.S. § 143B-1350(k), the State shall not enter into a contract unless the awarded Vendor and each of its subcontractors comply with the E-Verify requirements of N.C.G.S. Chapter 64, Article 2. Vendors are directed to review the foregoing laws. Any awarded Vendor must submit a certification of compliance with E-Verify to the awarding agency, and on a periodic basis thereafter as may be required by the State.

3.4. PRODUCT MAKE AND MODEL - RESERVED

3.5. DESCRIPTIVE LITERATURE - RESERVED

3.6. SECURITY SPECIFICATIONS

3.6.1 SOLUTIONS HOSTED ON STATE INFRASTRUCTURE

Vendors shall provide a completed Vendor Readiness Assessment Report State Hosted Solutions ("VRAR") at offer submission. This report is located at the following website:
https://it.nc.gov/documents/vendor-readiness-assessment-report
The *Electronic Security and Control Systems Assessment* will be required to receive and securely manage data that is classified as *Medium Risk (Restricted) IV. Security Features – (Electronic Security Systems)*. Refer to the North Carolina Statewide Data Classification and Handling policy for more information regarding this data classification. The policy is located at the following website: https://it.nc.gov/document/statewide-data-classification-and-handling-policy
To comply with the State's Security Standards and Policies, State agencies are required to perform annual security/risk assessments on their information systems using NIST 800-53 controls.

3.7. ENTERPRISE ARCHITECTURE SPECIFICATIONS - RESERVED

3.8. PRODUCT RECALL

Vendor assumes full responsibility for prompt notification of both the contract administrator and purchaser of any product recall in accordance with the applicable state and federal regulations.

3.9. WARRANTY

Vendor warrants that all equipment furnished under this IFB will be new, of good material and workmanship. The warranty will be for a minimum period of twelve (12) months from date equipment is put into operation. Such warranty shall cover the cost of all defective parts replacement, labor, freight, and technicians travel at no additional cost to the State.

The report of a problem does not presuppose that every call must result in an "on-site" visit for service/repair. The Vendor and/or service sub-contractor shall utilize best efforts to resolve problems in a timely fashion through the use of acceptable servicing methods to include, but not limited to, verbal problem analysis and remote diagnosis. The warranty requirement does not impose any additional duty on the State to make other than normal and good faith problem resolution efforts or expenditures of time. Vendor is responsible for compliance with warranty terms by any third-party service provider.

Is Vendor authorized by manufacturer to repair equipment offered during the warranty period?

☐ YES ☐ NO

Will Vendor provide warranty service? ☐ YES ☐ NO, an authorized third party will perform warranty service.

Contact information for warranty service provider:

Company Name: ______________________________

Company Address: ______________________________

____

Contact Person: ______________________________

Contact Person Phone Number: ______________________________

Contact Person Email: ______________________________

3.10. MAINTENANCE

Vendor must offer at least one (1) additional year of annual maintenance for use after the initial one-year warranty period expires. The State may elect to receive approved provider's then-current maintenance service upon payment of applicable annual maintenance fees, beginning at the end of the warranty period. Maintenance services may be renewed upon written notice by the State prior to the contract anniversary date. Escalation of annual maintenance fees shall not exceed 5% per year. Any maintenance agreements shall be subject to the terms of this contract. For this period support must be provided 24/7/365 and response onsite shall be within 24 hours of notification by owner.

For completion by Vendor: Vendor's maximum response time to this location after receipt of service call: ______________________________ hours

Describe in detail the items and services to be covered under the extended maintenance:

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____

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3.11. CONTRACT TERM

A contract awarded pursuant to this IFB shall have an effective date as provided in the Notice of Award. The term shall be one (1) year and will expire upon the anniversary date of the effective date unless otherwise stated in the Notice of Award, or unless terminated earlier. The State retains the option to extend this contract for two (2) additional one (1) year periods at its sole discretion.

3.12. DELIVERY

Successful Vendor will complete the Phase 1 scope of work for all sites within 90 consecutive calendar days after receipt of purchase order to the locations listed in 3.13 -PART 2 - CONTRACT FACILITIES AND SYSTEMS COVERED. Phase 2 scope delivery will occur per 3.13 – Contract Requirements.

Delivery of professional services shall not be considered to have occurred until services have been completed. Upon completion of the services, the Vendor shall remove and properly dispose of all waste and debris from the service site. Vendor shall be responsible for leaving the service area clean and ready to use.

3.13 SCOPE OF WORK SPECIFIC TO THIS IFB

PART 1 – CONTRACT SECTIONS 1, 2, AND 3

GENERAL REQUIREMENTS – SECTIONS 1, 2 AND 3

A. SCOPE OF WORK

The scope of this IFB will include 3 sections and involves all Electronic Security & Control Systems currently installed in NCDPS-DJJ facilities. Section 1 will be an Evaluation & Confidence Testing (E&CT) contract, Section 2 will be a 24/7/365 Service contract, and Section 3 will be an Annual Preventive Maintenance contract. NCDPS DJJ division may exercise the option to award any or all sections of the contract. Bidders shall be fully capable of providing the tasks and deliverables described in all three (3) contract sections.

B. SYSTEMS INCLUDED

Systems included in the contract scope are listed in PART 2 (CONTRACT FACILITIES AND SYSTEMS COVERED) and PART 3 (ATTACHMENTS A, B, C, and D). PART 3 Attachments will be provided to interested bidders at mandatory pre-offer conference. Every effort was made to accurately inventory each system and identify all core system components in the PART 3 Inventory Summary Attachments. Slight variations in inventory quantities will exist between summary inventory data and actual installed systems.

C. CONTRACTOR PREQUALIFICATIONS

1. Acceptable bidders shall be a Detention Electronics Companies (DEC) and/or Detention Security Contractors (DSC). DEC and DSC will be referred to as “vendor(s)” or “the vendor(s)” throughout this document.
2. The Vendor shall have been actively engaged in DEC/DSC work for a minimum of 10 years performing detention electronics and detention locking installations and service in the correctional and detention environment. Provide documentation supporting experience with bid.
3. The Vendor shall have staff experienced in the maintenance and support of detention electronics. Vendor shall provide evidence of previous project experience and/or references for a minimum of 2 staff members.

4. The Vendor shall be capable of 24-hour onsite response to any NC DJJ facility included in contract scope documents. Any vendor submitting a bid is confirming that they can travel to and shall arrive at any of the contract facilities within 24-hours of service request.
5. The Vendor will have a staffing level that allows for, at a minimum, a primary and a secondary service technician to provide on-going diagnosis and repair of any included system. All vendor personnel involved in the performance of this contract shall be directly employed by and supervised by the Vendor. No subcontracting of any of the work to be done under this contract is to be made without specific, prior written approval by the Agency Contract Administrator.

SECTION 1 - SYSTEM EVALUATION & CONFIDENCE TESTING CONTRACT REQUIREMENTS

1. **EVALUATION & TESTING** – The purpose of this E&CT is to establish the overall operational status of DJJ electronic security and control systems. Vendor shall visit each site listed in PART 2 of this document to perform the Evaluation & Confidence Testing (E&CT) outlined below. All site visits shall be scheduled with the designated contract administrator (CA) or with the site personnel identified by the CA.

2. **REPORTING RESULTS** – Upon completion of the E&CT for all sites, the vendor shall provide a detailed report on the system testing. This report shall be categorized by the three (3) primary system types indicated in item number **7** below. The report shall include the results of all system testing to include the identification of operational and non-operational systems and system components. All system and system component deficiencies shall be clearly identified in the report. The final written report shall be submitted via electronic format and transmitted to the contract administrator(s) within two weeks of completion of testing.

3. Integration between systems including control actions initiated from control stations and security monitoring of security components by control stations shall be tested for proper operation.

4. Vendor shall connect to each system computer device (servers, workstations, Network Video Recorder (NVRs, etc.) for all system types to confirm proper operation of installed software applications and operating systems. Deficiencies with software application and operating system versions, licensing, or operation shall be identified in the report.

5. Vendor shall evaluate computer hardware for all system types to identify failed components using visual identification means or simple Microsoft Windows OS tools. No special software or diagnostic tools will be required but may be used. All clearly identifiable issues with computer hardware shall be identified in the report. Computer hardware shall include Video Management Servers, NVRs, Security System Workstations, Monitors, and any External Storage Systems.

6. The Vendor shall note any system that is operational but intentionally not being utilized by facility personnel.

7. **SPECIFIC E&CT SYSTEM TESTING REQUIREMENTS**
   - Integrated Door Control & Security Systems
     i. Vendor shall evaluate and test each integrated door control & security system component to ensure proper operational functionality.
     ii. Evaluate and Testing will include Programmable Logic Control (PLC) system, remote I/O devices, dedicated communication devices, power supplies, relays, touch panels, interface devices, intercom components, system computers, HMI (Human-Machine Interface) control software, and any supplemental system or component comprising the integrated security & door control system.

iii. Vendor shall connect to all PLC units via dedicated interface/programming software to ensure PLC program can be accessed and evaluated.
iv. Vendor to provide laptop and software required to perform connect to PLC units. This would include the standard programming suite of software specific to the PLC systems included in the system inventory information.
v. Vendor shall test each controlled door for proper operation to include swing door unlocking and locking, slider door opening and closing, security status monitoring of all monitored doors, and call button operation.
vi. All intercom communication systems shall be tested for proper operation to ensure proper intercom station call initiation and clear 2-way audio communications between intercom stations and intercom master station(s).
vii. Vendor shall perform operational and monitoring testing of all doors from each control station that controls and monitors that door.
viii. Vendor shall test each control station for proper operation to include pushbutton/indicator light control panels, HMI touch panels, and HMI software driven control computers. Vendor shall ensure all buttons and lights, (both physical and software driven), are operational.
ix. Vendor shall confirm proper operation of each detention locking device.

- <u>Card Access & Electronic KeyBox Systems</u>
  i. Vendor shall evaluate and test each card access system component to ensure proper operational functionality. This will include system servers, access control panels, dedicated client computers, door monitoring components, and system card readers/keypads.
  ii. Vendor shall specifically confirm operation of card access readers to ensure the reader operation unlocks associated door.
  iii. Vendor shall verify connection from access control management computer and software application to all card access control units.
  iv. Vendor shall verify proper integration between card access system and PLC system when such integration is present in the system design.
  v. Vendor shall evaluate and test each electronic keybox system component to ensure proper operational functionality. This will include the system management computer, software application, and connection from management computer to all keybox units.

- <u>Video Surveillance & Recording Systems</u>
  i. Vendor shall evaluate and test each video surveillance and recording system head-end processing and video storage system component to ensure proper operation. This will include system video management servers, network video recorders, video storage systems, and dedicated client computers.
  ii. Vendor shall evaluate and test each system communication device for proper operation. This will include all dedicated surveillance network switches and interface devices.
  iii. Vendor shall ensure that each camera is properly connected to the monitoring and recording device. Vendor shall ensure that each camera provides a clear live image to all clients and that the image is being properly recorded on the video management system or NVR.
  iv. Vendor shall note any trouble or fault indications on the final report. All individual system hard drives or SSD drives shall be evaluated to ensure proper operation.

<u>SECTION 2 - SERVICE CONTRACT REQUIREMENTS</u>

1. **REQUIRED RESPONSE** – Vendor shall provide twenty-four (24) hour, seven (7) day, 365 days a year response to system failures during the contract period. Vendor shall provide a 24/7/365 contact phone number. One hour telephone response to initial contact is required.

2. **REMOTE RESPONSE** – Vendor shall attempt remote response, diagnosis, and restoral via remote capabilities to include phone, text, email, or direct remote access connection to system. If remote response is not possible or remote technology is unavailable, DJJ personnel will request, and vendor shall provide onsite diagnosis and restoral response within 24 hours of DJJ providing notice of unsuccessful remote response.

3. **REMOTE ACCESS** – NCDPS and DJJ will work with vendor to establish VPN access to any system with remote access capabilities. Vendor may work with NCDPS and DJJ to establish additional remote capabilities at each site in accordance with NCDIT rules and regulations. Remote access may not be available to all systems.

4. **ONSITE RESPONSE** - If remote response is not successful, vendor shall respond onsite to facility within 24 hours to perform diagnosis and restoral of system to normal operational status. Vendor shall respond to site within 24 hours of onsite response request by DJJ personnel. Vendor personnel performing onsite service shall be fully capable of diagnosis and restoral of system during initial onsite service visit unless repair parts need to be acquired for restoral. Vendor personnel performing onsite service shall be fully capable of identifying any repair parts needed for system restoral.

5. **SERVICE REPORT** - Vendor will provide a service report for any remote and onsite service to one (1) of the identified DJJ Contract Administrators. The service report shall be provided within one week of service completion and include the services performed and the service hours to be charged for the service call. The DJJ contract administrator will review the service report and either approve the hours charged or discuss and negotiate the hours with the vendor. The service report shall be submitted via electronic format and transmitted to the contract administrator(s).

6. **SERVICE HOUR RATE STRUCURE** - Vendor shall provide labor hour rate structure for remote and onsite service. This will include service during normal working hours, after hours, weekends, and holidays. Any onsite service hours charged will include hours that begin at arrival to DJJ facility and end at departure from DJJ facility. Any expected travel time or per diem should be included in the base contract.

7. **REPAIR PARTS** – Vendor shall notify DJJ contract administrator (CA) and local site contacts of any parts required to restore the system to normal operation. CA will work with Vendor to identify source of repair part(s) which shall include DJJ inventory, vendor inventory, or 3rd party source. DJJ and vendor will agree on the option for repair part(s) source. Vendor will only warranty parts provided by Vendor.

SECTION 3 – PREVENTIVE MAINTENANCE CONTRACT REQUIREMENTS

1. **PM INTERVAL** – Vendor shall provide in base contract, the necessary man hours of onsite labor to complete a preventive maintenance service program once per year for each system covered in the contract.

2. **PM GENERAL SCOPE** – Vendor shall test each component of systems covered in the contract for proper operation. Integration between systems shall be tested for proper operation. All offline components and systems shall be noted. All damaged components and systems shall be noted. All components and systems shall be cleaned to remove dust and debris.

3. **PM DOCUMENTATION** – Vendor shall provide a detailed written report of the preventive maintenance service with all problems clearly identified. The final written report shall be submitted via electronic format and transmitted to the contract administrator(s) within 2 weeks of PM completion.

4. **PM SCHEDULING** – Vendor shall schedule each PM service with the designated contract administrator (CA) at the beginning of each contract period. The vendor and CA can negotiate alternate means of PM scheduling which may include direct scheduling with the individual facility. Preventive Maintenance shall be completed during hours of 7:30AM – 4:00PM, Monday through Friday, except for State Observed Holidays.

5. **DETAILED PM CHECKLIST** – Vendor at minimum shall provide the PM services included below. Vendor to develop and provide standard checklist to be filled out and provided to contract administrator(s) with PM report.

   a. Programmable Logic Control System (PLC)
      i. Back up each PLC CPU and turn copy of program data over to the Customer.
      ii. Check voltage levels at each system and power supply.
      iii. Ensure all cards are securely seated.
      iv. Note any physical damage to components.
      v. Check terminal connections.
      vi. Clean components of any dust and contamination accumulation.

   b. Touch Panel Units
      i. Check power supply to Touch Panel Units.
      ii. Verify proper touch screen communications and operation.
      iii. Remove all exterior and interior dust/contamination accumulation on Touch Panel units.
      iv. If applicable, calibrate Touch Panel screen.

   c. HMI Control System
      i. Inspect all workstations connected to HMI system for proper operation.
      ii. Inspect all touch monitors and standard monitors connected to HMI workstations for proper operation.
      iii. Remove all exterior and interior dust/contamination accumulation on HMI systems and equipment.
      iv. If applicable, calibrate HMI Touch Screens.

   d. Access Control System
      i. Verify proper operation of card access control management computer. Document current software license status.
      ii. Verify proper communications from management computer to all card access control panels.
      iii. Remove all exterior and interior dust/contamination accumulation on access control systems and equipment.

   e. Intercom System
      i. Inspect all field and master intercom stations for damage.
      ii. Confirm proper operation of intercom system including calls and 2-way communications.
      iii. Confirm sound level and quality in each area.
      iv. Remove dust and contamination accumulation on the head-end equipment.

   f. IP Video Surveillance & Recording Systems
      i. Check all video signals to ensure an active image.
      ii. Verify that all cameras are properly focused/aligned; adjust as necessary.

iii. Clean all head-end video processing NVR, Server, & Video Storage Equipment.
iv. Surface clean all viewing monitors of dust and contamination accumulation.
v. Verify operation of all dedicated video system client workstations and associated monitors.
vi. Clean all interior and exterior cameras to ensure proper image.
vii. Inspect and clean all surveillance system PoE network switches.

g. Detention Swing Door Devices
    i. Visual inspection of doors and locks for wear and tear.
    ii. Test functionality of locking device.
    iii. Test/adjust locks and DPS/LPS.
    iv. Clean and lubricate as necessary, (Per manufacturers specifications).
    v. Test/adjust all door closures as necessary.

h. Detention Sliding Door Devices
    i. Test overall functionality of door mechanism.
    ii. Check and lubricate locking mechanism.
    iii. Check bottom guide wear pads.
    iv. Clean roller track.
    v. Adjust lock bars, door drive brackets, & rollers as necessary.
    vi. Check and adjust DPS/LPS, and limit switches as necessary.
    vii. Check and adjust drive pressure and speed as necessary (if applicable)
    viii. Test functionality of locking device.

j. Detention Door Control Air Systems
    i. Adjust air pressure.
    ii. Check dryer filter and replace from customer spare parts inventory.
    iii. Drain the system and check the auto drain system.
    iv. Check and /or fill compressor pump with oil from customers spare parts.
    v. Check for oil leaks.
    vi. Inspect and replace drive belts, if necessary, replace from customer spare parts inventory.

PART 2 - CONTRACT FACILITIES AND SYSTEMS COVERED

1. **Alexander Regional Juvenile Detention Center (Alexander JDC)**
    - **Location – Taylorsville, NC**

    a. Omron PLC Based Integrated Door Control System
    b. Rauland/Borg Analog Intercom System
    c. Exacq/Hanwha Vision Based Surveillance & Recording System
    d. Detention Doors (Swing & Slider), Locks, DPS Devices, and Call Buttons

2. **Cabarrus Regional Juvenile Detention Center (Cabarrus JDC Kirk & McWhorter Buildings)**
    - **Location – Concord, NC**
    - **Some Interface with Cabarrus YDC Systems**

    a. Omron PLC Based Integrated Door Control System
    b. Omron HMI Door Control Touchscreens
    c. Hirsch/Identiv Card Access Control (Integrated w/PLC & Key Control)
    d. Exacq/Hanwha Vision Based Surveillance & Recording System
    e. Zenitel/Stentofon IP Intercom System
    f. Morse Watchman Electronic Key Control System
    g. Detention Doors (Swing & Slider), Locks, DPS Devices, and Call Buttons

3. **Cumberland Regional Juvenile Detention Center (Cumberland JDC)**
   - **Location – Fayetteville, NC**

   a. Exacq/Hanwha Vision Based Surveillance & Recording System
   b. Detention 120VAC Swing Door Locks, DPS Devices, and Call Buttons

4. **CA Dillon Regional Juvenile Detention Center (CA Dillon JDC)**
   - **Location – Butner, NC**
   - **Some Interface with CA Dillon Campus Systems**

   a. Omron PLC Based Integrated Door Control System
   b. Omron HMI Door Control Touchscreen
   c. Exacq/Hanwha Vision Based Surveillance & Recording System
   d. Aiphone Based IP Intercom System
   e. Detention Electric Swing Door Locks, DPS Devices, and Call Buttons

5. **Jenkins Juvenile Detention Center (Jenkins JDC)**
   - **Location – Hoffman, NC**

   a. Exacq/Hanwha Vision Based Surveillance & Recording System

6. **New Hanover Regional Juvenile Detention Center (New Hanover JDC)**
   - **Location – Castle Hayne, NC**

   a. Direct 120VAC Relay & Pushbutton Control
   b. Exacq/Hanwha Vision Based Surveillance & Recording System
   c. Detention 120VAC Swing Door Locks, DPS Devices, and Call Buttons

7. **Perquimans Regional Juvenile Detention Center (Perquimans JDC)**
   - **Location – Hertford, NC**

   a. Omron PLC Based Integrated Door Control System
   b. Omron HMI Door Control Touchscreen
   c. Exacq/Hanwha Vision Based Surveillance & Recording System
   d. Aiphone Based IP Intercom System
   e. Detention Pneumatic Swing Door Locks, DPS Devices, and Call Buttons

8. **Pitt Regional Juvenile Detention Center (Pitt JDC)**
   - **Location – Greenville, NC**

   a. Exacq/Hanwha Vision Based Surveillance & Recording System

9. **Wake Regional Juvenile Detention Center (Wake JDC)**
   - **Location – Raleigh, NC**

   a. MTI Based Integrated Door Control System
   b. Exacq/Hanwha Vision Based Surveillance & Recording System
   c. Detention Electric Swing Door Locks, DPS Devices, and Call Buttons

10. **Cabarrus Youth Development Center (Cabarrus YDC)**
    - **Location – Concord, NC**
    - **Some Interface with Cabarrus JDC**

    a. Omron PLC Based Integrated Door Control System
    b. Omron HMI Door Control Touchscreen
    c. Hirsch/Identiv Card Access Control (Integrated w/PLC & Key Control)

d. Dukane Based Analog Intercom System
e. Exacq/Hanwha Vision Based Surveillance & Recording System
f. Morse Watchman Electronic Key Control System
g. Detention Doors (Swing & Slider), Locks, DPS Devices, and Call Buttons

11. Chatham Youth Development Center (Chatham YDC)

- **Location – Siler City, NC**

a. Allen Bradley PLC Based Integrated Door Control System
b. Allen Bradley HMI Door Control Touchscreen
c. Hirsch/Identiv Card Access Control (Integrated w/PLC & Key Control)
d. Exacq/Hanwha Vision Based Surveillance & Recording System
e. Morse Watchman Electronic Key Control System
f. Detention Doors (Swing & Slider), Locks, DPS Devices, and Call Buttons

12. CA Dillon Youth Development Center (CA Dillon YDC)

- **Location – Butner, NC**

a. Exacq/Hanwha Vision Based Surveillance & Recording System
b. Aiphone Gate Intercom System

13. Edgecombe Youth Development Center (Edgecombe YDC)

- **Location – Rocky Mount, NC**

a. Omron PLC Based Integrated Door Control System
b. Omron HMI Door Control Touchscreen
c. Hirsch/Identiv Card Access Control (Integrated w/PLC & Key Control)
d. Exacq/Hanwha Vision Based Surveillance & Recording System
e. Morse Watchman Electronic Key Control System
f. Detention Doors (Swing & Slider), Locks, DPS Devices, and Call Buttons

14. Lenoir Youth Development Center & Support Buildings (Lenoir YDC)

- **Location – Kinston, NC**

a. Omron PLC Based Integrated Door Control System
b. Omron HMI Door Control Touchscreen
c. Hirsch/Identiv Card Access Control (Integrated w/PLC & Key Control)
d. Exacq/Hanwha Vision Based Surveillance & Recording System
e. Morse Watchman Electronic Key Control System
f. Detention Doors (Swing & Slider), Locks, DPS Devices, and Call Buttons

15. Western Group Home (WGH)

- **Location – Asheville, NC**

a. Exacq/Hanwha Vision Based Surveillance & Recording System

PART 3 – ATTACHMENTS (SUMMARY INVENTORY & FLOORPLANS)

NOTE: TO BE PROVIDED AT MANDATORY PRE-OFFER CONFERENCE

Attachment A: Contract Integrated Security & Door Control System Inventory Summary
See Attachment A

Attachment B: Contract Card Access & Key Control System Inventory Summary

See Attachment B

Attachment C: Contract Surveillance & Recording System Inventory Summary

See Attachment C

Attachment D: Contract Facility Floorplans

See Attachment D

Note: Facility floorplans are for reference only, are "not to scale", and do not show installed systems.

4.0 FURNISH AND DELIVER

YEAR 1 – BASE CONTRACT

ITEM #	QTY	UNIT	DESCRIPTION	UNIT COST	YEAR 1
1	1	Lot	**All services as outlined in 3.13 – PART 1 – SECTION 1 OF THIS IFB [SYSTEM EVALUATION & CONFIDENCE TESTING]**	$__________	$__________
2	12	Month	**All services as outlined in 3.13 – PART 1 – SECTION 2 OF THIS IFB [SERVICE CONTRACT]**	$__________	$__________
3	12	Month	**All services as outlined in 3.13 – PART 1 – SECTION 3 OF THIS IFB [ANNUAL PREVENTIVE MAINTENANCE]**	$__________	$__________

Total Offer Cost for Year 1 ________________

YEAR 1 - CONTRACT SERVICE HOUR RATE SCHEDULE

ITEM #	DESCRIPTION	HOURLY RATE
1	**ONSITE - BUSINESS DAY* MON-FRI 8AM-5PM**	$__________
2	**ONSITE - NIGHTS AND WEEKENDS OUTSIDE OF BUSINESS DAY**	$__________
3	**ONSITE – HOLIDAYS: New Year's Day, Martin Luther King Jr. Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving (two days), and Christmas (three days)**	$__________
4	**REMOTE - BUSINESS DAY MON-FRI 8AM-5PM**	$__________
5	**REMOTE - NIGHTS AND WEEKENDS OUTSIDE OF BUSINESS DAY**	$__________
6	**REMOTE - HOLIDAYS**	$__________

Example: *In accordance with the federal Fair Labor Standards Act (FLSA), any employee providing over 40 hours per week will be entitled to a rate of one and one-half times the established rate. No overtime will be allowed on this contract unless previously approved by the Agency Contract Administrator.

4.1. OPTIONAL COSTS

YEAR 2 OPTIONAL SERVICE & PREVENTIVE MAINTENANCE BASE CONTRACT

ITEM #	QTY	UNIT	DESCRIPTION	UNIT COST	YEAR 2
1	12	Month	**All services as outlined in 3.13 – PART 1 – SECTION 2 OF THIS IFB [SERVICE CONTRACT]**	$__________	$__________
2	12	Month	**All services as outlined in 3.13 – PART 1 – SECTION 3 OF THIS IFB [ANNUAL PREVENTIVE MAINTENANCE]**	$__________	$__________

Total Offer Cost for Year 2 ________________

YEAR 2 - CONTRACT SERVICE HOUR RATE SCHEDULE

ITEM #	DESCRIPTION	HOURLY RATE
1	ONSITE - BUSINESS DAY MON-FRI 8AM-5PM	$__________
2	ONSITE - NIGHTS AND WEEKENDS OUTSIDE OF BUSINESS DAY	$__________
3	ONSITE – HOLIDAYS: New Year's Day, Martin Luther King Jr. Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving (two days), and Christmas (three days)	$__________
4	REMOTE - BUSINESS DAY MON-FRI 8AM-5PM	$__________
5	REMOTE - NIGHTS AND WEEKENDS OUTSIDE OF BUSINESS DAY	$__________
6	REMOTE - HOLIDAYS	$__________

YEAR 3 OPTIONAL SERVICE & PREVENTIVE MAINTENANCE BASE CONTRACT

ITEM #	QTY	UNIT	DESCRIPTION	UNIT COST	YEAR 3
1	12	Month	**All services as outlined in 3.13 – PART 1 – SECTION 2 OF THIS IFB [SERVICE CONTRACT]**	$__________	$__________
2	12	Month	**All services as outlined in 3.13 – PART 1 – SECTION 3 OF THIS IFB [ANNUAL PREVENTIVE MAINTENANCE]**	$__________	$__________

Total Offer Cost for Year 3 ________________

YEAR 3 - CONTRACT SERVICE HOUR RATE SCHEDULE

ITEM #	DESCRIPTION	HOURLY RATE
1	ONSITE - BUSINESS DAY MON-FRI 8AM-5PM	$__________
2	ONSITE - NIGHTS AND WEEKENDS OUTSIDE OF BUSINESS DAY	$__________

3	ONSITE – HOLIDAYS: New Year's Day, Martin Luther King Jr. Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving (two days), and Christmas (three days)	$__________
4	REMOTE - BUSINESS DAY MON-FRI 8AM-5PM	$__________
5	REMOTE - NIGHTS AND WEEKENDS OUTSIDE OF BUSINESS DAY	$__________
6	REMOTE - HOLIDAYS	$__________

YEAR 4 OPTIONAL SERVICE & PREVENTIVE MAINTENANCE BASE CONTRACT

ITEM #	QTY	UNIT	DESCRIPTION	UNIT COST	YEAR 4
1	12	Month	All services as outlined in 3.13 – PART 1 – SECTION 2 OF THIS IFB [SERVICE CONTRACT]	$__________	$__________
2	12	Month	All services as outlined in 3.13 – PART 1 – SECTION 3 OF THIS IFB [ANNUAL PREVENTIVE MAINTENANCE]	$__________	$__________

Total Offer Cost for Year 4 ________________

YEAR 4 - CONTRACT SERVICE HOUR RATE SCHEDULE

ITEM #	DESCRIPTION	HOURLY RATE
1	ONSITE - NORMAL BUSINESS DAY MON-FRI 8AM-5PM	$__________
2	ONSITE - NIGHTS AND WEEKENDS OUTSIDE OF BUSINESS DAY	$__________
3	ONSITE – HOLIDAYS: New Year's Day, Martin Luther King Jr. Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving (two days), and Christmas (three days)	$__________
4	REMOTE - BUSINESS DAY MON-FRI 8AM-5PM	$__________
5	REMOTE - NIGHTS AND WEEKENDS OUTSIDE OF BUSINESS DAY	$__________
6	REMOTE - HOLIDAYS	$__________

5.0 ADDITIONAL INFORMATION

5.1. HISTORICALLY UNDERUTILIZED BUSINESSES

"Historically Underutilized Businesses (HUBs) consist of minority, women and disabled business firms that are at least fifty-one percent owned and operated by an individual(s) of the aforementioned categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled." http://ncadmin.nc.gov/businesses/hub

Pursuant to N.C.G.S. §§143B-1361(a), 143-48 and 143-128.4, the State invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. This includes utilizing subcontractors to perform the required functions in this IFB.

Is Vendor a Historically Underutilized Business? ☐ YES ☐ NO If "YES", specify classification. ____________________________

5.2. RECYCLED CONTENT

In an effort to support the sustainability efforts of the State of North Carolina Executive Order Number 156, we solicit your cooperation.

Does the packaging of the items offered in response to this IFB contain recycled content?

☐ YES ☐ NO

If Vendor answered "YES" above, indicate the following:

Percentage of recycled content: _________ Can the packaging be recycled? ☐ YES ☐ NO

Do items offered in response to this solicitation contain recycled content? ☐ YES ☐ NO

If Vendor answered "YES" above, indicate the material and content percentage of applicable items.

Material: ____________________________ Percentage of recycled content: ________

State how items may be disposed of or recycled at the end of use?

____

____

5.3. ENERGY STAR PRODUCTS

"ENERGY STAR® is a government-backed program helping businesses and individuals protect the environment through superior energy efficiency." http://www.energystar.gov/

Do products offered meet Energy Star specifications of energy efficiency? ☐ YES ☐ NO

5.4 NC STATE HOLIDAY

6.0 DEPARTMENT OF INFORMATION TECHNOLOGY INSTRUCTIONS TO VENDORS

1) **READ, REVIEW AND COMPLY:** It shall be the Vendor's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements specified herein.
2) **DEFINITIONS**:
   - **NCDIT:** The North Carolina Department of Information Technology, formerly Office of Information Technology Services
   - **NCDIT CONVENIENCE CONTRACT:** A contract that is used for the procurement of IT goods or Services. These contracts are in place for the convenience of the state and use of them is optional.
   - **OPEN MARKET CONTRACT:** A contract for the purchase of goods or Services not covered by a term, technical, or convenience contract.
   - **TERM CONTRACT:** A contract in which a source of supply is established for a specified period of time for specified Services or supplies; usually characterized by an estimated or definite minimum quantity, with the possibility of additional requirements beyond the minimum, all at a predetermined unit price
   - **THE STATE:** Is the state of North Carolina and its agencies.
   - **VENDOR:** Company, firm, corporation, partnership, individual, etc., submitting a response to a solicitation.
3) **PROMPT PAYMENT DISCOUNTS:** Vendors are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it will not be considered in the award of the contract except as a factor to aid in resolving cases of identical prices.
4) **INFORMATION AND DESCRIPTIVE LITERATURE:** Vendor is to furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this IFB, each Vendor must submit with their offer sketches, descriptive literature and/or complete specifications covering the products offered. **Only information that is received in response to this IFB will be evaluated.** Reference to information previously submitted or Internet Website Addresses (URLs) will not satisfy this provision. Offers, which do not comply with these requirements, will be subject to rejection.
5) **RECYCLING AND SOURCE REDUCTION:** It is the policy of this State to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items, which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective. We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will protect the commodity and contain it for its intended use. Companies are strongly urged to bring to the attention of the relevant purchasers in the State those products or packaging they offer which have recycled content and that are recyclable.
6) **CLARIFICATIONS/INTERPRETATIONS:** Any and all questions regarding this document must be addressed to the purchaser named on the cover sheet of this document. Do not contact the user directly. Any and all revisions to this document shall be made only by written addendum from NCDIT. The Vendor is cautioned that the requirements of this IFB can be altered only by written addendum and that verbal communications from whatever source are of no effect.
7) **ACCEPTANCE AND REJECTION:** The State reserves the right to reject any and all offers, to waive any informality in offers and, unless otherwise specified by the Vendor, to accept any item in the offer. If either a unit price or an extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.
8) **AWARD OF CONTRACT:** Responsive offers will be evaluated, and acceptance may be made in accordance with Best Value procurement practices as defined by N.C.G.S. §143-135.9, and in accordance with N.C.G.S. §143B-1350(h), which provides that the offer must be in substantial conformity with the specifications herein, and 09 NCAC 06B.0302. Unless otherwise specified by the State or the Vendor, the State reserves the right to accept any item or group of items on a multi-item offer. In addition, on agency specific or term contracts, NCDIT reserves the right to make partial, progressive or multiple awards: where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality,

delivery, service, geographical areas; other factors deemed by NCDIT to be pertinent or peculiar to the purchase in question.

9) **SAMPLES:** Sample of items, when required, must be furnished as stipulated herein, free of expense, and if not destroyed will, upon request be returned at the Vendor's expense. Written request for the return of samples must be made within 10 days following date of offer opening. Otherwise the samples will become the property of the State. Each individual sample must be labeled with the Vendor's name, offer number, and item number. A sample, on which an award is made, will be retained until the contract is completed, and then returned, if requested, as specified above.

10) **MISCELLANEOUS:** Masculine pronouns shall be read to include feminine pronouns and the singular of any word or phrase shall be read to include the plural and vice versa.

11) **PROTEST PROCEDURES:** When an offeror wants to protest a contract awarded pursuant to this solicitation that is over $25,000 they must submit a written request to the issuing agency at the address given in this document. This request must be received in this office within fifteen (15) calendar days from the date of the contract award, and must contain specific sound reasons and any supporting documentation for the protest. **Note:** Contract award notices are sent **only** to those actually awarded contracts, and not to every person or firm responding to this solicitation. IFB status and Award notices are posted on at https://evp.nc.gov/. **All protests will be governed by NCAC Title 9, Department of Information Technology (formerly Office of Information Technology Services), Subchapter 06B Sections .1101 - .1121.**

12) **VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM:** Vendor Link NC allows Vendors to electronically register with the State to receive electronic notification of current procurement opportunities for goods and services available on the NC Electronic Vendor Portal (eVP) at the following web site: https://evp.nc.gov/

13) **DIGITAL IMAGING:** The State will digitize the Vendor's response if not received electronically, and any awarded contract together with associated contract documents. This electronic copy shall be a preservation record and serve as the official record of this solicitation with the same force and effect as the original written documents comprising such record. Any printout or other output readable by sight shown to reflect such record accurately is an "original."

7.0 DEPARTMENT OF INFORMATION TECHNOLOGY TERMS AND CONDITIONS

Section 1: Terms and conditions applicable to all IT Procurements

1) **DEFINITIONS:** As used herein;
   a) Deliverable/Product Warranties shall mean and include the warranties provided for products or deliverables licensed to the State in Paragraphs 7 and 8, and included in Paragraph 29 c) of these Terms and Conditions unless superseded by a Vendor's Warranties pursuant to Vendor's License or Support Agreements.
   b) Purchasing State Agency or Agency shall mean the Agency purchasing the goods or Services.
   c) Services shall mean the duties and obligations accepted by the Vendor to carry out the requirements, and meet the specifications, of this procurement.
   d) State shall mean the State of North Carolina, the Department of Information Technology as an Agency or in its capacity as the Award Authority.
2) **STANDARDS:** Manufactured items and/or fabricated assemblies comprising Deliverables shall meet all requirements of the Occupational Safety and Health Act (OSHA), and State and federal requirements relating to clean air and water pollution, if applicable. Vendor will provide and maintain a quality assurance system or program that includes any Deliverables and will tender to the State only those Deliverables that have been inspected and found to conform to the requirements of this Contract. All manufactured items and/or fabricated assemblies comprising Deliverables are subject to operation, certification or inspection, and accessibility requirements as required:
   - by State or federal Regulation,
   - by the Chief Information Officer's (CIO) policy or regulation, or
   - acceptance with appropriate standards of operations or uses of said Deliverables as may be shown by identification markings or other means of the appropriate certifying standards organization.

   a) **Site Preparation:** Vendors shall provide the Purchasing State Agency complete site requirement specifications for the Deliverables, if any. These specifications shall ensure that the Deliverables to be installed shall operate properly and efficiently within the site environment. The Vendor shall advise the State of any site requirements for any Deliverables required by the State's specifications. Any alterations or modification in site preparation which are directly attributable to incomplete or erroneous specifications provided by the Vendor and which would involve additional expenses to the State, shall be made at the expense of the Vendor.
   b) **Goods Return:** Deliverables and any other goods or materials furnished by the Vendor to fulfill technical requirements shall be in good working order and be maintained in good working order by Vendor for the duration of the Contract; unless otherwise provided in a separate maintenance agreement or in the Solicitation Documents. Deliverables failing to meet the State's technical requirements shall be considered non-conforming goods and subject to return to the Vendor for replacement at the State's option, and at the Vendor's expense. The State is responsible for the return costs related to the termination of a Contract, including deinstallation, and freight to destinations within the Continental United States; except in the case of default by the Vendor or delivery of non-conforming goods by Vendor. Shipping or freight charges, if any, paid by the State for non-conforming goods will be reimbursed to the State.
   c) **Specifications:** The apparent silence of the specifications as to any detail, or the apparent omission of detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and only material and workmanship of the first quality may be used. Upon any notice of noncompliance provided by the State, Vendor shall supply proof of compliance with the specifications. Vendor must provide written notice of its intent to deliver alternate or substitute products, goods or Deliverables. Alternate or substitute products, goods or Deliverables may be accepted or rejected in the sole discretion of the State; and any such alternates or substitutes must be accompanied by Vendor's certification and evidence satisfactory to the State that the function, characteristics, performance and endurance will be equal or superior to the original Deliverables specified.

3) **WARRANTIES:** Vendor shall assign all applicable third party warranties for Deliverables to the Purchasing State Agency.
4) **PERSONNEL:** Vendor shall not substitute key personnel assigned to the performance of this Contract without prior written approval by the Agency Contract Administrator. Any desired substitution shall be noticed to the Agency's Contract Administrator accompanied by the names and references of Vendor's recommended substitute personnel. The Agency will approve or disapprove the requested substitution in a timely manner. The Agency may, in its sole discretion, terminate the Services of any person providing Services under this Contract. Upon such termination, the Agency may request acceptable substitute personnel or terminate the contract Services provided by such personnel.
   a) Vendor personnel shall perform their duties on the premises of the State, during the State's regular work days and normal work hours, except as may be specifically agreed otherwise, established in the specification, or statement of work.
   b) This Contract shall not prevent Vendor or any of its personnel supplied under this Contract from performing similar Services elsewhere or restrict Vendor from using the personnel provided to the State, provided that:
      i) Such use does not conflict with the terms, specifications or any amendments to this Contract, or
      ii) Such use does not conflict with any procurement law, regulation or policy, or
      iii) Such use does not conflict with any non-disclosure agreement, or term thereof, by and between the State and Vendor or Vendor's personnel.
5) **SUBCONTRACTING:** The Vendor may subcontract the performance of required Services with other Vendors or third parties, or change subcontractors, only with the prior written consent of the contracting authority. Vendor shall provide the State with complete copies of any agreements made by and between Vendor and all subcontractors. The selected Vendor remains solely responsible for the performance of its subcontractors. Subcontractors, if any, shall adhere to the same standards required of the selected Vendor. Any contracts made by the Vendor with a subcontractor shall include an affirmative statement that the State is an intended third party beneficiary of the contract; that the subcontractor has no agreement with the State; and that the State shall be indemnified by the Vendor for any claim presented by the subcontractor. Notwithstanding any other term herein, Vendor shall timely exercise its contractual remedies against any non-performing subcontractor and, when appropriate, substitute another subcontractor.
6) **VENDOR'S REPRESENTATION:** Vendor warrants that qualified personnel will provide Services in a professional manner. "Professional manner" means that the personnel performing the Services will possess the skill and competence consistent with the prevailing business standards in the information technology industry. Vendor agrees that it will not enter any agreement with a third party that might abridge any rights of the State under this Contract. Vendor will serve as the prime Vendor under this Contract. Should the State approve any subcontractor(s), the Vendor shall be legally responsible for the performance and payment of the subcontractor(s). Names of any third party Vendors or subcontractors of Vendor may appear for purposes of convenience in Contract documents; and shall not limit Vendor's obligations hereunder. Third party subcontractors, if approved, may serve as subcontractors to Vendor. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractor(s).
   a) **Intellectual Property**. Vendor has the right to provide the Services and Deliverables without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party. Vendor represents that its Services and Deliverables are not the subject of any actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party.
   b) **Inherent Services**. If any Services, Deliverables, functions, or responsibilities not specifically described in this Contract are required for Vendor's proper performance, provision and delivery of the Service and Deliverables pursuant to this Contract, or are an inherent part of or necessary sub-task included within the Service, they will be deemed to be implied by and included within the scope of the Contract to the same extent and in the same manner as if specifically described in the Contract. Unless otherwise expressly provided in the Contract, Vendor will furnish all of its

own necessary management, supervision, labor, facilities, furniture, computer and telecommunications equipment, software, supplies and materials necessary for the Vendor to provide and deliver the Services and Deliverables.

c) Vendor warrants that it has the financial capacity to perform and to continue perform its obligations under the Contract; that Vendor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Vendor that could materially adversely affect performance of this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

d) **Warranty as to Equipment; Hardware**. Vendor warrants that the equipment and hardware that it provides pursuant to this Contract shall be free from defects in materials, in good working order and be maintained in good working order.

7) <u>SOFTWARE LICENSE</u> (***for internal embedded software, firmware and unless otherwise provided in the State's solicitation document, or in an attachment hereto***): Deliverables comprising goods, equipment or products (hardware) may contain software for internal operation, or as embedded software or firmware that is generally not sold or licensed as a severable software product. Software may be provided on separate media, such as floppy diskettes or CD-ROM, or may be included within the hardware at or prior to delivery. Such software is proprietary, copyrighted, and may also contain valuable trade secrets and may be protected by patents. Vendor grants the State a license to use the Code (or any replacement provided) on, or in conjunction with, only the Deliverables purchased, or with any system identified in the solicitation documents. The State shall have a worldwide, nonexclusive, non-sublicensable license to use such software and/or documentation for its internal use. The State may make and install copies of the software to support the authorized level of use. Provided, however that if the hardware is inoperable, the software may be copied for temporary use on other hardware. The State shall promptly affix to any such copy the same proprietary and copyright notices affixed to the original. The State may make one copy of the software for archival, back-up or disaster recovery purposes. The license set forth in this Paragraph shall terminate immediately upon the State's discontinuance of the use of the equipment on which the software is installed. The software may be transferred to another party only with the transfer of the hardware. If the hardware is transferred, the State shall i) destroy all software copies made by the State, ii) deliver the original or any replacement copies of the software to the transferee, and iii) notify the transferee that title and ownership of the software and the applicable patent, trademark, copyright, and other intellectual property rights shall remain with Vendor, or Vendor's licensors. The State shall not disassemble, decompile, reverse engineer, modify, or prepare derivative works of the embedded software, unless permitted under the solicitation documents.

8) <u>MAINTENANCE/SUPPORT SERVICES</u>: Unless otherwise mutually provided herein, for the first year after the expiration of any warranty coverage (and for all subsequent Contract years, for which Support is purchased), Vendor agrees to provide the following Support Services for the Hardware and any Software provided with the Deliverables for any years in which the applicable support fees are paid, which may be more particularly described, e.g., under part numbers, in the Furnish & Deliver Table, above:

HARDWARE/EQUIPMENT:

a) **Basic Services**. The Vendor will provide at least normal and usual Hardware support and maintenance Services generally provided to customers in a similar program, position or setting consistent with and subject to the payment of the support and maintenance fees agreed upon in this Contract, all as indicated by part numbers in the Furnish and Deliver Table, above. The Vendor warrants to the State that all items furnished will be new (unless otherwise requested in this IFB), of good material and workmanship, and agrees to repair or replace any items which fail to comply with the specifications by reason of defective material or workmanship under normal use, free of State's negligence or accident for one year from date of installation. Such repair or replacement shall include any transportation costs free of any charge to the State. This statement is not intended to limit any additional coverage, which may normally be associated with a product, such as any "hot switch" or similar replacement warranty program applicable as indicated by the

Vendor's support description in the Furnish & Deliver Table, above. Any available warranties applicable to replacement Hardware equipment or parts will be passed on to the using agency.

b) **Telephone Assistance**. Vendor shall provide the State with telephone access to technical support engineers for assistance in the proper installation and use of the Software, and to report and resolve Support problems, during normal business hours, 8:00 AM - 5:00 PM Eastern Standard Time, Monday-Friday. Vendor shall respond to the telephone requests for Program maintenance service, within four hours, for calls made at any time.

SOFTWARE:

a) **Error Correction**. Upon notice by State of a problem with the Software (which problem can be verified), Vendor shall use reasonable efforts to correct or provide a working solution for the problem. The State shall comply with all reasonable instructions or requests of Vendor in attempts to correct an error or defect in the Program. Vendor and the State shall act promptly and in a reasonably timely manner in communicating error or problem logs, other related information, proposed solutions or workarounds, and any action as may be necessary or proper to obtain or affect maintenance Services under this Paragraph.

b) Vendor shall notify the State of any material errors or defects in the Deliverables known, or made known to Vendor from any source during the Contract term that could cause the production of inaccurate or otherwise materially incorrect, results. Vendor shall initiate actions as may be commercially necessary or proper to effect corrections of any such errors or defects.

c) **Updates**. Vendor shall provide to the State, at no additional charge, all new releases and bug fixes (collectively referred to as "Changes") for any Software Deliverable developed or published by Vendor and made generally available to its other customers at no additional charge. All such Changes shall become a part of the Software and Documentation and, as such, will be governed by the provisions of this Contract.

d) **Telephone Assistance**. Vendor shall provide the State with telephone access to technical support engineers for assistance in the proper installation and use of the Software, and to report and resolve Software problems, during normal business hours, 8:00 AM - 5:00 PM Eastern Standard Time, Monday-Friday. Vendor shall respond to the telephone requests for Program maintenance service, within four hours, for calls made at any time.

9) TRAVEL EXPENSES: All travel expenses should be included in the Vendor's proposed costs. Separately stated travel expenses will not be reimbursed. In the event that the Vendor may be eligible to be reimbursed for travel expenses arising under the performance of this Contract, reimbursement will be at the out-of-state rates set forth in N.C.G.S. §138-6; as amended from time to time. Vendor agrees to use the lowest available airfare not requiring a weekend stay and to use the lowest available rate for rental vehicles. All Vendor incurred travel expenses shall be billed on a monthly basis, shall be supported by receipt and shall be paid by the State within thirty (30) days after invoice approval. Travel expenses exceeding the foregoing rates shall not be paid by the State. The State will reimburse travel allowances only for days on which the Vendor is required to be in North Carolina performing Services under this Contract.

10) GOVERNMENTAL RESTRICTIONS: In the event any restrictions are imposed by governmental requirements that necessitate alteration of the material, quality, workmanship, or performance of the Deliverables offered prior to delivery thereof, the Vendor shall provide written notification of the necessary alteration(s) to the Agency Contract Administrator. The State reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract. The State may advise Vendor of any restrictions or changes in specifications required by North Carolina legislation, rule or regulatory authority that require compliance by the State. In such event, Vendor shall use its best efforts to comply with the required restrictions or changes. If compliance cannot be achieved by the date specified by the State, the State may terminate this Contract and compensate Vendor for sums due under the Contract.

11) PROHIBITION AGAINST CONTINGENT FEES AND GRATUITIES: Vendor warrants that it has not paid, and agrees not to pay, any bonus, commission, fee, or gratuity to any employee or official of the State for the purpose of obtaining any contract or award issued by the State. Vendor further warrants that no commission or other payment has been or will be received from or paid to any third party contingent on the award of any contract by the State, except as shall have been expressly communicated to the State Purchasing Agent in writing prior to acceptance of the Contract or award in question. Each individual signing below warrants that he or she is duly authorized by their respective Party to sign this Contract and bind the Party to the terms and conditions of this Contract. Vendor and their authorized signatory further warrant that no officer or employee of the State has any direct or indirect financial or personal beneficial interest, in the subject matter of this Contract; obligation or contract for future award of compensation as an inducement or consideration for making this Contract. Subsequent discovery by the State of non-compliance with these provisions shall constitute sufficient cause for immediate termination of all outstanding contracts. Violations of this provision may result in debarment of the Vendor(s) as permitted by 09 NCAC 06B.1206, or other provision of law.

12) **AVAILABILITY OF FUNDS:** Any and all payments to Vendor are expressly contingent upon and subject to the appropriation, allocation and availability of funds to the Agency for the purposes set forth in this Contract. If this Contract or any Purchase Order issued hereunder is funded in whole or in part by federal funds, the Agency's performance and payment shall be subject to and contingent upon the continuing availability of said federal funds for the purposes of the Contract or Purchase Order. If the term of this Contract extends into fiscal years subsequent to that in which it is approved such continuation of the Contract is expressly contingent upon the appropriation, allocation, and availability of funds by the N.C. Legislature for the purposes set forth in the Contract. If funds to effect payment are not available, the Agency will provide written notification to Vendor. If the Contract is terminated under this paragraph, Vendor agrees to take back any affected Deliverables and software not yet delivered under this Contract, terminate any Services supplied to the Agency under this Contract, and relieve the Agency of any further obligation thereof. The State shall remit payment for Deliverables and Services accepted prior to the date of the aforesaid notice in conformance with the payment terms.

13) **PAYMENT TERMS:** Payment terms are Net 30 days after receipt of correct invoice or acceptance of the Deliverables, whichever is later; unless a period of more than 30 days is required by the Agency. The Purchasing State Agency is responsible for all payments under the Contract. No additional charges to the Agency will be permitted based upon, or arising from, the Agency's use of a Business Procurement Card. The State may exercise any and all rights of Set Off as permitted in Chapter 105A-1 et. seq. of the N.C. General Statutes and applicable Administrative Rules. Upon Vendor's written request of not less than 30 days and approval by the State or Agency, the Agency may:
    a) Forward the Vendor's payment check(s) directly to any person or entity designated by the Vendor, or
    b) Include any person or entity designated in writing by Vendor as a joint payee on the Vendor's payment check(s), however
    c) In no event shall such approval and action obligate the State to anyone other than the Vendor and the Vendor shall remain responsible for fulfillment of all Contract obligations.

14) **ACCEPTANCE CRITERIA:** In the event acceptance of Deliverables is not described in additional Contract documents, the State shall have the obligation to notify Vendor, in writing ten calendar days following the supply of any Deliverable described in the Contract if it is not acceptable. The notice shall specify in reasonable detail the reason(s) a deliverable is unacceptable. Acceptance by the State shall not be unreasonably withheld; but may be conditioned or delayed as required for installation and/or testing of Deliverables. Final acceptance is expressly conditioned upon completion of all applicable inspection and testing procedures. Should the Deliverables fail to meet any specifications or acceptance criteria the State may exercise any and all rights hereunder, including such rights provided by the Uniform Commercial Code as adopted in North Carolina. Deliverables discovered to be defective or failing to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the Deliverables or non-compliance with the specifications was not reasonably ascertainable upon initial inspection. If the Vendor fails to promptly cure the defect or replace the Deliverables, the State reserves the right to cancel the Purchase Order, contract with a different Vendor, and to invoice the original Vendor for any differential in price over the original Contract price. When Deliverables are rejected, the Vendor must remove the rejected

Deliverables from the premises of the State Agency within seven (7) calendar days of notification, unless otherwise agreed by the State Agency. Rejected items may be regarded as abandoned if not removed by Vendor as provided herein.

15) **EQUAL EMPLOYMENT OPPORTUNITY:** Vendor shall comply with all Federal and State requirements concerning fair employment and employment of the disabled, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or physical disability.

16) **INSPECTION AT VENDOR'S SITE:** The State reserves the right to inspect, during Vendor's regular business hours at a reasonable time, upon notice of not less than two (2) weeks, and at its own expense, the prospective Deliverables comprising equipment or other tangible goods, or the plant or other physical facilities of a prospective Vendor prior to Contract award, and during the Contract term as necessary or proper to ensure conformance with the specifications/requirements and their adequacy and suitability for the proper and effective performance of the Contract.

17) **ADVERTISING/PRESS RELEASE:** The Vendor absolutely shall not publicly disseminate any information concerning the Contract without prior written approval from the State or its Agent. For the purpose of this provision of the Contract, the Agent is the Purchasing Agency Contract Administrator unless otherwise named in the solicitation documents.

18) **CONFIDENTIALITY:** In accordance with N.C.G.S. §§143B-1350(e), 143B-1375 and 09 NCAC 06B.0103 and 06B.1001 and to promote maximum competition in the State competitive bidding process, the State may maintain the confidentiality of certain types of information described in N.C.G.S. §132-1 et seq. Such information may include trade secrets defined by N.C.G.S. §66-152 and other information exempted from the Public Records Act pursuant to N.C.G.S. §132-1.2. Vendor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by marking the top and bottom of pages containing confidential information with a legend in boldface type "**CONFIDENTIAL**". By so marking any page, the Vendor warrants that it has formed a good faith opinion, having received such necessary or proper review by counsel and other knowledgeable advisors that the portions marked confidential meet the requirements of the Rules and Statutes set forth above. ***However, under no circumstances shall price information be designated as confidential.*** The State may serve as custodian of Vendor's confidential information and not as an arbiter of claims against Vendor's assertion of confidentiality. If an action is brought pursuant to N.C.G.S. §132-9 to compel the State to disclose information marked confidential, the Vendor agrees that it will intervene in the action through its counsel and participate in defending the State, including any public official(s) or public employee(s). The Vendor agrees that it shall hold the State and any official(s) and individual(s) harmless from any and all damages, costs, and attorneys' fees awarded against the State in the action. The State agrees to promptly notify the Vendor in writing of any action seeking to compel the disclosure of Vendor's confidential information. The State shall have the right, at its option and expense, to participate in the defense of the action through its counsel. The State shall have no liability to Vendor with respect to the disclosure of Vendor's confidential information ordered by a court of competent jurisdiction pursuant to N.C.G.S. §132-9 or other applicable law.

a) Care of Information: Vendor agrees to use commercial best efforts to safeguard and protect any data, documents, files, and other materials received from the State or the Agency during performance of any contractual obligation from loss, destruction or erasure.

b) Vendor warrants that all its employees and any approved third party Vendors or subcontractors are subject to a non-disclosure and confidentiality agreement enforceable in North Carolina. Vendor will, upon request of the State, verify and produce true copies of any such agreements. Production of such agreements by Vendor may be made subject to applicable confidentiality, non-disclosure or privacy laws; provided that Vendor produces satisfactory evidence supporting exclusion of such agreements from disclosure under the N.C. Public Records laws in N.C.G.S. §132-1 et seq. The State may, in its sole discretion, provide a non-disclosure and confidentiality agreement satisfactory to the State for Vendor's execution. The State may exercise its rights under this subparagraph as necessary or proper, in its discretion, to comply with applicable security regulations or statutes including, but not limited to 26 USC 6103 and IRS Publication

1075, (Tax Information Security Guidelines for Federal, State, and Local Agencies), HIPAA, 42 USC 1320(d) (Health Insurance Portability and Accountability Act), any implementing regulations in the Code of Federal Regulations, and any future regulations imposed upon the Department of Information Technology or the N.C. Department of Revenue pursuant to future statutory or regulatory requirements.

c) Nondisclosure: Vendor agrees and specifically warrants that it, its officers, directors, principals and employees, and any subcontractors, shall hold all information received during performance of this Contract in the strictest confidence and shall not disclose the same to any third party without the express written approval of the State.

19) DELIVERABLES: Deliverables, as used herein, shall comprise all Services, project materials, including goods, software licenses, data, and documentation created during the performance or provision of Services hereunder. Deliverables are the property of the State of North Carolina, except where licensed or leased to the State. Proprietary Vendor materials licensed to the State shall be identified to the State by Vendor prior to use or provision of Services hereunder and shall remain the property of the Vendor. Embedded software or firmware shall not be a severable Deliverable. Deliverables include "Work Product" and means any expression of Licensor's findings, analyses, conclusions, opinions, recommendations, ideas, techniques, know-how, designs, programs, enhancements, and other technical information; but not source and object code or software. All Software source and object code is the property of Licensor and is licensed nonexclusively to the State, at no additional license fee, pursuant to the terms of the software license contained herein, and in the Supplemental Terms and Conditions for Software and Services or the License Agreement if incorporated in the Solicitation Documents.

20) LATE DELIVERY, BACK ORDER: Vendor shall advise the Agency contact person or office immediately upon determining that any Deliverable will not, or may not, be delivered at the time or place specified. Together with such notice, Vendor shall state the projected delivery time and date. In the event the delay projected by Vendor is unsatisfactory, the Agency shall so advise Vendor and may proceed to procure substitute Deliverables or Services.

21) PATENT, COPYRIGHT, AND TRADE SECRET PROTECTION:

a) Vendor has created, acquired or otherwise has rights in, and may, in connection with the performance of Services for the State, employ, provide, create, acquire or otherwise obtain rights in various concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates and general purpose consulting and software tools, utilities and routines (collectively, the "Vendor Technology"). To the extent that any Vendor Technology is contained in any of the Deliverables including any derivative works, the Vendor hereby grants the State a royalty-free, fully paid, worldwide, perpetual, non-exclusive license to use such Vendor Technology in connection with the Deliverables for the State's purposes.

b) Vendor shall not acquire any right, title, and interest in and to the copyrights for goods, any and all software, technical information, specifications, drawings, records, documentation, data or derivative works thereof, or other work products provided by the State to Vendor. The State hereby grants Vendor a royalty-free, fully paid, worldwide, perpetual, non-exclusive license for Vendor's internal use to non-confidential Deliverables first originated and prepared by the Vendor for delivery to the State.

c) The Vendor, at its own expense, shall defend any action brought against the State to the extent that such action is based upon a claim that the Services or Deliverables supplied by the Vendor, or the operation of such Deliverables pursuant to a current version of Vendor-supplied software, infringes a patent, or copyright or violates a trade secret in the United States. The Vendor shall pay those costs and damages finally awarded against the State in any such action; damages shall be limited as provided in N.C.G.S. 143B-1350(h1). Such defense and payment shall be conditioned on the following:

i) That the Vendor shall be notified within a reasonable time in writing by the State of any such claim; and,

ii) That the Vendor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise provided, however, that the State shall have the option to participate in such action at its own expense.

d) Should any Services or software supplied by Vendor, or the operation thereof become, or in the Vendor's opinion are likely to become, the subject of a claim of infringement of a patent, copyright, or a trade secret in the United States, the State shall permit the Vendor, at its option and expense, either to procure for the State the right to continue using the goods/hardware or software, or to replace or modify the same to become noninfringing and continue to meet procurement specifications in all material respects. If neither of these options can reasonably be taken, or if the use of such goods/hardware or software by the State shall be prevented by injunction, the Vendor agrees to take back such goods/hardware or software, and refund any sums the State has paid Vendor less any reasonable amount for use or damage and make every reasonable effort to assist the State in procuring substitute Deliverables. If, in the sole opinion of the State, the return of such infringing Deliverables makes the retention of other items of Deliverables acquired from the Vendor under this Contract impractical, the State shall then have the option of terminating the Contract, or applicable portions thereof, without penalty or termination charge. The Vendor agrees to take back such Deliverables and refund any sums the State has paid Vendor less any reasonable amount for use or damage.

e) Vendor will not be required to defend or indemnify the State if any claim by a third party against the State for infringement or misappropriation (i) results from the State's alteration of any Vendor-branded product or Deliverable, or (ii) results from the continued use of the good(s) or Services and Deliverables after receiving notice they infringe a trade secret of a third party.

f) Nothing stated herein, however, shall affect Vendor's ownership in or rights to its preexisting intellectual property and proprietary rights.

22) ACCESS TO PERSONS AND RECORDS: Pursuant to N.C.G.S. §147-64.7, the Agency, the State Auditor, appropriate federal officials, and their respective authorized employees or agents are authorized to examine all books, records, and accounts of the Vendor insofar as they relate to transactions with any department, board, officer, commission, institution, or other agency of the State of North Carolina pursuant to the performance of this Contract or to costs charged to this Contract. The Vendor shall retain any such books, records, and accounts for a minimum of three (3) years after the completion of this Contract. Additional audit or reporting requirements may be required by any Agency, if in the Agency's opinion, such requirement is imposed by federal or state law or regulation. The Joint Legislative Commission on Governmental Operations and the legislative employees whose primary responsibility is to provide professional or administrative services to the Commission may audit the records of the Vendor during and after the term of this Agreement to verify accounts and data affecting fees or performance in accordance with Chapter 120, Article 13.

23) ASSIGNMENT: Vendor may not assign this Contract or its obligations hereunder except as permitted by 09 NCAC 06B.1003 and this Paragraph. Vendor shall provide reasonable notice of not less than thirty (30) days prior to any consolidation, acquisition, or merger. Any assignee shall affirm this Contract attorning to the terms and conditions agreed, and that Vendor shall affirm that the assignee is fully capable of performing all obligations of Vendor under this Contract. An assignment may be made, if at all, in writing by the Vendor, Assignee and the State setting forth the foregoing obligation of Vendor and Assignee.

24) INSURANCE COVERAGE: During the term of the Contract, the Vendor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract. As a minimum, the Vendor shall provide and maintain the following coverage and limits:

a) **Worker's Compensation** - The Vendor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of $100,000.00, covering all of Vendor's employees who are engaged in any work under the Contract. If any work is sublet, the Vendor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under the Contract; and

b) **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of $2,000,000.00 Combined Single Limit (Defense cost shall be in excess of the limit of liability); and

c) **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the Contract. The minimum combined single limit shall be $500,000.00 bodily injury and property damage; $500,000.00 uninsured/under insured motorist; and $5,000.00 medical payment; and

d) Providing and maintaining adequate insurance coverage described herein is a material obligation of the Vendor and is of the essence of this Contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Vendor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Contract. The limits of coverage under each insurance policy maintained by the Vendor shall not be interpreted as limiting the Vendor's liability and obligations under the Contract.

25) DISPUTE RESOLUTION: The parties agree that it is in their mutual interest to resolve disputes informally. A claim by the Vendor shall be submitted in writing to the Agency Contract Administrator for decision. A claim by the State shall be submitted in writing to the Vendor's Contract Administrator for decision. The Parties shall negotiate in good faith and use all reasonable efforts to resolve such dispute(s). During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Contract. If a dispute cannot be resolved between the Parties within thirty (30) days after delivery of notice, either Party may elect to exercise any other remedies available under this Contract, or at law. This term shall not constitute an agreement by either party to mediate or arbitrate any dispute.

26) DEFAULT: In the event Services or other Deliverable furnished or performed by the Vendor during performance of any Contract term fail to conform to any material requirement(s) of the Contract specifications, notice of the failure is provided by the State and if the failure is not cured within ten (10) days, the State may cancel the contract. Default may be cause for debarment as provided in 09 NCAC 06B.1206. The rights and remedies of the State provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

a) If Vendor fails to deliver or provide correct Services or other Deliverables within the time required by this Contract, the State shall provide written notice of said failure to Vendor, and by such notice require performance assurance measures pursuant to N.C.G.S. 143B-1340(f). Vendor is responsible for the delays resulting from its failure to deliver or provide services or other Deliverables.

b) Should the State fail to perform any of its obligations upon which Vendor's performance is conditioned, Vendor shall not be in default for any delay, cost increase or other consequences resulting from the State's failure. Vendor will use reasonable efforts to mitigate delays, costs or expenses arising from assumptions in the Vendor's offers that prove erroneous or are otherwise invalid. Any deadline that is affected by any such failure in assumptions or performance by the State shall be extended by an amount of time reasonably necessary to compensate for the effect of such failure.

c) Vendor shall provide a plan to cure any delay or default if requested by the State. The plan shall state the nature of the delay or default, the time required for cure, any mitigating factors causing or tending to cause the delay or default, and such other information as the Vendor may deem necessary or proper to provide.

27) WAIVER OF DEFAULT: Waiver by either party of any default or breach by the other Party shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be a modification or novation of the terms of this Contract, unless so stated in writing and signed by authorized representatives of the Agency and the Vendor, and made as an amendment to this Contract pursuant to Paragraph 40) herein below.

28) **<u>TERMINATION</u>:** Any notice or termination made under this Contract shall be transmitted via US Mail, Certified Return Receipt Requested. The period of notice for termination shall begin on the day the return receipt is signed and dated.

a) The parties may mutually terminate this Contract by written agreement at any time.

b) The State may terminate this Contract, in whole or in part, pursuant to Paragraph 26), or pursuant to the Special Terms and Conditions in the Solicitation Documents, if any, or for any of the following:

i) <u>Termination for Cause</u>: In the event any goods, software, or service furnished by the Vendor during performance of any Contract term fails to conform to any material requirement of the Contract, and the failure is not cured within the specified time after providing written notice thereof to Vendor, the State may cancel and procure the articles or Services from other sources; holding Vendor liable for any excess costs occasioned thereby, subject only to the limitations provided in Paragraphs 29) and 30) herein. The rights and remedies of the State provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract. Vendor shall not be relieved of liability to the State for damages sustained by the State arising from Vendor's breach of this Contract; and the State may, in its discretion, withhold any payment due as a setoff until such time as the damages are finally determined or as agreed by the parties. Voluntary or involuntary Bankruptcy or receivership by Vendor shall be cause for termination.

ii) <u>Termination For Convenience Without Cause</u>: The State may terminate service and indefinite quantity contracts, in whole or in part by giving thirty (30) days prior notice in writing to the Vendor. Vendor shall be entitled to sums due as compensation for Deliverables provided and Services performed in conformance with the Contract. In the event the Contract is terminated for the convenience of the State the Agency will pay for all work performed and products delivered in conformance with the Contract up to the date of termination.

29) **<u>LIMITATION OF VENDOR'S LIABILITY</u>:**

a) Where Deliverables are under the State's exclusive management and control, the Vendor shall not be liable for direct damages caused by the State's failure to fulfill any State responsibilities of assuring the proper use, management and supervision of the Deliverables and programs, audit controls, operating methods, office procedures, or for establishing all proper checkpoints necessary for the State's intended use of the Deliverables.

b) The Vendor's liability for damages to the State arising under the contract shall be limited to two times the value of the Contract.

c) The foregoing limitation of liability shall not apply to claims covered by other specific provisions including but not limited to Service Level Agreement or Deliverable/Product Warranty compliance, or to claims for injury to persons or damage to tangible personal property caused by Vendor's gross negligence or willful or wanton conduct. This limitation of liability does not apply to contributions among joint tortfeasors under N.C.G.S. 1B-1 et seq., the receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on this Contract. For avoidance of doubt, the Parties agree that the Service Level Agreement and Deliverable/Product Warranty Terms in the Contract are intended to provide the sole and exclusive remedies available to the State under the Contract for the Vendor's failure to comply with the requirements stated therein.

30) **<u>VENDOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY</u>:**

a) The Vendor shall be liable for damages arising out of personal injuries and/or damage to real or personal property of the State, employees of the State, persons designated by the State for training, or person(s) other than agents or employees of the Vendor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Vendor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the Vendor.

b) The Vendor agrees to indemnify, defend and hold the Agency and the State and its Officers, employees, agents and assigns harmless from any liability relating to personal injury or injury to real or personal property of any kind, accruing or resulting to any other person, firm or corporation furnishing or supplying work, Services, materials or supplies in connection with the performance of this contract, whether tangible or intangible, arising out of the ordinary negligence, willful or wanton negligence, or intentional acts of the Vendor, its officers, employees, agents, assigns or subcontractors, in the performance of this Contract.

c) Vendor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by the Vendor.

31) **CHANGES:** This Contract and subsequent purchase order(s) is awarded subject to shipment of quantities, qualities, and prices indicated by the order or Contract, and all conditions and instructions of the Contract or offer on which it is based. Any changes made to this Contract or purchase order proposed by the Vendor are hereby rejected unless accepted in writing by the Agency or State Award Authority. The State shall not be responsible for Deliverables or Services delivered without a purchase order from the Agency or State Award Authority.

32) **STOP WORK ORDER: - RESERVED**

33) **PRICE ADJUSTMENTS FOR TERM CONTRACTS: - RESERVED**

34) **TIME IS OF THE ESSENCE:** Time is of the essence in the performance of this Contract.

35) **DATE AND TIME WARRANTY:** The Vendor warrants that any Deliverable, whether hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interface therein which performs any date and/or time data recognition function, calculation, or sequencing, will provide accurate date/time data and leap year calculations. This warranty shall survive termination or expiration of the Contract.

36) **INDEPENDENT CONTRACTORS:** Vendor and its employees, officers and executives, and subcontractors, if any, shall be independent Vendors and not employees or agents of the State. This Contract shall not operate as a joint venture, partnership, trust, agency or any other business relationship.

37) **TRANSPORTATION:** Transportation of Deliverables shall be FOB Destination; unless otherwise specified in the solicitation document or purchase order. Freight, handling, hazardous material charges, and distribution and installation charges shall be included in the total price of each item. Any additional charges shall not be honored for payment unless authorized in writing by the Purchasing State Agency. In cases where parties, other than the Vendor ship materials against this order, the shipper must be instructed to show the purchase order number on all packages and shipping manifests to ensure proper identification and payment of invoices. A complete packing list must accompany each shipment.

38) **NOTICES:** Any notices required under this Contract should be delivered to the Contract Administrator for each party. Unless otherwise specified in the Solicitation Documents, any notices shall be delivered in writing by U.S. Mail, Commercial Courier or by hand.

39) **TITLES AND HEADINGS:** Titles and Headings in this Contract are used for convenience only and do not define, limit or proscribe the language of terms identified by such Titles and Headings.

40) **AMENDMENT:** This Contract may not be amended orally or by performance. Any amendment must be made in written form and signed by duly authorized representatives of the State and Vendor in conformance with Paragraph 31) herein.

41) **TAXES:** The State of North Carolina is exempt from Federal excise taxes and no payment will be made for any personal property taxes levied on the Vendor or for any taxes levied on employee wages. Agencies of the State may have additional exemptions or exclusions for federal or state taxes. Evidence of such additional exemptions or exclusions may be provided to Vendor by Agencies, as applicable, during the term of this Contract. Applicable State or local sales taxes shall be invoiced as a separate item.

42) **GOVERNING LAWS, JURISDICTION, AND VENUE:**

a) This Contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina. The place of this Contract or purchase order, its situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or in tort, relating to its validity, construction, interpretation and enforcement shall be determined. Vendor agrees and submits, solely for matters relating to this Contract, to the jurisdiction of the courts of the State of North Carolina, and stipulates that Wake County shall be the proper venue for all matters.

b) Except to the extent the provisions of the Contract are clearly inconsistent therewith, the applicable provisions of the Uniform Commercial Code as modified and adopted in North Carolina shall govern this Contract. To the extent the Contract entails both the supply of "goods" and "Services," such shall be deemed "goods" within the meaning of the Uniform Commercial Code, except when deeming such Services as "goods" would result in a clearly unreasonable interpretation.

43) **FORCE MAJEURE:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

44) **COMPLIANCE WITH LAWS:** The Vendor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

45) **SEVERABILITY:** In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, each such provision or requirement shall be enforced only to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Contract shall remain in full force and effect. All promises, requirement, terms, conditions, provisions, representations, guarantees and warranties contained herein shall survive the expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable federal or State statute, including statutes of repose or limitation.

46) **FEDERAL INTELLECTUAL PROPERTY BANKRUPTCY PROTECTION ACT:** The Parties agree that the Agency shall be entitled to all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365(n), and any amendments thereto.

47) **ELECTRONIC PROCUREMENT (Applies to all contracts that include E-Procurement and are identified as such in the body of the solicitation document):** Purchasing shall be conducted through the Statewide E-Procurement Service. The State's third party agent shall serve as the Supplier Manager for this E-Procurement Service. The Vendor shall register for the Statewide E-Procurement Service within two (2) business days of notification of award in order to receive an electronic purchase order resulting from award of this contract.

a) **The successful Vendor(s) shall pay a transaction fee of 1.75% (.0175) on the total dollar amount (excluding sales taxes) of each purchase order issued through the Statewide E-Procurement Service**. This applies to all purchase orders, regardless of the quantity or dollar amount of the purchase order. The transaction fee shall neither be charged to nor paid by the State, or by any State approved users of the contract. The transaction fee shall not be stated or included as a separate item in the proposed contract or invoice. There are no additional fees or charges to the Vendor for the Services rendered by the Supplier Manager under this contract. Vendor will receive a credit for transaction fees they paid for the purchase of any item(s) if an item(s) is returned through no fault of the Vendor. Transaction fees are non-refundable when an item is rejected and returned, or declined, due to the Vendor's failure to perform or comply with specifications or requirements of the contract.

b) Vendor, or its authorized Reseller, as applicable, will be invoiced monthly for the State's transaction fee by the Supplier Manager. The transaction fee shall be based on purchase orders issued for the prior month. Unless Supplier Manager receives written notice from the Vendor identifying with specificity any errors in an invoice within thirty (30) days of the receipt of invoice, such invoice shall be deemed to be correct and Vendor shall have waived its right to later dispute the accuracy and completeness of the invoice. Payment of the transaction fee by the Vendor is due to the account designated by the State within thirty (30) days after receipt of the correct invoice for the transaction fee, which includes payment of all portions of an invoice not in dispute. Within thirty (30) days of the receipt of invoice, Vendor may request in writing an extension of the invoice payment due date for that portion of the transaction fee invoice for which payment of the related goods by the governmental purchasing entity has not been received by the Vendor. If payment of the transaction fee invoice is not received by the State within this payment period, it shall be considered a material breach of contract. The Supplier Manager shall provide, whenever reasonably requested by the Vendor in writing (including electronic documents), supporting documentation from the E-Procurement Service that accounts for the amount of the invoice.

c) The Supplier Manager will capture the order from the State approved user, including the shipping and payment information, and submit the order in accordance with the E-Procurement Service. Subsequently, the Supplier Manager will send those orders to the appropriate Vendor on State Contract. The State or State approved user, not the Supplier Manager, shall be responsible for the solicitation, offers received, evaluation of offers received, award of contract, and the payment for goods delivered.

d) Vendor agrees at all times to maintain the confidentiality of its user name and password for the Statewide E-Procurement Services. If a Vendor is a corporation, partnership or other legal entity, then the Vendor may authorize its employees to use its password. Vendor shall be responsible for all activity and all charges for such employees. Vendor agrees not to permit a third party to use the Statewide E-Procurement Services through its account. If there is a breach of security through the Vendor's account, Vendor shall immediately change its password and notify the Supplier Manager of the security breach by e-mail. Vendor shall cooperate with the state and the Supplier Manager to mitigate and correct any security breach.

48) ELECTRONIC PROCUREMENT (Applies only to Statewide Term Contracts): RESERVED

Section 2: Terms and Conditions Applicable to Personnel and Personal Services

1. **VENDOR'S REPRESENTATION:** Vendor warrants that qualified personnel will provide Services in a professional manner. "Professional manner" means that the personnel performing the Services will possess the skill and competence consistent with the prevailing business standards in the information technology industry. Vendor agrees that it will not enter any agreement with a third party that might abridge any rights of the State under the Agreement. Vendor will serve as the prime Vendor under the Agreement. Should the State approve any subcontractor(s), the Vendor shall be legally responsible for the performance and payment of the subcontractor(s). Names of any third-party Vendors or subcontractors of Vendor may appear for purposes of convenience in Contract documents; and shall not limit Vendor's obligations hereunder. Such third-party subcontractors, if approved, may serve as subcontractors to Vendor. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractor(s).

a. Intellectual Property. Vendor represents that it has the right to provide the Services and other Deliverables without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party. Vendor also represents that its Services and other Deliverables are not the subject of any actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party.

b. Inherent Services. If any Services or other Deliverables, functions, or responsibilities not specifically described in the Agreement are required for Vendor's proper performance, provision and delivery of the Services and other Deliverables pursuant to the Agreement, or are an inherent part of or necessary sub-task included within the Services, they will be deemed to be implied by and included within the scope of the Contract to the same extent and in the same manner as if specifically described in the Contract.

c. Vendor warrants that it has the financial capacity to perform and to continue to perform its obligations under the Contract; that Vendor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Vendor that could materially adversely affect performance of the Agreement; and that entering into the Agreement is not prohibited by any Contract, or order by any court of competent jurisdiction.

2. **SERVICES PROVIDED BY VENDOR:** Vendor shall provide the State with implementation Services as specified in a Statement of Work ("SOW") executed by the parties. This Agreement in combination with each SOW individually comprises a separate and independent contractual obligation from any other SOW. A breach by Vendor under one SOW will not be considered a breach under any other SOW. The Services intended hereunder are related to the State's implementation and/or use of one or more Software Deliverables licensed hereunder or in a separate software license agreement between the parties ("License Agreement"). (Reserve if not needed)

3. **PERSONNEL:** Vendor shall not substitute key personnel assigned to the performance of the Agreement without prior written approval by the Agency Contract Administrator. The individuals designated as key personnel for purposes of the Agreement are those specified in the Vendor's offer. Any desired substitution shall be noticed to the Agency's Contract Administrator in writing accompanied by the names and references of Vendor's recommended substitute personnel. The Agency will approve or disapprove the requested substitution in a timely manner. The Agency may, in its sole discretion, terminate the Services of any person providing Services under the Agreement. Upon such termination, the Agency may request acceptable substitute personnel or terminate the Contract Services provided by such personnel.

a. Unless otherwise expressly provided in the Contract, Vendor will furnish all of its own necessary management, supervision, labor, facilities, furniture, computer and telecommunications equipment, software, supplies and materials necessary for the Vendor to provide and deliver the Services and other Deliverables.

b. Vendor personnel shall perform their duties on the premises of the State, during the State's regular work days and normal work hours, except as may be specifically agreed otherwise, established in the specification, or statement of work.

c. The Agreement shall not prevent Vendor or any of its personnel supplied under the Agreement from performing similar Services elsewhere or restrict Vendor from using the personnel provided to the State, provided that:

i. Such use does not conflict with the terms, specifications or any amendments to the Agreement, or

ii. Such use does not conflict with any procurement law, regulation or policy, or

iii. Such use does not conflict with any non-disclosure agreement, or term thereof, by and between the State and Vendor or Vendor's personnel.

d. Unless otherwise provided by the Agency, the Vendor shall furnish all necessary personnel, Services, and otherwise perform all acts, duties and responsibilities necessary or incidental to the accomplishment of the tasks specified in the Agreement. The Vendor shall be legally and financially responsible for its personnel including, but not limited to, any deductions for social security and other withholding taxes required by state or federal law. The Vendor shall be solely responsible for acquiring any equipment, furniture, and office space not furnished by the State necessary for the Vendor to comply with the Agreement. The Vendor personnel shall comply with any applicable State facilities or other security rules and regulations.

4. **PERSONAL SERVICES**: **- RESERVED**