

Solicitation (IFB, RFP, RFQ) No. _____

Bidder/Offeror: _____

**THIS PAGE IS TO BE FILLED OUT AND RETURNED WITH YOUR BID. FAILURE TO DO SO
MAY SUBJECT YOUR BID TO REJECTION.**

ATTENTION

Federal Employer Identification Number or alternate identification number
(e.g., Social Security Number) is used for internal processing, including bid tabulation.

Enter ID number here: _____

Pursuant to N.C.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.

STATE OF NORTH CAROLINA REQUEST FOR PROPOSALS

RFP #59-P2151

TITLE: Design and Printing Media Guides

ISSUE DATE: June 19, 2009

ISSUING AGENCY: Athletics Department

Sealed Proposals subject to the conditions made a part hereof will be received until **3:00 p.m., July 7, 2009** for furnishing services described herein.

SEND ALL PROPOSALS DIRECTLY TO THE ISSUING AGENCY ADDRESS AS SHOWN BELOW:

<u>DELIVERED BY US POSTAL SERVICE</u>	<u>DELIVERED BY ANY OTHER MEANS</u>
RFP NO. <u>59-P2151</u> North Carolina A&T State University Purchasing 1601 E Market Street Greensboro, NC 27411	RFP NO. <u>59-P2151</u> North Carolina A&T State University Purchasing 1601 E. Market Street Greensboro, NC 27411

IMPORTANT NOTE: Indicate firm name ("Technical Proposal" or "Cost Proposal") (*if applicable*), and RFP number on the front of each sealed proposal envelope or package, along with the date for receipt of proposals specified above.

Bids submitted via telegraph, facsimile (FAX) machine, telephone, and electronic means, including but not limited to e-mail, in response to this Request for Proposals will not be acceptable.

A copy of this entire Request for Proposal, properly executed, must be included with your submission. Any additions, deletions, changes, alterations to the state NC terms and conditions will render your submission noncompliant and therefore it cannot be considered.

Direct all inquiries concerning this RFP to:

Wendelin Douglas
Purchasing Department
1601 E. Market Street
Greensboro, NC 27411
(336) 334-7556
wdouglas@ncat.edu

NOTE: Questions concerning the specifications in this Request for Proposals will be received until 12:00 (Noon), June 27, 2009. Question must be sent via email to: Wendelin Douglas, wdouglas@ncat.edu, please insert RFP# in the subject of email. A summary of all questions and answers will be posted on the internet as an addendum, located under the RFP # being modified.
It is the offeror's responsibility to assure that all addenda have been reviewed and, if need be, signed and returned.

<http://www.doa.state.nc.us/pandc/>

Within two days after notification of award of a contract, the vendor must register in NC E-Procurement @ Your Service (<http://vendor.ncgov.com>).

INTRODUCTION

North Carolina Agricultural and Technology State University is a public, comprehensive, land-grant University committed to fulfilling its fundamental purpose through exemplary undergraduate instruction, scholarly and creative research, and effective public service. The University offers degree programs at the baccalaureate, master's and doctoral levels with emphasis in engineering, science, technology, literature and other academic areas.

As one of North Carolina's three engineering colleges, the university offers Ph.D programs in engineering. Basic and applied research is conducted by faculty in university center for excellence, in inter institutional relationships, and through significant involvement with several public and private agencies. The university also conducts major research through engineering transportation, and its extension programs in agriculture.

The purpose of the university is to provide an intellectual setting where students in higher education may find a sense of identification, belonging, responsibility, and achievement that will prepare them for roles of leadership and service in the communities where they will live and work. In this sense, the university serves as a laboratory for the development of excellence in learning, discovery and engagement

North Carolina A&T State University has a faculty and staff of 2,170 and a student body of 10,388. The volume of air travel for subsequent years is expected to equal or perhaps exceed that amount. However, the University does not guarantee any amounts.

SCOPE OF WORK

The Athletics Department is seeking a qualified supplier to design, print and deliver various publications and posters for the 2009-2010 seasons. The publications include football media, volleyball media guide, softball media guide, two basketball media guides and four football game-day magazines, basketball roster cards, color prints and posters for each varsity sport and schedule cards.

The various publications will require some design work and the flexibility of the supplier to make changes quickly without missing deadlines. NC A&T Athletics will furnish disks or through email, camera ready. The University has four home games Sept. 12, Sept. 19, Oct. 3, and Oct 31.

CONTRACT PERIOD: The term of the contract shall be for a maximum of one (1) year with an option that N.C. A&T may renew for up to two (2) additional one (1) year cycles. Either party can terminate the agreement with a sixty day written notice to the other party. If the contract is terminated by either party or is not renewed by N.C. A&T, the supplier must return all proprietary information within forty-eight (48) hours of termination.

CONTACT: The supplier shall provide one individual to serve as the single point of contact to N.C. A&T who is a fully qualified. This person will work closely with the North Carolina A&T Sports Information Director and serve as key contact for communication. This person may be required to visit N.C. A&T campus in person and as often as deemed necessary by the University during job production. Such visits shall include but not be limited to picking up and discussion of artwork, materials and proofs.

DELIVERY: Supplier must provide inside delivery FULL COUNT on specified dates with **NO SHORTAGE** or **OVERAGE**
Delivery will be made from _____ (city & state)

PACKAGING: pricing is to be uniformly packed in substantial cartons clearly labeled as to content and quantity. No full carton should weigh in excess of 50 pounds. Printing is to be packed as to prevent damage during shipment and storage.

QUALITY: All materials and workmanship for this job must be of high quality to be acceptable. All type settings, inks, presswork, make-ready, registration, folding, trimming, measurements, paper and other operations necessary to complete work must be of high quality in all respects, free from wrinkles and gap marks. An inferior job will not be accepted or paid by N.C. A&T. The University reserves the right to be sole judge as to what constitutes as a satisfactory job and will reject any work deemed to be unacceptable.

PROOFS: Color Composite or Blueline proofs are required to be provided to the N.C. A&T Sports Director and/or a designee for signature approval. The supplier shall be required to do all necessary proof corrections before final production.

Proofs are guaranteed within _____ consecutive calendar days after receipt of materials for each publication.

OWNERSHIP: All copy, disk, artwork, negatives, photos, electronic media, that is required to fulfill the scope of work herein remains or becomes the property of N.C. A&T and shall be returned to the University in excellent, reusable condition. Any charge for this shall be included in prices quoted herein. The supplier shall be held liable for any/all damages to materials.

In House Production: All print and design work should be completed in-house, no portion of the job is to be contracted out without prior written approval from Purchasing.

REQUIREMENTS: The supplier should be located within the Greensboro, North Carolina area for the purpose of providing proof checks. Supplier must have been in business providing similar services and products as specified in this RFP for at least five or more years. Provide a minimum of three (3) references for whom you have provided similar work.

Supplier must submit two (2) samples of printed pieces to show quality of work, especially bleeds, and flesh tones. Bids submitted without samples may be subject to rejection. Samples will be used to evaluate quality that can be expected and will be a factor in the evaluation of this proposal and award. After award of contract, bulky samples, except those submitted by the awarded bidder, maybe returned. The request must be submitted in writing along with the proposal number a self addressed envelope with postage paid. All samples must be clearly labeled with bidder's name.

FURNISH & DELIVER

SPORTS	QTY	DESCRIPTION	DELIVERY DATE	UNIT PRICE	EXTENDED PRICE	DESIGN COST
Football Game Day Magazine#1	750	88 pages (38 color pages) 4 color covers (100# gloss) Aqueous coding 80# gloss ext/50 b/k with bleeds Finish stapled	Sept. 11			
Football Game Day Magazine #2	400	88 pages (38 color pages) 4 color covers (100# gloss) Aqueous 80# gloss text/50 b/k with bleeds Finish stapled	Sept. 18			
Football Game Day Magazine #3	1000	88 pages (38 color pages) 4 color covers (100# gloss) Aqueous 80# gloss text/50 b/k with bleeds Finish stapled	Oct. 2			
Football Game Day Magazine #4	1000	88 pages (38 color pages) 4 color covers (100# gloss) Aqueous 80# gloss text/50 b/k with bleeds Finish stapled	Oct. 30			
Football Media Guide	400	160 pages black and white 4 color covers (100# gloss) Aqueous 80# gloss text/50 k/k with bleeds Finish 200 coil bind/200 perfect binding	July. 29			
Men's Basketball Media Guide		130 pages black and white Design Only				
Women's Basketball Media Guide		115 Pages black and white Design Only				

Volleyball Media Guide		60 pages black and white Design Only				
Baseball Media Guide		60 pages black and white Design Only				
Softball Media Guide		60 pages black and white Design Only				
Game Notes	5000	8.5 x 11 copy paper 100# gloss text	N/A			
Football Posters	800	18x24 print size 100# gloss text	July. 8			
Volleyball Posters	100	18x24 size 100# gloss text	July. 15			
Bowling/Swimming Combo Poster	50	18x24 size 100# gloss text	Oct. 12			
Baseball Posters	60	1 00# gloss text	Feb. 12, 2010			
Softball Posters	60	18x24 size 100# gloss text	Feb. 3, 2010			
Track and Field Posters	60	18x24 size 100# gloss text	Jan. 29, 2010			
Tennis Posters	40	18x24 size 100#gloss text	Jan. 20, 2010			
Men's Basketball Posters	200	18x24 size 100#gloss text	Oct. 30			
Women's Basketball Posters	200	18x24 size 100#gloss text	Oct. 30			
Football Schedule Cards	5000	4.5x35 folded to 2.25x3.5 100#gloss cover	July. 8			
MBB Schedule Cards	2000	4.5x3.5 folded to 2.25x3.5 100#gloss cover	Oct. 25			
WBB Schedule Cards	1,100	4.5x3.5 folded to 2.25x3.5 100#gloss cover	Oct. 25			
Basketball Roster Cards	1,600	8 pages full color 100#gloss text	Nov. 16			

TOTAL COST FOR ALL ITEMS \$ _____

Recycled Content: If the product herein contains any recycled content, please indicate here the material and content percentage
 _____ and _____ %

If the packaging contains any recycled content, please indicate here the material and content percentage:
 _____ and _____ %

THE PROCUREMENT PROCESS

The following is a general description of the process by which a firm will be selected to provide services.

1. Request for Proposals (RFP) is issued to prospective contractors.
2. A preproposal conference and/or deadline for written questions is set. (See cover sheet of this RFP for details.)
3. Proposals in one original and two (2) copies will be received from each offeror in a sealed envelope or package. Each original shall be signed and dated by an official authorized to bind the firm. Unsigned proposals will not be considered. Due to document imaging of files, proposal must be submitted in a manner facilitating ease of separation and scanning of documents, i.e., staples, in file folder, in a 3-ring notebook. No combs or other permanent binding methods will be accepted
4. All proposals must be received by the issuing agency not later than the date and time specified on the cover sheet of this RFP.
5. At that date and time the package containing the proposals from each responding firm will be opened publicly and the name of the offeror and cost(s) offered will be announced. 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 an offeror's pricing position.
6. At their option, the evaluators may request oral presentations or discussion with any or all offerors for the purpose of clarification or to amplify the materials presented in any part of the proposal. However, offerors are cautioned that the evaluators are not required to request clarification; therefore, all proposals should be complete and reflect the most favorable terms available from the offeror.
7. Proposals will be evaluated according to completeness, content, and experience with similar projects, ability of the offeror and its staff, and cost. Award of a contract to one offeror does not mean that the other proposals lacked merit, but that, all factors considered, the selected proposal was deemed most advantageous to the State. Evaluation to be scored as listed below:

Responsiveness of proposal and Conformity to Specification
Rates/Pricing
Samples
Reference Responses

In addition to any other evaluation criteria identified in the State agency's solicitation document, the agency shall, for purposes of evaluating proposed or actual contract performance outside of the United States, consider the following factors to ensure that any award will be in the best interest of the State:

Total cost to the State
Level of quality provided by the vendor
Process capability across multiple jurisdictions
Protection of the State's information and intellectual property
Availability of pertinent skills
Ability to understand the State's business requirements and internal operational culture
Risk factors such as the security of the State's information technology
Relations with citizens and employees
Contract enforcement jurisdictional issues

8. Offerors are cautioned that this is a request for offers, not a request to contract, and the State reserves the unqualified right to reject any and all offers when such rejection is deemed to be in the best interest of the State.

PROPOSAL REQUIREMENTS

The response to this RFP shall consist of the following sections:

Corporate Background and Experience
Financial Statement
Project Staffing and Organization
Technical Approach
Cost Proposal

1. Corporate Background and Experience

This section shall include background information on the organization and should give details of experience with similar projects. A list of references (including contact persons and telephone numbers) for whom similar work has been performed shall be included.

2. Financial Statement

The offeror's most recent audited financial statement or similar evidence of financial stability shall be provided.

3. Project Organization

This section must include the proposed staffing, deployment and organization of personnel to be assigned to this project.

The offeror shall provide information as to the qualifications and experience of all executive, managerial, legal, and professional personnel to be assigned to this project, including resumes citing experience with similar projects and the responsibilities to be assigned to each person.

4. Technical Approach

This section shall include, in narrative, outline, and/or graph form the offeror's approach to accomplishing the tasks outlined in the Scope of Work section of this RFP. A description of each task and deliverable and the schedule for accomplishing each shall be included.

5. Outsourcing

The Vendor must detail the manner in which it intends to utilize resources or workers located outside of the United States, and the State of North Carolina will evaluate the additional risks, costs and other factors associated with such utilization to make the award for this proposal as deemed by the awarding authority to be in the best interest of the State.

For any proposed or actual utilization or contract performance outside of the United States, the offeror's proposal must include:

- a) The location of work performed under a state contract by the vendor, any subcontractors, employees, or other persons performing the contract.
- b) The corporate structure and location of corporate employees and activities of the vendors, its affiliates or any subcontractors.

The State may initiate proceedings to debar a vendor from participation in the bid process and from contract award as authorized by North Carolina law, if it is determined that the vendor has refused to disclose or has falsified any information provided herein.

6. Cost Proposal

The Cost Proposal shall be submitted (in a separate, sealed package, if applicable) and contain:

Personnel costs (including hourly rates and total hours)
Travel and Subsistence Expenses
Subcontractor Costs (if any)
Other Costs (e.g., office expenses)
TOTAL COST A total not to exceed cost representing the maximum amount for all work to be performed must be clearly indicated under this heading.

COST PROPOSAL/EXECUTION OF PROPOSAL

By submitting this proposal, the potential contractor certifies the following:

This proposal is signed by an authorized representative of the firm.

It can obtain insurance certificates as required within 10 calendar days after notice of award.

The cost and availability of all equipment, materials, and supplies associated with performing the services described herein have been determined and included in the proposed cost.

All labor costs, direct and indirect, have been determined and included in the proposed cost.

The offeror has attended the *(mandatory?)* conference/site visit and is aware of prevailing conditions associated with performing these services *(if applicable)*.

The offeror can and will provide the specified performance bond or alternate performance guarantee *(if applicable)*.

The potential contractor has read and understands the conditions set forth in this RFP and agrees to them with no exceptions.

The offeror is registered in NC E-Procurement @ Your Service or agrees to register within two days after notification of contract award.

Therefore, in compliance with this Request for Proposals, and subject to all conditions herein, the undersigned offers and agrees, if this proposal is accepted within *(agency fill in)* days from the date of the opening, to furnish the subject services for a cost not to exceed \$ _____.

OFFEROR: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

TELEPHONE NUMBER: _____ FAX: _____

E-MAIL: _____

Principal Place of Business if different from above (See General Information on Submitting Proposals, Item 18.):

**Will any of the work under this contract be performed outside the United States?
(If yes, describe in technical proposal.)**

☐ Yes

☐ No

BY: _____ TITLE: _____ DATE: _____
(Signature)

(Printed name)

ACCEPTANCE OF PROPOSAL

(Using Agency Name)

BY: _____ TITLE: _____ DATE: _____

THIS PAGE MUST BE SIGNED AND INCLUDED IN YOUR PROPOSAL.

Unsigned proposals will not be considered.

Where Service Contracts Will Be Performed

In accordance with NC General Statute 143-59.4 (Session Law 2005-169),
this form is to be completed and submitted with the offeror's (technical) proposal/bid.

Issuing Agency: *(agency fill in)* Solicitation # *(agency fill in)*
Agency Contact Person & phone #: *(agency fill in)*
Solicitation Title / Type of Services: *(agency fill in)*

OFFEROR: _____
City & State: _____

Location(s) from which services will be performed by the contractor:

Service	City/Providence/State	Country
_____	_____	_____
_____	_____	_____
_____	_____	_____

Location(s) from which services are anticipated to be performed outside the U.S. by the contractor:

_____	_____	_____
_____	_____	_____

Location(s) from which services will be performed by subcontractor(s):

Service	Subcontractor	City/Providence/State	Country
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Location(s) from which services are anticipated to be performed outside the U.S. by the subcontractor(s):

_____	_____	_____	_____
_____	_____	_____	_____

(Attach additional pages if necessary.)

GENERAL INFORMATION ON SUBMITTING PROPOSALS

1. **EXCEPTIONS:** All proposals are subject to the terms and conditions outlined herein. All responses shall be controlled by such terms and conditions and the submission of other terms and conditions, price lists, catalogs, and/or other documents as part of an offeror's response will be waived and have no effect either on this Request for Proposals or on any contract that may be awarded resulting from this solicitation. Offeror specifically agrees to the conditions set forth in the above paragraph by signature to the proposal.
2. **CERTIFICATION:** By executing the proposal, the signer certifies that this proposal is submitted competitively and without collusion (G.S. 143-54), that none of our 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 that we are not an ineligible vendor as set forth in G.S. 143-59.1. False certification is a Class I felony.
3. **ORAL EXPLANATIONS:** The State shall not be bound by oral explanations or instructions given at any time during the competitive process or after award.
4. **REFERENCE TO OTHER DATA:** Only information which is received in response to this RFP will be evaluated; reference to information previously submitted shall not be evaluated.
5. **ELABORATE PROPOSALS:** Elaborate proposals in the form of brochures or other presentations beyond that necessary to present a complete and effective proposal are not desired.

In an effort to support the sustainability efforts of the State of North Carolina we solicit your cooperation in this effort.

It is desirable that all responses meet the following requirements:

- All copies are printed **double sided**.
 - All submittals and copies are printed on **recycled paper with a minimum post-consumer content of 30%** and indicate this information accordingly on the response.
 - Unless absolutely necessary, all proposals and copies should **minimize or eliminate use of non-recyclable or non re-usable materials** such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
 - Materials should be submitted in a format which allows for **easy removal and recycling** of paper materials.
6. **COST FOR PROPOSAL PREPARATION:** Any costs incurred by offerors in preparing or submitting offers are the offerors' sole responsibility; the State of North Carolina will not reimburse any offeror for any costs incurred prior to award.
 7. **TIME FOR ACCEPTANCE:** Each proposal shall state that it is a firm offer which may be accepted within a period of 30 days. Although the contract is expected to be awarded prior to that time, the 30 day period is requested to allow for unforeseen delays.
 8. **TITLES:** Titles and headings in this RFP and any subsequent contract are for convenience only and shall have no binding force or effect.
 9. **CONFIDENTIALITY OF PROPOSALS:** In submitting its proposal the offeror agrees not to discuss or otherwise reveal the contents of the proposal to any source outside of the using or issuing agency, government or private, until after the award of the contract. Offerors not in compliance with this provision may be disqualified, at the option of the State, from contract award. Only discussions authorized by the issuing agency are exempt from this provision.
 10. **RIGHT TO SUBMITTED MATERIAL:** All responses, inquiries, or correspondence relating to or in reference to the RFP, and all other reports, charts, displays, schedules, exhibits, and other documentation submitted by the offerors shall become the property of the State when received.
 11. **OFFEROR'S REPRESENTATIVE:** Each offeror shall submit with its proposal the name, address, and telephone number of the person(s) with authority to bind the firm and answer questions or provide clarification concerning the firm's proposal.
 12. **SUBCONTRACTING:** Offerors may propose to subcontract portions of the work provided that their proposals clearly indicate what work they plan to subcontract and to whom and that all information required about the prime contractor is also included for each proposed subcontractor.
 13. **PROPRIETARY INFORMATION:** Trade secrets or similar proprietary data which the offeror does not wish disclosed to other than personnel involved in the evaluation or contract administration will be kept confidential to the extent permitted by NCAC T01:05B.1501 and G.S. 132-1.3 if identified as follows: Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL". Any section of the proposal which is to remain confidential shall also be so marked in boldface on the title page of that section. Cost information may not be deemed confidential. In spite of what is labeled as confidential, the determination as to whether or not it is shall be determined by North Carolina law.

14. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order #150, the State invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.
15. **PROTEST PROCEDURES:** : When an offeror wants to protest a contract awarded by the Secretary of Administration or by an agency over \$25,000 resulting from this solicitation, they must submit a written request to the State Purchasing Officer at Purchase and Contract, 1305 Mail Service Center, Raleigh, NC 27699-1305. This request must be received in the Division of Purchase and Contract within thirty (30) consecutive calendar days from the date of the contract award. When an offeror wants to protest a contract awarded by an agency or university resulting from this solicitation that is over \$10,000 but less than \$25,000 for any agency, or any contract awarded by a university, they must submit a written request to the issuing procurement officer at the address of the issuing agency. This request must be received in that office within thirty (30) consecutive calendar days from the date of the contract award. Protest letters must contain specific 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. Contract status and Award notices are posted on the Internet at <http://www.doa.state.nc.us/pandc/>. All protests will be handled pursuant to the North Carolina Administrative Code, Title 1, Department of Administration, Chapter 5, Purchase and Contract, Section 5B.1519. (See Protest Information at <http://www.doa.state.nc.us/PandC/protests.pdf> for more information.)
16. **TABULATIONS:** The Division has implemented an Interactive Purchasing System (IPS) that allows the public to retrieve bid tabulations electronically from our Internet web site: <http://www.doa.state.nc.us/pandc/>. Click on the IPS BIDS icon, click on Search for Bid, enter the RFP number, and then search. Tabulations will normally be available at this web site not later than one working day after opening. Lengthy tabulations may not be available on the Internet, and requests for these verbally or in writing cannot be honored.
17. **VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM:** Vendor Link NC allows vendors to electronically register free with the State to receive electronic notification of current procurement opportunities for goods and services available on the Interactive Purchasing System. Online registration and other purchasing information are available on our Internet web site: <http://www.doa.state.nc.us/pandc/>.
18. **RECIPROCAL PREFERENCE:** G.S. 143-59 establishes a reciprocal preference law to discourage other states from applying in-state preferences against North Carolina's resident offerors. The "Principal Place of Business" is defined as the principal place from which the trade or business of the offeror is directed or managed.

NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS
(Contractual and Consultant Services)

NOTE: For “Agency”, substitute “Department”, “University”, etc., as applicable.

1. **GOVERNING LAW:** This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina.
2. **SITUS:** The place of this contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined
3. **INDEPENDENT CONTRACTOR:** The Contractor shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with the Agency.
4. **KEY PERSONNEL:** The Contractor shall not substitute key personnel assigned to the performance of this contract without prior written approval by the Agency's Contract Administrator. The individuals designated as key personnel for purposes of this contract are those specified in the Contractor's proposal.
5. **SUBCONTRACTING:** Work proposed to be performed under this contract by the Contractor or its employees shall not be subcontracted without prior written approval of the Agency's Contract Administrator. Acceptance of an offeror's proposal shall include any subcontractor(s) specified therein.
6. **PERFORMANCE AND DEFAULT:** If, through any cause, the Contractor shall fail to fulfill in timely and proper manner the obligations under this agreement, the Agency shall thereupon have the right to terminate this contract by giving written notice to the Contractor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items under this contract prepared by the Contractor shall, at the option of the Agency, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials. Notwithstanding, the Contractor shall not be relieved of liability to the Agency for damages sustained by the Agency by virtue of any breach of this agreement, and the Agency may withhold any payment due the Contractor for the purpose of setoff until such time as the exact amount of damages due the Agency from such breach can be determined.

In case of default by the Contractor, the State may procure the services from other sources and hold the Contractor responsible for any excess cost occasioned thereby. The State reserves the right to require a performance bond or other acceptable alternative performance guarantees from successful offeror without expense to the State.

In addition, in the event of default by the Contractor under this contract, the State may immediately cease doing business with the Contractor, immediately terminate for cause all existing contracts the State has with the Contractor, and de-bar the Contractor from doing future business with the State

Upon the Contractor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Contractor, the State may immediately terminate, for cause, this contract and all other existing contracts the Contractor has with the State, and de-bar the Contractor from doing future business

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 by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

7. **TERMINATION:** The Agency may terminate this agreement at any time by _____ days notice in writing from the Agency to the Contractor. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Agency, become its property. If the contract is terminated by the Agency as provided herein, the Contractor shall be paid for services satisfactorily completed, less payment or compensation previously made.
8. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice(s) or acceptance of services, whichever is later, or in accordance with any special payment schedule identified in this RFP. The using agency is responsible for all payments to the contractor under the contract. Payment by some agencies may be made by procurement card and it shall be accepted by the contractor for payment if the contractor accepts that card (Visa, Mastercard, etc.) from other customers. If payment is made by procurement card, then payment may be processed immediately by the contractor.
9. **AVAILABILITY OF FUNDS:** Any and all payments to the Contractor are dependent upon and subject to the availability of funds to the Agency for the purpose set forth in this agreement.
10. **CONFIDENTIALITY:** Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Contractor under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the Agency.
11. **CARE OF PROPERTY:** The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished it for use in connection with the performance of this contract or purchased by it for this contract and will reimburse the State for loss of damage of such property.

12. **COPYRIGHT:** No deliverable items produced in whole or in part under this agreement shall be the subject of an application for copyright by or on behalf of the Contractor.
13. **ACCESS TO PERSONS AND RECORDS:** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7. The Contractor shall retain all records for a period of three years following completion of the contract.
14. **ASSIGNMENT:** No assignment of the Contractor's obligations nor the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the State may:
- Forward the contractor's payment check(s) directly to any person or entity designated by the Contractor, or
 - Include any person or entity designated by Contractor as a joint payee on the Contractor's payment check(s).
- In no event shall such approval and action obligate the State to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of all contract obligations.
15. **COMPLIANCE WITH LAWS:** The Contractor 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.
16. **AFFIRMATIVE ACTION:** The Contractor shall take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or disability.
17. **INSURANCE:** During the term of the contract, the contractor 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 contractor shall provide and maintain the following coverage and limits:
- Worker's Compensation - The contractor 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 \$150,000.00, covering all of Contractor's employees who are engaged in any work under the contract. If any work is subcontracted, the contractor shall require the subcontractor to provide the same coverage for any of its employees engaged in any work under the contract.
 - Commercial General Liability - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability).
 - 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 \$150,000.00 bodily injury and property damage; \$150,000.00 uninsured/under insured motorist; and \$1,000.00 medical payment.

Providing and maintaining adequate insurance coverage is a material obligation of the contractor 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 contractor 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 contractor shall not be interpreted as limiting the contractor's liability and obligations under the contract.

18. **ADVERTISING:** The offeror shall not use the award of a contract as part of any news release or commercial advertising.
19. **ENTIRE AGREEMENT:** This contract and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This Request for Proposals, any addenda thereto, and the offeror's proposal are incorporated herein by reference as though set forth verbatim.
- All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.
20. **AMENDMENTS:** This contract may be amended only by written amendments duly executed by the Agency and the Contractor. The NC Division of Purchase and Contract shall give prior approval to any amendment to a contract awarded through that office.
21. **TAXES:** G.S. 143-59.1 bars the Secretary of Administration from entering into contracts with vendors if the vendor or its affiliates meet one of the conditions of G. S. 105-164.8(b) and refuse to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the proposal document the vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.

22. **YEAR 2000 COMPLIANCE/WARRANTY:** Vendor shall ensure the product(s) and service(s) furnished pursuant to this agreement ("product" shall include, without limitation, any piece of equipment, hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interfaces therein) which perform any date and/or time data recognition function, calculation, or sequencing, will support a four digit year format, and will provide accurate date/time data and leap year calculations on and after December 31, 1999, at the same level of functionality for which originally acquired without additional cost to the user. This warranty shall survive termination or expiration of the agreement.
23. **GENERAL INDEMNITY:** The contractor shall hold and save the State, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses 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, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the contractor in the performance of this contract and that are attributable to the negligence or intentionally tortious acts of the contractor provided that the contractor is notified in writing within 30 days that the State has knowledge of such claims. The contractor represents and warrants that it shall make no claim of any kind or nature against the State's agents who are involved in the delivery or processing of contractor goods to the State. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.
24. **OUTSOURCING:** Any vendor or subcontractor providing call or contact center services to the State of North Carolina shall disclose to inbound callers the location from which the call or contact center services are being provided.

If, after award of a contract, the contractor wishes to outsource any portion of the work to a location outside the United States, prior written approval must be obtained from the State agency responsible for the contract.

Vendor must give notice to the using agency of any relocation of the vendor, employees of the vendor, subcontractors of the vendor, or other persons performing services under a state contract outside of the United States.

8/01/2008