

STATE OF NORTH CAROLINA DEPARTMENT OF REVENUE Tax Analytics Division	INVITATION FOR BIDS NO. 45- PR12642651
	Offers will be publicly opened: 25 August, 2023
	Issue Date: 21 August, 2023
Refer <u>ALL</u> inquiries regarding this IFB to: Justin Stringfield, Contract Specialist Justin.stringfield@ncdor.gov 919-215-5229	Commodity Number: 811123
	Description: Oracle Exadata Hardware, Installation, and Oracle Exadata Premier Support for Hardware
	Using Agency: North Carolina Department of Revenue (NCDOR)
See page 2 for mailing instructions.	Requisition No.: PR12642651

OFFER AND ACCEPTANCE

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

EXECUTION

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

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

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

Offer valid for thirty (30), days from date of offer opening unless otherwise stated here: ____ days

ACCEPTANCE OF OFFER

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

<u>FOR STATE USE ONLY</u> Offer accepted and contract awarded this day of _____, as indicated on attached certification, by _____ (Authorized representative of NCDOR).
--

TABLE OF CONTENTS

1.0	INTENT, USE, DURATION AND SCOPE	3
2.0	GENERAL INFORMATION	3
2.1.	VENDOR QUESTIONS	3
2.2.	ADDENDA	3
2.3.	OFFER SUBMITTAL.....	3
2.5.	BASIS FOR REJECTION.....	4
2.6.	LATE OFFERS	4
2.7.	NON-RESPONSIVE OFFERS	4
2.8.	NOTICE TO VENDORS.....	5
2.9.	E-PROCUREMENT SOLICITATION.....	5
2.10.	DISTRIBUTORS AND RESELLERS	5
2.11.	POSSESSION AND REVIEW	5
2.12.	AWARD	5
2.13.	POINTS OF CONTACT	6
3.0	SPECIFICATIONS	6
3.1.	VENDOR STANDARD AGREEMENT(S).....	6
3.2.	VENDOR UTILIZATION OF WORKERS OUTSIDE U.S.	6
3.3.	E-VERIFY	7
3.4.	BRAND SPECIFIC PRODUCT	7
3.5.	DESCRIPTIVE LITERATURE <i>Reserved</i>	7
3.6.	SECURITY SPECIFICATIONS	7
3.7.	PRODUCT RECALL	8
3.8.	WARRANTY	8
3.9.	MAINTENANCE <i>Reserved</i>	9
3.10.	CONTRACT TERM.....	9
3.11.	DELIVERY	9
3.12.	SPECIFICATIONS	9
4.0	FURNISH AND DELIVER	9
5.0	ADDITIONAL INFORMATION.....	15
5.1.	HISTORICALLY UNDERUTILIZED BUSINESSES	15
5.2.	RECYCLED CONTENT	15
5.3.	ENERGY STAR PRODUCTS	16
6.0	DEPARTMENT OF INFORMATION TECHNOLOGY INSTRUCTIONS TO VENDORS	16
7.0	DEPARTMENT OF INFORMATION TECHNOLOGY TERMS AND CONDITIONS	18
	Appendix A: Internal Revenue Service Publication 1075, Exhibit 7 Safeguarding Contract Language	31
	Appendix B: SECURITY REQUIREMENTS FOR VENDOR STAFF AND CONTRACTORS.....	34

Appendix C: Security Breach Protocol	36
Appendix D: Professional Services Description	38

1.0 **INTENT, USE, DURATION AND SCOPE**

The purpose of this IFB is to obtain pricing for and procure Oracle Exadata X9 hardware, installation services, and Oracle Exadata Premier Support for the hardware listed in Section 4 of this IFB for the North Carolina Department of Revenue (NCDOR). The contract will be for the term of one (1) year with the option to renew for two (2) additional one-year periods. Products and services will be provided in accordance to the terms and conditions of this IFB.

2.0 **GENERAL INFORMATION**

2.1. **VENDOR QUESTIONS**

Written questions concerning this Solicitation will be received until **August 23, 2023 at 2:00 pm** Eastern Time. They must be submitted to the contact person listed on Page One of this Solicitation via justin.stringfield@ncdor.gov. Please enter "Questions Solicitation 45-PR12642651" as the subject for the message. Questions should be submitted in the following format:

REFERENCE	VENDOR QUESTION
IFB Section, Page Number	

2.2. **ADDENDA**

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

2.3. **OFFER SUBMITTAL**

Due Date: 25 August, 2023
Time: 10am Eastern Time

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

Sealed offers, subject to the conditions made a part hereof, will be received until 2:00pm Eastern Time on the day of opening and then opened, for furnishing and delivering the commodity as described herein. Offers must be submitted via the Ariba Sourcing Module with the Execution page signed and dated by an official authorized to bind the Vendor's firm. Failure to return a signed offer shall result in disqualification.

Attempts to submit a proposal via facsimile (FAX) machine, telephone, or email in response to this Bid shall NOT be accepted.

- a) Submit **one (1) signed, original electronic offer** through the Ariba Sourcing Module.
- b) All File names should start with the Vendor name first, in order to easily determine all the files to be included as part of the vendor's response. For example, files should be named as follows: Vendor Name-your file name.
- c) File contents SHALL NOT be password protected, the file formats must be in .PDF, .JPEG, .DOC or .XLS format, and shall be capable of being copied to other sources. Inability by the State to open the Vendor's files may result in the Vendor's offer(s) being rejected.
- d) If the vendor's proposal contains any confidential information (as defined in the Terms and Conditions of this solicitation), then the vendor must provide one (1) signed, original electronic offer and one (1) redacted electronic copy.

For training on how to use the Ariba Sourcing Tool to view solicitations, submit questions, develop responses, upload documents, and submit offers to the State, Vendors should go to the following site: <https://eprocurement.nc.gov/training/vendor-training>

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

2.5. BASIS FOR REJECTION

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

2.6. LATE OFFERS

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

2.7. NON-RESPONSIVE OFFERS

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

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

2.8. NOTICE TO VENDORS

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

2.9. E-PROCUREMENT SOLICITATION

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

2.10. DISTRIBUTORS AND RESELLERS

"Resellers" as used herein, refers to businesses that routinely sell or distribute Vendor's Products, and may include "Distributors", "Value Added Resellers" (VARs), "Original Equipment Manufacturers" (OEMs), Channel Partners, or such other designations. These businesses must be approved by the State prior to placement of any orders. Any contract established will be subject to this solicitation and any resulting Agreement(s), and to the terms and conditions of the State's competitive bidding process.

The Agency acknowledges that the Reseller has merely purchased the Third-Party Items for resale or license to the Agency, and that the proprietary and intellectual property rights to the Third-Party Items are owned by parties other than the Reseller ("Third Parties"). The Agency further acknowledges that except for the payment to the Reseller for the Third-Party Items, all of its rights and obligations with respect thereto flow from and to the Third Parties. The Reseller shall provide the Agency with copies of all documentation and warranties for the Third-Party Items which are provided to the Reseller. The Reseller shall assign all applicable third-party warranties for Deliverables to the Agency.

2.11. POSSESSION AND REVIEW

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

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

2.12. AWARD

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

The State has implemented the electronic Vendor Portal (eVP) that allow the public to retrieve award notices and information on the Internet at <https://evp.nc.gov>. Results may be found by searching by Solicitation Number or agency name. This information may not be available for several weeks dependent upon the complexity of the acquisition and the length of time to complete the evaluation process.

2.13. POINTS OF CONTACT

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

Vendor Contractual Point of Contact	Vendor Technical Point of Contact
NAME OF VENDOR: Assigned Contract Manager: Email: Phone:	NAME OF VENDOR: Assigned Technical Lead: Email: Phone:

3.0 SPECIFICATIONS**3.1. VENDOR STANDARD AGREEMENT(S)**

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

3.2. VENDOR UTILIZATION OF WORKERS OUTSIDE U.S.

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

- a) The location of work performed under a state contract by the Vendor, any subcontractors, employees, or other persons performing the contract and whether any of this work will be performed outside the United States.
- b) The corporate structure and location of corporate employees and activities of the Vendors, its affiliates or any other subcontractors.
- c) Notice of the relocation of the Vendor, employees of the Vendor, subcontractors of the Vendor, or other persons performing Services under a state contract outside of the United States.
- d) Any Vendor or subcontractor providing call or contact center Services to the State of North Carolina shall disclose to inbound callers the location from which the call or contact center Services are being provided.

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

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

3.3. E-VERIFY

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

3.4. BRAND SPECIFIC PRODUCT

Manufacturer(s) name and product descriptions used in this solicitation are product specific. The items offered in response to this solicitation must be the manufacturer and type specified. Failure to comply with this requirement will result in rejection of offer.

3.5. DESCRIPTIVE LITERATURE *Reserved*

3.6. SECURITY SPECIFICATIONS

- 3.6.1. NC NCDOR receives and maintains information tax information, which includes Federal Tax Information (FTI), State Tax Information (STI), and/or Personal Identifying Information (PII), collectively referred to as Tax Information. In the performance of Services provided under an awarded contract that may incorporate and reference Oracle Standard Agreement and this Addendum, Vendor may have access to Tax Information and agrees to safeguard the Tax Information in accordance with applicable state and federal law, including but not limited to I.R.C. §6103(p)(4), Internal Revenue Publication 1075, and N.C. Gen. Stat. §105-259. The nature of these safeguards is attached hereto as Appendix A.
- 3.6.2. Prior to receiving access to NCDOR facilities and systems, Vendor and any subcontractors must comply with the NCDOR Security Requirements for Vendor Staff and Contracts (attached as Appendix B) and the applicable provisions of the NCDOR Security Policy Manual located at <https://www.ncdor.gov/documents/it-information-bidders>.
- 3.6.3. Vendor shall encrypt any data to which it has access to at rest and in transit FIPS-140-2.
- 3.6.4. Vendor agrees to work with NCDOR to develop an audit log strategy that is compliant with NCDOR security policies prior to loading NCDOR data into any Oracle instance. This includes retention of security logs for seven (7) years or offloading security logs to the NCDOR qRadar system. An annual attestation is required to ensure that the audit log strategy is in place and being maintained.
- 3.6.5. Vendor shall notify NCDOR of any project personnel termination of transfers within three (3) business days so that NCDOR may adequately manage access to its systems.
- 3.6.6. Vendor shall have a formal sanctions process for its staff or subcontractors that fail to comply with NCDOR's security policy and procedures for protection of FTI. Vendor shall notify NCDOR within 72 hours of the sanction action.
- 3.6.7. Vendor shall promptly notify NCDOR if incidents involving FTI in accordance with the Security Breach Protocol in Appendix C. NCDOR will notify Vendor of any updates and/or changes to the security protocol.

- 3.6.8. After contract award, Vendor shall submit a Sanitization Plan for NCDOR's review and approval. The Sanitization Plan will outline Vendor's plan to dispose of any NCDOR data that will be in it or its subcontractors' possession or control during the project. Upon termination of this Agreement and/or expiration of all obligations under this Agreement, Vendor shall permanently destroy or render inaccessible any portion of NCDOR's data in it or its subcontractors' possession or control pursuant to the agreed upon Sanitization Plan. Within thirty (30) days of Agreement termination or expiration, Vendor shall issue Certificates of Sanitization to NCDOR confirming the description for inaccessibility of NCDOR's data.
- 3.6.9. Upon the request of NCDOR, Vendor shall cooperate and provide relevant information to NCDOR to meet its obligations for the safeguarding of the FTI it may receive or access. Vendor's cooperation includes providing information to NCDOR for any 45Day notification or audit inquiries required under IRS Publication 1075.

3.7. PRODUCT RECALL

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

3.8. WARRANTY

Manufacturer's standard warranty shall apply. Upon request by the State, Vendor shall provide a copy of the manufacturer's standard warranty within two (2) business days.

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

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

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

☐ YES ☐ NO

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

Contact information for warranty service provider:

Company Name: _____

Company Address: _____

Contact Person: _____

Contact Person Phone Number: _____

Contact Person Email: _____

3.9. MAINTENANCE Reserved**3.10. CONTRACT TERM**

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

3.11. DELIVERY

Successful Vendor will complete delivery and installation within 45 (forty-five) consecutive calendar days after receipt of purchase order to the following location(s):

501 N Wilmington, Raleigh NC, 27603 and 99 TW Alexander Dr, Research Triangle Park, NC 27709

For completion by Vendor: Delivery will be made from _____ (city, state) within _____ consecutive days after receipt of order. *Installation will be made within _____ consecutive days after receipt of order.*

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

If circumstances beyond the control of the contractor result in a late delivery, it is the responsibility and obligation of the contractor to notify the Purchasing Agent listed on the purchase order, in writing, immediately upon determining delay of shipment. The written notification should indicate the anticipated delivery dated.

3.12. SPECIFICATIONS

3.12.1. Successful vendor must be an Oracle certified Sell and Service partner.

3.12.2. Subject to compliance with NCDOR Security Requirements, Vendor shall perform Oracle installation and configuration services referred to in Section 4.0 Furnish and Deliver below, the details of which are outlined in Appendix D.

4.0 FURNISH AND DELIVER

ITEM #	QTY	UNIT	DESCRIPTION	UNIT COST	EXTENDED COST
1	1	each	Exadata Database Machine X9M-2, TAA compliant: model family Part#: 7602375	\$ _____	\$ _____
2	1	each	Exadata Database Machine X9M-2 High Capacity (HC) Eighth Rack with 1 TB memory and 2 dual 25 G network cards Part# 7603953	\$ _____	\$ _____

3	1	each	Two 1-phase low voltage 15 kVA PDUs with NEMA L630P plugs for United States, Canada, Mexico, Taiwan, and Japan Part#: 6442A	\$ _____	\$ _____
4	31	each	Engineered Systems 1RU filler pane Part#: 7110966	\$ _____	\$ _____
5	1	each	Replacement part: Oracle Flash Accelerator F640 v3 PCIe card Part#: 7602538	\$ _____	\$ _____
6	1	each	Replacement part: one 18 TB 7200 rpm 3.5-inch SAS-3 HDD with coral bracket Part#: 7602539	\$ _____	\$ _____
7	1	each	Exadata Database Machine X9M-2: Oracle Linux software image for database server Part#: 7602541	\$ _____	\$ _____
8	1	each	Exadata Database Machine X9M-2: Oracle Linux software image for storage server Part#: 7602542	\$ _____	\$ _____
9	8	each	Oracle 1/10 GbE Dual Rate SFP+ Short Range (SR) Transceiver Part#: 7120053	\$ _____	\$ _____
10	2	each	Power cord: Sun Rack jumper, straight, 2 meters, C14 plug, C13 connector, 10A Part#: X333V-20-15-C14-N	\$ _____	\$ _____
11	1	each	Oracle Advanced Support Gateway Server X9-2 TAA		

			<i>Part#: 7604577</i>	\$ _____	\$ _____
12	1	each	Oracle Premier Support for Systems <i>Part#: B58179</i>	\$ _____	\$ _____
13	1	each	Oracle Customer Data and Device Retention <i>Part#: B58180</i>	\$ _____	\$ _____
14	1	each	Oracle Exadata Configuration Service (1 rack, up to: 2 clusters, 16 VMs, 4 DB homes) <i>Part#: B51555</i>	\$ _____	\$ _____
15	1	each	Oracle Standard System Installation Service, Site Audit: Engineered Systems - Group II <i>Part#: B74194</i>	\$ _____	\$ _____
16	1	each	Oracle Standard System Installation Service, Site Audit: Servers - Group II <i>Part#: B61304</i>	\$ _____	\$ _____
17	5	each	ACS Estimated Travel and Expense II <i>Part#: B82707</i>	\$ _____	\$ _____
18	1	each	Exadata Database Machine X9M-2 Storage Server upgrades, TAA compliant: model family <i>Part#: 7603763</i>	\$ _____	\$ _____
19	3	each	Exadata Storage Server X9M-2 Eighth Rack High Capacity (HC) with 768 GB persistent memory with rail kit <i>Part#: 7603441</i>	\$ _____	\$ _____

20	1	each	Exadata Database Machine X9M: Oracle Linux software image for storage server upgrades Part#: 7603443	\$ _____	\$ _____
21	1	each	Oracle Premier Support for Systems Part#: B58179	\$ _____	\$ _____
22	1	each	Oracle Customer Data and Device Retention Part#: B58180	\$ _____	\$ _____
23	3	each	Oracle Standard System Installation Service, Basic: Upgrade- Group III Part#: B63939	\$ _____	\$ _____
24	1	each	Exadata Database Machine X9M-2, TAA compliant: model family Part#: 7602375	\$ _____	\$ _____
25	1	each	Exadata Database Machine X9M-2 High Capacity (HC) Eighth Rack with 1 TB memory and 2 dual 25 G network cards Part#: 7603953	\$ _____	\$ _____
26	2	each	1-phase low voltage 15 kVA PDUs with NEMA L630P plugs for United States, Canada, Mexico, Taiwan, and Japan Part#: 6442A	\$ _____	\$ _____
27	31	each	Engineered Systems 1RU filler panel Part#: 7110966	\$ _____	\$ _____
28	1	each	Replacement part: Oracle Flash Accelerator F640 v3 PCIe card		

			<i>Part#: 7602538</i>	\$ _____	\$ _____
29	1	each	<i>Replacement part: one 18 TB 7200 rpm 3.5-inch SAS-3 HDD with coral bracket</i> <i>Part#: 7602539</i>	\$ _____	\$ _____
30	1	each	<i>Exadata Database Machine X9M-2: Oracle Linux software image for database server</i> <i>Part#: 7602541</i>	\$ _____	\$ _____
31	1	each	<i>Exadata Database Machine X9M-2: Oracle Linux software image for storage server</i> <i>Part#: 7602542</i>	\$ _____	\$ _____
32	8	each	<i>Oracle 1/10 GbE Dual Rate SFP+ Short Range (SR) Transceiver</i> <i>Part#: 7120053</i>	\$ _____	\$ _____
33	2	each	<i>Power cord: Sun Rack jumper, straight, 2 meters, C14 plug, C13 connector, 10A</i> <i>Part#: X333V-20-15-C14-N</i>	\$ _____	\$ _____
34	1	each	<i>Oracle Advanced Support Gateway Server X9-2 TAA</i> <i>Part#: 7604577</i>	\$ _____	\$ _____
35	1	year	<i>Oracle Premier Support for Systems</i> <i>Part#: B58179</i>	\$ _____	\$ _____
36	1	each	<i>Oracle Customer Data and Device Retention</i> <i>Part#: B58180</i>	\$ _____	\$ _____

37	1	each	Oracle Exadata Configuration Service Part#: B51555	\$ _____	\$ _____
38	1	each	Oracle Standard System Installation Service, Site Audit: Engineered Systems - Group II Part#: B74194	\$ _____	\$ _____
39	1	each	Oracle Standard System Installation Service, Site Audit: Servers Part#: B61304	\$ _____	\$ _____
40	1	each	Exadata Database Machine X9M-2 Storage Server upgrades, TAA compliant: model family Part#: 7603763	\$ _____	\$ _____
40	3	each	Exadata Storage Server X9M-2 Eighth Rack High Capacity (HC) with 768 GB persistent memory with rail kit Part#: 7603441	\$ _____	\$ _____
41	1	each	Exadata Database Machine X9M: Oracle Linux software image for storage server upgrades Part#: 7603443	\$ _____	\$ _____
42	1	year	Oracle Premier Support for Systems Part#: B58179	\$ _____	\$ _____
43	1	each	Oracle Customer Data and Device Retention Part#: B58180	\$ _____	\$ _____
44	3	each	Oracle Standard System Installation Service, Basic: Upgrade - Group III		

			Part#: B63939	\$ _____	\$ _____
--	--	--	---------------	----------	----------

Total Offer Cost for Year 1 _____

4.1. OPTIONAL COSTS

ITEM #	QTY	UNIT	DESCRIPTION	UNIT COST	EXTENDED COST
1	1	year	Optional Second (2 nd) Year Oracle Premier Support for Systems for Hardware listed in section 4.0	\$ _____	\$ _____
2	1	year	Optional Second (3 rd) Year Oracle Premier Support for Systems for Hardware listed in Hardware listed in section 4.0	\$ _____	\$ _____

5.0 ADDITIONAL INFORMATION**5.1. HISTORICALLY UNDERUTILIZED BUSINESSES**

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

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

Is Vendor a Historically Underutilized Business? ☐ YES ☐ NO If “YES”, specify classification. _____

5.2. RECYCLED CONTENT

In an effort to support the sustainability efforts of the State of North Carolina Executive Order Number 156, we solicit your cooperation. <http://www.p2pays.org/ref/03/02221.pdf>

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

☐ YES ☐ NO

If Vendor answered “YES” above, indicate the following:

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

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

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

Material: _____ Percentage of recycled content: _____

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

5.3. **ENERGY STAR PRODUCTS**

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

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

6.0 **DEPARTMENT OF INFORMATION TECHNOLOGY INSTRUCTIONS TO VENDORS**

- 1) **READ, REVIEW AND COMPLY:** It shall be the Vendor's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements specified herein.
- 2) **DEFINITIONS:**
 - **NCDIT:** The North Carolina Department of Information Technology, formerly Office of Information Technology Services
 - **NCDIT CONVENIENCE CONTRACT:** A contract that is used for the procurement of IT goods or Services. These contracts are in place for the convenience of the state and use of them is optional.
 - **NCDOR:** North Carolina Department of Revenue
 - **OPEN MARKET CONTRACT:** A contract for the purchase of goods or Services not covered by a term, technical, or convenience contract.
 - **TERM CONTRACT:** A contract in which a source of supply is established for a specified period of time for specified Services or supplies; usually characterized by an estimated or definite minimum quantity, with the possibility of additional requirements beyond the minimum, all at a predetermined unit price.
 - **THE STATE:** Is the state of North Carolina and its agencies.
 - **VENDOR:** Company, firm, corporation, partnership, individual, etc., submitting a response to a solicitation.
- 3) **PROMPT PAYMENT DISCOUNTS:** Vendors are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it will not be considered in the award of the contract except as a factor to aid in resolving cases of identical prices.
- 4) **INFORMATION AND DESCRIPTIVE LITERATURE:** Vendor is to furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this IFB, each Vendor must submit with their offer sketches, descriptive literature and/or complete specifications covering the products offered. **Only information that is received in response to this IFB will be evaluated.** Reference to information previously submitted or Internet Website Addresses (URLs) will not satisfy this provision. Offers, which do not comply with these requirements, will be subject to rejection.
- 5) **RECYCLING AND SOURCE REDUCTION:** It is the policy of this State to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items, which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective. We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will protect the commodity and contain it for its intended use.

Companies are strongly urged to bring to the attention of the relevant purchasers in the State those products or packaging they offer which have recycled content and that are recyclable.

- 6) **CLARIFICATIONS/INTERPRETATIONS:** Any and all questions regarding this document must be addressed to the purchaser named on the cover sheet of this document. Do not contact the user directly. Any and all revisions to this document shall be made only by written addendum from NCDOR. The Vendor is cautioned that the requirements of this IFB can be altered only by written addendum and that verbal communications from whatever source are of no effect.
- 7) **ACCEPTANCE AND REJECTION:** The State reserves the right to reject any and all offers, to waive any informality in offers and, unless otherwise specified by the Vendor, to accept any item in the offer. If either a unit price or an extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.
- 8) **AWARD OF CONTRACT:** Responsive offers will be evaluated, and acceptance may be made in accordance with Best Value procurement practices as defined by N.C.G.S. §143-135.9, and in accordance with N.C.G.S. §143B-1350(h), which provides that the offer must be in substantial conformity with the specifications herein, and 09 NCAC 06B.0302. Unless otherwise specified by the State or the Vendor, the State reserves the right to accept any item or group of items on a multi-item offer. In addition, on agency specific or term contracts, NCDOR reserves the right to make partial, progressive or multiple awards: where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service, geographical areas; other factors deemed by NCDOR to be pertinent or peculiar to the purchase in question.
- 9) **SAMPLES-** Reserved .
- 10) **MISCELLANEOUS:** Masculine pronouns shall be read to include feminine pronouns and the singular of any word or phrase shall be read to include the plural and vice versa.
- 11) **PROTEST PROCEDURES:** When an offeror wants to protest a contract awarded pursuant to this solicitation that is over \$25,000 they must submit a written request to the issuing agency at the address given in this document. This request must be received in this office within fifteen (15) calendar days from the date of the contract award, and must contain specific sound reasons and any supporting documentation for the protest. **Note:** Contract award notices are sent **only** to those actually awarded contracts, and not to every person or firm responding to this solicitation. IFB status and Award notices are posted on the Internet at <https://evp.nc.gov>. **All protests will be governed by NCAC Title 9, Department of Information Technology (formerly Office of Information Technology Services), Subchapter 06B Sections .1101 - .1121**
- 12) **VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM:** The electronic Vendor Portal (eVP) allows Vendors to electronically register with the State to receive electronic notification of current procurement opportunities for goods and services available on the eVP at the following web site: <https://evp.nc.gov>.
- 13) **DIGITAL IMAGING:** The State will digitize the Vendor's response if not received electronically, and any awarded contract together with associated contract documents. This electronic copy shall be a preservation record, and serve as the official record of this solicitation with the same force and effect as the original written documents comprising such record. Any printout or other output readable by sight shown to reflect such record accurately is an "original."

7.0 **DEPARTMENT OF INFORMATION TECHNOLOGY TERMS AND CONDITIONS**

- 1) **DEFINITIONS:** As used herein;
 - a) Deliverable/Product Warranties shall mean and include the warranties provided for products or deliverables licensed to the State in Paragraphs 7 and 8 and included in Paragraph 29 c) of these Terms and Conditions unless superseded by a Vendor's Warranties pursuant to Vendor's License or Support Agreements.
 - b) Purchasing State Agency or Agency shall mean the Agency purchasing the goods or Services.
 - c) Services shall mean the duties and obligations accepted by the Vendor to carry out the requirements, and meet the specifications, of this procurement.
 - d) State shall mean the State of North Carolina, the Department of Revenue, and the Department of Information Technology as an Agency or in its capacity as the Award Authority.
- 2) **STANDARDS:** Manufactured items and/or fabricated assemblies comprising Deliverables shall meet all requirements of the Occupational Safety and Health Act (OSHA), and State and federal requirements relating to clean air and water pollution, if applicable. Vendor will provide and maintain a quality assurance system or program that includes any Deliverables and will tender to the State only those Deliverables that have been inspected and found to conform to the requirements of this Contract. All manufactured items and/or fabricated assemblies comprising Deliverables are subject to operation, certification or inspection, and accessibility requirements as required:
 - by State or federal Regulation,
 - by the Chief Information Officer's (CIO) policy or regulation, or
 - acceptance with appropriate standards of operations or uses of said Deliverables as may be shown by identification markings or other means of the appropriate certifying standards organization.
 - a) **Site Preparation:** Vendors shall provide the Purchasing State Agency complete site requirement specifications for the Deliverables, if any. These specifications shall ensure that the Deliverables to be installed shall operate properly and efficiently within the site environment. The Vendor shall advise the State of any site requirements for any Deliverables required by the State's specifications. Any alterations or modification in site preparation which are directly attributable to incomplete or erroneous specifications provided by the Vendor and which would involve additional expenses to the State, shall be made at the expense of the Vendor.
 - b) **Goods Return:** Deliverables and any other goods or materials furnished by the Vendor to fulfill technical requirements shall be in good working order and be maintained in good working order by Vendor for the duration of the Contract; unless otherwise provided in a separate maintenance agreement or in the Solicitation Documents. Deliverables failing to meet the State's technical requirements shall be considered non-conforming goods and subject to return to the Vendor for replacement at the State's option, and at the Vendor's expense. The State is responsible for the return costs related to the termination of a Contract, including deinstallation, and freight to destinations within the Continental United States; except in the case of default by the Vendor or delivery of non-conforming goods by Vendor. Shipping or freight charges, if any, paid by the State for non-conforming goods will be reimbursed to the State.
 - c) **Specifications:** The apparent silence of the specifications as to any detail, or the apparent omission of detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and only material and workmanship of the first quality may be used. Upon any notice of noncompliance provided by the State, Vendor shall supply proof of compliance with the specifications. Vendor must provide written notice of its intent to deliver alternate or substitute products, goods or Deliverables. Alternate or substitute products, goods or Deliverables may be accepted or rejected in the sole discretion of the State; and any such alternates or substitutes must be accompanied by Vendor's certification and evidence satisfactory to the State that the function, characteristics, performance and endurance will be equal or superior to the original Deliverables specified.
- 3) **WARRANTIES:** Vendor shall assign all applicable third party warranties for Deliverables to the Purchasing State Agency.

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

telecommunications equipment, software, supplies and materials necessary for the Vendor to provide and deliver the Services and Deliverables.

- c) Vendor warrants that it has the financial capacity to perform and to continue perform its obligations under the Contract; that Vendor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Vendor that could materially adversely affect performance of this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.
- d) **Warranty as to Equipment; Hardware.** Vendor warrants that the equipment and hardware that it provides pursuant to this Contract shall be free from defects in materials, in good working order and be maintained in good working order.

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

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

HARDWARE/EQUIPMENT:

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

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

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

SOFTWARE:

- a) **Error Correction.** Upon notice by State of a problem with the Software (which problem can be verified), Vendor shall use reasonable efforts to correct or provide a working solution for the problem. The State shall comply with all reasonable instructions or requests of Vendor in attempts to correct an error or defect in the Program. Vendor and the State shall act promptly and in a reasonably timely manner in communicating error or problem logs, other related information, proposed solutions or workarounds, and any action as may be necessary or proper to obtain or affect maintenance Services under this Paragraph.
 - b) Vendor shall notify the State of any material errors or defects in the Deliverables known, or made known to Vendor from any source during the Contract term that could cause the production of inaccurate or otherwise materially incorrect, results. Vendor shall initiate actions as may be commercially necessary or proper to effect corrections of any such errors or defects.
 - c) **Updates.** Vendor shall provide to the State, at no additional charge, all new releases and bug fixes (collectively referred to as "Changes") for any Software Deliverable developed or published by Vendor and made generally available to its other customers at no additional charge. All such Changes shall become a part of the Software and Documentation and, as such, will be governed by the provisions of this Contract.
 - d) **Telephone Assistance.** Vendor shall provide the State with telephone access to technical support engineers for assistance in the proper installation and use of the Software, and to report and resolve Software problems, during normal business hours, 8:00 AM - 5:00 PM Eastern Standard Time, Monday-Friday. Vendor shall respond to the telephone requests for Program maintenance service, within four hours, for calls made at any time.
- 9) **TRAVEL EXPENSES: All travel expenses should be included in the Vendor's proposed costs. Separately stated travel expenses will not be reimbursed.** In the event that the Vendor may be eligible to be reimbursed for travel expenses arising under the performance of this Contract, reimbursement will be at the out-of-state rates set forth in N.C.G.S. §138-6; as amended from time to time. Vendor agrees to use the lowest available airfare not requiring a weekend stay and to use the lowest available rate for rental vehicles. All Vendor incurred travel expenses shall be billed on a monthly basis, shall be supported by receipt and shall be paid by the State within thirty (30) days after invoice approval. Travel expenses exceeding the foregoing rates shall not be paid by the State. The State will reimburse travel allowances only for days on which the Vendor is required to be in North Carolina performing Services under this Contract.
- 10) **GOVERNMENTAL RESTRICTIONS:** In the event any restrictions are imposed by governmental requirements that necessitate alteration of the material, quality, workmanship, or performance of the Deliverables offered prior to delivery thereof, the Vendor shall provide written notification of the necessary alteration(s) to the Agency Contract Administrator. The State reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract. The State may advise Vendor of any restrictions or changes in specifications required by North Carolina legislation, rule or regulatory authority that require compliance by the State. In such event, Vendor shall use its best efforts to comply with the required restrictions or changes. If compliance cannot be achieved by the date specified by the State, the State may terminate this Contract and compensate Vendor for sums due under the Contract.
- 11) **PROHIBITION AGAINST CONTINGENT FEES AND GRATUITIES:** Vendor warrants that it has not paid, and agrees not to pay, any bonus, commission, fee, or gratuity to any employee or official of the State for the purpose of obtaining any contract or award issued by the State. Vendor further warrants that no commission or other payment has been or will be received from or paid to any third party

contingent on the award of any contract by the State, except as shall have been expressly communicated to the State Purchasing Agent in writing prior to acceptance of the Contract or award in question. Each individual signing below warrants that he or she is duly authorized by their respective Party to sign this Contract and bind the Party to the terms and conditions of this Contract. Vendor and their authorized signatory further warrant that no officer or employee of the State has any direct or indirect financial or personal beneficial interest, in the subject matter of this Contract; obligation or contract for future award of compensation as an inducement or consideration for making this Contract. Subsequent discovery by the State of non-compliance with these provisions shall constitute sufficient cause for immediate termination of all outstanding contracts. Violations of this provision may result in debarment of the Vendor(s) as permitted by 09 NCAC 06B.1206, or other provision of law.

- 12) AVAILABILITY OF FUNDS:** Any and all payments to Vendor are expressly contingent upon and subject to the appropriation, allocation and availability of funds to the Agency for the purposes set forth in this Contract. If this Contract or any Purchase Order issued hereunder is funded in whole or in part by federal funds, the Agency's performance and payment shall be subject to and contingent upon the continuing availability of said federal funds for the purposes of the Contract or Purchase Order. If the term of this Contract extends into fiscal years subsequent to that in which it is approved such continuation of the Contract is expressly contingent upon the appropriation, allocation, and availability of funds by the N.C. Legislature for the purposes set forth in the Contract. If funds to effect payment are not available, the Agency will provide written notification to Vendor. If the Contract is terminated under this paragraph, Vendor agrees to take back any affected Deliverables and software not yet delivered under this Contract, terminate any Services supplied to the Agency under this Contract, and relieve the Agency of any further obligation thereof. The State shall remit payment for Deliverables and Services accepted prior to the date of the aforesaid notice in conformance with the payment terms.
- 13) PAYMENT TERMS:** Payment terms are Net 30 days after receipt of correct invoice or acceptance of the Deliverables, whichever is later; unless a period of more than 30 days is required by the Agency. The Purchasing State Agency is responsible for all payments under the Contract. No additional charges to the Agency will be permitted based upon, or arising from, the Agency's use of a Business Procurement Card. The State may exercise any and all rights of Set Off as permitted in Chapter 105A-1 et. seq. of the N.C. General Statutes and applicable Administrative Rules. Upon Vendor's written request of not less than 30 days and approval by the State or Agency, the Agency may:
- a) Forward the Vendor's payment check(s) directly to any person or entity designated by the Vendor, or
 - b) Include any person or entity designated in writing by Vendor as a joint payee on the Vendor's payment check(s), however
 - c) In no event shall such approval and action obligate the State to anyone other than the Vendor and the Vendor shall remain responsible for fulfillment of all Contract obligations.
- 14) ACCEPTANCE CRITERIA:** In the event acceptance of Deliverables is not described in additional Contract documents, the State shall have the obligation to notify Vendor, in writing ten calendar days following installation of any Deliverable described in the Contract if it is not acceptable. The notice shall specify in reasonable detail the reason(s) a deliverable is unacceptable. Acceptance by the State shall not be unreasonably withheld; but may be conditioned or delayed as required for installation and/or testing of Deliverables. Final acceptance is expressly conditioned upon completion of all applicable inspection and testing procedures. Should the Deliverables fail to meet any specifications or acceptance criteria the State may exercise any and all rights hereunder, including such rights provided by the Uniform Commercial Code as adopted in North Carolina. Deliverables discovered to be defective or failing to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the Deliverables or non-compliance with the specifications was not reasonably ascertainable upon initial inspection. If the Vendor fails to promptly cure the defect or replace the Deliverables, the State reserves the right to cancel the Purchase Order, contract with a different Vendor, and to invoice the original Vendor for any differential in price over the original Contract price. When Deliverables are rejected, the Vendor must remove the rejected

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

- 15) **EQUAL EMPLOYMENT OPPORTUNITY:** Vendor shall comply with all Federal and State requirements concerning fair employment and employment of the disabled, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or physical disability.
- 16) **INSPECTION AT VENDOR'S SITE:** The State reserves the right to inspect, during Vendor's regular business hours at a reasonable time, upon notice of not less than two (2) weeks, and at its own expense, the prospective Deliverables comprising equipment or other tangible goods, or the plant or other physical facilities of a prospective Vendor prior to Contract award, and during the Contract term as necessary or proper to ensure conformance with the specifications/requirements and their adequacy and suitability for the proper and effective performance of the Contract.
- 17) **ADVERTISING/PRESS RELEASE:** The Vendor absolutely shall not publicly disseminate any information concerning the Contract without prior written approval from the State or its Agent. For the purpose of this provision of the Contract, the Agent is the Purchasing Agency Contract Administrator unless otherwise named in the solicitation documents.
- 18) **CONFIDENTIALITY:** In accordance with N.C.G.S. §§143B-1350(e), 143B-1375 and 09 NCAC 06B.0103 and 06B.1001 and to promote maximum competition in the State competitive bidding process, the State may maintain the confidentiality of certain types of information described in N.C.G.S. §132-1 et seq. Such information may include trade secrets defined by N.C.G.S. §66-152 and other information exempted from the Public Records Act pursuant to N.C.G.S. §132-1.2. Vendor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by marking the top and bottom of pages containing confidential information with a legend in boldface type "**CONFIDENTIAL**". By so marking any page, the Vendor warrants that it has formed a good faith opinion, having received such necessary or proper review by counsel and other knowledgeable advisors that the portions marked confidential meet the requirements of the Rules and Statutes set forth above. **However, under no circumstances shall price information be designated as confidential.** The State may serve as custodian of Vendor's confidential information and not as an arbiter of claims against Vendor's assertion of confidentiality. If an action is brought pursuant to N.C.G.S. §132-9 to compel the State to disclose information marked confidential, the Vendor agrees that it will intervene in the action through its counsel and participate in defending the State, including any public official(s) or public employee(s). The Vendor agrees that it shall hold the State and any official(s) and individual(s) harmless from any and all damages, costs, and attorneys' fees awarded against the State in the action. The State agrees to promptly notify the Vendor in writing of any action seeking to compel the disclosure of Vendor's confidential information. The State shall have the right, at its option and expense, to participate in the defense of the action through its counsel. The State shall have no liability to Vendor with respect to the disclosure of Vendor's confidential information ordered by a court of competent jurisdiction pursuant to N.C.G.S. §132-9 or other applicable law.
 - a) Care of Information: Vendor agrees to use commercial best efforts to safeguard and protect any data, documents, files, and other materials received from the State or the Agency during performance of any contractual obligation from loss, destruction or erasure.
 - b) Vendor warrants that all its employees and any approved third party Vendors or subcontractors are subject to a non-disclosure and confidentiality agreement enforceable in North Carolina. Vendor will, upon request of the State, verify and produce true copies of any such agreements. Production of such agreements by Vendor may be made subject to applicable confidentiality, non-disclosure or privacy laws; provided that Vendor produces satisfactory evidence supporting exclusion of such agreements from disclosure under the N.C. Public Records laws in N.C.G.S. §132-1 et seq. The State may, in its sole discretion, provide a non-disclosure and confidentiality agreement satisfactory to the State for Vendor's execution. The State may exercise its rights under this subparagraph as necessary or proper, in its discretion, to comply with applicable security regulations or statutes including, but not limited to 26 USC 6103 and IRS Publication

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

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

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

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

21) PATENT, COPYRIGHT, AND TRADE SECRET PROTECTION:

- a) Vendor has created, acquired or otherwise has rights in, and may, in connection with the performance of Services for the State, employ, provide, create, acquire or otherwise obtain rights in various concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates and general purpose consulting and software tools, utilities and routines (collectively, the "Vendor Technology"). To the extent that any Vendor Technology is contained in any of the Deliverables including any derivative works, the Vendor hereby grants the State a royalty-free, fully paid, worldwide, perpetual, non-exclusive license to use such Vendor Technology in connection with the Deliverables for the State's purposes.
- b) Vendor shall not acquire any right, title, and interest in and to the copyrights for goods, any and all software, technical information, specifications, drawings, records, documentation, data or derivative works thereof, or other work products provided by the State to Vendor. The State hereby grants Vendor a royalty-free, fully paid, worldwide, perpetual, non-exclusive license for Vendor's internal use to non-confidential Deliverables first originated and prepared by the Vendor for delivery to the State.
- c) The Vendor, at its own expense, shall defend any action brought against the State to the extent that such action is based upon a claim that the Services or Deliverables supplied by the Vendor, or the operation of such Deliverables pursuant to a current version of Vendor-supplied software, infringes a patent, or copyright or violates a trade secret in the United States. The Vendor shall pay those costs and damages finally awarded against the State in any such action; damages shall be limited as provided in N.C.G.S. 143B-1350(h1). Such defense and payment shall be conditioned on the following:
 - i) That the Vendor shall be notified within a reasonable time in writing by the State of any such claim; and,

- ii) That the Vendor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise provided, however, that the State shall have the option to participate in such action at its own expense.
- d) Should any Services or software supplied by Vendor, or the operation thereof become, or in the Vendor's opinion are likely to become, the subject of a claim of infringement of a patent, copyright, or a trade secret in the United States, the State shall permit the Vendor, at its option and expense, either to procure for the State the right to continue using the goods/hardware or software, or to replace or modify the same to become noninfringing and continue to meet procurement specifications in all material respects. If neither of these options can reasonably be taken, or if the use of such goods/hardware or software by the State shall be prevented by injunction, the Vendor agrees to take back such goods/hardware or software, and refund any sums the State has paid Vendor less any reasonable amount for use or damage and make every reasonable effort to assist the State in procuring substitute Deliverables. If, in the sole opinion of the State, the return of such infringing Deliverables makes the retention of other items of Deliverables acquired from the Vendor under this Contract impractical, the State shall then have the option of terminating the Contract, or applicable portions thereof, without penalty or termination charge. The Vendor agrees to take back such Deliverables and refund any sums the State has paid Vendor less any reasonable amount for use or damage.
- e) Vendor will not be required to defend or indemnify the State if any claim by a third party against the State for infringement or misappropriation (i) results from the State's alteration of any Vendor-branded product or Deliverable, or (ii) results from the continued use of the good(s) or Services and Deliverables after receiving notice they infringe a trade secret of a third party.
- f) Nothing stated herein, however, shall affect Vendor's ownership in or rights to its preexisting intellectual property and proprietary rights.

22) ACCESS TO PERSONS AND RECORDS: Pursuant to N.C.G.S. §147-64.7, the Agency, the State Auditor, appropriate federal officials, and their respective authorized employees or agents are authorized to examine all books, records, and accounts of the Vendor insofar as they relate to transactions with any department, board, officer, commission, institution, or other agency of the State of North Carolina pursuant to the performance of this Contract or to costs charged to this Contract. The Vendor shall retain any such books, records, and accounts for a minimum of three (3) years after the completion of this Contract. Additional audit or reporting requirements may be required by any Agency, if in the Agency's opinion, such requirement is imposed by federal or state law or regulation.

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

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

- a) **Worker's Compensation** - The Vendor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$100,000.00, covering all of Vendor's employees who are engaged in any work under the Contract. If any work is sublet, the Vendor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under the Contract; and
- b) **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$2,000,000.00 Combined Single Limit (Defense cost shall be in excess of the limit of liability); and
- c) **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the Contract. The minimum combined

single limit shall be \$500,000.00 bodily injury and property damage; \$500,000.00 uninsured/under insured motorist; and \$5,000.00 medical payment; and

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

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

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

- a) If Vendor fails to deliver or provide correct Services or other Deliverables within the time required by this Contract, the State shall provide written notice of said failure to Vendor, and by such notice require performance assurance measures pursuant to N.C.G.S. 143B-1340(f). Vendor is responsible for the delays resulting from its failure to deliver or provide services or other Deliverables.
- b) Should the State fail to perform any of its obligations upon which Vendor's performance is conditioned, Vendor shall not be in default for any delay, cost increase or other consequences resulting from the State's failure. Vendor will use reasonable efforts to mitigate delays, costs or expenses arising from assumptions in the Vendor's offers that prove erroneous or are otherwise invalid. Any deadline that is affected by any such failure in assumptions or performance by the State shall be extended by an amount of time reasonably necessary to compensate for the effect of such failure.
- c) Vendor shall provide a plan to cure any delay or default if requested by the State. The plan shall state the nature of the delay or default, the time required for cure, any mitigating factors causing or tending to cause the delay or default, and such other information as the Vendor may deem necessary or proper to provide.

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

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

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

- b) The State may terminate this Contract, in whole or in part, pursuant to Paragraph 26), or pursuant to the Special Terms and Conditions in the Solicitation Documents, if any, or for any of the following:
 - i) Termination for Cause: In the event any goods, software, or service furnished by the Vendor during performance of any Contract term fails to conform to any material requirement of the Contract, and the failure is not cured within the specified time after providing written notice thereof to Vendor, the State may cancel and procure the articles or Services from other sources; holding Vendor liable for any excess costs occasioned thereby, subject only to the limitations provided in Paragraphs 29) and 30) herein. The rights and remedies of the State provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract. Vendor shall not be relieved of liability to the State for damages sustained by the State arising from Vendor's breach of this Contract; and the State may, in its discretion, withhold any payment due as a setoff until such time as the damages are finally determined or as agreed by the parties. Voluntary or involuntary Bankruptcy or receivership by Vendor shall be cause for termination.
 - ii) Termination For Convenience Without Cause: The State may terminate service and indefinite quantity contracts, in whole or in part by giving thirty (30) days prior notice in writing to the Vendor. Vendor shall be entitled to sums due as compensation for Deliverables provided and Services performed in conformance with the Contract. In the event the Contract is terminated for the convenience of the State the Agency will pay for all work performed and products delivered in conformance with the Contract up to the date of termination.

29) LIMITATION OF VENDOR'S LIABILITY:

- a) Where Deliverables are under the State's exclusive management and control, the Vendor shall not be liable for direct damages caused by the State's failure to fulfill any State responsibilities of assuring the proper use, management and supervision of the Deliverables and programs, audit controls, operating methods, office procedures, or for establishing all proper checkpoints necessary for the State's intended use of the Deliverables.
- b) The Vendor's liability for damages to the State arising under the contract shall be limited to two times the value of the Contract.
- c) The foregoing limitation of liability shall not apply to claims covered by other specific provisions including but not limited to Service Level Agreement or Deliverable/Product Warranty compliance, or to claims for injury to persons or damage to tangible personal property caused by Vendor's gross negligence or willful or wanton conduct. This limitation of liability does not apply to contributions among joint tortfeasors under N.C.G.S. 1B-1 et seq., the receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on this Contract. For avoidance of doubt, the Parties agree that the Service Level Agreement and Deliverable/Product Warranty Terms in the Contract are intended to provide the sole and exclusive remedies available to the State under the Contract for the Vendor's failure to comply with the requirements stated therein.

30) VENDOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:

- a) The Vendor shall be liable for damages arising out of personal injuries and/or damage to real or personal property of the State, employees of the State, persons designated by the State for training, or person(s) other than agents or employees of the Vendor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Vendor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the Vendor.
- b) The Vendor agrees to indemnify, defend and hold the Agency and the State and its Officers, employees, agents and assigns harmless from any liability relating to personal injury or injury to real or personal property of any kind, accruing or resulting to any other person, firm or corporation furnishing or supplying work, Services, materials or supplies in connection with the performance of this contract, whether tangible or intangible, arising out of the ordinary negligence, willful or

wanton negligence, or intentional acts of the Vendor, its officers, employees, agents, assigns or subcontractors, in the performance of this Contract.

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

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

32) STOP WORK ORDER: The State may issue a written Stop Work Order to Vendor for cause at any time requiring Vendor to suspend or stop all, or any part, of the performance due under this Contract for a period up to ninety (90) days after the Stop Work Order is delivered to the Vendor. The ninety (90) day period may be extended for any further period for which the parties may agree.

- a) The Stop Work Order shall be specifically identified as such and shall indicate that it is issued under this term. Upon receipt of the Stop Work Order, the Vendor shall immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the Stop Work Order during the period of work suspension or stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to Vendor, or within any extension of that period to which the parties agree, the State shall either:
 - i) Cancel the Stop Work Order, or
 - ii) Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of this Contract.
- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the Vendor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if:
 - i) The Stop Work Order results in an increase in the time required for, or in the Vendor's cost properly allocable to the performance of any part of this Contract, and
 - ii) The Vendor asserts its right to an equitable adjustment within thirty (30) days after the end of the period of work stoppage; provided that if the State decides the facts justify the action, the State may receive and act upon an offer submitted at any time before final payment under this Contract.
- c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for Convenience of the State, the State shall allow reasonable direct costs resulting from the Stop Work Order in arriving at the termination settlement.
- d) The State shall not be liable to the Vendor for loss of profits because of a Stop Work Order issued under this term.

33) PRICE ADJUSTMENTS FOR TERM CONTRACTS: Reserved.

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

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

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

37) TRANSPORTATION: Transportation of Deliverables shall be FOB Destination; unless otherwise specified in the solicitation document or purchase order. Freight, handling, hazardous material

charges, and distribution and installation charges shall be included in the total price of each item. Any additional charges shall not be honored for payment unless authorized in writing by the Purchasing State Agency. In cases where parties, other than the Vendor ship materials against this order, the shipper must be instructed to show the purchase order number on all packages and shipping manifests to ensure proper identification and payment of invoices. A complete packing list must accompany each shipment.

- 38) NOTICES:** Any notices required under this Contract should be delivered to the Contract Administrator for each party. Unless otherwise specified in the Solicitation Documents, any notices shall be delivered in writing by U.S. Mail, Commercial Courier or by hand.
- 39) TITLES AND HEADINGS:** Titles and Headings in this Contract are used for convenience only and do not define, limit or proscribe the language of terms identified by such Titles and Headings.
- 40) AMENDMENT:** This Contract may not be amended orally or by performance. Any amendment must be made in written form and signed by duly authorized representatives of the State and Vendor in conformance with Paragraph 31) herein.
- 41) TAXES:** The State of North Carolina is exempt from Federal excise taxes and no payment will be made for any personal property taxes levied on the Vendor or for any taxes levied on employee wages. Agencies of the State may have additional exemptions or exclusions for federal or state taxes. Evidence of such additional exemptions or exclusions may be provided to Vendor by Agencies, as applicable, during the term of this Contract. Applicable State or local sales taxes shall be invoiced as a separate item.
- 42) GOVERNING LAWS, JURISDICTION, AND VENUE:**
 - a) This Contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina. The place of this Contract or purchase order, its situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or in tort, relating to its validity, construction, interpretation and enforcement shall be determined. Vendor agrees and submits, solely for matters relating to this Contract, to the jurisdiction of the courts of the State of North Carolina, and stipulates that Wake County shall be the proper venue for all matters.
 - b) Except to the extent the provisions of the Contract are clearly inconsistent therewith, the applicable provisions of the Uniform Commercial Code as modified and adopted in North Carolina shall govern this Contract. To the extent the Contract entails both the supply of "goods" and "Services," such shall be deemed "goods" within the meaning of the Uniform Commercial Code, except when deeming such Services as "goods" would result in a clearly unreasonable interpretation.
- 43) FORCE MAJEURE:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.
- 44) COMPLIANCE WITH LAWS:** The Vendor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.
- 45) SEVERABILITY:** In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, each such provision or requirement shall be enforced only to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Contract shall remain in full force and effect. All promises, requirement, terms, conditions, provisions, representations, guarantees and warranties contained herein shall survive the expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable federal or State statute, including statutes of repose or limitation.
- 46) FEDERAL INTELLECTUAL PROPERTY BANKRUPTCY PROTECTION ACT:** The Parties agree that the Agency shall be entitled to all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365(n), and any amendments thereto.

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

- a) **The successful Vendor(s) shall pay a transaction fee of 1.75% (.0175) on the total dollar amount (excluding sales taxes) of each purchase order issued through the Statewide E-Procurement Service.** This applies to all purchase orders, regardless of the quantity or dollar amount of the purchase order. The transaction fee shall neither be charged to nor paid by the State, or by any State approved users of the contract. The transaction fee shall not be stated or included as a separate item in the proposed contract or invoice. There are no additional fees or charges to the Vendor for the Services rendered by the Supplier Manager under this contract. Vendor will receive a credit for transaction fees they paid for the purchase of any item(s) if an item(s) is returned through no fault of the Vendor. Transaction fees are non-refundable when an item is rejected and returned, or declined, due to the Vendor's failure to perform or comply with specifications or requirements of the contract.
- b) Vendor, or its authorized Reseller, as applicable, will be invoiced monthly for the State's transaction fee by the Supplier Manager. The transaction fee shall be based on purchase orders issued for the prior month. Unless Supplier Manager receives written notice from the Vendor identifying with specificity any errors in an invoice within thirty (30) days of the receipt of invoice, such invoice shall be deemed to be correct and Vendor shall have waived its right to later dispute the accuracy and completeness of the invoice. Payment of the transaction fee by the Vendor is due to the account designated by the State within thirty (30) days after receipt of the correct invoice for the transaction fee, which includes payment of all portions of an invoice not in dispute. Within thirty (30) days of the receipt of invoice, Vendor may request in writing an extension of the invoice payment due date for that portion of the transaction fee invoice for which payment of the related goods by the governmental purchasing entity has not been received by the Vendor. If payment of the transaction fee invoice is not received by the State within this payment period, it shall be considered a material breach of contract. The Supplier Manager shall provide, whenever reasonably requested by the Vendor in writing (including electronic documents), supporting documentation from the E-Procurement Service that accounts for the amount of the invoice.
- c) The Supplier Manager will capture the order from the State approved user, including the shipping and payment information, and submit the order in accordance with the E-Procurement Service. Subsequently, the Supplier Manager will send those orders to the appropriate Vendor on State Contract. The State or State approved user, not the Supplier Manager, shall be responsible for the solicitation, offers received, evaluation of offers received, award of contract, and the payment for goods delivered.
- d) Vendor agrees at all times to maintain the confidentiality of its user name and password for the Statewide E-Procurement Services. If a Vendor is a corporation, partnership or other legal entity, then the Vendor may authorize its employees to use its password. Vendor shall be responsible for all activity and all charges for such employees. Vendor agrees not to permit a third party to use the Statewide E-Procurement Services through its account. If there is a breach of security through the Vendor's account, Vendor shall immediately change its password and notify the Supplier Manager of the security breach by e-mail. Vendor shall cooperate with the state and the Supplier Manager to mitigate and correct any security breach.

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

Appendix A: Internal Revenue Service Publication 1075, Exhibit 7 Safeguarding Contract Language

The North Carolina Department of Revenue ("NCDOR" or "Agency") has determined that in the performance of this contract or agreement, contractor will be provided data that is classified as Federal Taxpayer Information, State Taxpayer Information, and/or Personal Identifying Information, herein referred to as "FTI", "STI", "PII", or collectively as "return or return information." Prior to NCDOR granting a contractor access to return or return information, contractor agrees to the following:

I. PERFORMANCE

In performance of this contract, the contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

- (1) All work will be done under the supervision of the contractor.
- (2) The contractor and contractor's officers or employees to be authorized access to return or return information must meet background check requirements defined in IRS Publication 1075. The contractor will maintain a list of officers or employees authorized access to return or return information. Such list will be provided to the agency and, upon request, to the IRS.
- (3) Any return or return information in hardcopy or electronic format shall be used only for the purpose of carrying out the provisions of this contract or agreement. Return or return information in any format shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract or agreement. Inspection or disclosure to anyone other than the contractor or the contractor's officers or employees authorized is prohibited.
- (4) Return and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.
- (5) The contractor will certify that the data processed during the performance of this contract or agreement will be completely purged from all physical and electronic data storage with no output to be retained by the contractor at the time the work is completed. If immediate purging of all physical and electronic data storage is not possible, the contractor will certify that any return or return information in physical or electronic storage will remain safeguarded to prevent unauthorized disclosures.
- (6) Any spoilage or any intermediate hard copy printout that may result during the processing of return or return information will be given to the agency. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts and will provide the agency with a statement containing the date of destruction, description of material destroyed, and the destruction method.
- (7) All computer systems receiving, processing, storing, or transmitting return or return information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to return or return information.
- (8) Prior to providing access to return or return information, NCDOR requires the contractor's officers or employees providing services under this contract or agreement to complete DOR Security Awareness Training (DORSAT) and sign the NCDOR Non-Disclosure Agreement and Security Awareness Training Acknowledgement form. As part of the certification process, contractors are advised of the provisions of Internal Revenue Code §§7431, 7213, and 7213A. Contractors must maintain their access authorization through annual recertification. See Section II, Paragraph 5 below.
- (9) No work involving return or return information furnished under this contract will be subcontracted without prior written approval of the IRS.
- (10) Contractor will ensure that the terms of return or return information safeguards described herein are included, without modification, in any approved subcontract of work involving return or return information.

- (11) To the extent the terms, provisions, duties, requirements, and obligations of this contract or agreement apply to performing services with return or return information, the contractor shall assume toward the subcontractor all obligations, duties, and responsibilities that the agency under this contract or agreement assumes toward the contractor, and the subcontractor shall assume toward the contractor all the same obligations, duties, and responsibilities which the contractor assumes toward the agency under this contract or agreement.
- (12) In addition to the subcontractors' obligations and duties under an approved subcontract, the terms and conditions of this contract apply to the subcontractor, and the subcontractor is bound and obligated to the contractor hereunder by the same terms and conditions by which the contractor is bound and obligated to the agency under this contract or agreement.
- (13) For the purposes of this contract, the term "contractor" includes any officer or employee of the contractor with access to or who uses return or return information, and the term "subcontractor" includes any officer or employee of subcontractor with access to or who uses return or return information.
- (14) The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

II. CRIMINAL/CIVIL SANCTIONS

- (1) Each officer or employee of a contractor to whom return or return information is or may be disclosed shall be notified in writing that return or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such return or return information for a purpose not authorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution.
- (2) Each officer or employee of a contractor to whom return or return information is or may be accessible shall be notified in writing that any return or return information accessible to such office or employee may be accessed only for the purpose and to the extent authorized herein, and that access/inspection of return or return information without an official need-to-know for a purpose no authorized herein constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution.
- (3) Each officer and employee of a contractor to whom return or return information is or may be disclosed shall be notified in writing that any such unauthorized access, inspection, or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000 for each unauthorized access, inspection, or disclosure or the sum of actual damages sustained as a result of such unauthorized access, inspection, or disclosure, plus in the case of a willful unauthorized access, inspection, or disclosure or an unauthorized access/inspection which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC §§ 7213, 7213A and 7431 and set forth in 26 CFS 301.6103(n)-1.
- (4) Additionally, it is incumbent of the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
- (5) Granting a contractor access to return or return information must be preceded by certifying that each officer or employee understands the agency's security policy and procedures for safeguarding return or return information. A contractor and each officer or employee must maintain their authorization to access return or return information through annual recertification of their understanding of the agency's security policy and procedures for safeguarding return or return information. The initial certification and re-certifications must be documented and

placed in the agency's files for review. As part of the certification and at least annually afterwards, a contractor and each officer or employee must be advised of the provisions of IRC §§ 7213, 7213A, and 7431. (See IRS Publication 1075 Exhibit 4, *Sanctions for Unauthorized Disclosure*, and Exhibit 5, *Civil Damages for Unauthorized Disclosure*.) The training on the agency's security policy and procedures provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See IRS Publication 1075 Section 1.8, *Reporting Improper Inspections or Disclosures*.) For the initial certification and the annual re-certifications, the contractor and each officer or employee must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

III. INSPECTION

The IRS and the NCDOR shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work with return or return information under this contract or agreement for compliance with requirements defined in IRS Publication 1075. The IRS's right of inspection shall include the use of manual and/or automatic scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process, or transmit return or return information. Based on the inspection, specific corrective actions may be required in cases where the contractor is found to be noncompliant with contract safeguards.

For additional information on IRS Publication 1075, along with detailed requirements and standards for Tax Information Guidelines for Federal, State and Local Agencies, please see <http://www.irs.gov/pub/irs-pdf/p1075.pdf>.

In addition to IRS Publication 1075 Exhibit 7Safeguarding Requirements, please be advised that under North Carolina General Statutes, contractor (and any subcontractors) may be subject to additional criminal and civil sanctions for unauthorized disclosures of STI or PII as follows:

- (1) A person who commits an unauthorized disclosure of return or return information is guilty of a Class 1 misdemeanor under N.C. Gen. Stat. § 105-259 (c). Further, if that individual is an officer or employee of the State, that person shall be dismissed from public office or public employment and may not hold any public office or employment in the State of North Carolina for five (5) years after the violation.
- (2) Any person who is injured as a result of an unauthorized disclosure of PII may sue for civil damages pursuant to N.C. Gen. Stat. §§ 75-65, 75-66, and 1-539.2C. For each unauthorized disclosure, the damages may be the greater of (a) an amount of up to \$5000 (but no less than \$500) or (b) three (3) times the amount of actual damages.

Burden of Security Breach Notifications:

The contractor must notify NCDOR of any real or suspected security breach immediately and will coordinate with NCDOR any external communications or notifications to affected individuals. The contractor will be responsible and bear the financial cost of mailing out any required notifications to any affected taxpayers involved in a security breach or unauthorized disclosure while data is in the possession of the Vendor. See NC Gen. Stat. §. 75-65 Protection from security breaches, for details on who is required to be notified and how those notifications are to be made in the event of a PII security breach. However, NCDOR will be responsible for reporting to any related agencies or entities.

Appendix B: SECURITY REQUIREMENTS FOR VENDOR STAFF AND CONTRACTORS



Security Requirements for Vendor Staff and Contractors

All Vendor provided and Contract Staff (e.g. seasonal temps) must fulfill required security checks prior to beginning work at NCDOR. Required security checks vary based on system and information access level, and generally follow the principle of least privilege. Attachment 1.A – Vendor and Contractor Security Requirements Matrix provides a guide for the most common levels of access and the corresponding security requirements for each level. NCDOR IT Security will advise and approve access levels not represented on Attachment 1.A.

Required documentation must be submitted prior to beginning work at NCDOR. The documentation should be submitted as determined by the NCDOR Contract Manager.

Guidelines include the following:

- Attachment 1.A – Vendor and Contractor Security Requirements Matrix
- IT Security review and approval if special access is required
- As defined in the Requirements Definitions below

Requirements Definitions:

1. **Nondisclosure Agreement:** Any staff performing any work under this contract must sign a NCDOR non-disclosure agreement (NDA) agreeing to maintain the confidentiality of any NCDOR data to which the Vendor Staff and/or Contractor may have access.
2. **Criminal Background Checks:** Applicable staff must submit to and successfully pass a criminal background check to be conducted by NCDOR for anyone who will be receiving or who will have access to NCDOR Data. These checks will be repeated every 5 years. It does not matter if the access is to paper or electronic NCDOR Data. NCDOR determines the conditions for passing background checks.
3. **Fingerprinting:** Completion of Federal Bureau of Investigation (FBI) fingerprinting, which is conducted to identify possible suitability issues, is required. These checks will be repeated every 5 years. Suitability issues are determined by NCDOR.
4. **Security Awareness Training:** NCDOR Security Awareness Training (DORSAT) is required annually. In order to receive NCDOR training, a valid business email is required for each person who is in scope and who is performing work for this contract on behalf of the Vendor and/or Contractor.
5. **I.T. Role-Based Security Training:** The Vendor and/or Contractor, for all applicable staff, provides annual I.T. role-based security training. Compliance with this requirement will be audited by NCDOR at random for compliance. I.T. role-based security training details and role scope can be found in the NCDOR Security Policy Manual - Control AT-3.
6. **A copy of NCDOR's Security Policy Manual can be found at the following link:**
<https://www.ncdor.gov/documents/dor-security-policy-manual>

ATTACHMENT 1.A – VENDOR AND CONTRACTOR SECURITY REQUIREMENTS MATRIX**NOTE: Read all indicated footnotes carefully as these contain important information**

Level of Access	NDA	NCDOR Policy Manual Provided	*Background Check	Security Awareness Training	**Role-Based Training
¹ Escorted access – Must Be Escorted at All Times	YES	YES	NO	NO	NO
Physical Access – Non-Escorted (Badge Access)	YES	YES	YES	YES	YES
² Logical Access to NCDOR Data/Systems/Information (Has an Account)	YES	YES	YES	YES	YES
³ Logical Access to NCDOR Data/Systems/Information (Does Not Have an Account)	YES	YES	NO	NO	NO
⁴ Offsite Contractor Staff with Physical Access to NCDOR Data/Systems/Information	YES	YES	YES	YES	YES
Access to Unencrypted Paper or Electronic NCDOR Data	YES	YES	YES	YES	YES
⁵ Logical Access to Encrypted Data	YES	YES	NO	NO	NO

* Background check requirements include FBI fingerprinting and criminal background checks. For a full list of requirements, please refer to the NCDOR Security Policy Manual

** Role-Based Training (RBT) is provided by Vendors and/or Contractors. Role scope is defined in the NCDOR Security Policy Manual > AT-3 Role-Based Training > Scope

1. Individuals may utilize NCDOR equipment as long as they will be supervised with the equipment at all times. Unsupervised access to equipment requires a unique account that ties back to the individual and all account requirements listed in this matrix are required.
2. Accounts must be unique and must tie back to the individual.
3. Applies to individuals that will potentially view NCDOR data on screens as part of logical maintenance of systems, but who do not have an account. Data cannot be sent outside of the Agency without NCDOR management approval of the data sent and NCDOR IT Security approval of the method used to send the data. Maintenance activities (including remote maintenance) must be supervised by badged NCDOR staff or by a badged NCDOR management-approved designee. Any systems used to facilitate remote supervision must be secure and approved by NCDOR IT Security.
4. Access to data is defined for these purposes as individuals that have access through the first barrier of the two-barrier rule. See IRS Publication 1075 – Minimum Protections Standards for more information.
5. Encryption methods must be FIPS 140-2 compliant.

Appendix C: Security Breach Protocol

NORTH CAROLINA DEPARTMENT OF REVENUE

Instructions for Reporting Security Incidents (Including unauthorized disclosures)

Using the contact information below, immediately notify NCDOR of any actual or suspected incidents related to NCDOR data. When reporting the incident, be prepared to provide the following information:

- Name of the organization
- Date and time of the incident
- Date and time that the incident was discovered
- How the incident was discovered
- Description of the incident and the data involved, including specific data elements, if known
- Potential number of records involved; if unknown, provide a range if possible. **Do not include any taxpayer information in the incident report, regardless of the reporting method (e.g., email or phone).**
- Address where the incident occurred
- Type of IT involved (e.g., laptop, server, mainframe, etc.)
- Name and contact information of the person within the organization who is tasked with resolving the issue

If the incident occurs (or is detected) during:

Weekday - Day Hours (M-F) 7:00 am – 5:30 pm.

Contact the NCDOR Service Desk at (919) 754-2323.

Weekday – Evening/Night Hours (M-F) 5:31pm – 6:59 am.

Contact the NCDOR Computer Room at (919) 754-2501.

Weekend – Day or After Hours (Friday 12:00AM – Monday 6:59 am).

Contact the NCDOR Computer Room at gwlis_PrdCntrl@ncdor.gov.

-OR-

Contact one of the staff members of our Security/Network Division

NC Department of Revenue - Security / Network Division			
Name	Personal Cell	Work Cell	Desk Line
Jerome Smith	(919) 418-6266	(984) 269-3114	(919) 754-2395
Shawn Weller	(919) 810-2966	(984) 269-3177	(919) 754-2715
Rodney High	(919) 612-7301	(984) 269-7108	(919) 754-2397
Phil Robinson	(919) 412-6293	(919) 500-9668	(919) 754-2491
Kevin L. Egelston	(919) 593-6082	N/A	(919) 754-2439
Tony Jones	(919) 454-4805	(984) 269-3119	(919) 754-2412

Devonte McNeil	(910) 318-2163		(919)740-4137
Michael Circello	(864) 386-8016		
Dante Bullock			(919) 754-2717
Eric Marfo	(763) 273-3277		
Amir Elraddaf	(408) 674-4421		
William Freeman	(336) 416-4985	N/A	
LaShanda Dukes	(252) 642-9384	N/A	(919) 754-2607
Physical Security	N/A	N/A	(919) 733-6198

Appendix D: Professional Services Description

B61304 ORACLE STANDARD SYSTEM INSTALLATION SERVICE, SITE AUDIT: SERVERS - GROUP II

1. Gateway Server install. Unpack System(s); Review the packing list against the Systems included on the order; Conduct a physical review of the Systems for any visible damage; Physically install the System, including any internal components that shipped with the hardware (into an Oracle-approved rack if applicable); Label the System's cables according to EIS standards that enables unique identification of cables & their destinations. Customers may implement an alternative method that meets these requirements; The Customer will ensure that the system is connected and grounded to their power supply, in accordance with industry standards, using industry standard electrical/receptacle connectors power supply(ies) as required by Oracle; Power up the System; Configure the Service Processor and update system firmware as Oracle deems Appropriate; Perform Power-on self-test (POST) for the host. Either: Boot the pre-installed operating system OR Customer the Boot Disk and install Solaris OS. Apply updates / patches to the OS as provided by the EIS Methodology; Optionally configure OS: as a NIS (Network Information Service) client, as a DNS (Domain Name System) client and as a NTP (Network Time Protocol) client; Update the internal/Boot Disk firmware as Oracle deems appropriate; Provided that the Covered System is qualified to use ASR and Customer's infrastructure is set up for ASR, configure the system to use ASR. This may be using the Service Processor and/or the OS as appropriate for the particular system; Run Oracle's Explorer Data Collector software on the System and evaluate the results at Customer's site with Oracle software tools; Run other tests on the System that Oracle deems necessary to determine that the System is installed and configured according to the Installation and Configuration Plan.
2. Services are provided by one Advanced Senior Hardware Specialist and one Senior Networking engineer ~ 3 hours each. This service will cover (1) Gateway server used monitoring and patching.

B74194 Oracle Standard System Installation Service, Site Audit: Engineered Systems - Group II

1. Oversee the delivery of the rack. It is the responsibility of the delivery company to unpack and roll the chassis into place into the data center. The Oracle FSE will be present for oversight to ensure that the delivery company follows proper procedures; Oracle FSE to conduct a physical review of the Systems for any visible damage; Physically install the System; If additional Dual 10GbE Network Cards have been ordered with the rack, install these cards and transceivers (if required) into the DB nodes within the rack; Label the System's cables according to EIS standards that enables unique identification of cables & their destinations. Customers may implement an alternative method that meets these requirements. The Customer will ensure that the system is connected and grounded to their power sources, in accordance with industry standards, using industry standard electrical/receptacle connectors power supply(ies) as required by Oracle; Power up the Rack; Configure the Management Ethernet switch including; Configure network for a single VLAN; Configure internal clock, NTP & DNS; Configure the Infiniband switches including; Verify the required firmware version; Configure the network, internal clock, NTP & DNS; Verify / modify the priority settings; Configure the in-rack Power Distribution Metering Units (PDUs); Initial boot and tests of Oracle Database Servers; Initial boot and tests of Exadata Storage Servers; For "Remote ACS Install Engagements"; Reclaim disks from dual boot where appropriate; Re-image the operating system to the latest version; Perform a number of verification activities on the system. These include: Verification of the rack-internal Infiniband network; Testing of the disks on High Capacity storage cells; Verification of ILOM values of the Private Appliance, Database and Storage Servers; Perform initial software configuration. Connect the rack to the Customer network; Provided that the Customer's infrastructure is set up for ASR, configure the rack to use ASR.
2. Services are provided by four Advanced Senior Hardware Specialists ~4 hours each per Engineered System Environment. This service will cover (9) environments (2) Private Appliance, (4) Exadata, (1) ZDLRA & (2) Data Base Appliances with storage expansion trays

B51555 ORACLE Exadata Half or Full Rack Configuration Service: Onsite Delivery

1. This service includes (1) time per rack the following installation services. Oracle will perform one (1) time per unit the following installation services: Site and installation planning; Installation and configuration of hardware and operating system software; Power-on hardware; Bring-up operating system on hardware; Installation verification; Verification of firmware levels; Physical connection to Customer network: Configure Exadata Storage Servers: Setup database connectivity; Configure shared storage; Configure logins and network addresses; Create a cell, cell disks and grid disks; Set up configuration files for a database server host; Install Oracle Database including Automated Storage Management (ASM), Cluster Ready Services (CRS) and Real Application Clusters (RAC) and Oracle Virtual Machine (OVM); Install any required database patches as listed in the Critical Issue My Oracle Support document; Create ASM disk group for Oracle Exadata Storage Server Software; Create Oracle default database consisting of up to (2) RAC clusters.
2. Services are provided by two Advanced Senior Hardware Specialists and one Advanced Senior SW engineer ~15 hours per Exadata. This service will cover (4) Exadata environments

B63939 Oracle Exadata Half or Full Rack Configuration Service: Onsite Delivery

1. Description of Services 1. Oracle will install and configure Your hardware system(s) identified in the OPE section of the Fixed Scope Services Exhibit ("the Systems"), at Your location defined in the exhibit. The Services will be performed in the following three (3) phases: a. Installation Configuration Planning Phase
Oracle will perform the following Services: Review Your time frame options and plans for installation and configuration (collectively, "Requirements") with You for the Systems installation and configuration; and Confirm with You the availability of suitable engineer access, system space, network readiness and power requirements before commencement of the installation and configuration of the Systems. b. Installation and Configuration Phase Oracle will perform the following Services: Review the packing list and compare it to the Systems identified in the OPE section of the Fixed Scope Services Exhibit; Unpack Systems and gather up any discarded packaging for disposal; Conduct a physical review of the Systems for visible damage and notify You of any damage; Install the Systems, including internal and external components; Provide Systems cable labeling; Connect industry standard electrical/receptacle connectors power supply(ies); Oracle may, at Oracle's discretion, connect the Systems to Your servers, storage Systems and/or network switches, subject to the following conditions: 1. All required Oracle approved cables must be provided by You prior to the time that Oracle is prepared to power up the installed Systems; 2. All Systems requiring cable connection are located within a reasonable proximity, as determined by Oracle, of the Systems to be connected; 3. Cables are installed where no potential safety hazards exist; 4. Cables are not installed higher than the top of Your Oracle rack unless otherwise approved in writing by Oracle; and 5. Under-floor cables will only be installed in a raised-floor environment. Power up the Systems; Configure the Systems in accordance with Your Requirements; Oracle may, at Oracle's discretion, apply the applicable firmware updates and operating system patches to the Systems identified in the OPE section of the Fixed Scope Services Exhibit; and Oracle may, at Oracle's discretion, configure Oracle Auto Service Request for Sun Systems Manager ("OASR") on the Systems. Operational Handover Phase Oracle will provide You with the following reference documentation ("Reference Documentation"): The end user technical manuals, made available by Oracle, for the Systems; and User passwords to the Systems.