

STATE OF NORTH CAROLINA

Department of Public Safety

Invitation for Bid #: 19-IFB-1028017379-GSX

**Hazard Mitigation Grant Program (HMGP)
Project 4393-0083 UNC-Chapel Hill Emergency Operations Center
Generator**

Date Issued: March 1, 2024

Bid Opening Date April 2, 2024

At 2:00 PM ET

Direct all inquiries concerning this IFB to:

**Sherri Garte
Contract Specialist
Email: sherri.garte@ncdps.gov**



STATE OF NORTH CAROLINA

Invitation for Bids

19-IFB-1028017379-GSX

For internal State agency processing, including tabulation of bids, provide your company's eVP (Electronic Vendor Portal) Number. Pursuant to G.S. 132-1.10(b) this identification number shall not be released to the public. **This page will be removed and shredded, or otherwise kept confidential**, before the procurement file is made available for public inspection.

**This page shall be filled out and returned with your bid.
Failure to do so may subject your bid to rejection.**

Vendor Name

Vendor eVP#

Note: For a contract to be awarded to you, your company (you) must be a North Carolina registered vendor in good standing. You must enter the vendor number assigned through eVP (Electronic Vendor Portal). If you do not have a vendor number, register at <https://vendor.ncgov.com/vendor/login>

**STATE OF NORTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY**

Refer <u>ALL</u> Inquiries regarding this IFB to: The procurement lead through the Message Board in the Sourcing Tool. See section 2.6 for details:	Invitation for Bids #: 19-IFB-1028017379-GSX
	Bids will be publicly opened: April 2, 2024 at 2:00 pm
Using Agency: NCDPS - Hazard Mitigation	Commodity No. and Description: 261116- Power Generators UNC-Chapel Hill Emergency Operations Center
Requisition No.: RQ58726	

EXECUTION

In compliance with this Invitation for Bids (IFB), and subject to all the conditions herein, the undersigned Vendor offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein.

By executing this bid, the undersigned Vendor understands that false certification is a Class I felony and certifies that:

- this bid is submitted competitively and without collusion (G.S. 143-54),
- that none of its officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and
- it is not an ineligible Vendor as set forth in G.S. 143-59.1.

Furthermore, by executing this bid, the undersigned certifies to the best of Vendor's knowledge and belief, that:

- it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State department or agency.

As required by G.S. 143-48.5, the undersigned Vendor certifies that it, and each of its sub-Contractors for any Contract awarded as a result of this IFB, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system.

As required by Executive Order 24 (2017), the undersigned vendor certifies will comply with all Federal and State requirements concerning fair employment and that it does not and will not discriminate, harass, or retaliate against any employee in connection with performance of any Contract arising from this solicitation.

G.S. 133-32 and Executive Order 24 (2009) prohibit the offer to, or acceptance by, any State Employee associated with the preparing plans, specifications, estimates for public Contract; or awarding or administering public Contracts; or inspecting or supervising delivery of the public Contract of any gift from anyone with a Contract with the State, or from any person seeking to do business with the State. By execution of this bid response to the IFB, the undersigned certifies, for Vendor's entire organization and its employees or agents, that Vendor are not aware that any such gift has been offered, accepted, or promised by any employees or agents of Vendor's organization.

By executing this bid, Vendor certifies that it has read and agreed to the **INSTRUCTION TO VENDORS** and the **NORTH CAROLINA GENERAL TERMS AND CONDITIONS incorporated below**. These documents can be accessed from the Ariba Sourcing Tool.

Failure to execute/sign bid prior to submittal may render bid invalid and it MAY BE REJECTED. Late bids cannot be accepted.

COMPLETE/FORMAL NAME OF VENDOR:		
STREET ADDRESS:	P.O. BOX:	ZIP:
CITY & STATE & ZIP:	TELEPHONE NUMBER:	TOLL FREE TEL. NO:
PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE (SEE INSTRUCTIONS TO VENDORS ITEM #21):		
PRINT NAME & TITLE OF PERSON SIGNING ON BEHALF OF VENDOR:		FAX NUMBER:
VENDOR'S AUTHORIZED SIGNATURE:	DATE:	E-MAIL:

VALIDITY PERIOD

Offer shall be valid for at least ninety (90) days from date of bid opening, unless otherwise stated here: _____ days, or if extended by mutual agreement in writing of the parties. Any withdrawal of this offer shall be made in writing, effective upon receipt by the agency issuing this IFB.

BID ACCEPTANCE

If your bid is accepted, all provisions of this IFB, along with the written results of any negotiations, shall constitute the written agreement between the parties ("Contract"). The NORTH CAROLINA GENERAL TERMS AND CONDITIONS are incorporated herein and shall apply. Depending upon the Goods or Services being offered, other terms and conditions may apply, as mutually agreed.

FOR STATE USE ONLY: Offer accepted and Contract awarded this ____ day of _____, 2024, as indicated
on the attached certification, by _____

(Authorized Representative of Department of Public Safety)

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1.0 PURPOSE AND BACKGROUND

The North Carolina Department of Public Safety (DPS), Division of Emergency Management (NCEM) is seeking bids from qualified, highly skilled Vendors to perform, or cause to be performed, installation of an emergency backup generator at the **UNC-Chapel Hill emergency Operations Center**. This includes design, engineering, delivery, connection and testing of the generator at critical facilities which are eligible for such units through the NCEM Hazard Mitigation program.

The State of North Carolina can often be faced with hurricanes, tropical storms, severe storms, tornadoes, and winter weather that pose annual and serious threats to lives and properties of communities throughout the State. During These events, normal power services provided by local utility companies are often impacted and critical services that rely on these power sources for operations can be shut down. One major goal of the NCEM Hazard Mitigation section is to facilitate access to necessary and available Federal funding in order to build resilient communities to lessen the impacts these disasters impose on the citizens of North Carolina.

A Federal declaration of disaster allows for the availability of funding through the Federal Emergency Management Agency's (FEMA) Hazard Mitigation Grant Program (HMGP). Through this program, the NCEM Hazard Mitigation section is seeking bids from Vendors interested in providing construction management, design, construction and installation services for generators at critical facilities serving various populations at risk from future events.

The State intends to select Vendors that demonstrate the capability and capacity of completing work in counties and jurisdictions approved through the Federal disaster declaration. The Vendor(s) will manage the operations and execution of all construction, engineering and installation services related to the project. The Vendor(s) will be expected to participate in regular and frequent correspondence with the State Hazard Mitigation Office and the Project Managers dedicated to the project in reference to timeline, budget, and overall implementation of the project.

The intent of this solicitation is to award an Agency Contract. Bids shall be submitted in accordance with the terms and conditions of this IFB and any addenda issued hereto.

1.1 CONTRACT TERM

The Contract shall have a term of 18 months, beginning on the date of the contract award (the "Effective Date"). In addition, with the Vendor's concurrence, the State reserves the right to extend the Contract after the last active term.

Bids shall be submitted in accordance with the terms and conditions of this IFB and any addenda issued hereto.

2.0 GENERAL INFORMATION

2.1 INVITATION FOR BID DOCUMENT

The IFB is comprised of the base IFB document, any attachments, and any addenda released before Contract award, which are incorporated herein by reference.

2.2 E-PROCUREMENT FEE

ATTENTION: This is an NC eProcurement solicitation facilitated by the Ariba Network. The E-Procurement fee may apply to this solicitation. See paragraph entitled ELECTRONIC PROCUREMENT of the North Carolina General Terms and Conditions.

General information on the E-Procurement Services can be found at: <http://eprocurement.nc.gov/>.

a) Ariba Network

The Ariba Network is a web-based platform that serves as a connection point for buyers and vendors. Vendors can log in to the Ariba Network to view purchase orders, respond to electronic requests for quotes, participate in Sourcing Events, and collaborate with buyers on contract documents.

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:

<http://eprocurement.nc.gov/training/vendor-training>.

2.3 NOTICE TO VENDORS REGARDING IFB TERMS AND CONDITIONS

It shall be the Vendor's responsibility to read the Instructions to Vendors, the North Carolina General Terms and Conditions, all relevant exhibits and attachments, and any other components made a part of this IFB and comply with all requirements and specifications herein. Vendors also are responsible for obtaining and complying with all Addenda and other changes that may be issued in connection with this IFB.

If Vendors have questions, or issues regarding any component within this IFB, those must be submitted as questions in accordance with the instructions in the BID QUESTIONS Section. If the State determines that any changes will be made as a result of the questions asked, then such decisions will be communicated in the form of an IFB addendum. The State may also elect to leave open the possibility for later negotiation and amendment of specific provisions of the Contract that have been addressed during the question-and-answer period.

Other than through the process of negotiations under 01 NCAC 05B.0503, the State rejects and will not be required to evaluate or consider any additional or modified terms and conditions submitted with Vendor's bid. This applies to any language appearing in or attached to the document as part of the Vendor's bid that purports to vary any terms and conditions or Vendors' instructions herein or to render the bid non-binding or subject to further negotiation. Vendor's bid shall constitute a firm offer that shall be held open for the period required herein ("Validity Period" above).

The State may exercise its discretion to consider Vendor proposed modifications. By execution and delivery of this IFB Response, the Vendor agrees that any additional or modified terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect, and will be disregarded unless expressly agreed to during negotiations and incorporated by way of Best and Final Offer (BAFO). Noncompliance with, or any attempt to alter or delete, this paragraph shall constitute sufficient grounds to reject Vendor's bid as nonresponsive.

2.4 IFB SCHEDULE

The table below shows the *intended* schedule for this IFB. The State will make every effort to adhere to this schedule.

Event	Responsibility	Date and Time
Issue IFB	State	March 1, 2024
Hold Pre-Bid Mandatory Site Visit	State	March 13, 2024, at 10:00 AM ET
Submit Written Questions	Vendor	March 19, 2024 by 2:00 PM ET
Provide Responses to Questions	State	March 22, 2024 by 2:00 PM ET
Submit Bids	Vendor	April 2, 2024 by 2:00 PM ET
Contract Award	State	TBD

2.5 MANDATORY SITE VISIT

Date: March 13, 2024
Time: 10:00 AM ET
Location: 1120 Estes Drive Extension
Chapel Hill, NC 27599

Contact #: John Boudreau (919)621-3292
john.boudreau@ncdps.gov

Instructions: It shall be MANDATORY that each Vendor representative be present for a pre-bid site visit. Attendees must meet promptly. All attendees must sign in upon arrival and clearly indicate each prospective Vendor represented on the sign in sheet. LATE ARRIVALS WILL NOT BE ALLOWED TO SIGN IN, PARTICIPATE IN THE SITE VISIT NOR SHALL THEIR BID BE CONSIDERED. Once the sign-in process is complete, all other persons wishing to attend may do so to the extent that space and circumstances allow.

FAILURE TO ATTEND THE MANDATORY SITE VISIT SHALL RESULT IN VENDOR'S BID BEING DEEMED NON-RESPONSIVE AND NOT CONSIDERED FOR AWARD.

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 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 IFB.

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 IFB and any resulting contract.

2.6 BID QUESTIONS

Upon review of the IFB documents, Vendors may have questions to clarify or interpret the IFB in order to submit the best bid possible. To accommodate the Bid Questions process, Vendors shall submit any such questions by the "Submit Written Questions" date and time provided in the IFB SCHEDULE Section above, unless modified by Addendum.

Questions related to the content of the solicitation, or the procurement process should be directed to the person on the title page of this document via the Sourcing Tool's message board by the date and time specified in the IFB SCHEDULE Section of this IFB. Vendors will enter "IFB # 19-IFB-1028017379-GSX – Questions" as the subject of the message. Question submittals should include a reference to the applicable IFB section. This is the only manner in which questions will be received.

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 ET to 5:00 PM ET.

Questions received prior to the submission deadline date, the State's response, and any additional terms deemed necessary by the State will be posted in the Sourcing Tool in the form of an addendum and shall become an Addendum to this IFB. No information, instruction or advice provided orally or informally by any State personnel, whether made in response to a question or otherwise in connection with this IFB, shall be considered authoritative or binding. Vendors shall rely *only* on written material contained in an Addendum to this IFB.

2.7 BID SUBMITTAL

Vendors shall provide responses to all questions and complete all attachments for this IFB that require the Vendor to provide information and upload them to the Sourcing Event in the Sourcing Tool. Vendor may not be able to submit its response in the Sourcing Tool unless all required items are addressed. Vendors shall provide authorized signatures where requested. Failure to provide all required items, or Vendor's submission of incomplete items, may result in the State rejecting Vendor's bid, in the State's sole discretion.

Vendors shall upload the following items and attachments in the Sourcing Tool:

- a) Completed and signed version of all EXECUTION PAGES, along with the body of the IFB.
- b) Signed receipt pages of any addenda released in conjunction with this IFB, if required to be returned.
- c) Vendor's Response.
- d) Descriptive Literature, per Section 4.2
- e) Demonstration of Vendor's Experience and References, section 4.6
- f) Completed version of ATTACHMENT A: PRICING FORM.
- g) Completed and signed version of ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION.
- h) Completed and signed version of ATTACHMENT E: CUSTOMER REFERENCE FORM.
- i) Completed and signed version of ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR.
- j) Completed and signed version of ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION.
- k) Completed and signed version of ATTACHMENT H: CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS and OMB STANDARD FORM LLL.

2.8 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS

Relevant definitions for this IFB are provided in 01 NCAC 05A .0112 and in the Instructions to Vendors found Sourcing Tool, which are incorporated herein by this reference.

The following definitions, acronyms, and abbreviations are also relevant to this IFB:

- a) **ADA:** American with Disabilities Act of 1990.
- b) **ADDENDUM:** a document issued to supplement or modify the original Solicitation document. Addenda may be issued following a pre-bid/pre-proposal conference or as a result of a specification or work scope changes to the Solicitation.

- c) **AUDIT:** The contract(s) awarded pursuant to this IFB are subject to audits by State and Federal agencies and/or their authorized independent auditors. The auditors may conduct contract performance, financial and/or forensic/fraud audits.
- d) **BAFO:** Best and Final Offer, submitted by a Vendor to alter its initial bid, made in response to a request by the issuing agency.
- e) **BATCH:** A grouping of similar Work Orders/Scopes of Work grouped together.
- f) **BASE FLOOD:** A flood having a 1% chance of being equaled or exceeded in any given year.
- g) **BASE FLOOD ELEVATION (BFE):** The elevation to which flood waters rise during a base flood event.
- h) **BUYER:** The employee of the State or Other Eligible Entity that places an order with the Vendor.
- i) **CHANGE ORDER:** A written alteration to a previously signed Contract for work.
- j) **CONSTRUCTION MANAGER (CM):** A North Carolina licensed GC with construction management experience that will provide NCEM construction management services.
- k) **CONTRACT LEAD:** Representative of the Department of Public Safety identified on the first page of this IFB who will correspond with potential Vendors concerning solicitation issues and will contract with the Vendor providing the best offer to the State and is the individual who will administer The Contract for the State.
- l) **DESIGN FLOOD ELEVATION (DFE):** The regulatory flood elevation adopted by the local community which is equal to the base flood elevation plus freeboard.
- m) **DPS:** Department of Public Safety
- n) **E-PROCUREMENT SERVICES:** The program, system, and associated Services through which the State conducts electronic procurement.
- o) **EFFECTIVE DATE:** Date of Contract award.
- p) **ENGINEER OF RECORD (EOR):** The Professional Engineer responsible for designing the plans and providing engineering insight during the design and construction phases of the project. The EOR is responsible for reviewing any necessary modifications before and during construction.
- q) **ET:** Eastern Time.
- r) **FEMA:** Federal Emergency Management Agency.
- s) **FOB-DESTINATION:** Title changes hand from Vendor to purchaser at the destination point of the shipment; Vendor owns commodity in transit and files any claims, and Vendor pays all freight and any related transportation charges. A solicitation may request a Vendor to separately identify freight charges in its bid, but no amount or charge not included as part of the total bid price will be paid.
- t) **FREEBOARD:** The additional height requirements added above the BFE for additional protection from flood waters. The amount of freeboard required at each property shall be verified with the local jurisdictions.
- u) **GC:** General Contractor, licensed in the State of North Carolina.
- v) **GRANTEE:** The State of North Carolina, who applies to FEMA in response to grant funding opportunities or availability on behalf of the Subgrantee.
- w) **HMGP:** Hazard Mitigation Grant Program. This is a federal grant award issued pursuant to a declaration of disaster, which provides funding through FEMA.
- x) **IFB:** Invitation for Bids.
- y) **MITIGATION:** Taking actions to protect property or persons, or safeguarding resources to protect property or persons from consequences of future disaster events with the intention of resiliency.
- z) **NCEM:** North Carolina Department of Public Safety, Emergency Management.
- aa) **NOTICE TO PROCEED (NTP):** Notice to Vendor to commence work to be performed under this agreement.
- bb) **OPENING DATE:** Responses will only be accepted up until the specified time and date listed in the bid and then publicly opened. NO responses will be accepted after that time and date.
- cc) **PE:** Professional Engineer, licensed in the State of North Carolina.
- dd) **PRINCIPAL PLACE OF BUSINESS:** The principal location from which the overall trade or business of the Vendor is directed or managed.
- ee) **PROJECT MANAGER (PM):** The person who leads the project, to whom the Vendor and/or Construction Manager reports, ensuring overall project deadlines and project funds are distributed to all essential parties. For projects, the Project Manager is a representative of the State.
- ff) **QUALIFIED BID:** A responsive bid submitted by a responsible Vendor.
- gg) **SCOPE OF WORK (SOW):** The agreed upon duties and responsibilities of the Vendor for each project site. The Scope of Work may only be altered by a Change Order.
- hh) **SERVICES or SERVICE DELIVERABLES:** The tasks and duties undertaken by the Vendor to fulfill the requirements and specifications of this solicitation.
- ii) **SHALL OR MUST:** Denotes that which is a mandatory requirement. Failure to meet a mandatory requirement will result in the rejection of this bid.

- jj) **SHOULD:** Denotes that which is recommended; not mandatory.
- kk) **STATE:** The State of North Carolina, including any of its sub-units recognized under North Carolina law.
- ll) **STATE AGENCY:** Any of the more than 400 sub-units within the executive branch of the State, including its departments, boards, commissions, institutions of higher education and other institutions.
- mm) **SUBGRANTEE:** The County, Local Jurisdiction and/or Tribe for whom the Grantee has applied for a HMGP grant on behalf of.
- nn) **THE CONTRACT:** A contract resulting from or arising out of Vendor responses to this solicitation document.
- oo) **VENDOR:** Supplier, bidder, proposer, company, firm, corporation, partnership, individual or other entity submitting a response to an Invitation for Bids. Following award of a contract, the term refers to an entity receiving such an award. Also referred to as the Prime Contract for the purposed of this IFB.

2.9 CONTRACT MONITORING

Per *NC Senate Bill 1213 (Session Law 2010-194)* any contract which results from the award of this Invitation for Bid shall include contract monitoring as a regular process of evaluating post award Vendor contract performance based on measurable deliverables and verifying Vendor compliance with the terms and conditions in the contract.

The general purpose of monitoring will be to 1) improve Vendor contract performance through early identification of questions and issue resolution; 2) identify potential contract problems, financial or technical, that may require additional scrutiny; 3) evaluate Vendor contract performance controls to ensure there is a reliable basis for validating deliverables and minimizing risk of contract default; 4) assure that Vendor financial documentation is adequate and accurate as it relates to contract payments.

Specifically, contract monitoring may include but are not limited to the following areas;

- Verify contractor performance for purposes of payment;
- Identify material breach of contract by assessing the difference between contract performance and material non-performance;
- Determine if corrective action is necessary and take such action if required.

3.0 METHOD OF AWARD AND BID EVALUATION PROCESS

3.1 METHOD OF AWARD

North Carolina G.S. 143-52 provides a general list of criteria the State shall use to award contracts, as supplemented by the additional criteria herein. The Goods or Services being procured shall dictate the application and order of criteria; however, all award decisions shall be in the State's best interest.

All responsive bids will be reviewed, and award or awards will be based on the responsive bid(s) offering the lowest price that meets the specifications provided herein, to include any required verifications set out herein such as but not limited to past performance, references, and financial documents.

While the intent of this IFB is to award a Contract(s) to a single Vendor for all line items, the State reserves the right to make separate awards to different Vendors for one or more line items, to not award one or more line items or to cancel this IFB in its entirety without awarding a Contract, if it is considered to be most advantageous to the State to do so.

The State reserves the right to waive any minor informality or technicality in bids received.

3.2 CONFIDENTIALITY AND PROHIBITED COMMUNICATIONS DURING EVALUATION

While this IFB is under evaluation, the responding Vendor, including any subcontractors and suppliers, is prohibited from engaging in conversations intended to influence the outcome of the evaluation. See the Paragraph of the Instructions To Vendors entitled COMMUNICATIONS BY VENDORS.

Each Vendor submitting a bid to this IFB, including its employees, agents, subcontractors, suppliers, subsidiaries and affiliates, is prohibited from having any communications with any person inside or outside the using agency; issuing agency; other government agency office or body (including the purchaser named above, any department secretary, agency head, members of the General Assembly and Governor's office); or private entity, if the communication refers to the content of Vendor's proposal or qualifications, the content of another Vendor's proposal, another Vendor's qualifications or ability to perform a resulting contract, and/or the transmittal of any other communication of information that could be reasonably considered to have the effect of directly or indirectly influencing the evaluation of proposals, the award of a contract, or both.

Any Vendor not in compliance with this provision shall be disqualified from evaluation and award. A Vendor's proposal may be disqualified if its subcontractor and/or supplier engage in any of the foregoing communications during the time that the procurement is active (*i.e.*, the issuance date of the procurement until the date of contract award or cancellation of the procurement). Only those discussions, communications or transmittals of information authorized or initiated by the issuing agency for this IFB or inquiries directed to the purchaser named in this IFB regarding requirements of the IFB (prior to proposal submission) or the status of the award (after submission) are excepted from this provision.

3.3 BID EVALUATION PROCESS

Only responsive submissions will be evaluated.

The State will conduct an evaluation of responsive Bids, as follows:

Bids will be received according to the method stated in the Bid Submittal section above.

All bids must be received by the issuing agency not later than the date and time specified in the IFB SCHEDULE Section above, unless modified by Addendum. Vendors are cautioned that this is a request for offers, not an offer or request to contract, and the State reserves the unqualified right to reject any and all offers at any time if such rejection is deemed to be in the best interest of the State.

At the date and time provided in the IFB SCHEDULE Section above, unless modified by Addendum, the bids from each responding Vendor will be opened publicly and all offers (except those that have been previously withdrawn, or voided bids) will be tabulated. The tabulation shall be made public at the time it is created. When negotiations after receipt of bids is authorized pursuant to G.S. 143-49 and 01 NCAC 05B.0503, only the names of offerors and the Goods and Services offered shall be tabulated at the time of opening. Cost and price shall become available for public inspection at the time of the award... Interested parties are cautioned that these costs and their components are subject to further evaluation for completeness and correctness and therefore may not be an exact indicator of a Vendor's pricing position.

At their option, the evaluators may request oral presentations or discussions with any or all Vendors for clarification or to amplify the materials presented in any part of the bid. Vendors are cautioned, however, that the evaluators are not required to request presentations or other clarification—and often do not. Therefore, all bids should be complete and reflect the most favorable terms available from the Vendor. Prices bid cannot be altered or modified as part of a clarification.

Bids will generally be evaluated, based on completeness, content, cost, and responsibility of the Vendor to supply the requested Goods and Services. Specific evaluation criteria are listed in Section 3.1 METHOD OF AWARD.

Upon completion of the evaluation process, the State will make Award(s) based on the evaluation and post the award(s) to **the electronic Vendor Portal (eVP)**, <https://evp.nc.gov> under the IFB number for this solicitation. Award of a Contract to one Vendor does not mean that the other bids lacked merit, but that, all factors considered, the selected bid was deemed most advantageous and represented the best value to the State.

The State reserves the right to negotiate with one or more Vendors, or to reject all original offers and negotiate with one or more sources of supply that may be capable of satisfying the requirement, and in either case to require Vendor to submit a Best and Final Offer (BAFO) based on discussions and negotiations with the State.

3.4 PERFORMANCE OUTSIDE THE UNITED STATES

Vendor shall complete ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR. In addition to any other evaluation criteria identified in this IFB, the State may also consider, for purposes of evaluating proposed or actual contract performance outside of the United States, how that performance may affect the following factors to ensure that any award will be in the best interest of the State:

- a) Total cost to the State
- b) Level of quality provided by the Vendor
- c) Process and performance capability across multiple jurisdictions
- d) Protection of the State's information and intellectual property
- e) Availability of pertinent skills
- f) Ability to understand the State's business requirements and internal operational culture
- g) Particular risk factors such as the security of the State's information technology
- h) Relations with citizens and employees

- i) Contract enforcement jurisdictional issues

3.5 INTERPRETATION OF TERMS AND PHRASES

This IFB serves two functions: (1) to advise potential Vendors of the parameters of the solution being sought by the State; and (2) to provide (together with other specified documents) the terms of the Contract resulting from this procurement. The use of phrases such as “shall,” “must,” and “requirements” are intended to create enforceable contract conditions. In determining whether bids should be evaluated or rejected, the State will take into consideration the degree to which Vendors have proposed or failed to propose solutions that will satisfy the State’s needs as described in the IFB. Except as specifically stated in the IFB, no one requirement shall automatically disqualify a Vendor from consideration. However, failure to comply with any single requirement may result in the State exercising its discretion to reject a bid in its entirety.

4.0 REQUIREMENTS

4.1 PRICING

Bid price shall constitute the total cost to the State for complete performance in accordance with the requirements and specifications herein, including all applicable charges for handling, transportation, administrative and other similar fees. Complete ATTACHMENT A: PRICING FORM and upload in the Sourcing Tool. The pricing provided in ATTACHMENT A, or resulting from any negotiations, is incorporated herein and shall become part of any resulting Contract.

4.2 DESCRIPTIVE LITERATURE

Each bid shall be accompanied by complete descriptive literature, specifications, certifications, and all other pertinent data necessary for thorough evaluation of the item(s) offered and sufficient to determine compliance of the item(s) with the specifications. Failure to include such information to shall be a sufficient basis for rejection of the bid.

- a) Suitability for Intended Use Vendors are requested to offer only items directly complying with the specifications herein or comparable items which will provide the equivalent capabilities, features and diversity called for herein. The State reserves the right to evaluate all bids for suitability for the required use and to award the one best meeting requirements and considered to be in the State’s best interest.

4.3 INVOICES

Vendor shall invoice the Purchasing Agency. The standard format for invoicing shall be Single Invoices meaning that the Vendor shall provide the Purchasing Agency with an invoice for each order. Invoices shall include detailed information to allow Purchasing Agency to verify pricing at point of receipt matches the correct price from the original date of order. The following fields shall be included on all invoices, as relevant:

Vendor’s Billing Address, Customer Account Number, NC Contract Number, Order Date, Buyer’s Order Number, Manufacturer Part Numbers, Vendor Part Numbers, Item Descriptions, Price, Quantity, and Unit of Measure.

INVOICES MAY NOT BE PAID UNTIL AN INSPECTION HAS OCCURRED AND THE GOODS OR SERVICES ACCEPTED.

4.4 FINANCIAL STABILITY

As a condition of contract award, the Vendor must certify 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 this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

Each Vendor shall certify it is financially stable by completing ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION. The State is requiring this certification to minimize potential issues from contracting with a Vendor that is financially unstable. From the date of the Certification to the expiration of the Contract, the Vendor shall notify the State within thirty (30) days of any occurrence or condition that materially alters the truth of any statement made in this Certification. The Contract Manager may require annual recertification of the Vendor’s financial stability.

4.5 HUB PARTICIPATION

Pursuant to North Carolina General Statute G.S. 143-48, it is State policy to encourage and promote the use of small, minority, physically handicapped, and women contractors in purchasing Goods and Services. As such, this IFB will serve to identify those Vendors that are minority owned or have a strategic plan to support the State’s Historically Underutilized Business program by

meeting or exceeding the goal of 10% utilization of diverse firms as 1st or 2nd tier subcontractors. Vendor shall complete ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION.

4.6 REFERENCES

Vendor shall upload to the Sourcing Tool at least three (3) references, using ATTACHMENT E: CUSTOMER REFERENCE FORM, for which it has provided Services of similar size and scope to those proposed herein. The State *may* contact these users to determine whether the Services provided are substantially similar in scope to those proposed herein and whether Vendor's performance has been satisfactory. The information obtained *may* be considered in the evaluation of the Bid.

4.7 BACKGROUND CHECKS

Any personnel or agent of Vendor performing Services under any Contract arising from this IFB may be required to undergo a background check at the expense of the Vendor, if so requested by the State.

4.8 PERSONNEL

Vendor warrants that qualified personnel shall provide Services under this Contract 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 industry. Vendor will serve as the prime contractor under this Contract and shall be responsible for the performance and payment of all subcontractor(s) that may be approved by the State. 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. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractor(s).

Should the Vendor's bid result in an award, the Vendor shall be required to agree that it will not substitute key personnel assigned to the performance of the Contract without prior written approval by the Contract Lead. Vendor shall further agree that it will notify the Contract Lead of any desired substitution, including the name(s) and references of Vendor's recommended substitute personnel. The State will approve or disapprove the requested substitution in a timely manner. The State may, in its sole discretion, terminate the Services of any person providing Services under this Contract. Upon such termination, the State may request acceptable substitute personnel or terminate the contract Services provided by such personnel.

4.9 VENDOR'S REPRESENTATIONS

If Vendor's bid results in an award, Vendor agrees that it will not enter any agreement with a third party that may abridge any rights of the State under the Contract. If any Services, deliverables, functions, or responsibilities not specifically described in this solicitation are required for Vendor's proper performance, provision and delivery of the Service and deliverables under a resulting Contract, or are an inherent part of or necessary sub-task included within such 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 herein, 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/or other Deliverables.

4.10 LOBBYING ACTIVITY CERTIFICATION FOR FEDERAL GRANTS

Federal law prohibits recipients of federal funds, whether through grants, contracts, or cooperative agreements, from using those funds to influence or attempt to influence (lobby) a federal official in connection with obtaining, extending, or modifying any federal contract, grant, loan, or cooperative agreement. Further, federal law requires that applicants for federal funds certify:

- that they abide by the above restriction;
- that they disclose any permissible (non-federal) paid lobbying on the Federal Awards being applied for; and
- that such certification requirements will also be included in any subawards meeting the applicable thresholds.

Vendors must complete and submit the CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS and the OMB STANDARD FORM LLL when responding to this solicitation.

4.11 PERSONNEL

Vendor warrants that qualified personnel shall provide Services under this Contract 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 industry. Vendor will serve as the Vendor under this Contract and shall be responsible for the performance and payment of all subcontractor(s) that may be approved by the State. 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. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractor(s).

Should the Vendor’s bid result in an award, the Vendor shall be required to agree that it will not substitute key personnel assigned to the performance of the Contract without prior written approval by the Contract Lead. Vendor shall further agree that it will notify the Contract Lead of any desired substitution, including the name(s) and references of Vendor’s recommended substitute personnel. The State will approve or disapprove the requested substitution in a timely manner. The State may, in its sole discretion, terminate the Services of any person providing Services under this Contract. Upon such termination, the State may request acceptable substitute personnel or terminate the contract Services provided by such personnel.

5.0 PRODUCT SPECIFICATIONS

NCEM is seeking to hire highly skilled Vendor(s) to perform, or cause to perform, the implementation of generator procurement and installation compliance with local, State and Federal statutory requirements for HMGP grants. It is the responsibility of the selected Vendor(s) to manage the overall construction and installation, obtaining approved engineered designs, acquiring all necessary permits and inspections from local jurisdictions, and the completion of any other requirement. Upon completion, the site shall be returned to a state set forth by the conditions of the Scope of Work, as well as any modifications necessary to bring the site into compliance with local, State and Federal requirements.

Upon completion, the site shall be returned to a state set forth by the conditions of the Scope of Work, as well as any modifications necessary to bring the site into compliance with local, State and Federal requirements.

The Vendor shall select a Construction Manager for this project who shall be licensed in the State of North Carolina as a General Contractor. Should the Vendor allocate work to subcontractors, those subcontractors shall have the appropriate registrations and/or licenses to work in the State of North Carolina, verified by the Vendor, and shall be provided to the State as requested. As much as possible, laborers and subcontractors should be local to the community in which the work is being completed, unless locally contracted crews are substantially more expensive or unavailable to complete work within the deadlines. Each subcontractor shall be able to provide a comprehensive list of positions and laborers utilized **upon request**.

The Vendor must have the financial ability to undertake the work and assume the liability. Each Vendor will be required to furnish proof of sufficient Liability Insurance coverage **upon request** and must have an accounting system in place to identify costs chargeable to each project.

5.1 SPECIFICATIONS

The appropriate codes and standards shall be utilized for all design and construction throughout the entirety of the project. It is the responsibility of the Vendor to oversee compliance with all FEMA and North Carolina local and/or regional codes and standards. Additionally, site safety must conform to all standard OSHA regulations.

All work shall be performed in strict accordance with the current North Carolina State Building Code and the current North Carolina State Existing Building Code, as enforced by local authority. Additionally, all design work shall be compliant with the current version of ASCE 24 as referenced in the State building code. The design and construction shall follow all relevant FEMA standards and publications. The HMPG program **must comply with 44 C.F.R.** for the duration of the project.

During the Federal grant application submittal process, each project undergoes an environmental and historical preservation review by FEMA. Should the review find an environmental or historical concern, the design and construction of the project must consider the necessary adjustments. The Vendor must have a complete understanding of any environmental and historic issues as well as the necessary construction requirements relative to the project.

Rights of way and access to the structure as well as site management must also be considered prior to beginning construction. The necessary means must be taken to minimize environmental impacts imposed by construction at the site. The Vendor shall be responsible for dust control and all other environmental safeguards and protections as necessary. All such safeguards and protections shall comply with local, State and Federal laws and regulations regarding the same. All debris generated by the construction process shall be removed from the site and disposed of or recycled at an approved facility, following environmental regulations.

The Vendor shall exercise due care in the performance of all activities to minimize any damages to trees, shrubs, landscaping on public or private property. The Vendor shall be responsible for damages to any property caused by its equipment or workers. NCEM

shall be notified immediately of any damages which occur during construction activities conducted by the Vendor or its subcontractors.

The Vendor shall be responsible for any and all corrective action required in response to any notices of violations issues by any local, State, or Federal agency as a result of the Vendor's actions. All corrective actions shall be taken at the Vendor's expense. Additionally, the Vendor shall be solely responsible for the payment of any fines or penalties resulting from any such violations.

All equipment to be utilized by the Vendor shall comply with all applicable Federal, State, and local rules and regulations and shall be inspected by the Vendor and approved prior to use. The Vendor shall provide all labor and materials necessary to fully operate and maintain all equipment to be utilized.

5.2 PROJECT BACKGROUND

NCEM is responsible for coordinating the preparation and response to natural disasters within the State and work with local governments to ensure that critical services (e.g., water/wastewater treatment facilities, police, fire, EMS, governmental administration, etc.) are able to serve the citizens during disaster events. In order to ensure these services, alternative sources of power (i.e., generators) are required to maintain operations at the facilities during and after major storm events.

5.3 TASKS

PROJECT: 4393-0082 UNC-Chaple Hill Emergency Operations Center - Vendor(s) shall see table below for the project included in this IFB.

Item	SITE	GENERAT OR SIZE	CITY	COUNTY	LATITUDE	LONGITUDE
1.	1120 Estes Drive Extension	400kW	Chapel Hill	Orange	35.9337	-79.0584

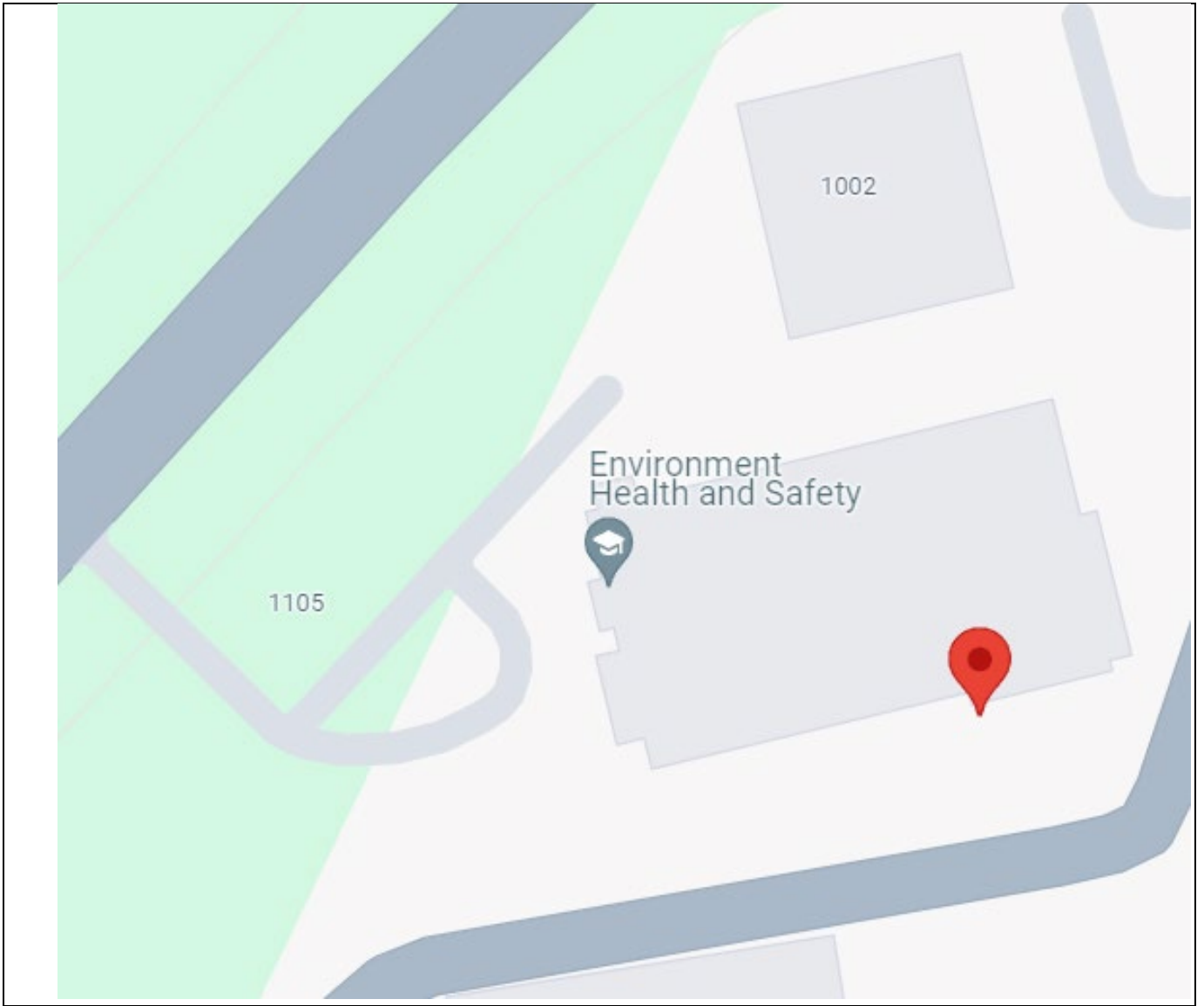
Project Specifications and Background

Orange County/UNC Chapel Hill wishes to purchase and install a 400-kW diesel generator with an automatic transfer switch (ATS) at the UNC-Chapel Hill Emergency Operations Center, which is a critical facility that supports the staging, coordination, and directing of critical emergency management assets and personnel during or following a disaster.

Specifications

- 400-kW diesel Generator
- Automatic Transfer Switch (ATS)
- Concrete Pad

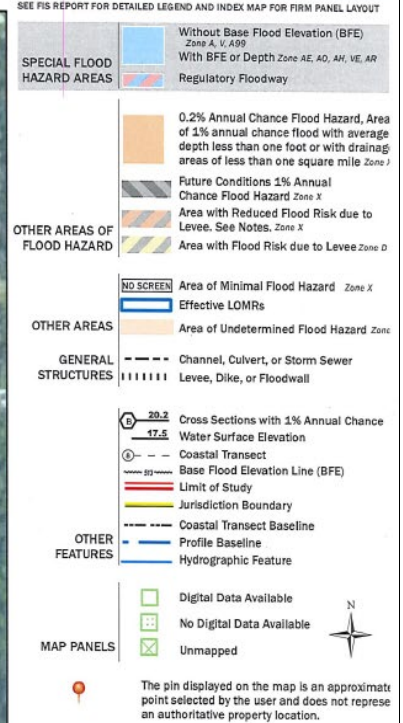
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National Flood Hazard Layer FIRMette



Legend



This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 12/30/2019 at 8:21:31 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

5.4 DELIVERABLES

Vendor(s) shall be required to provide representative(s) of NCEM with weekly informal updates, in writing, for each project site along with formal monthly Progress Management Reports submitted by the 10th of each month (see Section 6.3 PERIODIC MONTHLY STATUS REPORTS).

In addition to project updates, the Vendor shall submit the following items, as required, to NCEM during the course of each project:

- Post-Test Operational Feasibility Letter
- Permitted Drawings
- Inspection Reports
- Field Letters
- GPS Waypoints
- Photos: Before, during and after
- Debris Removal Affidavit
- Invoices

5.5 ADDITIONAL REQUIREMENTS

In addition to the requirements stated elsewhere in this IFB, the following requirements shall apply:

The new generator(s) shall be installed in a fashion that will contribute to anti-theft. It shall be located away from common areas, such as parking lots, to avoid visibility and potential damage from vehicle impact. The generator(s) shall be securely attached to a

concrete pad or raised platform and located proximal to the building it will service. Fencing and other barrier materials shall be incorporated as specified on any permitted design documents. All fuel storage is expected to be located above ground and anchored as required. Enough fueling to conduct the initial generator test shall be provided by the Vendor and performed prior to closing out the project. Additionally, the Vendor shall supply the operating instructions for the generator installed. Outside the initial testing, the Vendor is not responsible for fueling, regular maintenance, annual testing, or coordinating of such under this IFB.

Any generator installed shall be located outside of the flood zone or elevated above the based flood elevation and local freeboard requirements for each site. Generators are to be installed according to local building codes and flood plain ordinances. This will direct the proper installation and further upkeep of the system. Coordination for all projects shall be through the State Historic Preservation Office (SHPO), US ACE, NC DOT, NC Fish and Wildlife, CAMA, and FEMA EHP review. The project will not impact the environment, natural, cultural or historical resources.

The Vendor shall also maintain photo evidence of the project site condition before, during, and after the project.

- a) Provide professional labor, equipment, and materials adequate to perform the work in accordance with the Scope of Work issued for each project while ensuring that all applicable standards and codes are met;
- b) Comply with all applicable local, State, and Federal laws, regulations, and guidelines;
- c) Provide documentation and tracking of construction progress;
- d) Meet NCEM's timeframes for work completion requirements from the Effective Date;
- e) Provide a one-year warranty, and a third-party ten-year structural warranty;
- f) As the State sees fit, Vendor shall complete program approved training certifying its understanding and ability to comply with local and State codes and regulations, ADA requirements, OSHA standards, FEMA standards and regulations, NCEM reporting requirements, NCEM invoicing requirements;
- g) Construction Manager for this project must be licensed in the State of NC as a General Contractor; and
- h) **Vendor shall provide a draft project plan and timeline with its IFB Response.**

5.6 ACCEPTANCE OF WORK

In the event acceptance criteria for any Services, work or other deliverables is not described herein or in contract documents or work orders hereunder, the State shall have the obligation to notify Vendor, in writing ten (10) calendar days following completion of such Services, work or other deliverable described in the Contract that it is not acceptable. The notice shall specify in reasonable detail the reason(s) it is unacceptable. Acceptance by the State shall not be unreasonably withheld; but may be conditioned or delayed as required for reasonable review, evaluation, installation or testing, as applicable of the Services, work or other deliverable. Final acceptance is expressly conditioned upon completion of all applicable assessment procedures.

Should the work or deliverables fail to meet any requirements, acceptance criteria or otherwise fail to conform to the contract, the State may exercise any and all rights hereunder, including, for deliverables, such rights provided by the Uniform Commercial Code as adopted in North Carolina.

6.0 CONTRACT ADMINISTRATION

All Contract Administration requirements are conditioned on an award resulting from this solicitation. This information is provided for the Vendor's planning purposes

6.1 CONTRACT MANAGER AND CUSTOMER SERVICE

The Vendor shall be required to designate and make available to the State a contract manager. The contract manager shall be the State's point of contact for Contract related issues and issues concerning performance, progress review, scheduling, and service.

Contract Manager Point of Contact	
Name:	
Office Phone #:	
Mobile Phone #:	
Email:	

6.2 POST AWARD PROJECT REVIEW MEETINGS

Shortly after award, the Vendor will be required to meet with the State for a pre-construction meeting. At this meeting, the Vendor will be given the Notice to Proceed for the projects.

After this initial pre-construction meeting, The Vendor, at the request of the State, shall be required to meet periodically with the State for Project Review meetings. The purpose of these meetings will be to review project progress reports, discuss Vendor and State performance, address outstanding issues, review problem resolution, provide direction, evaluate continuous improvement and cost saving ideas, and discuss any other pertinent topics.

6.3 CONTINUOUS IMPROVEMENT

The State encourages the Vendor to identify opportunities to reduce the total cost the State. A continuous improvement effort consisting of various ideas to enhance business efficiencies as performance progresses.

6.4 PERIODIC MONTHLY STATUS REPORTS

The Vendor shall provide Management Reports to the designated Contract Lead on a monthly basis. This report shall include, at a minimum, information concerning deliverables and work accomplished during the reporting period; deliverables and work to be accomplished during the subsequent reporting period; problems, real or anticipated, and notification of any significant deviation from previously agreed upon work plans and schedules. These reports shall be well organized and easy to read. The Vendor shall submit these reports electronically, by the 10th of each month, using Microsoft Excel and as needed, either Microsoft PowerPoint or Microsoft Word. The Vendor shall submit the reports in a timely manner and on a regular schedule as agreed by the Parties.

6.5 ACCEPTANCE OF WORK

Performance of the work and delivery of Goods shall be conducted and completed at least in accordance with the Contract requirements and recognized and customarily accepted industry practices. Performance shall be considered complete when the Services or Goods are approved as acceptable by the Contract Administrator.

Acceptance of work products shall be based on the following criteria:

The State shall have the obligation to notify Vendor, in writing ten (10) calendar days following completion of such work or delivery of a deliverable described in the Contract that it is not acceptable. The notice shall specify in reasonable detail the reason(s) it is unacceptable. Acceptance by the State shall not be unreasonably withheld; but may be conditioned or delayed as required for reasonable review, evaluation, installation, or testing, as applicable to the work or deliverable. Final acceptance is expressly conditioned upon completion of all applicable assessment procedures.

Should the work or deliverables fail to meet any specifications, acceptance criteria or otherwise fail to conform to the Contract, the State may exercise any and all rights hereunder, including, for Goods deliverables, such rights provided by the Uniform Commercial Code, as adopted in North Carolina.

6.6 DISPUTE RESOLUTION

During the performance of the Contract, the Parties agree that it is in their mutual interest to resolve disputes informally. Any claims by the Vendor shall be submitted in writing to the State's Contract Manager for resolution. Any claims by the State shall be submitted in writing to the Vendor's Project Manager for resolution. The Parties shall agree to 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. The Parties will agree on a reasonable amount of time to resolve a dispute. If a dispute cannot be resolved between the Parties within the agreed upon period, either Party may elect to exercise any other remedies available under the Contract, or at law. This provision, when agreed in the Contract, shall not constitute an agreement by either party to mediate or arbitrate any dispute.

6.7 PRODUCT RECALL

Vendor expressly assumes full responsibility for prompt notification to the Buyer listed on the face of this IFB of any product recall in accordance with the applicable state or federal regulations. The Vendor shall support the State, as necessary, to promptly replace any such products, at no cost to the State.

6.8 CONTRACT CHANGES

Contract changes, if any, over the life of the Contract shall be implemented by contract amendments agreed to in writing by the State and Vendor.

6.9 DPS ADDITIONAL TERMS

- a) **ALCOHOL/DRUG FREE WORK PLACE POLICY:** A copy of the Department's Alcohol/Drug Free Work Place Policy is attached to this solicitation. The contractor shall use reasonable and good faith efforts to ensure that employees/staff are aware of the Department's policy. The contractor understands that its employees/staff are required to abide by these standards. The contractor further understands that possession, use, manufacture, or distribution of illegal drugs or alcohol in violation of this policy, by employees/staff participating in the performance of this contract, may result in immediate termination of this contract for cause.
- b) **PREA:** The NC Department of Public Safety is committed to a standard of zero-tolerance pertaining to unduly familiar or sexually abusive behavior either by another juvenile or by staff, volunteer, vendor, contractor or party. Staff, volunteers, vendors, contractors or parties are strictly prohibited from engaging in personal dealings or any conduct of a sexual nature with any inmate or juvenile. Conversation and conduct with any inmate or juvenile must be professional at all times. Sexual acts between a juvenile or inmate and staff, volunteer, vendor, contractor or party may violate North Carolina law. Additionally, sexual acts between a juvenile or inmate and staff member will contradict the standards of the federal Prison Rape Elimination Act of 2003 (PREA). Such acts also may be punishable, at a minimum, as a Class E felony in North Carolina. Under North Carolina, consent of the inmate or juvenile may not be available as a defense for an individual who is charged criminally based on sexual conduct with the inmate or juvenile. Also, pursuant to PREA standards, no juvenile or inmate can consent to engage in sexual activity with staff, volunteers, vendors, contractors or parties. Any contractual facility will comply with the national standards to prevent, detect, and respond to PREA (115.12, 212, 312) and permit the Department to monitor this aspect of the contract to ensure compliance with the PREA standards.

As a valued partner with DPS, it is important to remember that if you become aware of a report of any incidents of unduly familiar or sexually abusive behavior or sexual harassment, you have a duty to report this information immediately to your contact person with the Agency, by email to prea@ncdps.gov, or the DPS Communications office at (800) 368-1985.

Additionally, it may violate North Carolina law to sell or give an inmate or juvenile any alcoholic beverages, barbiturate or stimulant drug, or any narcotic, poison or poisonous substance, except upon the prescription of a physician; and it may violate North Carolina law to give an inmate or juvenile any tobacco or tobacco products, alcohol, or cell phones. It may also violate NCDPS policy to convey to or take from any juvenile or inmate any letters, or verbal messages; to convey any weapon or instrument by which to affect an escape, or that will aid in an assault or insurrection; to trade with any inmate for clothing or stolen goods or to sell any inmate any article forbidden by NCDPS policy.

By signing this document, you acknowledge that you understand and will abide by this policy as outlined above.

6.10 ATTACHMENTS

All attachments to this IFB are incorporated herein and shall be submitted by responding in the Sourcing Tool. These attachments can be found at the following Vendor Forms link for reference purposes only:

<https://ncadmin.nc.gov/documents/vendor-forms>

ATTACHMENT A: PRICING and BID INFORMATION FORM

PROJECT TIME FRAME: Vendor shall provide the Project Time Frame (i.e., time to reach Substantial Completion for all properties from the Notice to Proceed). This Project Time Frame, in calendar days, shall begin with the Notice to Proceed and shall run until Substantial Completion for all contracted work. Vendor shall meet this Project Time Frame, as well as other time frames put forth by NCEM, barring any unexpected acts of nature or as a result of events beyond its reasonable control requiring a change in the Scope of Work and/or Change Order(s) (i.e., the total time to complete work listed in Section 5.3).

It is the responsibility of the Vendor to create a time schedule, including any phasing or work overlap, in order to complete all projects in the specified Project Time Frame provided below. Note that in bids containing more than one project, each individual project must be completed in the Project Time Frame provided for that project. If there are multiple projects in one bid, the project time frames will run concurrently to other projects in the bid and not consecutively. The Project Time Frame submitted by each Vendor shall be used by the State when evaluating bids as to meet HMGP goals and deadlines.

PROJECT TIME FRAME (DAYS): _____

Per Section 5.0: NC General Contractor License Number# _____

Name of Licensee _____

FURNISH AND DELIVER: Vendor shall offer a turn-key firm fixed price, all inclusive of labor, materials, transportation, general and administrative overhead, and profit in accordance with the IFB. All bids shall use the provided pricing form. No Change Orders will be approved on the claim that site conditions of the structure and/or property have changed.

Item	Generators	CITY/COUNTY	ADDRESS	TOTAL COST
1.	(1) 400kW	Chapel Hill, Orange County	1120 Estes Drive Extension, UNC Chapel Hill Emergency Operation	

Vendor shall provide a breakdown of all equipment with a separate cost for all labor to complete project:

ATTACHMENT B: NC INSTRUCTIONS TO VENDORS

[North-Carolina-Instructions-To-Vendors 07.23 \(nc.gov\)](#)

***** In addition to providing this link, the North Carolina Instructions to Vendor are included as attachments to the bid in the Ariba Sourcing Tool and are incorporated herein and shall apply. Per Section 2.3, NOTICE TO VENDORS REGARDING IFB TERMS AND CONDITIONS, it shall be the Vendor's responsibility to read the North Carolina Instructions to Vendor.**

ATTACHMENT C: NC GENERAL TERMS AND CONDITIONS

[North-Carolina-General-Terms-and-Conditions 11.2023 \(nc.gov\)](#)

***** In addition to providing this link, the North Carolina General Terms and Conditions are included as attachments to the bid in the Ariba Sourcing Tool and are incorporated herein and shall apply. Per Section 2.3, NOTICE TO VENDORS REGARDING IFB TERMS AND CONDITIONS, it shall be the Vendor's responsibility to read the North Carolina General Terms and Conditions.**

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ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION

Solicitation #: _____

Vendor Name: _____

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) from one of these categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled.

Pursuant to 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, the disabled, disabled business enterprises, and non-profit work centers for the blind and severely disabled. This includes utilizing individual(s) from these categories as subcontractors to perform the functions required in this Solicitation.

The Vendor shall respond to questions below, as applicable.

PART I: HUB CERTIFICATION

Is Vendor a NC-certified HUB entity? ☐ Yes ☐ No

If **yes**, provide Vendor #: _____

If **no**, does Vendor qualify for certification as HUB? ☐ Yes ☐ No

Vendors that check "yes" will be referred to the HUB Office for assistance in acquiring certification.

PART II: PROCUREMENT OF GOODS - SUPPLIERS

For Goods procurements, are you using Tier 2 suppliers? ☐ Yes ☐ No

If **yes**, then provide the following information:

Company Name	Company Address	Website Address	Contact Name	Contact Email	Contact Phone	NC HUB certified?	Percent of total bid price

PART III: PROCUREMENT OF SERVICES - SUBCONTRACTORS

For *Services* procurements, are you using Subcontractors to perform any of the services being procured under this solicitation? ☐ Yes ☐ No

If yes, then provide the following information:

Company Name	Company Address	Website Address	Contact Name	Contact Email	Contact Phone	NC HUB certified?	Percent of total bid price

Need more information?

Questions concerning the completion of this form should be presented during the Q&A period through the process defined in the Solicitation document.

Questions concerning NC HUB certification, contact the [North Carolina Office of Historically Underutilized Businesses](#) at 984-236-0130 or huboffice.doa@doa.nc.gov

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ATTACHMENT E: CUSTOMER REFERENCE FORM

Solicitation #: _____

Vendor Name: _____

Instructions: Vendor shall use this template to submit three (3) customer references with its offer.

Name of Customer Organization:	
Customer Reference Name:	
Customer Reference Address:	
Customer Reference Email:	
Start Date:	
End Date:	
Explanation of contract, service agreement, or type of products and quantity provided to the organization:	

Name of Customer Organization:	
Customer Reference Name:	
Customer Reference Address:	
Customer Reference Email:	
Start Date:	
End Date:	
Explanation of contract, service agreement, or type of products and quantity provided to the organization:	

Name of Customer Organization:	
Customer Reference Name:	
Customer Reference Address:	
Customer Reference Email:	
Start Date:	
End Date:	
Explanation of contract, service agreement, or type of products and quantity provided to the organization:	

ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR

Solicitation #: _____

Vendor Name: _____

In accordance with NC General Statute G.S. 143-59.4, Vendor shall detail the location(s) at which performance will occur, as well as the manner in which it intends to utilize resources or workers outside of the United States in the performance of The Contract.

Vendor shall complete items 1 and 2 below.

1. Will any work under this Contract be performed outside of the United States? YES ☐ NO ☐

If "YES":

- a) List the location(s) outside of the United States where work under the Contract will be performed by the Vendor, any subcontractors, employees, or any other persons performing work under the Contract.
- b) Specify the manner in which the resources or workers will be utilized:

2. Where within the United States will work be performed?

NOTES:

1. The State will evaluate the additional risks, costs, and other factors associated with the utilization of workers outside of the United States prior to making an award.
2. Vendor shall provide notice in writing to the State of the relocation of the Vendor, employees of the Vendor, subcontractors of the Vendor, or other persons performing services under the Contract to a location outside of the United States.
3. All Vendor or subcontractor personnel providing call or contact center services to the State of North Carolina under the Contract **shall disclose** to inbound callers the location from which the call or contact center services are being provided.

ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION

Solicitation #: _____

Name of Vendor: _____

The undersigned hereby certifies that: [check all applicable boxes]

- ☐ The Vendor is in sound financial condition and, if applicable, has received an unqualified audit opinion for the latest audit of its financial statements.

Date of latest audit: _____ (If no audit within past 18 months, explain reason below)

- ☐ The Vendor has no outstanding liabilities, including tax and judgment liens, to the Internal Revenue Service or any other government entity.
- ☐ The Vendor is current on all amounts due for payments of federal and state taxes and required employment-related contributions and withholdings.
- ☐ The Vendor is not the subject of any current litigation or findings of noncompliance under federal or state law.
- ☐ The Vendor has not been the subject of any past or current litigation, findings in any past litigation, or findings of noncompliance under federal or state law that may impact in any way its ability to fulfill the requirements of The Contract.
- ☐ He or she is authorized to make the foregoing statements on behalf of the Vendor.

Note: This shall constitute a continuing certification and Vendor shall notify the Contract Lead within 30 days of any material change to any of the representations made herein.

— If any one or more of the foregoing boxes is NOT checked, Vendor shall explain the reason(s) in the space below. Failure to include an explanation may result in Vendor being deemed non-responsive and its submission rejected in its entirety.

Signature

Date

Printed Name

Title

[This Certification must be signed by an individual authorized to speak for the Vendor]

ATTACHMENT H: CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, & COOPERATIVE AGREEMENTS

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

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

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

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

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

The Vendor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Vendor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Vendor's Authorized Official

Name and Title of Vendor's Authorized Official

Date

ATTACHMENT I: ALCOHOL/DRUG-FREE WORKPLACE POLICY

POLICY

It is the policy of the Department of Public Safety to provide a work environment free of alcohol and drugs in order to ensure the safety and well-being of employees, correctional clientele, and the general public. All employees of the Department of Public Safety, including permanent full-time, trainee, and permanent part-time, permanent hourly, probationary, and temporary shall abide by this policy.

PURPOSE

This document is intended to advise managers and employees of the guidelines of an alcohol/drug free workplace, and to set out the penalties for violation(s) of the guidelines.

PROCEDURES/OPERATIONAL GUIDELINES

All employees of the Department of Public Safety are expected to be physically and mentally prepared and able to perform their assigned duties throughout the workday. No employee shall report to the work site impaired by or suffering from the effects of drugs or alcohol.

Individuals reporting for work under the influence or the effects of alcohol and/or drugs shall be issued discipline, up to and including dismissal, consistent with the policy governing personal conduct.

No employee shall manufacture, distribute, or dispense controlled substances (drugs/alcohol) at the work site or away from the work site. No employee shall use "across the counter" medication to the point of impairment while at the work site, or in any situation which may bring discredit to the Department. Use or abuse shall be viewed as personal misconduct and shall be cause for immediate disciplinary action up to and including dismissal.

Possession of an illegal substance in any situation, at work or away from the work site shall be cause for discipline. Possession of controlled substances, i.e. Prescription medication or alcohol, must be in compliance with existing laws. Violations will result in discipline up to and including dismissal based on personal misconduct.

Employees who are arrested, detained, or served a warrant for any alcohol/drug related incident, at the work site or away from the work site have 24 hours to file a written report of the situation with the work unit supervisor/manager, i.e. Warden, Superintendent, Branch Manager. The work unit supervisor/manager shall make a recommendation for appropriate disciplinary action based on the facts of the case after conducting a thorough investigation.

If sufficient facts cannot be obtained due to pending litigation, the work unit supervisor/manager shall request, in writing, that any recommendation for disciplinary action be delayed until the court has disposed of the matter. Once the legal proceedings have been completed, the employee shall furnish a certified copy of the court disposition within 48 hours of the judgment. The recommendation for discipline shall be made at this time, if not previously addressed.

Any conviction of a drug or alcohol related offense, which occurred at the work site, shall be reported to the federal government by the Personnel Office; therefore, such offenses shall be reported to the Personnel Office by the appropriate manager so that the Personnel Office may comply with the requirement.

The Department of Public Safety utilizes the State Employee Assistance Program (EAP) administered through the Office of State Personnel. The EAP provides employees with a comprehensive referral service to aid in coping with or overcoming personal problems, including drug and alcohol problems. Consultants with the State EAP will provide managerial/supervisory training and coordinate employee orientation.

ATTACHMENT J: FEMA RULES AND REGULATIONS (2 C.F.R. Part 200, Appendix II)

To the extent applicable, the following are the requirements that Vendor must agree to in order to be awarded any contract under this solicitation. If Vendor is unwilling to meet any of these requirements, Vendor's submittal shall not be considered.

1. **No governmental non-competes.** Vendor shall not impose or enforce any non-competition agreement upon the employees included in Vendor's bid that would prevent those employees from accepting any offer of employment from the State of North Carolina outside the first Term of the Contract. By executing this IFB, the Vendor affirms this condition, as directed in the Vendor Experience Section 4.4 of this RFP. This affirmation is a material condition for the State's award of any work under this RFP.
2. **Program Monitoring.** Vendor agrees to assist and cooperate with the Federal grantor agency and NCEM or their duly designated representatives in the monitoring of the projects to which this contract relates, and to provide in form and manner approved by NCEM such monitoring reports, progress reports, and the like as may be required and to provide such reports at the times specified.
3. **Remedies.** Remedies for performance and default are governed under Sections 1 and 2 and related sections of the N.C. General Terms & Conditions included in this solicitation and Section 4 of the FEMA Rules and Regulations below.
4. **Termination for Cause.** In addition to Section 2 of the N.C. General Terms & Conditions included in this solicitation, if through any cause, Vendor shall fail to fulfill in a timely or proper manner any obligation under this Contract, or if Vendor shall violate any of the covenants, agreements, or stipulations of The Contract, NCEM shall thereupon have the right to terminate this Contract by giving written notice to Vendor of such termination and specifying the effective date of such termination. Unless a shorter time is determined by NCEM to be necessary, NCEM shall affect termination according to the following procedure:
 - a. Notice to Cure. NCEM shall give written notice of the conditions of default, setting forth the ground or grounds upon which such default is declared ("Notice to Cure"). The Vendor shall have ten (10) days from receipt of the Notice to Cure or any longer period that is set forth in the Notice to Cure to cure the default.
 - b. Notice of Termination. If the conditions set forth in the Notice to Cure are not cured within the period set forth in the Notice to Cure, NCEM may terminate the Contract, in whole or in part. NCEM shall give the Vendor written notice of such termination ("Notice of Termination"), specifying the applicable provision(s) under which the Contract is terminated and the effective date of the termination.
 - c. In such event, all finished or unfinished documents, data, studies, and reports prepared by Vendor entitle Vendor's receipt of just and equitable compensation for any satisfactory work completed on such documents. Notwithstanding the above, Vendor shall not be relieved of liability to NCEM for damage sustained to NCEM by virtue of any breach of this Contract by Vendor. NCEM may withhold any payments to Vendor for the purpose of set off until such time as the exact amount of damages due NCEM from Vendor is determined.
5. **Termination for Convenience.** Termination of the Contract for convenience shall be governed by Section 2 of the N.C. General Terms & Conditions included in this solicitation.
6. **Equal Employment Opportunity.** During the performance of this Contract, the Vendor agrees as follows:
 - a. The Vendor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Vendor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but are not limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - b. The Vendor shall, in all solicitations or advertisements for employees placed by or on behalf of the Vendor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 - c. The Vendor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or change, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Vendor's legal duty to furnish information.
 - d. The Vendor will send each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Vendor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - e. The Vendor shall comply with all provision of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 - f. The Vendor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- g. In the event of the Vendor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be cancelled, terminated, or suspended in whole or in part and the Vendor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 25, 1965, or by rule, regulations, or orders of the Secretary of Labor, or as otherwise provided by law.
- h. The Vendor shall include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Vendor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a Vendor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Vendor may request the United States to enter into such litigation to protect the interests of the United States.
The applicant further agrees that it shall be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work. Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Contract.
The applicant agrees that it shall assist the cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Vendors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it shall furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it shall otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.
The applicant further agrees that it shall refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Vendor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Vendors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the cause to the Department of Justice for appropriate legal proceedings.

7. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).

Compliance with the Contract Work Hours and Safety Standards Act.

- a. *Overtime requirements.* No Vendor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b. *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in 29 C.F.R. § 5.5(b)(1) the Vendor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Vendor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in 29 C.F.R. § 5.5(b)(1), in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in 29 C.F.R. § 5.5(b)(1).
- c. *Withholding for unpaid wages and liquidated damages.* NCEM shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Vendor or subcontractor under any such contract or any other Federal contract with the same prime Vendor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Vendor, such sums as may be determined to be necessary to satisfy any liabilities of such Vendor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in 29 C.F.R. § 5.5(b)(2).
- d. *Subcontracts.* The Vendor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of 29 C.F.R. § 5.5 and also a clause requiring that subcontractors to include these clauses in any lower tier subcontracts. The prime Vendor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in 29 C.F.R. §§ 5.5(b)(2) through (4).

8. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT.

Clean Air Act

- a. The Vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

- b. The Vendor agrees to report each violation to NCEM and understands and agrees that NCEM will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. The Vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

- a. The Vendor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.
- b. The Vendor agrees to report each violation to NCEM and understands and agrees that NCEM will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. The Vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

9. Debarment and Suspension.

- a. This contract is a covered transaction for purposes of 2 C.F.R. part 180 and 2 C.F.R. part 3000. As such, the Vendor is required to verify that none of the Vendor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- b. The Vendor must comply with 2 C.F.R. part 180, subpart C and 2 C.F.R. part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- c. The certification is a material representation of the fact relied upon by NCEM. If it is later determined that the Vendor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to NCEM, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. The Vendor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352) (as amended).

Vendors that apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency. If applicable, Vendors must sign and submit to NCEM the certification regarding lobbying.

11. Procurement of Recovered Materials.

- a. In the performance of this contract, the Vendor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
 - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price
- b. Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement Guidelines website, <http://www.epa.gov/smm/comprehensive-procurement-guideline-cpq-program>.
- c. The Vendor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

12. Women and Minority Owned Businesses. Vendor shall comply with the provisions of 2 C.F.R. § 200.321 which requires that all necessary affirmative steps are taken by the State and Vendor to assure that minority and women's businesses are used when possible, and G.S. § 143-128.2 establishes a ten percent (10%) goal for participation by minority and women owned businesses in total value of work performed for the State.

13. Access to Records. In addition to Section 13 of the N.C. General Terms & Conditions included in this solicitation, the following access to records requirements apply to this contract:

- a. The Vendor agrees to provide NCEM, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Vendor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- b. The Vendor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c. The Vendor agrees to provide FEMA Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the contract.
- d. In compliance with the Disaster Recovery Act of 2018, NCEM and the Vendor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator of the Comptroller General of the United States.

14. Modifications to Contract. Modifications to the Contract are governed by Section 24 of the N.C. General Terms & Conditions included in this solicitation.

15. Records Retention. All records required to be kept on the project shall be maintained for at least five (5) years after final payments and until all other pending matters under the grant for this project have been closed. However, if any audit, litigation, or other action arising out of or related in any way to this project is commenced before the end of the five (5) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the five (5) year period, whichever is later.

- 16. Energy Efficiency.** All participants in the projects funded hereby shall recognize mandatory standards and policies relating to energy efficiency, which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (PL 94-163).
- 17. Program Fraud and False or Fraudulent Statements or Related Acts.** Vendor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the Contract.
- 18. No Obligation by Federal Government.** The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Vendor, or any other party pertaining to any matter resulting from the contract.
- 19. Compliance with Federal Law, Regulations, and Executive Orders.** This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Vendor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.
- 20. DHS, Seal, Logo, and Flags.** In addition to the prohibitions in Section 28 of the N.C. General Terms & Conditions included in this solicitation, the Vendor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- 21. DHS Standard Terms and Conditions.** In addition to the FEMA Rules and Regulations above, DHS Standard Terms and Conditions apply to the agreement as pertinent to the program as FEMA is a subdivision of DHS. The applicable DHS Standard Terms and Conditions for grants, cooperative agreements, fixed amount awards, and other types of federal financial assistance are based on the fiscal year in which the financial assistance award was funded. For access to the conditions, please see <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.
- 22. Prohibition on Contracting for Covered Telecommunications Equipment or Services.**
- a. *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—
 - b. *Prohibitions.*
 - i. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
 - ii. Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
 - 1. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - 2. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - 3. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
 - 4. Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
 - c. *Exceptions.*
 - i. This clause does not prohibit contractors from providing—
 - 1. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - 2. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
 - ii. By necessary implication and regulation, the prohibitions also do not apply to;
 - 1. Covered telecommunications equipment or services that:
 - a. Are not used as a substantial or essential component of any system; and
 - b. Are not used as critical technology of any system
 - 2. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.
 - d. *Reporting Requirement.*
 - i. In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
 - ii. The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
 - 1. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment

manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

2. Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services

- e. *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

23. Domestic Preference for Procurements. As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause: Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

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ATTACHMENT K: CONSTRUCTION GENERAL CONDITIONS

ARTICLE 1 – WORKING DRAWINGS AND SPECIFICATIONS AT THE JOB SITE

- a) Vendor shall maintain, in readable condition at his job office, one complete set of working drawings and specifications for his work including all shop drawings. Such drawings and specifications shall be available for use by Vendor, EOR, GC/CM, PM and/or NCEM. A copy of the plans and specifications shall be provided to Owner.
- b) Vendor shall maintain at the job office a day-to-day record of work-in-place that is at variance with the contract documents. Such variations shall be fully noted on project drawings by Vendor and submitted to the EOR and NCEM upon project completion and no later than thirty (30) days after acceptance of the project.
- c) Vendor shall maintain at the job office a record of all required tests or special inspections that have been performed, clearly indicating the Scope of Work inspected and the date of approval or rejection. Vendor shall make these tests and special inspection reports available to GC/CM, PM, NCEM, the Authority Having Jurisdiction (“AHJ”) and/or Owner upon request.

ARTICLE 2 – OWNERSHIP OF DRAWING AND SPECIFICATIONS

- a) State Construction Documents. All drawings and specifications are instruments of service and remain the property of NCEM and/or its EOR, but Vendor has a license to use drawings and specifications for future renovation of work at the site. Vendor’s use of these instruments on work other than this Contract without permission of NCEM is prohibited.
- b) Contractor Construction Documents. All drawings and specifications provided by Vendor in the construction of a Project remain intellectual and proprietary property of the Vendor and/or its EOR. Vendor and/or its EOR grant limited license to NCEM to use drawings and specifications for renovations or work at the site. NCEM’s use of these plans and specifications on work other than this Contract without permission of Vendor and/or its EOR is prohibited and NCEM is prohibited from selling Vendor’s and/or its EOR’s plans and specifications.

ARTICLE 3 – MATERIALS, EQUIPMENT, EMPLOYEES

- a) Vendor shall, unless otherwise specified, supply and pay for all labor, transportation, materials, tools, apparatus, lights, power, heat, sanitary facilities, water, scaffolding and incidentals necessary for the completion of this work, and shall install, maintain and remove all equipment of the construction, other utensils or things, and be responsible for the safe, proper and lawful construction, maintenance and use of the same, and shall construct in the best and most workmanlike manner, a complete job and everything incidental thereto, as shown on the plans, stated in the specifications, or reasonably implied therefrom, all in accordance with the contract documents.
- b) All materials shall be new and of quality specified, except where reclaimed material is authorized herein and approved for use. Workmanship shall at all times be of a grade accepted as the best practice of the particular trade involved, and as stipulated in written standards of recognized organizations or institutes of the respective trades except as exceeded or qualified by the specifications.
- c) Upon notice, Vendor shall furnish evidence as to quality of materials.
- d) Products are generally specified by American Society of Testing and Materials (ASTM) or other reference standards and/or by manufacturer’s name and model number or trade name. When specified only by reference standard, Vendor may select any product meeting this standard, by any manufacturer. When several products or manufacturers are specified as being equally acceptable, Vendor has the option of using any product and manufacturer combination listed. However, Vendor shall be aware that the cited examples are used only to denote the quality standard of product desired and that they do not restrict bidders to a specific brand, make, manufacturer or specific name.; that they are used only to set forth and convey to bidders the general style, type, character and quality of product desired; and that equivalent products will be acceptable. Request for substitution of materials, items, or equipment shall be submitted to the EOR and/or GC/CM for approval or disapproval; such approval or disapproval shall be made by the EOR and/or GC/CM prior to the opening of bids. Alternate materials may be requested after the award if it can clearly be demonstrated that it is an added benefit to Owner and the EOR and Owner approves.
- e) EOR and/or GC/CM shall be the judge of equality for proposed substitution of products, materials or equipment and whether they comply with HMGP and/or grant eligibility rules, requirements and/or standards. The State shall be notified of all substitution of products, materials or equipment.

ARTICLE 4 – ROYALTIES, LICENSES AND PATENTS

It is the intention of the contract documents that the work covered herein will not constitute in any way infringement of any patent whatsoever unless the fact of such patent is clearly evidenced herein. Vendor shall protect and save harmless Owner, GC/CM, PM, NCEM, the State of North Carolina and/or FEMA against suit on account of alleged or actual infringement. Vendor shall pay all royalties and/or license fees required on account of patented articles or processes, whether the patent rights are evidenced hereinafter.

ARTICLE 5 – PERMITS, INSPECTIONS, FEES, REGULATIONS

- a) Vendor shall give all notices and comply with all laws, ordinances, codes, rules and/or regulations bearing on the conduct of the work under this Contract. If Vendor observes that the drawings and specifications are at variance therewith, he shall promptly notify the EOR, GC/CM and PM in writing. Any necessary changes required after Contract award shall be made by Change Order in accordance with Article 19. If Vendor performs any work knowing it to be contrary to such laws, ordinances, codes, rules and regulations, and

without such notice to the EOR, GC/CM and PM, he shall bear all cost arising therefrom. Additional requirements implemented after bidding will be subject to equitable negotiations.

- b) All work under this Contract shall conform to the North Carolina State Building Code and other State, local, and national codes as are applicable. The cost of all required inspections and permits shall be the responsibility of the Vendor and be included within the bid proposal. All water taps, meter barrels, vaults and impact fees shall be paid by Vendor and included within the bid proposal unless noted otherwise.

ARTICLE 6 – PROTECTION OF WORK, PROPERTY AND THE PUBLIC

- a) Vendor shall be responsible for the entire site and the building or construction of the same and provide all the necessary protections, as required by NCEM, PM, and/or EOR, and by laws or ordinances governing such conditions. Vendor shall be responsible for any damage to Owner's property, or of that of others on the job, by them, their personnel, or their subcontractors, and shall remedy such damages. Vendors shall be responsible for and pay for any damages caused to Owner. Vendor shall have access to the project at all times.
- b) Vendor shall provide cover and protect all portions of the structure when the work is not in progress, provide and set all temporary roofs, covers for doorways, sash and windows, and all other materials necessary to protect all the work on the building, whether set by him, or any of the subcontractors. Any work damaged through the lack of proper protection or from any other cause, shall be repaired or replaced without extra cost to NCEM or Owner.
- c) No fires of any kind will be allowed inside or around the operations during the course of construction without special permission from NCEM and/or PM.
- d) Vendor shall protect all trees and shrubs designated to remain in the vicinity of the operations by building substantial boxes around the same. Vendor shall barricade all walks, roads, etc., as directed by the GC/CM to keep the public away from the construction. All trenches, excavations or other hazards in the vicinity of the work shall be well barricaded and properly lighted at night.
- e) Vendor shall provide all necessary safety measures for the protection of all persons on the job, including the requirements of the A.G.C. Accident Prevention Manual in Construction, as amended, and shall fully comply with all State laws or regulations and North Carolina State Building Code requirements to prevent accident or injury to persons on or about the location of the work. Vendor shall clearly mark or post signs warning of existing hazards, and shall barricade excavations, elevator shafts, stairwells and similar hazards. Vendor shall protect against damage or injury resulting from falling materials and he shall maintain all protective devices and signs throughout the progress of the work.
- f) Vendor shall adhere to the rules, regulations and interpretations of the North Carolina Department of Labor relating to Occupational Safety and Health Standards for the Construction Industry (Title 29, Code of Federal Regulations, Part 1926, published in Volume 39, Number 122, Part II, June 24, 1974, Federal Register), and revisions thereto as adopted by General Statutes of North Carolina 95-126 through 155.
- g) Vendor shall designate a responsible person of his organization as safety officer/inspector to inspect the project site for unsafe health and safety hazards, to report these hazards to Vendor for correction, and whose duties also include accident prevention on the project, and to provide other safety and health measures on the project site as required by the terms and conditions of the Contract. The name of the safety inspector shall be made know to the GC/CM, PM and NCEM at the time of the preconstruction meeting and in all cases prior to any work starting on the project.
- h) In the event of an emergency affecting the safety of life, the protection of work, or safety of adjoining properties, Vendor is hereby authorized to act at his own discretion, without further authorization from anyone, to prevent such threatened injury or damage. Any compensation claimed by Vendor on account of such action shall by determined as provided for under Article 10(b).
- i) Any and all costs associated with correcting damage caused to adjacent properties of the construction site or staging area shall by borne by Vendor. These costs shall include but not be limited to flooding, mud, sand, stone, debris, and discharging of waste products.

ARTICLE 7 – SEDIMENTATION POLLUTION CONTROL ACT OF 1973

- a) Any land-disturbing activity performed by Vendor in connection with the project shall comply with all erosion control measures set forth in the contract documents and any additional measures which may be required in order to ensure that the project is in full compliance with the Sedimentation Pollution Control Act of 1973, as implemented by Title 15, North Carolina Administrative Code, Chapter 4, Sedimentation Control, Subchapters 4A, 4B and 4C, as amended (15 N.C.A.C. 4A, 4B and 4C).
- b) Upon receipt of notice that a land-disturbing activity is in violation of said act, Vendor shall be responsible for ensuring that all steps or actions necessary to bring the project in compliance with said act are promptly taken.
- c) Vendor shall by responsible for defending and legal actions instituted pursuant to G.S. § 113A-64 against any party or persons described in this article.
- d) To the fullest extent permitted by law, Vendor shall indemnify and hold harmless NCEM, PM, EOR, and the agents, consultants and employees of NCEM and PM, and EOR from and against all claims, damages, civil penalties, losses and expenses, including, but not limited to, attorneys' fee, arising out of or resulting from the performance of work or failure of performance of work, provided that any such claim, damage, civil penalty, loss or expense is attributable to a violation of the Sedimentation Pollution Control Act. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or persons described in this article.

ARTICLE 8 – INSPECTION OF THE WORK

- a) It is a condition of this Contract that the work shall be subject to inspection during normal working hours and during any time work is in preparation and progress by Vendor, EOR, designated official representatives of GC/CM, Authority Having Jurisdiction, PM, NCEM and those persons required by State law to test special work for official approval. Vendor shall therefore provide safe access to the work at all times for such inspections. Owner must give advance notice to Vendor and/or GC/CM to ensure Owner safety pursuant to OSHA requirements.
- b) Where special inspection or testing is required by virtue of any State laws, instructions of the EOR and/or GC/CM, specifications or codes, Vendor shall give adequate notice to the EOR, GC/CM and PM of the time set for such inspection or test, if the inspection or test will be conducted by a party other than the EOR. Such special tests or inspections will be made in the presence of the GC/CM, or his authorized representative, or EOR (if necessary) and it shall be Vendor's responsibility to serve ample notice of such tests.
- c) All laboratory tests shall be paid for by Vendor unless provided otherwise in the contract documents, including laboratory tests to establish design mix for concrete, and for additional tests to prove compliance with contract documents where materials have tested deficient, except when the testing laboratory did not follow the appropriate American Society of Testing and Materials (ASTM) testing procedures.
- d) Should any work be covered up or concealed prior to inspection and approval by Authority Having Jurisdiction and/or NCEM representative (when required by the Contract) and/or special inspector, such work shall be uncovered or exposed for inspection, if so required by Authority Having Jurisdiction (verbally or in writing) or NCEM (in writing). Inspection of the work will be made upon notice from the Vendor. All cost involved in uncovering, repairing, replacing, recovering and/or restoring to design condition the work that has been covered or concealed will be paid by the Vendor involved.

ARTICLE 9 – CONTRACTOR AND SUBCONTRACTOR RELATIONSHIPS

- a) Vendor agrees that the terms of its Contract shall apply equally to each subcontractor as to Vendor, and Vendor agrees to take such action as may be necessary to bind each subcontractor to these terms. Vendor further agrees to conform to the Code of Ethical Conduct as adopted by the Associated General Contractors of America, Inc., with respect to contractor-subcontractor relationships, and that payments to subcontractors shall be made in accordance with the provisions of G.S. § 143-134.1 titled Interest on final payments due to Vendors: payments to subcontractors.
- b) Within seven (7) days of receipt by Vendor of each periodic or final payment, Vendor shall pay the subcontractor based on work completed or service provided under the subcontract. Should any periodic or final payment to the subcontractor be delayed by more than seven (7) days after receipt of periodic or final payment by Vendor, Vendor shall pay the subcontractor interest, beginning on the eighth day, at the rate of one percent (1%) per month or fraction thereof on such unpaid balance as may be due. PM and NCEM shall not be liable for interest resulting from Vendor's failure to pay any subcontractor.
- c) NCEM will retain no more than five (5) percent of the progress payments from Vendor, which will be released upon file acceptance of the HMGP project. Should Vendor fail to perform work under the Contract, substantially delay completion of the work, or fail to correct non-conforming work in a timely manner, NCEM, through PM, may be retainage to correct non-conforming work and/or complete performance of the Contract. The percentage of retainage on payments made by Vendor to the subcontractor shall not exceed the percentage of retainage on payments made by NCEM to Vendor. Any percentage of retainage on payments made by Vendor to the subcontractor that exceeds the percentage of retainage on payments made by NCEM to Vendor shall be subject to interest to be paid by Vendor to the subcontractor at the rate of one percent (1%) per month or fraction thereof.
- d) Nothing in this section shall prevent Vendor, at the time of application and certification to PM and NCEM, from withholding application and certification to NCEM for payment to the subcontractor for unsatisfactory job progress; defective construction not remedied; disputed work; third-party claims filed or reasonable evidence that claim will be filed; failure of subcontractor to make timely payments for labor, equipment and materials; damage to Vendor or another subcontractor; reasonable evidence that subcontractor cannot be completed for the unpaid balance of the subcontract sum; or a reasonable amount for retainage not to exceed the initial percentage retained by NCEM.

ARTICLE 10 – CHANGES IN THE WORK

- a) NCEM, through PM, may make changes to the work covered by the Contract. These changes will not invalidate any portion of the Contract and will not relieve or release Vendor from any guarantee given by it pertinent to the Contract provisions. These changes will not affect the validity of the guarantee bond and will not relieve the surety or sureties of said bond. All extra work shall be executed under conditions of the original Contract.
- b) Except in an emergency endangering life or property, no change shall be made by Vendor except upon receipt of an approved Change Order or written field order from PM authorizing such change. No claim for adjustments of the Contract price shall be valid unless this procedure is followed.

A field order, transmitted by fax, electronically, or hand delivered, may be used where the change involved impacts the critical path of the work. A formal Change Order shall be issued as expeditiously as possible.

In the event of an emergency endangering life or property, Vendor may be directed to proceed on a time and materials basis, whereupon Vendor shall proceed and keep accurately on such form as specified by PM and/or NCEM, a correct account of costs,

together with all proper invoices, payrolls and supporting data. Upon completion of the work, the Change Order will be prepared as outlined under either Method "c(1)" or Method "c(2)" or both.

- c) In determining the value of changes, either additive or deductive, Contract shall be based on the discretion of NCEM.
- d) Should below grade concealed conditions be encountered in the performance of the work, or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Contract documents, the Contract sum and time for completion may be equitably adjusted by Change Order upon claim by either party made within thirty (30) days after the condition has been identified. All Change Orders shall be supported by a unit cost breakdown showing method of arriving at net cost as defined above.
- e) In all Change Orders, Vendor will provide such proposal and supporting data in suitable written format. PM shall verify correctness. Delay in the processing of the Change Order due to lack of proper submittal by Vendor of all required supporting data shall not constitute grounds for a time extension or basis of a claim. Within fourteen (14) days after receipt of Vendor's accepted proposal, including all supporting documentation required by PM, PM shall prepare the Change Order and forward to Vendor for his signature or otherwise respond, in writing, to Prime Contract's proposal. Within seven (7) days after receipt of the Change Order executed by Vendor, PM's representative shall certify the Change Order by his or her signature, and forward the Change Order and all supporting data to NCEM for its review of HMGP and/or grant eligibility compliance and, if compliant, NCEM will sign the change order and the revised scope of work may proceed. If the Change Order is denied, then Vendor shall not proceed with the work. In case of emergency or extenuating circumstances, approval of changes may be obtained verbally by telephone or via field orders approved by all parties, and then shall be substantiated in writing as outlined under normal procedure.
- f) A Change Order, when issued, shall include full compensation, or credit, for the work included, omitted or substituted. It shall show on its face the adjustment in time for completion of the project as a result of the change in the work.
- g) Vendor understands and acknowledges that any and all Change Orders made subsequent to this Grant Agreement shall be incorporated herein by reference into this original Grant Agreement. Subsequent Change Orders shall then represent the entire Grant Agreement between the parties for the new construction of their damaged home under the Program.

ARTICLE 11 – TIME OF COMPLETION, DELAYS, EXTENSION OF TIME

- a) Vendor shall commence work to be performed under this agreement on a date to be specified in a written Notice to Proceed from the PM and shall fully complete all work hereunder within the time of completion stated in the Contract. Time is of the essence and Vendor acknowledges NCEM will likely suffer financial damage for failure to complete the work within the time of completion. For each day in excess of the above number of days, the sum of \$250.00 per day shall be deducted from Vendor's next draw request as liquidated damages reasonably estimated in advance to cover the losses incurred by NCEM by reason of failure of said Vendor to complete the work within the time specified, such time being in the essence of this Contract and a material consideration thereof. If Vendor disputes the calculation of liquidated damages, the NCEM may recover actual damages.
- b) If Vendor is delayed at any time in the progress of his work solely by: any act or negligence of Owner, PM or NCEM; by change ordered in the work; by labor disputes at the project site; by abnormal weather conditions not reasonably anticipated for the locality where the work is performed; by unavoidable casualties; by any causes beyond Vendor's control; or by any other causes which PM and NCEM determine may justify the delay, then the Contract time may be extended by Change Order only for the time which PM and NCEM may determine is reasonable.

Time extensions will not be granted for rain, wind, snow or other natural phenomena of normal intensity for the locality where the work is performed. For purposes of determining extent of delay attributable to unusual weather phenomena, a determination shall be made by comparing the weather for the Contract period involved with the average of the preceding five (5) year climatic range during the same time interval based on the National Oceanic and Atmospheric Administration National Weather Service statistics for the locality where the work is performed and on daily weather logs kept on the job site by the Vendor reflecting the effect of the weather on progress of the work and initialed by the PM's representative. No weather delays shall be considered after the building is dried-in unless work claimed to be delayed is on the critical path of the baseline schedule or approved updated schedule. Time extensions for weather delays, acts of God, labor disputes, fire, delays in transportation, unavoidable casualties or other delays which are beyond the control of NCEM do not entitle Vendor to compensable damages for delays. Any Vendor claim for compensable damages for delays is limited to delays caused solely by Owner or its agents. Vendor caused delays shall be accounted for before Owner or PM caused delays in the case of concurrent delays.

- c) Requests for extensions of time shall be made in writing to PM, with copies provided to NCEM and PM, within fifteen (15) days following cause of delay. The request must contain a brief description of: the event or situation that caused the delay; how the event and situation impacted critical work needed to complete the project on time as such work is reflected in the schedule or reasonably inferred from the progress of construction; a statement of Vendor's inability to perform other work to mitigate the impact of the event or situation causing delay; a statement that Vendor (including employees, subcontractors, or suppliers) were not the cause of the event or situation; and such other additional work and costs incurred by Vendor resulting from the event or situation delaying Vendor's work. **Vendor understands that the failure to provide a timely request with the requested details and cost information shall result in rejection of the request absent a reasonable and substantiated explanation for the lack of timeliness which was caused by events, situations or**

persons outside Vendor's control. Vendor further understands that the payments made under this Contract are from a Federal grant administered by a State agency and, as a result, Vendor understands that any requests for time extensions are subject to the State and Federal False Claims Acts and auditing requirements.

- d) If a performance or payment bond has been provided by Vendor for this project, then Vendor shall notify its surety in writing of any extension of time that is granted by NCEM.

ARTICLE 12 – APPLICATIONS FOR PAYMENT

- a) Vendor shall submit to PM a request for payment for work done on a schedule agreed upon by Vendor and PM. The request shall be in the form agreed upon between Vendor and PM, but shall show substantially the value of work done and materials delivered to the site during the period since the last payment, and shall sum up the financial status of the Contract with the following information:
 - 1. Total value of Contract including Change Orders.
 - 2. Value of work completed to date.
 - 3. Less five percent (5%) retainage.
 - 4. Less previous payments.
 - 5. Current amount due.
- b) Vendor, upon request of PM, shall substantiate the request with invoices or vouchers or payrolls or other evidence including compliance with Federal prevailing wage laws.
- c) Prior to submitting the first request, Vendor shall prepare for PM a schedule of values (SOV) showing a breakdown of the Contract price into values of the various parts of the work, so arranged as to facilitate payments to Vendor and subcontractors. Vendor shall list the value of each subcontractor and supplier, identifying each minority business subcontractor and supplier.
- d) NCEM will direct PM to withhold retainage up to the statutory amount of five percent (5%) to ensure a Vendor's completion of the project and/or it resolve any disputes with NCEM or subcontractors.

ARTICLE 13 – CERTIFICATES OF PAYMENT AND FINAL PAYMENT

- a) Within five (5) days from receipt of request for payment from Vendor (or other date set by Vendor, PM and NCEM), Vendor shall issue and forward to PM a certificate for payment. This certificate shall indicate the amount requested by Vendor. If the certificate is withholding payment.
- b) No certificate issued or payment made shall constitute an acceptance of the work or any part thereof until issuance of a certificate of occupancy is issued by Authority Having Jurisdiction, and PM and NCEM closeout the Contract (warranties and guarantees shall remain in effect after Contract closeout). The making and acceptance of final payment shall constitute a waiver of all claims by Vendor against Owner, PM and/or NCEM except:
 - 1. Claims arising from unsettled liens or claims against Vendor.
 - 2. Faulty work or materials appearing after final payment.
 - 3. Failure of Vendor to perform the work in accordance with drawings and specifications, such failure appearing after payment.
 - 4. As conditioned in any payment bond.
- c) Vendor shall forward to PM and NCEM the final application for payment along with the following documents:
 - 1. List of minority business subcontractors and material suppliers showing breakdown of contract amounts and total actual payments to subs and material supplies.
 - 2. Affidavit of Release of Liens.
 - 3. Affidavit of Vendor of payment to material suppliers and subcontractors.
 - 4. Consent of Surety to Final Payment.
 - 5. Certificates of State agencies required by State law.
 - 6. If applicable, Asbestos Manifest from a permitted disposal facility.
 - 7. Warranty certification by homeowner.
 - 8. Homeowner Acceptance of work.

ARTICLE 14 – PAYMENT WITHHELD

- a) PM, with approval of NCEM, may withhold payment for the following reasons:
 - 1. Faulty work not corrected.
 - 2. The unpaid balance on the contract is insufficient to complete the work in the judgement of the EOR and/or PM.
 - 3. To provide for sufficient contract balance to cover liquidated damages that will be assessed.
 - 4. Payment documentation has not been submitted by the Vendor or is unacceptable.
 - 5. Non-compliance with contractual requirements.
- b) When grounds for withholding payments have been removed, payment will be released.

ARTICLE 15 – RESERVED

ARTICLE 16 – PAYMENT & PERFORMANCE BONDS

- a) NCEM, though PM, will require Vendor to furnish a payment bond executed by a surety company authorized to do business in North Carolina. The bond shall be in the full Contract amount. The bond shall be countersigned by an authorized agent of the bonding company who is licensed to do business in North Carolina.

- b) Performance Bond – NCEM, through PM, will require Vendor to furnish a performance bond executed by a surety company authorized to do business in North Carolina. The performance bond shall be in the full Contract amount. Vendor shall submit a sample performance bond and sample power of attorney to NCEM and PM for review and approval.

ARTICLE 17 – VENDOR’S AFFIDAVIT

The final payment of retained amount due Vendor on account of the Contract shall not become due until Vendor has furnished to PM and NCEM and affidavit signed, sworn, and notarized to the effect that all payments for materials, services or subcontracted work in connection with this Contract have been satisfied, and that no claims or liens exist against Vendor in connection with this Contract. In the event that Vendor cannot obtain similar affidavits from subcontractors to protect Vendor and Owner from possible liens or claims against the subcontractor, Vendor shall state in his affidavit that no claims or liens exist against any subcontractor to the best of Vendor’s knowledge, and if any appear afterwards, Vendor shall hold NCEM and Owner harmless.

ARTICLE 18 – USE OF PREMISES

- a) Vendor shall confine its equipment, the storage of materials and the operations of its workmen to limits indicated by law, ordinances, permits or directions of Authority Having Jurisdiction, PM, and NCEM and shall not exceed those established limits in its operation.
- b) Vendor shall not load or permit any part of the structure to be loaded with a weight that will endanger its safety.
- c) Vendor shall enforce PM’s and NCEM’s instructions regarding signs, advertisements, fires and smoking.
- d) No firearms, any type of alcoholic beverages, or drugs (other than those prescribed by a physician) will be permitted at the job site.

ARTICLE 19 – CUTTING, PATCHING AND DIGGING

- a) Vendor shall do all cutting, fitting, or patching of his work that may be required to make its several parts come together properly and fit it to receive or be received by work of other subcontractors shown upon or reasonably implied by the drawings and specifications for the complete structure, as the EOR or PM may direct.
- b) Any cost brought about by defective or ill-timed work shall be borne by the party responsible therefore.
- c) Vendor should coordinate the work of the subcontractors to avoid unnecessary cutting, fitting or patching so that Vendor avoids damaging the work of its subcontractors, and subcontractors avoid damaging the work of Vendor and/or other subcontractors.

ARTICLE 20 – UTILITIES, STRUCTURES, SIGNS

- a) If the house is unoccupied, Vendor shall provide necessary and adequate facilities for water, electricity, gas, oil, sewer and other utility services which may be necessary and required for completion of the project, including all utilities required for testing, cleaning, balancing, and sterilization of designated plumbing, mechanical and electrical systems. Any permanent meters installed shall be listed in Vendor’s name until work has a final acceptance. Vendor shall contact all affected utility companies prior to bid to determine their requirements to provide temporary and permanent service and include all costs associated with providing those services in their bid. Coordination of the work of the utility companies during construction is the sole responsibility of Vendor. If occupied, PM, Vendor and Owner must reach an agreement as to apportionment of utilities, which must be included in the Contract before construction begins.
- b) Meters shall be relisted in Owner’s name on the day following final acceptance, and Owner shall pay for services used after that date.

ARTICLE 21 – CLEANING UP

- a) Vendor shall keep the building and surrounding area reasonably free from rubbish at all times, and shall remove debris from the site on a timely basis or when directed to do so by PM. Vendor shall provide an onsite refuse container(s) for the use of all contractors. Vendor shall remove rubbish and debris from the building on a daily basis. Vendor shall broom clean the building as required to minimize dust and dirt accumulation.
- b) Vendor shall provide and maintain suitable all-weather access to the building.
- c) Before final inspection and acceptance of the building, Vendor shall clean the work area, including glass, hardware, fixtures, masonry, tile, and marble (using no acid), clean and wax all floors as specified, and completely prepare the building for use by Owner, with no cleaning required by Owner.

ARTICLE 22 – GUARANTEE

- a) Vendor shall unconditionally guarantee materials and workmanship against patent defects arising from faulty materials, faulty workmanship or negligence for a period of twelve (12) months following the date of final acceptance of the work or beneficial occupancy and shall replace such defective materials or workmanship without cost to Owner. Vendor shall provide a ten (10) year warranty for all structural work performed under the Contract.
- b) Where items of equipment or material carry a manufacturer’s warranty for any period in excess of twelve (12) months, then the manufacturer’s warranty shall apply for that particular piece of equipment or material. Vendor shall replace such defective equipment or materials, without cost to Owner, within the manufacturer’s warranty period.
- c) Additionally, Owners may bring an action for latent defects caused by the negligence of Vendor which are hidden or not readily apparent to Owner, NCEM or PM at the time of final acceptance, whichever occurred first, in accordance with applicable law.
- d) Guarantees for roof, equipment, materials, and supplies shall be stipulated in the specification sections governing such roof, equipment, materials, or supplies. Vendor shall also provide all instruction manuals stipulated in the specification sections and/or that were furnished to Vendor from the manufacturer (e.g., hot water heaters, HVAC units, electrical equipment or fixtures, plumbing equipment and fixtures, appliances, etc.).

ARTICLE 23 – WOMEN AND MINORITY BUSINESS PARTICIPATION

2 C.F.R. § 200.321 requires that all necessary affirmative steps are taken to assure that minority and women’s businesses are used when possible, and G.S. § 143-128.2 establishes a ten percent (10%) goal for participation by minority and women owned businesses in total value of work for the HMGP. The document, Guidelines for Recruitment and Selection of Minority Businesses for Participation in State Construction Contracts, including affidavits, is found on the N.C. State Construction Office website.

ARTICLE 24 – PRIME CONTRACTOR EVALUATION

Vendor’s overall work performance on each assigned or awarded HMGP project/Contract shall be fairly evaluated in accordance with the policy and procedures for determining continued prequalification for future work in the HMGP. Vendor Evaluation Procedures are hereby incorporated and made a part of Vendor’s approval of its application for prequalification. PM and NCEM will evaluate Vendor’s performance.

ARTICLE 25 – GIFTS

Pursuant to G.S. § 133-32, it is unlawful for any Vendor or Contractor (i.e. architect, bidder, Vendor, construction manager, design professional, engineer, subcontractor, supplier, vendor, etc.) to make gifts or to give favors to any State employee. This prohibition covers those Vendors and Contractors who: (1) have a contract with a governmental agency; or (2) have performed under such a contract within the past year; or (3) anticipate bidding on such a contract in the future. For additional information regarding the specific requirements and exemptions, Vendors and Contractors are encouraged to review G.S. § 133-32.

During the construction of the Project, Vendor and subcontractors are prohibited from making gifts to any employee of NCEM and/or other State employee from and other State agency that may have any involvement, influence, responsibilities, oversight, management and/or duties that pertain to and/or relate to the contract administration, financial administration and/or disposition of claims arising from and/or relating to the Contract and/or Project. In addition, Vendors are prohibited from making gifts to the Owner at any time. Vendors in violation of this provision of the agreement will be removed from participation in the program and reported to FEMA for investigation.

ARTICLE 26 – AUDITING – ACCESS TO PERSONS AND RECORDS

In accordance with 2 C.F.R. § 200.501 and G.S. § 147-64.7, the Office of the Inspector General (OIG), State Auditor, NCEM or other applicable State agency internal auditors, or FEMA shall have access to Vendor’s officers, employees, agents and/or other persons in control of and/or responsible for Vendor’s records that relate to this Contract for purposes of conducting audits under the referenced statute. FEMA and NCEM’s internal auditors shall also have the right to access and copy Vendor’s records relating to the Contract and Project during the term of the Contract and within five (5) years following the completion of the Project/closeout of the Contract to verify accounts, accuracy, information, calculations and/or data affecting and/or relating to Vendor’s requests for payment, requests for Change Orders, Change Orders, claims for extra work, requests for time extensions and related claims for delay/extended general conditions costs, claims for lost productivity, claims for loss efficiency, claims for idle equipment or labor, claims for price/cost escalation, pass-through claims of subcontractors and/or suppliers, and/or any other type of claim for payment or damages from PM, NCEM and/or Owner.

ARTICLE 27 – NORTH CAROLINA FALSE CLAIMS ACT

The False Claims Act (31 U.S.C. § 3729) and the North Carolina False Claims Act (“NCFCA”), G.S. §§ 1-605 through 1-618, apply to this Contract. Vendor should familiarize itself with the False Claims Act and the NCFCA and should seek the assistance of an attorney if it has any questions regarding the NCFCA and its applicability to any requests, demands and/or claims for payment it submits to the State through the contracting State agency, institution, university or community college.

The purpose of the NCFCA “is to deter persons from knowingly causing or assisting in causing the State to pay claims that are false or fraudulent and to provide remedies in the form of treble damages and civil penalties when money is obtained from the State by reason of a false or fraudulent claim.” (Section 1-605(b).) Vendor’s liability under the NCFCA may arise from, but not limited to: requests for payment, invoices, billing, claims for extra work, requests for change orders, requests for time extensions, claims for delay damages/extended general conditions costs, claims for loss productivity, claims for loss efficiencies, claims for idle equipment or labor, claims for price/cost escalation, pass-through claims of subcontractors and/or suppliers, documentation used to support any of the foregoing requests or claims, and/or any other request for payment from the State through the contracting State agency, institution, university or community college.

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