



# **STATE OF NORTH CAROLINA**

**EAST CAROLINA UNIVERSITY**

**Invitation for Bid #: 56-2504BWIFB**

**NETWORKING & STRUCTURED CABLING SERVICES CONTRACT**

**Date of Issue: September 5<sup>th</sup>, 2024**

**Bid Opening Date: October 9<sup>th</sup>, 2024**

**At 3:00 PM ET**

**Direct all inquiries concerning this IFB to:**

**Brooks White**

**Purchasing Specialist**

**Email: whitewa18@ecu.edu**

**Phone: 252-328-1007**



## STATE OF NORTH CAROLINA

### Invitation for Bid #

**56-2504BWIFB**

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

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

\_\_\_\_\_  
Vendor Name

\_\_\_\_\_  
Vendor eVP#

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

*Electronic responses ONLY will be accepted for this solicitation.*

<b>STATE OF NORTH CAROLINA EAST CAROLINA UNIVERSITY</b>	
Refer <b>ALL</b> Inquiries regarding this IFB to: <b>MATERIALS MANAGEMENT</b> Brooks White Purchasing Specialist Whitewa18@ecu.edu (O) 252-328-1007	Invitation for Bid #: 56-2504BWIFB
	Bids will be publicly opened: <b>Wednesday October 9<sup>th</sup> @ 3PM ET.</b>
	Using Agency: East Carolina University
	Commodity No. and Description: 96218 – Structured Cabling Services

**EXECUTION:** In compliance with this Invitation for Bid (IFB), and subject to all the conditions herein, the undersigned Vendor offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein. By executing this bid, the undersigned Vendor understands that false certification is a Class I felony and certifies that:

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

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

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

As required by G.S. 143-48.5, the undersigned Vendor certifies that it, and each of its sub-Contractors for any Contract awarded as a result of this IFB, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system. As required by Executive Order 24 (2017), the undersigned vendor certifies will comply with all Federal and State requirements concerning fair employment and that it does not and will not discriminate, harass, or retaliate against any employee in connection with performance of any Contract arising from this solicitation. G.S. 133-32 and Executive Order 24 (2009) prohibit the offer to, or acceptance by, any State Employee associated with the preparing plans, specifications, estimates for public contracts; or awarding or administering public contracts; or inspecting or supervising delivery of the public contract of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of this response to the IFB, the undersigned certifies, for Vendor’s entire organization and its employees or agents, that Vendor is not aware that any such gift has been offered, accepted, or promised by any employees of your organization. By executing this bid, Vendor certifies that it has read and agreed to the **Terms and Conditions incorporated herein**. These documents are located in the ATTACHMENTS within this document. **Failure to execute/sign bid prior to submittal may render bid invalid and it MAY BE REJECTED. Late bids shall not be accepted.**

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

Offer shall be valid for at least sixty (60) days from date of bid opening, unless otherwise stated here: \_\_\_\_\_ days, or if extended by mutual agreement of the parties in writing. Any withdrawal of this offer shall be made in writing, effective upon receipt by the agency issuing this IFB. If your bid is accepted, all provisions of this IFB, along with the written results of any negotiations, shall constitute the written agreement between the parties (“Contract”). The **TERMS AND CONDITIONS** are incorporated herein and shall apply. Depending upon the Goods or Services being offered, other terms and conditions may apply, as mutually agreed.

<p><b>FOR STATE USE ONLY:</b> Offer accepted and Contract awarded this _____ day of _____, 20____, as indicated on</p> <p>The attached certification, by _____.</p> <p><b>(Authorized Representative of East Carolina University)</b></p>
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Bid Number: 56-2504BWIFB

Vendor: \_\_\_\_\_

## 1.0 PURPOSE AND BACKGROUND

East Carolina University and its Information Technology and Computing Services Department (ITCS) is seeking bids from qualified vendors to install, repair and remove communications cabling and equipment located on/in any East Carolina University building/facility on either East or West Campus, within the City of Greenville and Pitt County as well as other East Carolina University locations within the State.

East Carolina University Information Technology and Computing Services (ITCS) is responsible for installations, upgrades, and interconnection of the communications infrastructure in more than 200 buildings on the East Carolina University campuses located within the City of Greenville and Pitt County. This work involves installation, removal, troubleshooting, interconnecting of cabling, passive and active voice/data/CA TV equipment and other equipment that is part of the Information Technology (IT) Infrastructure. The awarded Vendor(s) will provide the labor required to perform these duties and requested services. East Carolina University reserves the right to award this to one or more Vendors to perform the requested duties, services and related work.

It is highly recommended that each bidder read and understand the requirements of this bid solicitation and provide all required information. Incomplete bid responses will be considered nonresponsive and therefore will not be considered. The intent of this solicitation is to award a multi-year **Agency Contract**.

**Note: The use of ECU Official Logos are not permitted without the prior written consent and approval of East Carolina University.**

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

***Electronic responses ONLY will be accepted for this solicitation.***

**Bids shall be submitted in accordance with the requirements, terms and conditions of this IFB and any addenda(s) issued hereto.**

### 1.1 CONTRACT TERM

The Contract shall have an initial term of **three (3) years**, beginning on the date of final Contract execution (the "Effective Date"). For the first three (3) years of the Contract the pricing/hourly labor rate shall remain firm and may consider a onetime cost increase not to exceed 5% for the additional years four (4) and five (5). The awarded Vendor shall begin work under the Contract on the execution/effective date. At the end of the Contract's initial term, the State shall have the option, in its sole discretion, to renew the Contract on the same terms and conditions for up to two (2) additional one-year terms – years four (4) and five (5). The State will give the Vendor written notice of its intent to exercise each option no later than sixty (60) days before the end of the Contract's then-current term. In addition to any optional renewal terms, and with the Vendor's concurrence, the State reserves the right to extend the Contract after the last active term for a period of up to 180 days in 90-day-or-less increments. Bids shall be submitted in accordance with the terms and conditions of this IFB and any addenda issued hereto.

## 2.0 GENERAL INFORMATION

### 2.1 INVITATION FOR BID DOCUMENT

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

### 2.2 E-PROCUREMENT FEE

**ATTENTION: THIS IS NOT an E-PROCUREMENT SOLICITATION therefore this does not apply to this Solicitation.** The E-Procurement fee may apply to this solicitation. See the paragraph entitled ELECTRONIC PROCUREMENT of the North Carolina General Terms and Conditions. General information on the E-Procurement Services can be found at: <http://eprocurement.nc.gov/>.

### 2.2 NOTICE TO VENDORS REGARDING IFB TERMS AND CONDITIONS

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

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

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

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

### 2.3 IFB SCHEDULE

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

Event	Responsibility	Date and Time
Issue IFB	State	Thursday, September 5th
Hold Pre-Bid Meeting/Site Visit	State	Thursday, September 12 <sup>th</sup> (9AM – 11AM)
Submit Written Questions	Vendor	Friday, September 20 <sup>th</sup> (COB)
Provide Response to Questions	State	Friday, September 27 <sup>th</sup> (COB)
Submit Bids	Vendor	Wednesday, October 9 <sup>th</sup> (3PM)
Contract Award	State	TBD

**2.4 MANDATORY PRE-BID CONFERENCE**

**Mandatory Pre-Bid Conference**

**Date:** Thursday September 12<sup>th</sup>, 2024  
**Time:** 9am to 11am Eastern Time  
**Location:** Materials Management Bldg. 141 - Conference Room  
 200 East 1<sup>st</sup>. Street  
 Greenville, NC 27858

**\*\*\*RSVP Prior to COB of Wednesday September 11th – [whitewa18@ecu.edu](mailto:whitewa18@ecu.edu)\*\*\***

**\*\*\*No more than 2 representatives per company\*\*\***

**Instructions:** It shall be MANDATORY that a representative from each Vendor be present for a pre-bid conference. Attendees must arrive promptly. All attendees must sign in upon arrival and clearly indicate each prospective Vendor represented on the sign in sheet. LATE ARRIVALS WILL NOT BE ALLOWED TO SIGN IN OR PARTICIPATE IN THE PRE-BID CONFERENCE, NOR SHALL THEIR BID BE CONSIDERED. Once the sign-in process is complete, all other persons wishing to attend may do so to the extent that space and circumstances allow. FAILURE TO ATTEND THE MANDATORY PRE-BID CONFERENCE SHALL RESULT IN VENDOR’S BID BEING DEEMED NON-RESPONSIVE AND NOT CONSIDERED FOR AWARD.

The purpose of this conference is for all prospective Vendors to apprise themselves of the conditions and requirements which will affect the performance of the work called for by this IFB. Vendors must stay for the duration of the conference. No allowances will be made for unreported conditions that a prudent Vendor would recognize as affecting the work called for or implied by this IFB.

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

**2.5 BID QUESTIONS**

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

Written questions shall be emailed to [whitewa18@ecu.edu](mailto:whitewa18@ecu.edu) by the date and time specified above. Vendors should enter “IFB # 56-2504BWIFB: Questions” as the subject for the email. Question submittals should include a reference to the applicable IFB section and be submitted in the format shown below:

Reference	Vendor Question
IFB Section, Page Number	Vendor question ...?

Questions received prior to the submission deadline date, the State’s response, and any additional terms deemed necessary by the State will be posted in the form of an addendum to the *electronic Vendor Portal (eVP)*, <https://evp.nc.gov>, and shall become an Addendum to this IFB. No information, instruction or advice provided orally or informally by any State personnel, whether made in response to a question or otherwise in connection with this IFB, shall be considered authoritative or binding. Vendors shall rely *only* on written material contained in the IFB and an addendum to this IFB.

## 2.6 BID SUBMITTAL

**IMPORTANT NOTE: This is an absolute requirement.** Late bids, regardless of cause, will not be opened or considered, and will be automatically disqualified from further consideration. Vendor shall bear the sole risk of late submission due to unintended or unanticipated delay. It is the Vendor's sole responsibility to ensure its bid has been received as described in this IFB by the specified time and date of opening. The time and date of receipt will be marked on each bid when received. Any bid or portion thereof received after the bid deadline will be rejected.

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

***Electronic responses ONLY will be accepted for this solicitation.***  
**eVP (Electronic Vendor Portal)**

If applicable to this RFQ and using eVP, all proposal responses shall be submitted electronically via the electronic Vendor Portal (eVP). Additional information can be found at the eVP updates for Vendors link: <https://eprocurement.nc.gov/news-events/evp-updates-vendors>.

Failure to submit a bid in strict accordance with these instructions shall constitute sufficient cause to reject a Vendor's bids(s). Vendors are strongly encouraged to allow sufficient time to upload bids.

Critical updated information may be included in Addenda to this IFB. It is important that all Vendors responding to this IFB periodically check the State's eVP website for any Addenda that may be issued prior to the bid opening date. All Vendors shall be deemed to have read and understood all information in this IFB and all Addenda thereto.

## 2.7 BID CONTENTS

Vendors shall populate all attachments of this IFB that require the Vendor to provide information and include an authorized signature where requested. Failure to provide all required items, or Vendor's submission of incomplete items, may result in the State rejecting Vendor's bid, in the State's sole discretion.

Vendor IFB responses shall include the following items and attachments, which shall be arranged in the following order:

- a) Cover Letter, which must include all of the following: (i) a statement that confirms that the Vendor has read the IFB in its entirety, including all links, and all Addenda released in conjunction with the IFB; (ii) a statement that the Vendor agrees to perform in accordance with the scope of work, requirements, and specifications contained herein; and (iii) Vendor's agreement to comply with all instructions, terms and conditions, and attachments.
- b) Title Page: Include the company name, address, phone number and authorized representative along with the Bid Number.
- c) Completed and signed version of all EXECUTION PAGES, along with the body of the IFB.
- d) Signed receipt pages of any addenda released in conjunction with this IFB, if required to be returned.
- e) Completed version of Section 4.6 BACKGROUND CHECKS
- f) Section 5.0 SPECIFICATIONS AND SCORE of WORK
- g) Completed version of Vendor's Response Table
- h) Completed version of Section 5.2 WARRANTY, CERTIFICATIONS & SAFETY LABELS
- i) Completed version of Section 6.0 CONTRACT ADMINISTRATION
- j) Completed version of ATTACHMENT A: PRICING
- k) Completed version of ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION
- l) Completed version of ATTACHMENT E: CUSTOMER REFERENCE FORM
- m) Completed version of ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR
- n) Completed and signed version of ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION
- o) Completed and signed version of ATTACHMENT K: EAST CAROLINA UNIVERSITY QUESTIONNAIRE
- p) Completed and signed version of ATTACHMENT L: EAST CAROLINA UNIVERSITY VENDOR CONDUCT on CAMPUS

## 2.8 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS

Relevant definitions for this IFB are provided in ATTACHMENT B: DEPARTMENT of INFORMATION TECHNOLOGY INSTRUCTIONS to VENDORS found below which are incorporated herein by this reference.

## 3.0 METHOD OF AWARD AND BID EVALUATION PROCESS

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### 3.1 METHOD OF AWARD

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

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

While the intent of this IFB is to award a Contract(s) to a single Vendor **OR** multiple Vendors, the State reserves the right to make separate awards to different Vendors for one or more line items, to not award one or more line items, or to cancel this IFB in its entirety without awarding a Contract, if it is considered to be most advantageous to the State to do so. The State reserves the right to waive any minor informality or technicality in bids received.

### 3.2 CONFIDENTIALITY AND PROHIBITED COMMUNICATIONS DURING EVALUATION

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

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

### 3.3 BID EVALUATION PROCESS

Only responsive submissions will be evaluated.

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

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

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

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

At their option, the evaluators may request oral presentations or discussions with any or all Vendors for clarification or to amplify the materials presented in any part of the bid. Vendors are cautioned, however, that the evaluators

are not required to request presentations or other clarification—and often do not. Therefore, all bids should be complete and reflect the most favorable terms available from the Vendor. Prices bid cannot be altered or modified as part of a clarification.

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

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

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

### **3.4 PERFORMANCE OUTSIDE THE UNITED STATES**

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

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

### **3.5 INTERPRETATION OF TERMS AND PHRASES**

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

## 4.0 REQUIREMENTS

This Section lists the requirements related to this IFB. By submitting a bid, the Vendor agrees to meet all stated requirements in this Section as well as any other specifications, requirements, and terms and conditions stated in this IFB. If a Vendor is unclear about a requirement or specification, or believes a change to a requirement would allow for the State to receive a better bid, the Vendor is urged to submit these items in the form of a question during the question and answer period in accordance with the Bid Questions Section above.

### 4.1 PRICING

Bid price shall constitute the total cost to the State for complete performance in accordance with the requirements and specifications herein, including all applicable charges for handling, transportation, administrative and other similar fees. Vendor shall not invoice for any amounts not specifically allowed for in this IFB. Complete **ATTACHMENT A: PRICING FORM** and include in Vendor's response. Reminder – this contract shall have an initial term of three (3) years and the pricing/hourly rate shall remain firm during that initial term. After the initial term the contract may consider a onetime cost increase not to exceed 5% for years four (4) and five (5).

### 4.2 INVOICES

**Vendor will receive a completed timesheet from ECU ITCS Finance Admin Personnel. Vendor will then submit an invoice to ECU ITCS Finance Admin Personnel no more than ten (10) business days after receipt of timesheet. At a minimum, the following fields must be included on all invoices.**

**Vendor's Billing Address, Vendor's Federal ID Number, NC Vendor ID Number, Customer Account Number, NC Contract Number, Order Date, Buyer's Order Number, Manufacture Part Numbers, Vendor Part Numbers, Item Descriptions, Price, Quantity, and Unit of Measure.**

### 4.3 FINANCIAL STABILITY

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

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

### 4.4 HUB PARTICIPATION

Pursuant to North Carolina General Statute G.S. 143-48, it is State policy to encourage and promote the use of small, minority, physically handicapped, and women contractors in purchasing Goods and Services. As such, this IFB will serve to identify those Vendors that are minority owned or have a strategic plan to support the State's Historically Underutilized Business program by meeting or exceeding the goal of 10% utilization of diverse firms as 1st or 2nd tier subcontractors. Vendor shall complete **ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION**.

### 4.5 REFERENCES

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

## 4.6 BACKGROUND CHECKS

Vendor and its personnel are required to provide or undergo background checks at Vendor's expense prior to beginning work with the State. As part of Vendor background, the following details must be provided to the State:

- a) Any **criminal felony conviction**, or conviction of any crime involving moral turpitude, including, but not limited to fraud, misappropriation or deception, by Vendor, its officers or directors, or any of its employees or other personnel to provide Services on this project, of which Vendor has knowledge, or provide a statement that Vendor is aware of none;
- b) Any **criminal investigation** for any offense involving moral turpitude, including, but not limited to fraud, misappropriation, falsification or deception pending against Vendor of which it has knowledge, or provide a statement Vendor is aware of none;
- c) Any **regulatory sanctions** levied against Vendor or any of its officers, directors or its professional employees expected to provide Services on this project by any state or federal regulatory agencies within the past three years or a statement that there are none. As used herein, the term "regulatory sanctions" includes the revocation or suspension of any license or certification, the levying of any monetary penalties or fines, and the issuance of any written warnings;
- d) Any **regulatory investigations** pending against Vendor or any of its officers, directors or its professional employees expected to provide Services on this project by any state or federal regulatory agencies of which Vendor has knowledge or a statement that there are none.
- e) Any **civil litigation**, arbitration, proceeding, or judgments pending against Vendor during the three (3) years preceding submission of its bid herein or a statement that there are none.

Vendor's response to these requests shall be considered a continuing representation, and Vendor's failure to notify the State within thirty (30) days of any criminal litigation, investigation or proceeding involving Vendor or its then current officers, directors or persons providing Services under this Contract during its term shall constitute a material breach of contract. The provisions of this paragraph shall also apply to any subcontractor utilized by Vendor to perform Services under this Contract.

### 4.6.1 GENERAL INFORMATION

It is the policy of the State to provide a safe environment for State Government employees to work. Due to the Contract requirements, the State requires criminal background checks of awarded Vendors, including but not limited to: owners, employees, agents, representatives, subcontractors, and all personnel of their respective companies. All costs and expenses associated with criminal background checks are the responsibility of the Vendor.

The following requirements must be met:

- a) Criminal background checks shall be current and completed within ninety (90) days of the Contract effective date.
- b) The criminal background check shall include a social security verification/check, felonies, misdemeanors, and traffic records covering a minimum of the last seven (7) years for all states and countries where the individual has resided. The criminal background check information shall be first thoroughly reviewed by the Vendor and then sent to the Contract Administrator for review and approval. Out of state searches shall be required for persons living in the state of NC for fewer than seven (7) years. Fingerprint background checks may be required in some instances depending on the facility requirements.
- c) A criminal background check on the awarded Vendor and its employees shall be provided by the Vendor prior to Contract effective date. Copies of the original criminal background check shall be sent to the Contract Administrator for evaluation. In some cases, badging cannot take place until after the evaluation and approval of the Vendor's criminal checks.
- d) When a new employee or individual is identified to perform Services on this Contract, the Vendor shall provide the Contract Administrator with a criminal background check before the individual can be approved for work. Persons without approved criminal background checks shall not be allowed to work in the relevant buildings until proper documentation is submitted and approved.
- e) The State may require the Vendor to exclude the Vendor's employees, agents, representatives, or subcontractors based on the background check results. Discovery that one or more employees have convictions does not disqualify the Vendor from award.
- f) Additionally, the State may use The North Carolina Department of Public Safety Offender Public Information or similar Services to conduct additional background checks on the Vendor's proposed employees.

#### 4.6.2 BACKGROUND CHECK REQUIREMENTS

As part of Vendor's criminal background checks, the details below must be provided to the State:

- a) Any **criminal felony conviction**, or conviction of any crime involving moral turpitude, including but not limited to fraud, misappropriation or deception, of Vendor, its officers or directors, or any of its employees or other personnel to provide Services on this project of which Vendor has knowledge, or provide a statement that Vendor is aware of none;
- b) Any **criminal investigation** for any offense involving moral turpitude, including, but not limited to fraud, misappropriation, falsification or deception pending against Vendor of which it has knowledge, or provide a statement Vendor is aware of none;
- c) Any **regulatory sanctions** levied against Vendor or any of its officers, directors or its professional employees expected to provide Services on this project by any state or federal regulatory agencies within the past three years or a statement that there are none. As used herein, the term "regulatory sanctions" includes the revocation or suspension of any license or certification, the levying of any monetary penalties or fines, and the issuance of any written warnings;
- d) Any **regulatory investigations** pending against Vendor or any of its officers, directors or its professional employees expected to provide Services on this project by any state or federal regulatory agencies of which Vendor has knowledge, or provide a statement that there are none.
- e) Any **civil litigation**, arbitration, proceeding, or judgments pending against Vendor during the three (3) years preceding submission of its bid herein, or provide a statement that there are none.

#### 4.6.3 BACKGROUND CHECK LIMITATIONS

Any individual representing the Vendor, who:

- a) In his/her lifetime, has been adjudicated as a habitual felon as defined by GS 14-7.1 or a violent habitual felon as defined by GS 14-7.7, shall not be allowed to work in buildings occupied by State Government employees.
- b) During the last seven (7) years has been convicted of any criminal felony or misdemeanor sexual offense or a crime of violence shall not be allowed to work in buildings occupied by State Government employees.
- c) At any time has an outstanding warrant or a criminal charge for a crime described in (b) above shall not be allowed to work on State property.
- d) The Vendor must ensure that all employees have a responsibility to self-report to the Vendor within twenty-four (24) hours any arrest for any disqualifying offense. The Vendor must notify the Contract Administrator within twenty-four (24) hours of all details concerning any reported arrest.
- e) Upon the request of the Contract Administrator, the Vendor will re-screen any of its employees, agents, representatives, and subcontractors during the term of the Contract.
- f) Vendor's responses to these background check requests shall be considered a continuing representation, and Vendor's failure to notify the State within thirty (30) days of any criminal charge, investigation, or proceeding involving Vendor or its then-current officers, directors or persons providing Services under this Contract during its term shall constitute a material breach of contract. The provisions of this paragraph shall also apply to any subcontractor utilized by Vendor to perform Services under this Contract.
- g) If there are problems or delays with performance associated with the completion and compliance with this background check requirements, any Vendor's performance bond could be used to complete these Services.

#### 4.6.4 DOCUMENT REQUIREMENTS

Required documentation to be submitted prior to date Contract is effective and for performing any Services on State property shall include:

- a) A cover letter by the Vendor on company letterhead with a list of the full names matching a required government issued photo ID, addresses, and birth dates of each person representing the contracting company.
- b) Vendor shall also provide a photocopy of the required State or Federal government issued picture ID or Driver License.
- c) A letter on company letterhead is not acceptable proof in itself but can be used to further clarify information on the criminal background check submitted. All documentation shall be submitted at the same time. Submit documents which are clear and legible.
- d) Background checks consisting of:
  1. Original unaltered criminal background check from the organization providing the background check.
  2. The background check provider's company name, company mailing address, and contact phone numbers.

3. The full name of the individual, which matches the government issued photo ID.
4. The current address of individual being checked.
5. The date the criminal background check search was conducted.

**4.6.5 VENDOR BACKGROUND CHECK AGREEMENT**

Vendor agrees to conduct a criminal background check per the specifications above in this section on all employees proposed to work under this Contract, at its expense, and provide the required documentation to the State in order to perform Services under this Contract:

YES  NO

**4.7 PERSONNEL**

Vendor warrants that qualified personnel shall provide Services under this Contract in a professional manner. "Professional manner" means that the personnel performing the Services will possess the skill and competence consistent with the prevailing business standards in the industry. Vendor will serve as the prime contractor under this Contract and shall be responsible for the performance and payment of all subcontractor(s) that may be approved by the State. Names of any third-party Vendors or subcontractors of Vendor may appear for purposes of convenience in Contract documents; and shall not limit Vendor's obligations hereunder. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractor(s).

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

**4.8 VENDOR'S REPRESENTATIONS**

If Vendor's bid results in an award, Vendor agrees that it will not enter any agreement with a third party that may abridge any rights of the State under the Contract. If any Services, deliverables, functions, or responsibilities not specifically described in this solicitation are required for Vendor's proper performance, provision and delivery of the Service and deliverables under a resulting Contract, or are an inherent part of or necessary sub-task included within such Service, they will be deemed to be implied by and included within the scope of the Contract to the same extent and in the same manner as if specifically described in the Contract. Unless otherwise expressly provided herein, Vendor will furnish all of its own necessary management, supervision, labor, facilities, furniture, computer and telecommunications equipment, software, supplies and materials necessary for the Vendor to provide and deliver the Services and/or other Deliverables.

## 5.0 SPECIFICATIONS AND SCOPE OF WORK

East Carolina University and its Information Technology and Computing Services Department (ITCS) is seeking bids from qualified vendors to install, repair and remove communications cabling and equipment located on/in any East Carolina University building/facility on either East or West Campus, within the City of Greenville and Pitt County as well as other East Carolina University locations within the State.

East Carolina University Information Technology and Computing Services (ITCS) is responsible for installations, upgrades, and interconnection of the communications infrastructure in more than 200 buildings on the East Carolina University campuses located within the City of Greenville and Pitt County. This work involves installation, removal, troubleshooting, interconnecting of cabling, passive and active voice/data/CA TV equipment and other equipment that is part of the Information Technology (IT) Infrastructure. The awarded Vendor(s) will provide the labor required to perform these duties and requested services. East Carolina University reserves the right to award this to one or more Vendors to perform the requested duties, services and related work.

It is highly recommended that each bidder read and understand the requirements of this bid solicitation and provide all required information. Incomplete bid responses will be considered nonresponsive and therefore will not be considered. The intent of this solicitation is to award a multi-year **Agency Contract**.

The Contract shall have an initial term of **three (3)** years, beginning on the date of final Contract execution (the "Effective Date"). For the first three (3) years of the Contract the pricing/hourly labor rate shall remain firm and may consider a onetime cost increase not to exceed 5% for the additional years four (4) and five (5). The awarded Vendor shall begin work under the Contract on the execution/effective date. At the end of the Contract's initial term, the State shall have the option, in its sole discretion, to renew the Contract on the same terms and conditions for up to two (2) additional one-year terms – years four (4) and five (5). The State will give the Vendor written notice of its intent to exercise each option no later than sixty (60) days before the end of the Contract's then-current term. In addition to any optional renewal terms, and with the Vendor's concurrence, the State reserves the right to extend the Contract after the last active term for a period of up to 180 days in 90-day-or-less increments. Bids shall be submitted in accordance with the terms and conditions of this IFB and any addenda issued hereto.

### 5.1 SPECIFICATIONS

The specific items and any specifications that the Purchasing Agency is seeking are listed below. Items offered by the Vendor must meet or exceed the listed Specifications to be considered for award.

**Materials will be provided by East Carolina University. Samples of the types of materials include:**

- a) **Cabling** – Cables are industry-standard fiber optic cables up to 144 count, UTP copper cables, and coaxial cables. Cables (horizontal and riser) are those typical of intra-building infrastructure construction.
- b) **Cross-Connect Hardware** – Hardware consists of industry-standard termination blocks, panels, faceplates, patch cords, etc.,
- c) **Support Hardware** – Hardware includes industry standard equipment racks, cable managers, ladder racks, backboards, sleeves, conduits, splice enclosures, etc. Also included is typical structured wiring support hardware (plywood, wall and trapeze brackets, grounding equipment, etc.).
- d) **Active Equipment** – A variety of communications equipment shall be installed, connected, and cut over for end users. This includes data network switches, wireless access points, telephone handsets, emergency notification call and speaker systems, Uninterruptible Power Source(s) (UPS), CATV distribution hardware, etc.
- e) **Material Installation** – Repair and removal may require Heavy Work, which is defined as: Exerting up to 100lbs. of force occasionally, and/or up to 50lbs. of force frequently, and/or up to 20lbs. of force constantly to move objects.

#### **Material Acquisition**

- All materials (cables, hardware, equipment, etc.) will be furnished by ITCS Network Services. Materials will be located at the ITCS Network Services Warehouse. The Vendor shall pick-up materials at the warehouse,

transport them to the job site, and return unused materials to the warehouse using standard ITCS Network Services Operations processes.

### **Quantities**

- ITCS Network Services anticipates the need for a minimum of two (2) Vendor provided employees on a daily basis throughout the year. However, a 40hr work week, per Vendor employee, is not guaranteed. Peak workloads may require up to six (6) + employees on-site. Work will span the spectrum from small work order related projects involving one Vendor employee to large cabling projects involving a crew of several Vendor employees over multiple days and a week or more. The exact number and scope of projects will be determined by ITCS Network Services during the term of the contract. There are no minimum or maximum guarantees provided by ECU. Failure of the Vendor to provide the requested number of employees within the specified project initiation period (as described in the Project Initiation Section) on a repeated basis will be grounds for termination of this contract.

### **Working Conditions**

- The Vendor shall perform work both inside and outside ECU owned or leased buildings. Work shall be performed in all types of buildings, including: administrative offices, classrooms, research labs, student resident halls, and healthcare buildings. The Vendor shall work throughout all spaces in the buildings, including in telecom rooms, occupied spaces, crawl spaces, and above accessible ceilings. The Vendor shall not be required to enter officially deemed confined spaces. Some work will be performed in buildings under construction or renovation.

### **Service Area**

- The primary location for work will be on the ECU east and west campuses located in the Greenville, NC area and within Pitt County. However, the awarded Vendor may be asked to perform work at other ECU- owned or supported properties outside Pitt County. Additional cost to travel may be charged to ECU in keeping with contract pricing or as agreed to in writing by ITCS Network Services.

### **Tools and Equipment**

- The Vendor shall provide all tools and equipment required to perform all work associated with this contract including, but not limited to vehicles, safety equipment, installation tools, and testing equipment unless an exception is stated below. This is to include, but is not limited to:
  - Safety shoes, protective eyewear, reflective vests, gloves, and hard hats
  - Cable scissors, pliers, screwdrivers, wire strippers, and battery powered drills
  - Copper and fiber network tester - NetScout Linkrunner or equivalent
  - One (1) vehicle for every two (2) Vendor employees. The vehicle must be of sufficient size and equipped to accommodate two Vendor employees, as well as protect and secure tools, ladders, safety gear, and enough materials for a day's work.
  - A set of six (6) foot or eight (8) foot and ten (10) foot tall a-frame step ladders for every two (2) Vendor employees. The ladders must be in good repair and with the appropriate rating. ECU is not responsible for inspecting and approving ladders.
  - One twenty-eight (28) foot extension ladder in good repair and with the appropriate rating. ECU is not responsible for inspecting and approving ladders.
  - Fiber fusion splicer- ECU will supply within three (3) business day notice if needed
  - Optical Time Domain Reflectometer (OTDR) – ECU will supply within three (3) business day notice if needed

**Standards**

- All work shall be performed in accordance with applicable standards including but not limited to the following:
  - American National Standards Institute (ANSI)
  - Americans with Disabilities Act (ADA)
  - BICSI Telecommunications Standards
  - ECU Telecommunications and Computer Networking Support Structures Construction Standard - <https://campusoperations.ecu.edu/facilities/wp-content/pv-uploads/sites/183/2023/05/Division-27-10-5-2022.pdf>
  - ECU Facilities Operations Guidelines
  - ECU ITCS Network Services standard operations practices
  - Local building codes or requirements by the Local Authority Having Jurisdiction (AHJ) and good construction and engineering practices
  - Manufacturers' recommendations and specifications
  - National Electrical Code (NEC) adopted as the NC Electrical Code
  - National Fire Protection Association (NFPA)
  - North Carolina Department of Insurance (NCDOI)
  - Occupational Safety and Health Administration (OSHA)
  - Underwriters Laboratories (UL)
  - TIA/ EIA Commercial Building Telecommunications Cabling Standards

**Cable Identification/Labeling**

- Vendor shall label cabling infrastructure in keeping with ECU standards document: Telecommunications and Computer Networking Support Structures and as indicated below:
  - Each pathway (conduit, tray, raceway, etc.) that conveys network media from space to space must be given a unique identifier and labeled at each end-point.
  - Each telecommunications space (equipment room, network/telecom closet, work area, entrance facility, manhole and hand-hole) must be uniquely identified and labeled.
  - Provide a final report to include: system configuration, unique identifier, fiber labels, pathways and "as built" details. Fiber optic loss measurements and OTDR traces must also be included with the records. The documentation and cable test results shall be submitted in an acceptable electronic format approved by ECU.

**Information Provided to Vendor**

- The following standard practice shall be used to provide information to the Vendor:
  - Based on the complexity of a particular work order or project, ITCS Network Services will provide appropriate scope of work, schedules, coordination information, material lists, etc. as needed to complete all work. Information will range from verbal instructions to detailed CAD drawings and project specifications, based on the requirements of each project. ITCS Network Services staff will provide further information as is applicable and needed.
  - The Vendor shall work under the direct coordination of the ITCS Network Services Infrastructure Team. This team will serve as the main liaison between the Vendor and other ITCS staff, as well as other ECU personnel and State of NC personnel.

**Site Supervision**

- The Vendor shall provide a minimum of one lead Vendor employee for every five (5) Vendor employees to provide supervision. However, the hourly billing rate shall be the same for all Vendor employees.

**Project Initiation**

- Each project shall be initiated as follows:
  - The ITCS Network Services – Network Infrastructure Team will coordinate and communicate with Vendor on no less than a weekly basis to determine the staffing

needs for the upcoming week. On a daily basis the Vendor will be provided with requests to perform work, either verbally or in writing. In cases where additional Vendor staff are needed, the Vendor shall have staff on site at ECU within three (3) business days to commence work, unless both parties agree to a later, specified date. On rare occasion, ITCS Network Services may request staff with less than three (3) business days' notice to satisfy urgent requirements. The Vendor shall make best, reasonable effort to accommodate such requests. As part of the initial request or after arrival of the Vendor's personnel on-site, ITCS Network Services will provide all appropriate information as described in the **Information Provided to Vendor Section**.

### **Telephone Access**

- The Vendor shall provide a monitored mobile telephone on each work site at all times to provide the ability for immediate access to Vendor employees ITCS Network Services – Network Infrastructure Team.

### **Parking**

- The Vendor shall purchase all required parking permits from ECU's Department of Transportation. Current pricing is \$214 for the twelve (12) month academic year, which begins in July and finishes in June. The Vendor shall adhere to all ECU parking and traffic regulations and is responsible for the payment of any parking/traffic citations.

### **Key Control/Room Access**

- ITCS Network Services will issue telecom room keys to the Vendor. The Vendor shall be responsible for the safeguarding of keys and may be subject to the payment of re-keying charges for lost keys.
- ITCS Network Services will grant OneCard (badge) access to data closets. OneCard access shall be the primary access to all data closets that have this feature. For data closets with OneCard access, the use of key entry is only permissible if the OneCard system is down for that door. If this occurs, the Vendor shall report the issue to an ITCS Network Services – Network Infrastructure team member.

### **Identification**

- All employees of the Vendor shall wear shirts, which are clean and in good repair, with a clearly visible Vendor logo. In addition, all employees shall wear an official ECU photo ID Badge at all times while working on campus. The Vendor shall obtain badges from the ECU OneCard Office.

### **Conduct/Decorum**

- All Vendor employees will conduct themselves in a professional and courteous manner toward students and ECU personnel at all times. If at any time during the execution of work, the conduct of any Vendor employee is determined by ITCS Network Services personnel to be a nuisance or is considered detrimental to the work performed, the Vendor shall be notified and provide immediate removal; within thirty (30) minutes from notice from campus.
- In addition, while employees should wear clothing appropriate to the work being performed, clothing and personal hygiene should reflect suitable professionalism (i.e. no tattered clothing, no shorts, etc.). If an employee is removed via notice from ITCS Network Services for any reason, the employee shall be replaced no later than the start of the next business day or as approved by ITCS Network Services and ECU Contract Administrator.

### **Staffing Level**

- The Vendor shall be able to provide a minimum of two (2) experienced Vendor employees for work at ECU. As part of the proposal response, the Vendor shall provide a list of these Vendor employees with name, certifications, relevant training, and years of experience as a structured cabling technician.

**VENDOR'S RESPONSE**

<b>Specifications Description</b>	<b>Comments/Notes to Specifications</b>	<b>Product/Service Offered Meets Specification</b>
<i>Material Acquisition</i>		<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>Quantities</i>		<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>Working Conditions</i>		<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>Service Area</i>		<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>Tools and Equipment</i>		<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>Standards</i>		<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>Cable Identification/Labeling</i>		<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>Information Provided to Vendor</i>		<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>Site Supervision</i>		<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>Project Initiation</i>		<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>Telephone Access</i>		<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>Parking</i>		<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>Key Control</i>		<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>Identification</i>		<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>Conduct/Decorum</i>		<input type="checkbox"/> YES <input type="checkbox"/> NO

**5.2 WARRANTY, CERTIFICATION AND SAFETY LABELS**

Any manufactured items and/or fabricated assemblies provided hereunder that are subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate inspector which customarily requires the label or re-examination listing or identification marking of the appropriate safety standard organization *acceptable to govern inspection where the item is to be located*, such as the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and /or National Electrical Manufacturers’ Association for electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type of device offered and furnished. Further, all items furnished shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.

Vendor warrants that all equipment furnished under this IFB will be newly manufactured, of good material and workmanship. The warranty will be for a minimum period of twelve (12) months from date equipment is put into operation or the length of the manufacturer's warranty, whichever is longer. Such warranty shall cover the cost of all defective parts replacement, labor, freight, and technicians' travel at no additional cost to the State. To the extent not superseded by the terms of this paragraph, manufacturer's warranty terms shall apply. 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 by using 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 shall be responsible for compliance with warranty terms by any third-party service provider. Vendor shall provide contact information for warranty service provider, below.

- **Vendor is authorized by manufacturer to repair equipment offered during the warranty period?**  
 YES  NO
- **Will the Vendor provide warranty service?**  
 YES  NO, a manufacturer-authorized third party will perform warranty service.

CONTACT INFORMATION FOR WARRANTY SERVICE PROVIDER	
<b>Company Name</b>	
<b>Company Address</b>	
<b>Contact Person (Name)</b>	
<b>Contact Person (Phone Number)</b>	
<b>Contact Person (email)</b>	

The Vendor(s) will possess the following certifications and will maintain these certifications throughout the term of the contract. Failure to maintain these certifications will result in the termination of the contract.

- Siemon Certified Installer (CI) certification - <https://www.siemon.com/us/installation/>
- CommScope Uniprise PartnerPro certification. - \_\_\_\_\_  
<https://www.commscopetraining.com/courses/act-netconnect-uniprise/>

Vendor must be willing and capable of additional certifications for other industry manufacturers to enable the extended system performance coverage of the 25-Year manufacturer's warranty for moves, adds, and changes, in addition to providing maintenance services that do not jeopardize provisions of these same extended warranties.

The Vendor shall ensure that at least 25% or a minimum of one (1) Vendor employee working on-site for ITCS Network Services is trained and representing the Vendor in the following certifications and successfully completed the following training programs:

- Siemon Certified Installer (CI) certification - <https://www.siemon.com/us/installation/>
- CommScope Uniprise PartnerPro certification. - <https://www.commscopetraining.com/courses/act-netconnect-uniprise/>
- Coming Fiber Installation (CFI) training course

The following certifications are preferred, but not required:

- **BICSI**, Installer Level 1 - <https://www.bicsi.org/programs.aspx?l=2586&r=2588&c=inST1>
- Corning LANscape® Network Preferred Installers (NPI) - <https://www.coming.com/media/worldwide/coc/documents/NPI/EWP-236-EN.pdf>



## 6.0 CONTRACT ADMINISTRATION

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

### 6.1 CONTRACT MANAGER AND CUSTOMER SERVICE

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

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

The Vendor shall be required to designate and make available to the State for customer service. The customer service point of contact shall be the State’s point of contact for customer service-related issues (define roles and responsibilities).

Customer Service Point of Contact	
Name:	
Office Phone #:	
Mobile Phone #:	
Email:	

### 6.2 POST AWARD PROJECT REVIEW MEETINGS

The Vendor, at the request of the State, shall be required to meet periodically (*e.g., weekly, monthly, quarterly*) with the State for Project/Performance Review meetings. The purpose of these meetings will be to review project/performance progress reports, discuss Vendor and State performance, address outstanding issues, review problem resolution, provide direction, evaluate continuous improvement and cost saving ideas, and discuss any other pertinent topics.

### 6.3 CONTINUOUS IMPROVEMENT

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

### 6.4 TRANSITION ASSISTANCE

If a Contract results from this solicitation, and the Contract is not renewed at the end of the last active term, or is canceled prior to its expiration, for any reason, Vendor shall provide transition assistance to the State, at the option of the State, for up to six (6) months to allow for the expired or canceled portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Services to the State or its designees. If the State exercises this option, the Parties agree that such transition assistance shall be governed by the terms and conditions of the Contract (notwithstanding this expiration or cancellation), except for those Contract terms or conditions that do not reasonably apply to such transition assistance. The State shall agree to pay Vendor for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for performance of the Services or other resources utilized.

**6.5 DISPUTE RESOLUTION**

During the performance of the Contract, the parties agree that it is in their mutual interest to resolve disputes informally. Any claims by the Vendor shall be submitted in writing to the State’s Contract Manager for resolution. Any claims by the State shall be submitted in writing to the Vendor’s Project Manager for resolution. The Parties shall agree to negotiate in good faith and use all reasonable efforts to resolve such dispute(s).

During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Contract. The Parties will agree on a reasonable amount of time to resolve a dispute. If a dispute cannot be resolved between the Parties within the agreed upon period, either Party may elect to exercise any other remedies available under the Contract, or at law. This provision, when agreed in the Contract, shall not constitute an agreement by either party to mediate or arbitrate any dispute.

**6.6 CONTRACT CHANGES**

Contract changes, if any, over the life of the Contract shall be implemented by contract amendments agreed to in writing by the State and Vendor. Amendments to the contract can only be made through the contract administrator.

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## 7.0 ATTACHMENTS

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**\*\*IMPORTANT NOTICE\*\***

**RETURN THE REQUIRED ATTACHMENTS WITH YOUR RESPONSE**

**\*\*\* Failure to Return the Required Attachments May Eliminate**

**Your Response from Further Consideration \*\*\***

**ATTACHMENT A: PRICING**

Complete and return the Pricing associated with this IFB, which can be found at the table below:

**CONTRACT PRICE:**

Services are to include: Installation/removal/troubleshooting/interconnecting of the following components of the telecommunications infrastructure inside buildings on the ECU property: fiber and copper cabling, passive and active voice/data/CATV equipment and other support equipment.

- a) Show blended\* (regardless of the type of work) cost per person-per hour of work. All administrative/management charges, materials and equipment furnished, overhead, profit, travel within Pitt County, etc. must be included in the cost per person-per hour.
- b) Note that no rate distinction will be made between supervisory and subordinate personnel. For work requested by ITCS Network Services to be performed other than during business hours (**M-F 7AM-6PM**, non-holiday), ITCS Network Services reserves the right to shift work schedule to accommodate after hours work at the quoted per man-hour rate. If the amount of hours exceeds 40hrs per Vendor employee in a given week, ITCS Network Services will pay the Vendor one and one half times the quoted hourly labor rate. With few exceptions, Vendor will follow ECU holiday schedule and adverse weather policies. A 40hr work week is not guaranteed.

LABOR CONTRACT INITIAL TERM 3 YEARS	LABOR RATE PER PERSON/PER HOUR
LABOR RATE PER PERSON/PER HOUR	\$
LABOR RATE PER PERSON/PER HOUR (OVERTIME & WEEKEND)	\$



**ATTACHMENT B: DEPARTMENT OF INFORMATION TECHNOLOGY INSTRUCTIONS TO VENDORS**

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

progressive or multiple awards: where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service, geographical areas; other factors deemed by NCDIT to be pertinent or peculiar to the purchase in question.

- 9) **SAMPLES:** Sample of items, when required, must be furnished as stipulated herein, free of expense, and if not destroyed will, upon request be returned at the Vendor's expense. Written request for the return of samples must be made within 10 days following date of offer opening. Otherwise the samples will become the property of the State. Each individual sample must be labeled with the Vendor's name, offer number, and item number. A sample, on which an award is made, will be retained until the contract is completed, and then returned, if requested, as specified above.
- 10) **MISCELLANEOUS:** Masculine pronouns shall be read to include feminine pronouns and the singular of any word or phrase shall be read to include the plural and vice versa.
- 11) **PROTEST PROCEDURES:** When an offeror wants to protest a contract awarded pursuant to this solicitation that is over \$25,000 they must submit a written request to the issuing agency at the address given in this document. This request must be received in this office within fifteen (15) calendar days from the date of the contract award, and must contain specific sound reasons and any supporting documentation for the protest. **Note:** Contract award notices are sent **only** to those actually awarded contracts, and not to every person or firm responding to this solicitation. IFB/RFQ status and Award notices are posted on at <https://evp.nc.gov/>. **All protests will be governed by NCAC Title 9, Department of Information Technology (formerly Office of Information Technology Services), Subchapter 06B Sections .1101 - .1121. [Include paragraph 12 Protest Procedures in IFBs only. If this is an RFQ issued pursuant to Waiver of Competition, then reserve the paragraph.]**
- 12) **VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM:** Vendor Link NC allows Vendors to electronically register with the State to receive electronic notification of current procurement opportunities for goods and services available on the NC Electronic Vendor Portal (eVP) at the following web site: <https://evp.nc.gov/>
- 13) **DIGITAL IMAGING:** *The State will digitize the Vendor's response if not received electronically, and any awarded contract together with associated contract documents. This electronic copy shall be a preservation record and serve as the official record of this solicitation with the same force and effect as the original written documents comprising such record. Any printout or other output readable by sight shown to reflect such record accurately is an "original."*

**ATTACHMENT C: 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 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/RFQ), of good material and workmanship, and agrees to repair or replace any items which fail to comply with the specifications by reason of defective material or workmanship under normal use, free of State's negligence or accident for one year from date of installation. Such repair or replacement shall include any transportation costs free of any charge to the State. This statement is not intended to limit any additional coverage, which may normally be associated with a product, such as any "hot switch" or similar replacement warranty program applicable as indicated by the

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

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

**SOFTWARE:**

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

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

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

- of the State Agency within seven (7) calendar days of notification, unless otherwise agreed by the State Agency. Rejected items may be regarded as abandoned if not removed by Vendor as provided herein.
- 15) EQUAL EMPLOYMENT OPPORTUNITY:** Vendor shall comply with all Federal and State requirements concerning fair employment and employment of the disabled, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or physical disability.
- 16) INSPECTION AT VENDOR'S SITE:** The State reserves the right to inspect, during Vendor's regular business hours at a reasonable time, upon notice of not less than two (2) weeks, and at its own expense, the prospective Deliverables comprising equipment or other tangible goods, or the plant or other physical facilities of a prospective Vendor prior to Contract award, and during the Contract term as necessary or proper to ensure conformance with the specifications/requirements and their adequacy and suitability for the proper and effective performance of the Contract.
- 17) ADVERTISING/PRESS RELEASE:** The Vendor absolutely shall not publicly disseminate any information concerning the Contract without prior written approval from the State or its Agent. For the purpose of this provision of the Contract, the Agent is the Purchasing Agency Contract Administrator unless otherwise named in the solicitation documents.
- 18) CONFIDENTIALITY:** In accordance with N.C.G.S. §§143B-1350(e), 143B-1375 and 09 NCAC 06B.0103 and 06B.1001 and to promote maximum competition in the State competitive bidding process, the State may maintain the confidentiality of certain types of information described in N.C.G.S. §132-1 et seq. Such information may include trade secrets defined by N.C.G.S. §66-152 and other information exempted from the Public Records Act pursuant to N.C.G.S. §132-1.2. Vendor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by marking the top and bottom of pages containing confidential information with a legend in boldface type "**CONFIDENTIAL**". By so marking any page, the Vendor warrants that it has formed a good faith opinion, having received such necessary or proper review by counsel and other knowledgeable advisors that the portions marked confidential meet the requirements of the Rules and Statutes set forth above. **However, under no circumstances shall price information be designated as confidential.** The State may serve as custodian of Vendor's confidential information and not as an arbiter of claims against Vendor's assertion of confidentiality. If an action is brought pursuant to N.C.G.S. §132-9 to compel the State to disclose information marked confidential, the Vendor agrees that it will intervene in the action through its counsel and participate in defending the State, including any public official(s) or public employee(s). The Vendor agrees that it shall hold the State and any official(s) and individual(s) harmless from any and all damages, costs, and attorneys' fees awarded against the State in the action. The State agrees to promptly notify the Vendor in writing of any action seeking to compel the disclosure of Vendor's confidential information. The State shall have the right, at its option and expense, to participate in the defense of the action through its counsel. The State shall have no liability to Vendor with respect to the disclosure of Vendor's confidential information ordered by a court of competent jurisdiction pursuant to N.C.G.S. §132-9 or other applicable law.
- a) Care of Information: Vendor agrees to use commercial best efforts to safeguard and protect any data, documents, files, and other materials received from the State or the Agency during performance of any contractual obligation from loss, destruction or erasure.
- b) Vendor warrants that all its employees and any approved third party Vendors or subcontractors are subject to a non-disclosure and confidentiality agreement enforceable in North Carolina. Vendor will, upon request of the State, verify and produce true copies of any such agreements. Production of such agreements by Vendor may be made subject to applicable confidentiality, non-disclosure or privacy laws; provided that Vendor produces satisfactory evidence supporting exclusion of such agreements from disclosure under the N.C. Public Records laws in N.C.G.S. §132-1 et seq. The State may, in its sole discretion, provide a non-disclosure and confidentiality agreement satisfactory to the State for Vendor's execution. The State may exercise its rights under this subparagraph as necessary or proper, in its discretion, to comply with applicable security regulations or statutes including, but not limited to 26 USC 6103 and IRS Publication 1075, (Tax

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

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

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

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

**21) PATENT, COPYRIGHT, AND TRADE SECRET PROTECTION:**

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

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

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

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

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

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

- b) **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$2,000,000.00 Combined Single Limit (Defense cost shall be in excess of the limit of liability); and
  - c) **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the Contract. The minimum combined single limit shall be \$500,000.00 bodily injury and property damage; \$500,000.00 uninsured/under insured motorist; and \$5,000.00 medical payment; and
  - d) Providing and maintaining adequate insurance coverage described herein is a material obligation of the Vendor and is of the essence of this Contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Vendor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Contract. The limits of coverage under each insurance policy maintained by the Vendor shall not be interpreted as limiting the Vendor's liability and obligations under the Contract.
- 25) DISPUTE RESOLUTION:** The parties agree that it is in their mutual interest to resolve disputes informally. A claim by the Vendor shall be submitted in writing to the Agency Contract Administrator for decision. A claim by the State shall be submitted in writing to the Vendor's Contract Administrator for decision. The Parties shall negotiate in good faith and use all reasonable efforts to resolve such dispute(s). During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Contract. If a dispute cannot be resolved between the Parties within thirty (30) days after delivery of notice, either Party may elect to exercise any other remedies available under this Contract, or at law. This term shall not constitute an agreement by either party to mediate or arbitrate any dispute.
- 26) DEFAULT:** In the event Services or other Deliverable furnished or performed by the Vendor during performance of any Contract term fail to conform to any material requirement(s) of the Contract specifications, notice of the failure is provided by the State and if the failure is not cured within ten (10) days, the State may cancel the contract. Default may be cause for debarment as provided in 09 NCAC 06B.1206. The rights and remedies of the State provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.
- a) If Vendor fails to deliver or provide correct Services or other Deliverables within the time required by this Contract, the State shall provide written notice of said failure to Vendor, and by such notice require performance assurance measures pursuant to N.C.G.S. 143B-1340(f). Vendor is responsible for the delays resulting from its failure to deliver or provide services or other Deliverables.
  - b) Should the State fail to perform any of its obligations upon which Vendor's performance is conditioned, Vendor shall not be in default for any delay, cost increase or other consequences resulting from the State's failure. Vendor will use reasonable efforts to mitigate delays, costs or expenses arising from assumptions in the Vendor's offers that prove erroneous or are otherwise invalid. Any deadline that is affected by any such failure in assumptions or performance by the State shall be extended by an amount of time reasonably necessary to compensate for the effect of such failure.
  - c) Vendor shall provide a plan to cure any delay or default if requested by the State. The plan shall state the nature of the delay or default, the time required for cure, any mitigating factors causing or tending to cause the delay or default, and such other information as the Vendor may deem necessary or proper to provide.
- 27) WAIVER OF DEFAULT:** Waiver by either party of any default or breach by the other Party shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be a modification or novation of the terms of this Contract, unless so stated in writing and signed by authorized representatives of the Agency and the Vendor, and made as an amendment to this Contract pursuant to Paragraph 40) herein below.

**28) 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. *[Paragraph 28) ii) Termination for Convenience Without Cause does not apply to offers involving a lease term. If this IFB/RFQ has a lease term, reserve this paragraph ii; otherwise, leave the term in.]*

**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.

*[Paragraph 32 STOP WORK ORDER should usually be reserved in its entirety. Maintain this paragraph only if Vendor performance of the contract resulting from this IFB/RFQ is iterative, in a project other than time and materials, or similar circumstance, in which situations may occur during contract performance that cause the State to order a suspension of work or a work stoppage.]*

- 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, requirements, 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**

**This Space is Intentionally Left Blank**

**ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION**

Solicitation #: \_\_\_\_\_

Vendor Name: \_\_\_\_\_

*Historically Underutilized Businesses (HUBs) consist of minority, women, and disabled business firms that are at least fifty-one percent owned and operated by an individual(s) from one of these categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled.*

*Pursuant to G.S. 143B-1361(a), 143-48 and 143-128.4, the State invites and encourages participation in this procurement process by businesses owned by minorities, women, the disable, disabled business enterprises, and non-profit work centers for the blind and severely disabled. This includes utilizing individual(s) from these categories as subcontractors to perform the functions required in this Solicitation.*

*The Vendor shall respond to questions below, as applicable.*

**PART I: HUB CERTIFICATION**

Is Vendor a NC-certified HUB entity?  Yes  No

If yes, provide Vendor #: \_\_\_\_\_

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

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

**PART II: PROCUREMENT OF GOODS - SUPPLIERS**

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

If yes, then provide the following information:

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

**PART III: PROCUREMENT OF SERVICES - SUBCONTRACTORS**

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

If yes, then provide the following information:

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

**Need more information?**

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

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

**ATTACHMENT E: CUSTOMER REFERENCE FORM**

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Solicitation #: \_\_\_\_\_

Vendor Name: \_\_\_\_\_

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

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

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

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

**ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR**

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Solicitation #: \_\_\_\_\_

Vendor Name: \_\_\_\_\_

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

Vendor shall complete items 1 and 2 below.

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

If "YES":

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

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

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**NOTES:**

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

**ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION**

Solicitation #: \_\_\_\_\_

Vendor Name: \_\_\_\_\_

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

- The Vendor is in sound financial condition and, if applicable, has received an unqualified audit opinion for the latest audit of its financial statements.  
Date of latest audit: \_\_\_\_\_ (If no audit within past 18 months, explain reason below.)
- The Vendor has no outstanding liabilities, including tax and judgment liens, to the Internal Revenue Service or any other government entity.
- The Vendor is current in all amounts due for payments of federal and state taxes and required employment-related contributions and withholdings.
- The Vendor is not the subject of any current litigation or findings of noncompliance under federal or state law.
- The Vendor has not been the subject of any past or current litigation, findings in any past litigation, or findings of noncompliance under federal or state law that may impact in any way its ability to fulfill the requirements of this Contract.
- He or she is authorized to make the foregoing statements on behalf of the Vendor.

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

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



\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Title*

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

## **ATTACHMENT H: EAST CAROLINA UNIVERSITY TERMS AND CONDITIONS**

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1. **Licensing Practices:** Only CLC (Collegiate Licensing Company) licensed vendors may produce items featuring university trademarks. East Carolina University is required by law to control the use of its trademarks and control is maintained through allowing only officially licensed manufacturers to reproduce University trademarks. Any vendors wishing to be added to the list of approved vendors need to contact the Collegiate Licensing Company Inc. at [clc@clc.com](mailto:clc@clc.com). East Carolina University also requires any new licensees who are sourcing products in Bangladesh to participate in the Accord on Fire and Building Safety in Bangladesh (Accord) and/or the Alliance for Bangladesh Worker Safety Alliance (Alliance) before being approved as a licensee.

### **2. Parking:**

In the event of a mandatory pre-bid meeting/site visit, a parking permit may be acquired by contacting ECU Department of Parking and Transportation, located at 305 E. Tenth Street, Greenville, NC, at 252-328-6294 between the hours of 7:30AM to 4:30AM, Monday through Friday. Parking on campus is by permit only; however, an alternative option is meter parking for up to two hours at limited locations. Attendees who come by the Parking and Transportation Office and ask for a pre-bid permit will be sold a Departmental Guest Permit for \$1.00. Parking will be assigned in proximity to the pre-bid location.

### **Mandatory Pre-bid/Site Visits:**

Mandatory pre-bid meeting/site visits will begin promptly at the time stated on the bid document. If you are not present at the time the meeting begins, you will not be allowed to submit a bid. There will be no exceptions to this rule. Please allow adequate time for parking.

### **Parking on Campus:**

In the event you need to park on campus to fulfill your services to East Carolina University, please contact the Department of Parking and Transportation for policies, rules, and permit pricing information (<http://www.ecu.edu/cs-admin/parkingandtransportation/>).

### **Special Accommodations:**

Individuals with disabilities, who require accommodations under the American with Disabilities Act (ADA), should contact the Department of Disabilities Support Services at 252-737-1016 prior to the meeting date.

3. **Enterprise-Level IT Systems or Technologies:** The University is committed to promote and integrate universal IT accessibility in the delivery of its resources and to develop innovative solutions to accessibility challenges for students, faculty and staff.

Vendors must: Assure all features, components and sub-systems of the software of the IT System contained on this IFB fully comply with Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d);

Or

Detail why any feature, component or sub-system contained in this IFB does not fully comply with Section 508, and the way in which the proposed product is out of compliance; the product offered in response to this IFB is subject to an accessibility evaluation by the University.

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**ATTACHMENT I: EAST CAROLINA UNIVERSITY COMPLIANCE STANDARDS**

**Compliance/Change in Law.** By entering into this Agreement, the parties specifically intend to comply with all applicable laws, rules, and regulations, including but not limited to (i) the federal anti-kickback statute (42 U.S.C. 1320a-7(b)); and (ii) the Limitation on Certain Physician Referrals, also referred to as the “Stark Law” (42 U.S.C. 1395nn) and related safe harbor regulations. Accordingly, no part of any consideration paid hereunder is a prohibited payment for the recommending or arranging for the referral of business or the ordering of items or services; nor are the payments intended to induce illegal referrals of business. In the event that any part of this Agreement is determined to violate federal, state, or local laws, rules, or regulations, the parties agree to negotiate in good faith revisions to the provision or provisions which are in violation. In the event the parties are unable to agree to new or modified terms as required to bring the entire Agreement into compliance, either party may terminate this Agreement on sixty (60) days written notice to the other party.

**Debarment Certification.** By signing this Agreement, the Vendor hereby represents and warrants the following: (1) that the Vendor has not been debarred, excluded, suspended or otherwise determined to be ineligible to participate in federal health care programs (collectively, “Debarment” or “Debarred,” as applicable); and (2) that the Vendor agrees to immediately notify the Director of Compliance at Brody School of Medicine in the event that the Vendor (a) receives notice of action or threat of action with respect to its Debarment during the term of this Agreement; or (b) becomes Debarred. Upon receipt of such notice from the Vendor, this Agreement shall automatically terminate without further action or notice.

**Deficit Reduction Act Compliance.** To the extent it is required by 42 U.S.C. 1396a(a)(68), as it relates to the provision of services under this Agreement, Vendor adopts and acknowledges having received written policies of East Carolina University regarding compliance with the federal False Claims Act, 31 U.S.C.3729-3733, administrative remedies for false claims and statements, 31 U.S.C. Chapter 38, state laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such federal and state false claims laws, as well as detailed information regarding East Carolina University’s policies and procedures for detecting and preventing fraud, waste, and abuse. <http://www.ecu.edu/cs-dhs/bsomcompliance/plan.cfm>

**Family Educational Rights and Privacy Act (FERPA) Compliance:** Vendor acknowledges that it is under the direct control of East Carolina University with respect to the use and maintenance of education records it may receive while performing under this Agreement. Vendor agrees to hold confidential (in accordance with state, federal laws and specifically as provided for under FERPA) all information (including any and all electronic files) it receives, and acknowledges that it is subject to and will comply with the re-disclosure requirements of 34 CFR 99.33(a) as it governs the use of education records provided by East Carolina University for performance of services under this Agreement. Vendor agrees it will redisclose personally identifiable information from an education record to another party only where necessary to perform services under this Agreement and only on the condition that the party to whom the information is redisclosed will not disclose the information to any other party without the prior written consent of the individual whose information is being disclosed. Vendor agrees that it will instruct those to whom personally identifiable information from an educational record is redisclosed that they may use the information only for the purpose the redisclosure was made. In addition, as it relates to the provision of services under this Agreement, Vendor acknowledges having received and adopts the written policies of East Carolina University regarding compliance with FERPA.

**AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE:** Vendor shall provide its digital technology products in a manner which is accessible and shall comply with rapidly changing accessibility guidelines. Vendor has implemented product guidelines across all of its digital platforms in accordance with the Web Content Accessibility Guidelines 2.1 (WCAG) Level AA and with guidelines under Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794d), and Offeror shall provide proof of its compliance as requested by the University. Contractor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services. Contractor further agrees to indemnify and hold harmless ECU from any claims arising out of its failure to comply with aforesaid requirements. Failure to comply with these requirements shall constitute a material breach and be grounds for termination of this Contract.

**HIPAA:** If the University provides the Vendor with personal identifiers as listed in N.C.G.S. 132-1.10 and in N.C.G.S. 14-133.20(b) or any other legally confidential information, Vendor hereby certifies that collection of this information from the University is necessary for the performance of Vendor’s duties and responsibilities on behalf of the University under this Agreement. Vendor further certifies that it shall maintain the confidential and exempt

status of any social security number information, as required by N.C.G.S. 132-1.10(c)(1), and comply with 42 USC 1320(d) the HIPAA, (Health Information Portability and Accountability Act). Vendor shall not re-disclose personally identifiable information as directed by State and Federal laws. Failure to abide by legally applicable security measures and disclosure restrictions may result in the interruption, suspension and/or termination of the relationship with Vendor for a period of at least five (5) years from date of violation.

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**ATTACHMENT J: EAST CAROLINA UNIVERSITY DATA SECURITY STANDARDS**

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- a) Care of Information: Vendor agrees to adhere to security industry best practices 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 disclosure, loss, destruction or erasure. When confidential information is shipped, the delivery shall be verified. All confidential information shall be encrypted when stored on portable devices or transmitted across wireless or public networks, including transmissions such as file transfer protocol (FTP) and electronic mail. Encryption algorithms for the transmission of confidential data must meet industry security standards. Upon the written request of State or, in any event, upon termination of the business relationship between the parties, Recipient shall surrender to State, return to State or destroy all materials in the possession, or under the reasonable control, of Recipient that contain Confidential Information, including any reports, analyses, memoranda and other materials that were prepared by Recipient, or its advisors, and that include or were based on the Confidential Information. Upon the return or destruction of such materials, Recipient agrees to certify, in writing, that all of the foregoing materials have been surrendered to the other party or destroyed in accordance with this Agreement.
- 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 NCGS §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 Information Portability and Accountability Act), any implementing regulations in the Code of Federal Regulations, and any future regulations imposed upon East Carolina University 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 (collectively, "Representatives"), 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. Vendor agrees to make no use of any Confidential Information except such use as is required in the evaluation of the potential and/or ongoing business transactions between the parties. Vendor limits access to any Confidential Information to those Representatives who (i) have a need-to-know such Confidential Information for the purpose of evaluating and conducting the business transaction (potential or otherwise) between the parties, (ii) have been advised of the confidential and proprietary nature of the Confidential Information and of the obligations set forth in this Agreement; and (iii) have agreed to be bound by the provisions hereof; and be responsible for any breach of this Agreement by its Representatives.
- d) Client Rights: Client shall have the right to review Vendor's audit reports and audit workpapers so that Client can formally ensure that controls are adequate. Client shall also have the right to review audit and consulting reports related to the appropriate and relevant controls. Client will use at least the same standard of care and security to maintain the confidentiality of the reports and workpapers that it uses to maintain the confidentiality of its own reports and workpapers. In no event may the standard of care and security be below that customary and reasonable under the circumstances. Client shall protect the confidentiality of audit reports and workpapers to the maximum extent permitted by the law. Client owns the rights to all data/records produced as part of this contract. All records created or produced in part or in whole are to be maintained for the duration of the contract, made available upon request, and removed upon written request and upon termination of the contract are to be turned over to the client. Client reserves the right to manage the data retention schedule of all data as part of this contract in accordance with the University's General Records Retention and Disposition Schedule (<http://www.ecu.edu/cs-lib/archives/gs1intro.cfm>) and vendor agrees to abide by written requests to remove client's data within 30 days of such requests.

- e) Security and Background Checks: The Agency reserves the right to conduct a security background check or otherwise approve any employee or agent provided by Vendor, and to refuse access to or require replacement of any such personnel for cause, including, but not limited to, technical or training qualifications, quality of work or change in security status or non-compliance with the Agency's security or other requirements.

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**ATTACHMENT K: EAST CAROLINA UNIVERSITY QUESTIONNAIRE**

Please read and complete the items listed below. This page is to be completed and returned with your bid. Failure to do so may subject your bid to rejection.

**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://www.doa.state.nc.us/hub/default.aspx>

Are you a Historically Underutilized Business (i.e., minority, woman or disabled-owned business)?  
Yes \_\_\_\_ No \_\_\_\_

If applicable, specify classification. \_\_\_\_\_

**2. HIPAA Compliance (Health Insurance Portability and Accountability Act)**

As part of your engagement, will you have access to any patient information for those patients of ECU Physicians or University Health Systems of Eastern Carolina? Yes \_\_\_\_ No \_\_\_\_

**3. FERPA Compliance (Family Educational Rights and Privacy Act)**

As part of your engagement, will you have access to any student education records or personal identifying information of students of East Carolina University? Yes \_\_\_\_ No \_\_\_\_

**4. Data Security**

As part of your engagement, will you have access to or be the recipient of any electronic data, documents, files, or other materials housed by East Carolina University? Yes \_\_\_\_ No \_\_\_\_

As part of your engagement, will you be hosting any electronic data, documents, files, or other materials for East Carolina University? Yes \_\_\_\_ No \_\_\_\_

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**ATTACHMENT L: EAST CAROLINA UNIVERSITY VENDOR CONDUCT ON CAMPUS**

Criminal Background: Contractor shall require all of its personnel servicing University’s properties under this IFB and subsequent contract to undergo a criminal background check for a period of no less than seven years prior to the date of hire. By assigning personnel to service University’s properties, Contractor warrants completion of a criminal background check for each employee assigned to service University properties that reflects no convictions of the following types of offenses: (1) larceny, petit theft, embezzlement, fraud, identity theft or other crimes of dishonesty, (2) any sex offenses and/or registration on a sex offender registry (of any state or the national sex offender registry), and/or (3) drug related offenses (possession, possession with the intent to sell or distribute). Contractor shall provide documentation on your letterhead that the background checks have been completed prior to starting the contract and during personnel changes. Contractor is required to keep the background checks on file through the duration of the contract. The University may, at any time during the contract, request copies of the background checks.

**CONTRACT PROFESSIONAL CODE OF CONDUCT**

The Contractor agrees to be responsible for and provide general supervision of all their employees working under this contract. All personnel employed during the term of this agreement, either as direct employees of the Contractor or as sub-contract employees, shall conduct themselves in a professional manner at all times. Horseplay, foul language or behavior, which creates a nuisance for the University, is prohibited. Smoking or the use of tobacco is prohibited in University facilities. The possession of illegal drugs or substances including alcohol, or being under the influence of these substances shall be grounds for immediate removal from the property and contract cancellation. Weapons of any kind concealed or otherwise, are strictly prohibited.

The Contractor shall ascertain that all employees or subcontractors abide by the following rules:

1. All contractor employees shall schedule an appointment for **ANY** campus meetings or campus visits with the respective Department(s) and/or ECU ITCS staff or **ANY** unescorted visits to University facilities within a minimum of five business days.
2. All contractor employees shall check-in with the respective Department(s) and/or ECU ITCS prior to any unescorted campus meetings or visits. The reason for the visit and an itinerary shall be communicated to Dining Services staff.
3. All contractor employees shall wear “Visitor” identification badges when on campus.
4. All contractor employees shall identify themselves as a contractor and not as a representative of the University.
5. All contractor employees shall obey any restricted areas unless escorted by University staff.
6. All contractor employees shall use professional language when engaging with any University staff, faculty, or students. Harassing or obscene language will not be tolerated.
7. The University reserves the right to remove any Contractor employee who fails to abide by these or other reasonable rules established by the University in conjunction with this contract.

OFFEROR: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**THIS PAGE MUST BE SIGNED AND INCLUDED IN YOUR PROPOSAL.**

**Unsigned proposals will not be considered**

**\*\*\* Failure to Return the Required Attachments May Eliminate  
Your Response from Further Consideration \*\*\***