

STATE OF NORTH CAROLINA STATEWIDE IT PROCUREMENT OFFICE	REQUEST FOR PROPOSAL NO. ITS-006039
	Bids will be publicly opened: December 29, 2011 at 2:00 pm Eastern Standard Time (EST)
	Contract Type: Open Market
Refer <u>ALL</u> Inquiries to: Charles Branch Telephone No. 919-754-6616 Fax No. 919-715-8549	Date Issued: November 14, 2011 Commodity Number: 208 – Software Commodity: Electronic Content Management and Business Process Management
E-Mail: charles.branch@nc.gov	Using Agency Name: NC Department of Labor
(See page 2 for delivery instructions)	Agency Requisition No. N/A

OFFER AND ACCEPTANCE: This solicitation advertises the State's needs for the services and/or goods described herein. The State seeks proposals comprising competitive bids offering to sell the services and/or goods described in this solicitation. All proposals and responses received shall be treated as offers to contract. The State's acceptance of any proposal must be demonstrated by execution of the acceptance found below, and any subsequent Request for Best and Final Offer, if issued. Acceptance shall create a contract having an order of precedence among terms as follows: Special terms and conditions specific to this RFP, Specifications of the solicitation documents, except as amended, the State's General Terms and Conditions for Goods and Related Services, as may be amended by the Supplemental Terms annexed hereto, if any, Best and Final Offers, if any and the awarded Vendor's proposal.

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

Failure to execute/sign bid prior to submittal shall render bid invalid. Late bids are not acceptable.

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

Offer valid for one hundred twenty (120) days from date of bid opening unless otherwise stated here: _____ days

ACCEPTANCE OF BID: If any or all parts of this bid are accepted, an authorized representative of NC Department of Labor shall affix their signature hereto and this document and the provisions of the special terms and conditions specific to this Request for Proposal, the specifications, and the State's General and Supplemental Terms and Conditions shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful Vendor(s).

<u>FOR NC DEPARTMENT OF LABOR USE ONLY</u> Offer accepted and contract awarded this ____ day of _____, 201_, as indicated on attached certification, by _____ (Authorized representative of NCDOL).
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ISSUING AGENCY: **Statewide IT Procurement Office**
333 E. Six Forks Road
Raleigh, North Carolina 27609

USING AGENCY: **North Carolina Department of Labor**
1101 Mail Service Center
Raleigh, North Carolina 27699-1101

DELIVERY INSTRUCTIONS: Vendor must deliver one (1) **signed original** and four (4) **copies** of the Proposal to Issuing Agency in a sealed package with Company Name and RFP Number clearly marked on the front. Vendor must also submit one (1) **electronic, signed copy** of its proposal on read-only CD/DVD(s) or USB Flash Drive. The files on the discs should not be password-protected and should be capable of being copied to other media.

DELIVERED BY US POSTAL SERVICE	DELIVERED BY ANY OTHER MEANS
BID NUMBER: ITS-006039 Statewide IT Procurement Office Attn: Charles Branch, Contract Specialist 333 E. Six Forks Rd, 2 nd Floor Raleigh, NC 27609	BID NUMBER: ITS-006039 Statewide IT Procurement Office Attn: Charles Branch, Contract Specialist 333 E. Six Forks Rd, 2 nd Floor Raleigh, NC 27609

Sealed bids, subject to the conditions made a part hereof, will be received at 333 E. Six Forks Rd, 2nd Floor, Raleigh, NC until 2:00 pm Eastern Standard Time on the day of opening and then opened, for furnishing and delivering the commodity as described herein. Proposals for this RFP must be submitted in a sealed package with the Execution of Proposal signed and dated by an official authorized to bind the Vendor's firm. Failure to return a signed execution of proposal shall result in disqualification. All proposals must comply with Section VI, Proposal Content and Organization.

Proposals will not be accepted by electronic means. This RFP is available electronically in PDF format only at <http://www.ips.state.nc.us/ips/pubmain.asp>. All inquiries regarding the RFP requirements are to be addressed to the contact person listed on Page One.

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."

Written questions concerning this RFP will be received until November 22, 2011 at 2:00 PM EST. They must be sent via e-mail to: charles.branch@nc.gov or faxed to (919)715-8549. Please insert "Questions ITS-006039" as the subject for the email. The questions are to be submitted in the following format:

Citation	Vendor Question	The State's Response
Bid Section, Page Number		

The State will prepare responses to all written questions submitted, and post an addendum to the Interactive Purchasing System (IPS), <http://www.ips.state.nc.us/ips/pubmain.asp>. Oral answers are not binding on the State.

Vendor contact regarding this RFP with anyone other than Charles Branch may be grounds for rejection of said Vendor's offer.

Addendum to RFP: If a pre-bid conference is held or written questions are received prior to the submission date, an addendum comprising questions submitted and responses to such questions, or any additional terms deemed necessary by the State will be posted to the Interactive Purchasing System (IPS), <http://www.ips.state.nc.us/ips/deptbids.asp>, and shall become an Addendum to this RFP. Vendors' questions posed orally at any pre-bid conference must be reduced to writing by the Vendor and provided to the Purchasing Officer as directed by said Officer.

Critical updated information may be included in these Addenda. It is important that all Vendors bidding on this proposal periodically check the State website for any and all Addenda that may be issued prior to the bid opening date.

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

NOTICE TO VENDORS: The State objects to and will not be required to evaluate or consider any additional terms and conditions submitted with a Bidder's response. This applies to any language appearing in or attached to the document as part of the Bidder's response. By execution and delivery of this Request for Proposal and response(s), the Bidder agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect.

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

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I. Introduction

The purpose of this Request for Proposal (RFP) is to obtain pricing for and select a Vendor to provide an integrated Enterprise Content Management (ECM) and Business Process Management (BPM) system for the North Carolina Department of Labor (NCDOL). This will be a *Definite Quantity Contract*: a close-ended contract between the awarded Vendor and the State to furnish a pre-determined quantity of a good or service during a specified period of time.

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

Alternatively, the NCDOL has the option of deploying EMC Documentum® as its ECM system under an existing enterprise-wide offering through the North Carolina Office of Information Technology Services (ITS). Bids for BPM suites capable of integrating with Documentum® which meet the business objectives and technical requirements in this RFP will also be considered.

Vendors with integrated ECM/BPM suites have the option of bidding their BPM suites separately (to be integrated with Documentum®). For reference, detailed information regarding the Office of Information Technology Services' offering of Documentum® for enterprise content management can be found at <http://www.its.nc.gov/serviceCatalog/ecm/>. Seamlessness of integration and cost-effectiveness of the total solution will be primary determinants in the final decision.

In either scenario, the expected final outcome is to be an integrated system comprising the ECM and BPM capabilities described below in this RFP.

Separate sections of this RFP address requirements for the following Services:

- Migration of legacy content from the existing ECM system to the proposed new system
- Training
- Technical support/maintenance
- Deployment assistance

Products and Services must be provided in accordance with the terms and conditions of this RFP.

Section 1.1: Business Background

NCDOL is a Council of State agency comprising approximately four hundred (400) employees in twenty (20) discrete business units referred to as divisions or bureaus. The primary mission of NCDOL is to enforce and enhance workplace safety in North Carolina, including (among others) programs to:

- Enforce federal Occupational Safety and Health Administration (OSHA) regulations;
- Advise industry on improving safety programs and practices through a cost-free consultative program;
- Inspect boilers and pressure vessels to avoid catastrophic failure;
- Inspect elevators and amusement devices, including those at county and state fairs;
- Ensure farm safety and adequate housing for migrant agricultural workers through a system of inspections and training;
- Train mine and quarry operators to improve safety programs.

In addition, the Department also:

- Administers the federal Apprenticeship Program, to structure and oversee on-the-job training programs in many different industries;
- Enforces state and federal Wage and Hour laws;

- Investigates cases of employment discrimination, in which businesses retaliate against employees who engage in legally protected actions, such as reporting safety violations to state or federal agencies.

For a complete list of NCDOL bureaus and divisions and a concise description of their missions, please refer to Attachment B: NCDOL Organizational Structure.

Effectively supporting the systems development needs for the Department poses several challenges for the NCDOL Information Technology (IT) Division:

- IT must create and support multiple, disparate software applications, since the mission of each of the Department's twenty bureaus and divisions is unique.
- This fragmentation poses a serious challenge to the relatively small applications development team (4.5 full-time equivalents, or FTEs).
- There are ever-increasing pressures to streamline operations and increase operating efficiencies in the face of cost-cutting measures and budget austerity.
- Of course, demands by constituents for improved services continue to escalate.

The Department is migrating from its current ECM system, IBM FileNet® Content Services (CS) Version 5.4. FileNet® has been used since the year 2000 to electronically archive scanned paper documents in support of the Department's records retention policies.

Section 1.2: Business Objectives

To address its software development challenges and to effectively update its enterprise content management system, NCDOL IT undertook a department-wide business analysis effort. Based on in-depth interviews with various bureaus and divisions, this business analysis has uncovered many of the overall requirements for systems development in the Department.

Our business objectives related to **ECM** include the following:

- The Department must replace its obsolete electronic document archiving system, FileNet® CS V5.4. FileNet® was successfully implemented and used for over ten years by multiple bureaus in the Department and now serves as the backbone for many business processes in the Department where electronic document storage is required.
- FileNet® CS V5.4 is no longer supported by the manufacturer and must therefore be replaced with a solution offering at least the same level of functionality as currently implemented by the Department with FileNet®. This RFP accurately summarizes all expected ECM functionality at a high level.
- Subsequent to implementing a new content management solution, the Department expects to migrate all legacy content currently stored in FileNet® to the proposed new system. The migration of content from FileNet® to the proposed solution is addressed in Section 3.11.9 of this RFP.
- The Department recognizes a need for more effective and timely collaboration between business units, both within the Department and outside it. Several NCDOL bureaus enforce workplace safety laws; their efforts result in large case files that must be shared and reviewed, often in parallel by physically distant parties.
Collaboration to date has been paper-based or built on ad hoc efforts using email and office suite products. These efforts are not reliable or optimal. NCDOL recognizes the potential efficiency gains of moving to electronic collaboration. We further realize the ability of many integrated content management/business process management systems to support electronic collaboration, and expect the proposed ECM/BPM system to include this capability.
- The Department must manage the disposition of archived electronic documents in an organized, controlled fashion per the retention policies of the Department. Records management is therefore a requirement in this RFP.

- Underlying the objectives above, there is a need to more effectively manage native electronic documents such as Microsoft® Word® documents and Excel® spreadsheets. Current practice is rudimentary storage on local drives or a shared network drive. More effective document management would include: centralized storage to allow remote access via VPN; version control; support for case files comprising disparate file types and integrated backup and retrieval.

Relative to **BPM**, the Department recognizes an overall need to **automate business processes** more efficiently. The types of processes to be automated include **simple workflows**, **complex workflows** that encompass the entire mission of a given bureau, and **investigative case management**.

Current practice for process automation is to hand-code large and small applications using ColdFusion® on an Oracle® database. Limitations of this approach are as expected: it is slow on initial build, difficult to maintain and hard to adapt to changes, which are constant. The Department believes that business process management suites address these issues.

The overall relative priority of these initiatives is:

1. Deploy the new ECM system for document imaging services.
2. Migrate existing FileNet content to the new system.
3. Restore the current level of document imaging capabilities.
4. Deploy initial document library services to selected business units (to be determined).
5. Automate initial selected basic workflows (to be determined) using the new BPM suite.
6. Support case management in one selected bureau.

Initial deployment projects outlined above are expected to be complete within one (1) calendar year of contract award. The BPM and case management projects scheduled for initial deployment (that are within the scope of this project) comprise only a small subset of all projects eventually expected to be addressed by the proposed ECM/BPM product. Initial deployment projects have been/will be selected for their suitability to knowledge transfer to the DOL IT team. The Department expects to gradually address additional, larger automation projects in a phased approach using primarily DOL programmer resources once we have mastered the proposed technology; these additional phases are beyond the scope of this project.

Section II. Bidding Information

A. Instructions to Vendors

Additional acronyms, definitions and abbreviations may be included in the text of the RFP.

- 1) Proposals submitted electronically, or via facsimile (FAX) machine will not be accepted.
- 2) **EXECUTION**: Failure to sign under EXECUTION section will render proposal invalid. Any modification of or addition to the EXECUTION section whatsoever will render the proposal invalid.
- 3) **NEGOTIATION**: The State may set up a competitive range of responsive bidders and may negotiate with one or more of those responsive bidders to produce a bid that is more advantageous to the State. The evaluations following negotiations will also be performed using the Best Value Analysis Method. The negotiated changes, including, without limitation, those revisions anticipated in 09 NCAC 06A.102(9), will be submitted by the Vendor to the State in Best And Final Offer(s) (BAFOs). The State also reserves the right to negotiate with known sources of supply under the conditions and terms of 09 NCAC 06B.0403. "Known sources of supply" may include bidders in this solicitation and/or other suppliers. In any event, what is "advantageous to the State" shall be determined solely by the State at its discretion. (09 NCAC 06B.0302, 06B.0403)
- 4) **VENDOR'S STANDARD LICENSE AND MAINTENANCE AND SUPPORT AGREEMENT(S)**: The terms and conditions of Vendor's standard license and/or maintenance agreement(s) applicable to Software and other Products and maintenance and support Services acquired under this Agreement may apply to the extent that such terms or conditions do not materially change the terms and conditions

of this Agreement. In the event of any conflict between the terms or conditions of this Agreement and the Vendor's standard agreement(s), the terms and conditions of this Agreement relating to: audit and records; governing laws, jurisdiction and venue; choice of law; remedy for intellectual property infringement; the exclusive remedies and limitation of liability; governmental restrictions; prohibition against contingent fees and gratuities; availability of funds; patent, copyright and trade secret protections; and termination shall apply in all cases and supersede any provisions contained in the Vendor's Software licensing agreement or any other agreement. The State shall not be obligated under any standard license and/or maintenance agreement(s) to indemnify or hold harmless the Vendor, its licensors, successors or assigns. Any provision in a standard license or maintenance and support agreement is void to the extent that it: (i) modifies the statute of limitations or alters the time period within which an action must be brought; (ii) provides that a remedy offered by the Vendor is the State's sole or exclusive remedy; (iii) requires payment of late fees or interest; (iv) provides for automatic renewal of a license or support and maintenance agreement; (v) requires arbitration; and (vi) states that the terms of the Vendor's standard third-party software or maintenance and support agreement govern and prevail, or otherwise contains an integration clause or whole agreement clause.

- 5) **PAYMENT SCHEDULE:** Payments to the Vendor for Services as specified below in this RFP shall be incremental and based on successful completion of milestones to be determined during final contract negotiations.
- 6) **TIME FOR CONSIDERATION:** Unless otherwise indicated on the first page of this document, Vendor's offer must be valid for 120 days from the date of proposal opening.
- 7) **FAILURE TO MEET PROPOSAL REQUIREMENTS:** While it is not anticipated that the awarded Vendor will fail to meet the proposal requirements, if such should occur, the right is reserved to further evaluate the responses to this RFP and then to recommend an award to the next Vendor response that represents the best interest of the State.
- 8) **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.
- 9) **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.
- 10) **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 Interactive Purchasing System at the following web site: <https://www.ips.state.nc.us/IPS/Vendor/Vndrmess.asp>
- 11) **ORGANIZATION:** Vendors are directed to carefully review Section VI herein and fully comply with the content and organizational requirements therein.
- 12) **E-PROCUREMENT:** **This is an e-procurement solicitation.** See paragraph #47 of the attached Information Technology Terms and Conditions for Goods and Related Services. The Terms and Conditions made part of this solicitation contain language necessary for the implementation of North Carolina's statewide e-procurement initiative. It is the Vendor's responsibility to read these terms and conditions carefully and to consider them in preparing the offer. By signature, the Vendor acknowledges acceptance of all terms and conditions including those related to e-procurement.
 - a. General information on the e-procurement service can be found at <http://eprocurement.nc.gov/>
 - b. Within two days after notification of award of a contract, vendor must register in NC E-Procurement @ Your Service at the following web site: <http://eprocurement.nc.gov/Vendor.html>
 - c. As of the RFP submittal date, the Vendor must be current on all e-Procurement fees. If the Vendor is not current on all e-Procurement fees, the State may disqualify the Vendor from participation in this RFP.

B. General Conditions for Proposals

Definitions, Acronyms and Abbreviations. Generally, see 9 NCAC 06A.0102 for definitions. The following are additional defined terms:

- a) **The State:** Is the State of North Carolina, and its Agencies.
 - b) **NCDOL:** North Carolina Department of Labor
 - c) **ITS:** Office of Information Technology Services.
 - d) **Goods:** Includes intangibles such as computer software; provided, however that this definition does not modify the definition of "goods" in the context of N.C.G.S. §25-2-105 (UCC definition of goods).
 - b) **Vendor:** Company, firm, corporation, partnership, individual, etc., submitting a response to a solicitation.
 - c) **Open Market Contract:** A contract for the purchase of goods or services not covered by a term, technical, or convenience contract.
 - d) **24x7:** A statement of availability of systems, communications, and/or supporting resources every hour (24) of each day (7 days weekly) throughout every year for periods specified herein. Where reasonable downtime is accepted, it will be stated herein. Otherwise, 24x7 implies NO loss of availability of systems, communications, and/or supporting resources.
 - e) **Reasonable, Necessary or Proper:** as used herein shall be interpreted solely by the State of North Carolina.
 - f) **RFP:** Request for Proposal
- 2) Read and Review. It shall be the Vendor's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements and the State's intent as specified herein. If a Vendor discovers an inconsistency, error or omission in this solicitation, the Vendor should request a clarification from the State's contact person listed on the front page of the solicitation. Questions and clarifications must be submitted in writing and may be submitted by personal delivery, letter, fax or e-mail within the time period identified hereinabove.
- 3) Vendor Responsibility. The Vendor(s) will be responsible for investigating and recommending the most effective and efficient technical configuration. Consideration shall be given to the stability of the proposed configuration and the future direction of technology, confirming to the best of their ability that the recommended approach is not short lived. Several approaches may exist for hardware configurations, other products and any software. The Vendor(s) must provide a justification for their proposed hardware, product and software solution(s) along with costs thereof. Vendors are encouraged to present explanations of benefits and merits of their proposed solutions together with any accompanying Services, maintenance, warranties, value added services or other criteria identified herein.
- 4) Oral Explanations. The State will not be bound by oral explanations or instructions given at any time during the bidding process or after award. Vendor contact regarding this RFP with anyone other than the Agency contact or procurement officer named on Page 2 above may be grounds for rejection of said Vendor's offer. Agency contact regarding this RFP with any Vendor may be grounds for cancellation of this RFP.
- 5) Insufficiency of References to Other Data. **Only information that is received in response to this RFP will be evaluated.** Reference to information previously submitted or Internet Website Addresses (URLs) will not suffice as a response to this solicitation.
- 6) Conflict of Interest. Applicable standards may include: N.C.G.S. §§ 147-33.100, 14-234, 133-32. The Vendor shall not knowingly employ, during the period of this contract, nor in the preparation of any response to this solicitation, any personnel who are, or have been, employed by a Vendor also in the employ of the State and who are providing services involving, or similar to, the scope and nature of this solicitation or the resulting contract.
- 7) Contract Term. A contract awarded pursuant to this RFP shall have an effective date as provided in the Notice of Award. The term shall be **three (3) years**, and will expire upon the anniversary date of the

effective date unless otherwise stated in the Notice of Award, or unless terminated earlier. The State retains the option to extend this contract for two (2) additional 1-year periods at its sole discretion.

- 8) Effective Date. This solicitation, including any Exhibits, or any resulting contract or amendment shall not become effective nor bind the State until the appropriate State purchasing authority/official or Agency official has signed the document(s), contract or amendment; the effective award date has been completed on the document(s), by the State purchasing official, and that date has arrived or passed. The State shall not be responsible for reimbursing Vendor for goods provided nor Services rendered prior to the appropriate signatures and the arrival of the effective date of the Contract. No contract shall be binding on the State until an encumbrance of funds has been made for payment of the sums due under the contract.
- 9) 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 goods purchased. However, no sacrifice in quality of packaging will be acceptable. The Vendor remains responsible for providing packaging that will protect the commodity and contain it for its intended use. Vendors are strongly urged to bring to the attention of the purchasers at the Statewide IT Procurement Office those products or packaging they offer which have recycled content and that are recyclable.
- 10) Historically Underutilized Businesses. Pursuant to General Statute 143-48, 143-128.4 and Executive Order #13, 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. Additional information may be found at: <http://www.doa.nc.gov/hub/>
- 11) Clarifications/Interpretations. Any and all amendments or revisions to this document shall be made by written addendum from the IT Procurement Office. Vendors may call the purchasing agent listed on the first page of this document to obtain a verbal status of contract award. If either a unit price or extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.
- 12) Rights Reserved. While the State has every intention to award a contract as a result of this RFP, issuance of the RFP in no way constitutes a commitment by the State of North Carolina, or the procuring Agency, to award a contract. Upon determining that any of the following would be in its best interests, the State may:
 - a) waive any formality;
 - b) amend the solicitation;
 - c) cancel or terminate this RFP;
 - d) reject any or all proposals received in response to this document;
 - e) waive any undesirable, inconsequential, or inconsistent provisions of this document, which would not have significant impact on any proposal;
 - f) if the response to this solicitation demonstrate a lack of competition, negotiate directly with one or more Vendors;
 - g) not award, or if awarded, terminate any contract if the State determines adequate State funds are not available; or
 - h) if all responses are deficient, determine whether Wavier of Competition criteria may be satisfied, and if so, negotiate with one or more Vendors.
- 13) Alternate Bids. Vendor may submit alternate bids for various levels of service(s) or products meeting specifications. Alternate bids must specifically identify the RFP requirements and advantage(s) addressed by the alternate bid. Any alternate proposals must be clearly marked with the legend as shown herein. Each proposal must be for a specific set of Services or products and bid at specific pricing. If a Vendor chooses to respond with various service or product offerings, each must be bid with a different price and a separate proposal response. Vendors may also provide multiple proposals for software or systems coupled with support and maintenance options, provided, however, all proposals must satisfy the specifications.

Alternate bids must be clearly marked
“Alternate Bid for ‘name of Vendor’”

and numbered sequentially with the first bid if separate proposals are submitted.

This legend must be in bold type of not less than 14-point type on the face of the bid, and on the text of the alternative proposal.

- 14) Co-Vendors. Vendors may submit offers as partnerships or other business entities. Such partners or other “Co-Vendors”, if any, shall disclose their relationship fully to the State. The State shall not be obligated to contract with more than one Vendor. Any requirements for references, financial statements or similar reference materials shall mean **all** such partners or co-Vendors.
- 15) Submitting a Proposal. Each Vendor submitting a proposal warrants and represents that:
 - a) The proposal is based upon an understanding of the specifications and requirements described in this RFP.
 - b) Costs for developing and delivering responses to this RFP and any subsequent presentations of the proposal as requested by the State are entirely the responsibility of the Vendor. The State is not liable for any expense incurred by the Vendors in the preparation and presentation of their proposals.
- 16) All materials submitted in response to this RFP become the property of the State and are to be appended to any formal documentation, which would further define or expand any contractual relationship between the State and Vendor resulting from this RFP process.
- 17) A proposal may not be unilaterally modified by the Vendor for a one hundred twenty (120) day period following the delivery of the proposal, or of any best and final offer.

C. Evaluation Process

- 1) “Best Value” procurement methods are authorized by N.C.G.S. §143-135.9. The award decision is made based on multiple factors, including: total cost of ownership, meaning the cost of acquiring, operating, maintaining, and supporting a product or service over its projected lifetime; the evaluated technical merit of the Vendor’s proposal; the Vendor’s past performance; and the evaluated probability of performing the requirements stated in the solicitation on time, with high quality, and in a manner that accomplishes the stated business objectives and maintains industry standards compliance. The intent of “Best Value” Information Technology procurement is to enable Vendors to offer and the Agency to select the most appropriate solution to meet the business objectives defined in the solicitation and to keep all parties focused on the desired outcome of a procurement.
- 2) Source selection. A one-step process shall be used. Vendors shall submit Offers combining technical and price information together. A trade-off/ranking method of source selection will be utilized in this procurement to allow the State to award the contract to the Vendor providing the Best Value, and recognizing that Best Value may result in award other than the lowest price or highest technically qualified offer. By using this method, the overall ranking may be adjusted up or down when considered with, or traded-off against other non-price factors.
 - a) The evaluation committee may request clarifications, an interview with or presentation from any or all Vendors as allowed by 9 NCAC 06B.0307. However, the State may refuse to accept, in full or partially, the response to a clarification request given by any Vendor. Vendors are cautioned that the evaluators are not required to request clarifications; therefore, all offers should be complete and reflect the most favorable terms. The State will establish a competitive range based upon evaluations of proposals. Vendors within this competitive range may be required to send qualified personnel to the NCDOL primary location in Raleigh, North Carolina, to discuss technical and contractual aspects of the proposal and may be asked to provide a live demonstration of system capabilities through the use of test cases as provided by NCDOL.

- b) **Evaluation Process Explanation.** State Agency employees will evaluate all proposals. All proposals will be initially classified as being responsive or non-responsive. If a proposal is found non-responsive, it will not be considered further. All responsive proposals will be evaluated based on stated evaluation criteria. Any references in an answer to another location in the RFP materials or Proposal shall have specific page numbers and sections stated in the reference.
- c) To be eligible for consideration, a Vendor must meet the intent of all requirements. Compliance with the intent of all requirements will be determined by the State. Responses that do not meet the full intent of all requirements listed in this RFP may be deemed deficient. Further, a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.
- d) Vendors are advised that the State is not obligated to ask for, or accept after the closing date for receipt of proposal, data that is essential for a complete and thorough evaluation of the proposal.
- 3) **Best and Final Offers (BAFO).** If negotiations or subsequent offers are solicited, the Vendors shall provide BAFOs in response. Failure to deliver a BAFO when requested shall disqualify the non-responsive Vendor from further consideration. The State will establish a competitive range based upon evaluations of proposals and onsite demonstrations, and may request BAFOs from the Vendors within this range; e.g. "Finalist Vendors". The State will evaluate BAFOs and add any additional points to the Vendors' respective scores. Points awarded from oral presentations and product demonstrations during negotiations, if any, will be added to the previously assigned points to attain final scores.
- 4) **Evaluation Method:** Qualified bids will be evaluated and acceptance may be made in accordance with Best Value procurement practices as defined by GS §143-135.9, 9 NCAC 6A and 6B.0302. A tradeoff methodology will be used to evaluate bids based on the criteria set forth below. These criteria are stated in relative order of importance:
- a) Evaluation criteria fall into two categories—Pass/Fail Criteria and Scored Criteria.
- Pass/Fail Criteria may be grounds for disqualification of a Vendor's Proposal if they are not met. As such, they do not contribute to the scored portion of the evaluation. Example: Failure to meet a Mandatory Proposal Specification will be grounds for disqualification of a proposal.
 - Scored Evaluation Criteria are weighted to rank proposals in numerical order for the purpose of establishing Finalist Vendors and eventually the contract award.
- b) Vendor qualifications substantially impact the evaluation process, and will be evaluated in the following manner:

Pass/Fail Criteria	Location in the RFP	Evaluation Method or Points Awarded
Demonstration of Compliance with Mandatory Proposal Specifications.	Throughout Section III	Pass/Fail
Compliance with the Proposal Content and Organization Section	Section VI	Pass/Fail
Illustrations and/or explanations of adherence to the Statewide Technical Architecture objectives, principles and best practices relative to the proposed solution.	N/A	Pass/Fail
Evaluation Criteria		
Technical and Business Specifications for ECM	Section III.11.2 thru III.11.4	250 Points

Technical and Business Specifications for BPM	Section III.11.5 thru III.11.8	250 Points
Security	Section III.11.1	50 Points
Services	Section III.11.9 thru III.11.12	100 Points
References, Past Performance and Vendor Qualifications	Section III.12	100 Points
Five-Year Total Cost of Ownership	Section IV	250 Points
Point Total:		1000 Points

- 5) Vendor may be disqualified from any evaluation or award if Vendor or any key personnel proposed, has previously failed to perform satisfactorily during the performance of any contract with the State, or violated rules or statutes applicable to public bidding in the State.
- 6) The Procurement Manager will make every effort to adhere to the following schedule:

Action	Responsibility	Date
Issue of RFP	State Purchasing Agent	Nov. 14, 2011
Deadline to Submit Questions from Vendors	Vendors	Nov. 22, 2011
Response to Written Questions	Department of Labor	Nov. 30, 2011
Submission of Proposal	Vendors	Dec. 29, 2011
Proposal Evaluation	Evaluation Committee	TBD
Selection of Finalists	Evaluation Committee	TBD
Oral Presentation and/or Product Demonstrations by Finalists (optional)	Vendors	TBD
Negotiations (optional)	Evaluation Committee designees and selected Vendor(s)	TBD
Best and Final Offers from Finalists (optional)	Vendors	TBD
Contract Award	State Purchasing Agent	TBD

- 7) Award Of Contract. Qualified proposals will be evaluated and acceptance may be made in accordance with Best Value procurement practices as defined by GS §143-135.9 and applicable administrative rules. The responsible Vendor whose proposal is most advantageous to the State, taking into consideration the evaluation factors herein, will be recommended for contract award. 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 proposal.
- 8) The State has implemented links to the Interactive Purchasing System (IPS) that allow the public to retrieve proposal award information electronically from our Internet web site: <http://www.ips.state.nc.us/ips/pubmain.asp>. Click on the IPS BIDS icon, click on Search for BID, enter the Agency prefix-proposal number (ITS-006039), and then search. This information may not be available for several weeks dependent upon the complexity of the acquisition and the length of time to complete the evaluation process.
- 9) Protest Procedures: Protests of awards exceeding \$25,000 in value must be submitted to the issuing Agency at the address given on the first page of this document. Protests must be received in this office within fifteen (15) calendar days from the date of the contract award and provide specific reasons and any supporting documentation for the protest. **All protests will be governed by Title 9, Office of Information Technology Services, Subchapter 06B Sections .1102 - .1121.**

Section III. Technical Specifications

- 1) Enterprise Architecture Standards: The North Carolina Statewide Technical Architecture is located at the following website: (<http://www.ncsta.gov>). This provides a series of domain documents describing objectives, principles and best practices for the development, implementation, and integration of business systems. Agencies and Vendors should refer to these Architecture documents when implementing enterprise applications and/or infrastructure.
- 2) Enterprise Licensing: In offering the best value to the State, Vendors are encouraged to leverage the State's existing resources and license agreements. The agreements may be viewed at: <http://www.its.nc.gov/ServiceCatalog/LicenseAgreements.aspx>
 - a. Identify components or products that are needed for your solution that may not be available with the State's existing license agreement.
 - b. Identify and explain any components that are missing from the State's existing license agreement.
 - c. If the Vendor can provide a more cost effective licensing agreement, please explain in detail the agreement and how it would benefit the State.
 - d. Explain the transportability and transferability of the proposed license agreements. Any licenses or warranties purchased on behalf of the State for this project must be transferable at the time the vendor is paid under contract for said component.
- 3) Virtualization: The State desires the flexibility to host the Vendor's proposed solution in a virtualized environment, should it determine that virtualized hosting for such solution would be more economical or efficient. Note, however, that the State shows no preference towards a Vendor-hosted vs. a self-hosted solution; this determination will be based on long-term cost-effectiveness and viability of the proposed solution.

The State currently utilizes server virtualization technologies based on VMware. Vendor should state whether its solution operates in a virtualized environment. Vendor also should identify and describe all differences, restrictions or limitations of its proposed solution with respect to operation, licensing, support, certification, warranties, and any other details that may impact its proposed solution, when hosted in a virtualized environment.

- 4) Personal/Confidential Data – The proposed solution must comply with the following laws, policies and standards as it may relate to Personal and or Confidential data which is defined as follows:

- a. NC Personal Identifying Information Compliant in accordance with the Identity Theft Protection Act, N.C. Gen. Stat. , Chapter 75, Article 2A. N.C. Gen. Stat. § 75-61(10) defines personal information, in part, as “[a] person’s first name or first initial and last name in combination with identifying information as defined in G.S. 14-113.20(b).” As of July 2007, “identifying information” is defined by G.S. § 14-113.20(b) to include Social Security Number or employer taxpayer identification numbers, Driver’s License, State Identification Card, or Passport Numbers, Checking Account Numbers, Savings Account Numbers, Credit Card Numbers, Debit Card Numbers, Personal Identification (PIN) Code as defined in G.S. § 14-113.8(6), Electronic identification numbers, electronic mail names or addresses, internet account numbers, or Internet identification names, Digital Signatures, any other numbers or information that can be used to access a person’s financial resources, Biometric Data, Fingerprints, Passwords and Parent’s legal surname prior to marriage
- b. The PCI Security Standards Council offers robust and comprehensive standards and supporting materials to enhance payment card data security. These materials include a framework of specifications, tools, measurements and support resources to help organizations ensure the safe handling of cardholder information at every step. The keystone is the PCI Data Security Standard (PCI DSS), which provides an actionable framework for developing a robust payment card data security process -- including prevention, detection and appropriate reaction to security incidents.

The Department of Labor hosts its applications in its own virtualized environment installed 4th quarter of calendar year 2010. A schematic of the physical infrastructure (Figure 1) is included as Attachment C. The Department expects to deploy proposed solutions to this RFP on the infrastructure described here. Salient points include:

1. Most applications have been migrated to virtualized servers running VMware® vSphere® 4 Enterprise Plus. Those that have not are scheduled for migration to VMware pending the resolution of ongoing development.
2. The development environment is predominantly ColdFusion® Version 8 and 9 running on Oracle® Version 9i. All Oracle® applications are scheduled for migration to Version 11g pending the resolution of ongoing development.
3. The Department plans to migrate from Novell® eDirectory® to Microsoft® Active Directory® during 4th quarter of calendar year 2011. Vendors may assume that AD will be fully functional by the time this contract is awarded.
4. Each virtual server is configured as a separate security zone. Inter-zone traffic is routed through a hardware-based control point.

Additional information regarding the connectivity/infrastructure tying together DOL business units and physical plants:

1. There are two primary office buildings in downtown Raleigh, housing approximately 100 (out of ~380 total) DOL employees. These buildings are about one city block apart and are connected by a metropolitan area network line rated at 10Mbps. DOL servers are housed in these office buildings.
 2. In addition, DOL has five (5) field offices, in Raleigh, Charlotte, Wilmington, Winston-Salem and Asheville. The field offices are connected to the Raleigh main office by T1 lines. The field offices themselves house approximately 100 additional employees.
 3. The remaining ~200 DOL employees are teleworkers, connected to DOL systems via individual broadband lines (DSL, cable and/or wireless broadband) as dictated by local availability at their homes.
- 5) NCID: The proposed solution must externalize identity management and may be required to utilize the North Carolina Identity Service (NCID) for the identity management and authentication related functions performed by this application. NCID is the State's enterprise identity management (IDM) service. It is operated by the North Carolina Office of Information Technology Services. Additional information

regarding this service can be found in the ITS Service Catalog at:

<http://www.its.state.nc.us/ServiceCatalog/Index.aspx> (see Identity Management - NC Identity Management under the main menu item Application Services) and the NCID Web site at: <https://www.ncid.its.state.nc.us/>.

- 6) **Equivalent Items:** Whenever a material, article or piece of equipment is identified in the specification(s) by reference to a manufacturer's or Vendor's name, trade name, catalog number or similar identifier, it is intended to establish a standard, unless otherwise specifically stated as a brand specific requirement (no substitute items will be allowed). Any material, article or piece of equipment of other manufacturers or Vendors shall perform to the standard of the item named. Equivalent bids must be accompanied by sufficient descriptive literature and/or specifications to provide for detailed comparison. Samples of items, if required, shall be furnished at no expense to the State and if not destroyed in the evaluation process, may be returned to the Vendor at the Vendor's expense.
- 7) All bids shall include specifications and technical literature sufficient to allow the State to determine that the equipment meets all requirements. This technical literature will be the primary source for bid evaluation. If a requirement is not addressed in the technical literature it must be supported by additional documentation and included with the bid. Bid responses without sufficient technical documentation may be rejected.
- 8) The State may, in its sole discretion, investigate any substitute or equivalent goods irrespective of any representation made by a Vendor or manufacturer.
- 9) **Specifications:** Any deviation from specifications indicated herein must be clearly identified as an exception and listed on a separate page labeled "Exceptions to Specification"; otherwise, it will be considered that items offered are in strict compliance with these specifications, and Vendor will be held responsible. Any deviations shall be explained in detail. **The Vendor shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable. Offers of alternative or equivalent goods may be rejected; and if offered, must be supported by independent documentary verification of equivalence to the specified goods.**
- 10) **Definition of Technical Requirements/Specifications:** Means, as used herein, a specification that documents the requirements of a system or system component. It typically includes functional requirements, performance requirements, interface requirements, design requirements, development standards, maintenance standards, or similar terms. Compliance with mandatory technical specifications is required for a proposal to be considered responsive.
- 11) **Technical Requirements/Specifications:**
Section III.11.1: Security
The proposed solution must comply with the following Federal and NC laws related to security and the use of computerized systems: <https://www.scio.nc.gov/Mission/sitLaws.aspx> and is expected to supply security measures to adequately protect NCDOL systems and data. Address the following requirements in detail:
 - a) (Mandatory) All users must be authenticated using a username/password mechanism. Describe how this is done.
 - b) (Mandatory) The proposed system must provide for secure storage and transmission of sensitive/personal information. Describe the mechanisms used to protect confidential information.
 - c) (Desired) Integrate with Microsoft® Active Directory® without customization. Describe the integration.
 - d) (Desired) Conformance to LDAP (Lightweight Directory Access Protocol) Version 3.
 - e) (Mandatory) Security issues will be identified, addressed and resolved with the State of North Carolina Office of Information Technology by the Vendor. The North Carolina Office of Information Technology Services (ITS) sets security standards for state agencies to

- adhere to. The Department of Labor expects the winning Vendor to advise and collaborate with the Department to meet or exceed ITS security standards for all deployed systems.
- f) (Desired) Secure access to system functionality for NCDOL users from outside the NCDOL firewall. Describe these method(s).
 - g) (Desired) Security settings are defined both by role and by named user.

ECM SPECIFICATIONS

Section III.11.2: Document Imaging

Document imaging is defined as the input, storage and retrieval of scanned paper documents, for electronic archiving purposes/records management. Current input rates in the Department are approximately 1.75MM pages per year, expected to increase incrementally (not dramatically) over time. Current scanning environment description for the central office environment is as follows:

- Kodak i260 Scanner
- ~250 single-sided pages per file on average, which may, however, include double-sided pages randomly inserted, and may include color photographs and paper of different sizes
- Eight indexes per file, manually entered
- ~Thirty files per day (~8,000 pages)

Document imaging in the proposed solution is expected to provide the following capabilities:

- a) (Mandatory) Image capture module—either via proprietary integrated scan/capture module or third-party add-on software/integration. Describe the image capture module/capabilities in detail. If via third-party, list all compatible products and indicate pricing in the bid as separate line items.
- b) (Mandatory) Support for scanning hardware supplied with industry-standard hardware interfaces (TWAIN, ISIS, etc.) List all interfaces supported.
- c) (Mandatory) Output file formats: PDF and TIFF. List all available output file formats.
- d) Capture methods and capture capabilities:
 - 1) (Desired) Centralized capture, defined as the aggregation of documents to be scanned in a designated central location with dedicated scanning hardware and personnel. Documents are typically batched and scanned in large quantities.
 - 2) (Desired) Ad hoc scanning and individual document scanning.
 - 3) (Desired) Batch mode scanning, including methods to identify and separate batches.
 - 4) (Desired) Capture color photographs.
 - 5) Describe the capture methods and capabilities of the proposed solution.
- e) Indexing methods designed to minimize hand-keying of indexes and attendant human error, including:
 - 1) (Desired) Semi-automated indexing, in which an initial index value (typically via manual input) is used to look up additional indexes in a database or other line-of-business application.
 - 2) (Desired) Batch indexing, in which an index can be applied to multiple documents at once.
 - 3) Describe the indexing methods of the proposed solution.
- f) Document modification capabilities once documents have been scanned, including:
 - 1) (Desired) Insert additional pages after the original document is scanned, indexed and committed to the repository.
 - 2) (Desired) Reorder pages in a document after it has been committed to the repository.
 - 3) (Desired) Rotate pages.
 - 4) (Desired) Blank page detection and deletion.
 - 5) Describe the document modification capabilities of the proposed solution.
- g) Document display/viewing capabilities for scanned documents:
 - 1) (Desired) Basic image viewing capabilities, including pan, zoom and rotate.
 - 2) (Desired) Navigation capability, including move to first, last, next, previous pages.
 - 3) (Desired) Print capabilities, including print entire document, selected pages, single pages.

- 4) (Desired) Document comparison capabilities; describe this capability if available.
- 5) (Desired) Multiple monitor support.
- 6) Describe the display/viewing capabilities of the proposed solution.
- h) Mark-up/annotation:
 - 1) (Desired) Annotate scanned documents.
 - 2) (Desired) Graphical annotations (arrows, circles, etc.)
 - 3) (Desired) Textual notations; describe mark-up/annotation in detail.
 - 4) (Desired) Stamp documents ("Approved", "Rejected", etc.)
 - 5) (Desired) Insert watermarks.
- i) Redaction capabilities:
 - 1) (Desired) Link redacted files to originals in the repository per version control or similar.
 - 2) Describe the redaction capabilities of the proposed solution.
- j) Barcode/OCR/OMR:
 - 1) (Desired) Software-based one-dimensional barcode recognition not dependent on hardware capabilities. List all one-dimensional barcodes supported.
 - 2) (Desired) Optical character recognition (OCR), full-page capabilities.
 - 3) (Desired) Software-based two-dimensional barcode recognition not dependent on hardware capabilities. List all two-dimensional barcodes supported.
 - 4) (Desired) Optical mark recognition (OMR).
 - 5) (Desired) Check scanning/archiving capabilities. Describe capabilities. Address ability to interface with bank-supplied check scanners.
 - 6) Describe the barcode/OCR/OMR capabilities of the proposed solution.
- k) Records management (retention) applications (RMA):
 - 1) (Desired) Manage document lifecycle by assigning disposition rules to document classes.
 - 2) (Desired) Audit trail capabilities.
 - 3) (Desired) Automated transfer to archive.
 - 4) Describe RMA in detail, if available.

Section III.11.3: Document Library Services

Document library services are defined as the management of active electronic documents, such as Microsoft® Word® documents, particularly to support collaborative development of case files. In general, it is not possible to list all possible filetypes to be stored and/or the number of files of each type, since the scope of the planned deployment exceeds that of the current implementation of FileNet.

However, we can say that document imaging (as currently implemented in FileNet) contains primarily TIFF and PDF files, with some JPEGs included. The current system holds approximately 1TB of data, comprising an estimated 15MM to 20MM pages.

Document library services, on the other hand, have not been implemented to date, and are therefore more difficult to categorize. One stated objective of this deployment is to replace the standard fileserver approach to file storage with the proposed ECM product. Should this approach be effective, typical office suite files would comprise the bulk of the content stored via document library services. Volume of storage required is difficult to predict.

Document library services in the proposed solution are expected to provide the following capabilities:

- a) Describe the document import capabilities, including the following types of scenarios (manual and automated) by which electronic documents can be indexed and committed to the proposed content management solution.
 - 1) (Desired) Commit single files in ad hoc fashion to the system directly from within Microsoft® Office® productivity programs.

- 2) (Desired) Commit documents to the system programmatically from line-of-business applications using function calls from an API or similar approach. Describe how this is implemented.
- 3) (Desired) Commit single files and/or multiple files in bulk to the system from Windows Explorer®.
- b) In each scenario above, bullets 3.11.3.a.1 through 3: address how indexing, file classification and insertion into the proposed content management system are implemented to minimize or eliminate manual inputs by the user.
- c) (Desired) Store files regardless of type or format.
- d) Document display/viewing capabilities for scanned documents:
 - 1) (Desired) Basic image viewing capabilities, including pan, zoom and rotate.
 - 2) (Desired) Navigation capability, including move to first, last, next, previous pages.
 - 3) (Desired) Print capabilities, including print entire document, selected pages, single pages.
 - 4) (Desired) Version control. Describe version control capabilities in detail.
 - 5) (Desired) Document comparison capabilities; describe this capability if available.
 - 6) (Desired) Multiple monitor support.
 - 7) Describe the display/viewing capabilities of the proposed solution.
- e) Case file support:
 - 1) (Desired) Allow multiple files of disparate file types to be aggregated into a logical container that can be shared with others.
 - 2) (Desired) Access privileges can be set per user role or identity.
 - 3) Describe any case file capabilities of the proposed ECM solution in detail in Section 3.11.7, below.
- f) (Desired) Fileserver replacement, defined as replacing an existing Novell fileserver (containing shared network drives) used by individual employees to store personal and departmental mission-critical files. Describe in detail, if available.
- g) (Desired) Electronic collaboration, defined as functionality to allow geographically dispersed users to share and manage electronic documents concurrently for the purpose of solving a common problem and reaching consensus. Describe in detail, if available.
- h) (Desired) E-Discovery, defined as the automated retrieval of electronic information relevant to an instance of civil litigation, excluding digital forensics analysis. Describe in detail, if available.
- i) (Desired) Digital asset management (DAM); describe in detail, if available.

Section III.11.4: ECM Integration Support

The Department of Labor intends to exploit the functionality of the proposed ECM system by integrating it into other NCDOL line-of-business systems, including at least the ability to automate the insertion of documents *into* and the extraction of documents *from* the proposed ECM system.

The following integration capabilities are expected of a proposed ECM system:

- a) (Mandatory) An application programming interface (API). Describe the API in detail, specifically addressing the ability to index and commit content to the ECM system programmatically, and to identify and extract existing content from the ECM system programmatically.
- b) (Desired) A service-oriented architecture (SOA). Describe in detail the proposed solution's service-oriented architecture, both in design intent and in technical implementation.
- c) (Desired) Functionality exposed by means of web services. List all web service types/formats supported by the proposed solution, such as SOAP, REST, etc. Describe the functionality exposed in the ECM suite by means of web services.
- d) (Desired) Integrate programmatically with Microsoft® Office® products. Describe this capability in detail.

BPM SPECIFICATIONS

Section III.11.5: Basic Workflow Automation

Basic workflows are defined as processes that are small and largely self-contained, in that they often end without tying into a much larger, bureau-wide workflow, which we define as a *production workflow*, below. Examples of basic workflows in NCDOL include:

- Application for a New Elevator Permit
- Application to Install a Used Boiler or Pressure Vessel
- Library Materials Checkout

The following basic workflow automation capabilities are expected:

- a) **Process modeling**, defined as methods by which an existing business process is represented in the workflow automation software.
 - 1) (Mandatory) Automate human-centric, document-heavy workflows. Describe in detail the architectural orientation of the proposed solution and how it supports human-centric workflows.
 - 2) (Desired) Use of graphical, drag-and-drop methods to create process models.
 - i. Describe the process modeling capabilities in detail.
 - ii. List/describe the types of prebuilt activity templates in the proposed solution.
 - iii. Describe how activity templates are joined to create an executable workflow.
 - 3) (Desired) Build custom activity templates. Describe the methods and languages necessary to build custom activity templates.
 - 4) (Desired) Extend or modify process models manually. List all languages used.
 - 5) (Desired) Compliance with industry standards (BPMN, BPEL, etc.) List standards and versions complied with.
 - 6) (Desired) Prebuilt, ready-to-deploy process models that are included in the proposed system, such as accounts receivable, HR onboarding/applications, help desk support and asset tracking.
- b) **Automation**, defined as the methods by which a process previously modeled in the software is put into production as an actual executable program.
 - 1) (Desired) Automatic code generation from process models. Describe the underlying platform of the proposed solution (e.g., Java, .NET, etc.)
 - 2) Development of e-forms:
 - i. (Desired) Develop and publish to the Web RIA-style (rich Internet application) forms for secure, non-authenticated use by citizens to initiate service requests from the Department.
 - ii. (Desired) E-form development in a drag-and-drop, what-you-see-is-what-you-get environment. Describe the form development environment in detail.
 - iii. (Desired) Methods used to control layout, appearance, content and behavior of forms, Web-based and otherwise. (For example, HTML, CSS, JavaScript, etc.) List all such methods available to the developer.
 - iv. (Desired) E-forms fully functional in Internet Explorer (V7.x and later) and Firefox (V3.5 and later).
 - v. (Desired) Create web forms which closely resemble existing paper forms. Describe how such web forms are created to resemble the existing paper form.
 - vi. (Desired) Offline forms, available for input when not connected to the proposed solution either via network or Internet.
 - vii. (Desired) Mobile device support. Describe how forms are created for and rendered to mobile devices across different platforms.
 - 3) (Desired) Database-agnostic integration; list all databases supported.
 - 4) (Mandatory) Integrate with Oracle® 11g.
 - 5) (Desired) Digital signatures. Describe the following capabilities in detail:
 - i. Native support for digital signatures.
 - ii. Freeze a document once signed to prevent further modification.
 - iii. Outside users not in NCDOL can sign documents.

- c) **Workflow management**, defined as those methods used to: assign work efficiently to employees; allow employees to efficiently execute the work assigned to them; and monitor the effectiveness of individual workers, business units and the processes themselves.
 - 1) (Desired) Create taskspaces or workspaces with dedicated interfaces tailored to the business unit and its procedures. Describe taskspace/workspace functionality in detail.
 - 2) (Desired) Monitor and report on individual and business unit performance, including reports and dashboards. Describe monitoring/reporting capabilities in detail.
 - 3) Describe the workflow management capabilities of the proposed solution.

Section III.11.6: Production Workflow Automation

Production workflows embody the same characteristics as basic workflows, but are more complex. They typically support the entire mission of a business unit.

Examples of production workflows in NCDOL include:

- Annual inspection of elevators and amusement devices, including:
 - o Scheduling of inspections for inspectors.
 - o Processing of inspection results.
 - o Tracking open violations.
 - o Issuing and tracking invoices for inspections.
 - o Generating supporting documents, such as inspection reports, certificates of operation, violation notices, invoices, etc.
- Accounts receivable

The following capabilities are expected in a system to automate production workflows. Requirements are listed below. Describe these capabilities in detail:

- a) Describe the automation production workflow capabilities of the proposed solution.
- b) (Desired) Execute synchronous and asynchronous tasks; ability to coordinate multiple processes related to a single workflow.
- c) (Desired) Exception handling—the native ability to define and process exceptions to the predicted/expected path of execution for a workflow.
- d) (Desired) Scalability to support four hundred (400) total internal NCDOL users (projected not to exceed 50 concurrent users, total.)
- e) (Desired) Build complex web-based applications including screen-to-screen flows guided by user actions and business logic.
- f) (Desired) Build web-based database applications without hand-coding.
- g) (Desired) Rapid application development (RAD). Describe how the proposed solution expedites RAD.
- h) (Desired) Business rules engine, either embedded/included or third-party. If third-party, list and describe all compatible products, and enter each as a separate line item for costing purposes.

Section III.11.7: Case Management Support

The Department of Labor pursues a specialized instance of case management known as **investigative case management**. Several NCDOL bureaus investigate alleged infractions of laws enforced by the Department. The primary goal of these investigations is to quickly and efficiently gather enough information from multiple sources to determine the underlying truth of an alleged infraction.

In our environment, case management encompasses low-volume, complex workflows without a predetermined path, solved by collaboration and ad hoc task creation and work assignments. These workflows typically generate copious amounts of paper and electronic documentation.

The following case management capabilities are expected:

- a) Describe case management in the proposed solution.
- b) (Desired) Mechanisms for generating, assigning and tracking investigative cases.
- c) (Desired) Data management, defined as those methods used to capture, organize, store and retrieve supporting information for a given case file. Discuss the solution's ECM

capabilities in the context of case management, specifically relative to the creation of case files for this purpose.

- d) (Desired) Search that allows users to readily find content pertinent to a given case. Describe the search capabilities of the proposed solution.
- e) (Desired) Document assembly (also referred to as “document generation”), defined as the process by which finished documents such as letters, invoices, reports and notices are created by automatically inserting variable data from a database into a pre-existing template which includes all static content and formatting (often called “boilerplate”). This process is often colloquially referred to as “mail-merge.” Specifically address:
 - 1. (Desired) Use Microsoft® Office® products (such as Word®, Excel® or PowerPoint®) to create templates for document generation.
 - 2. (Desired) Process for mapping variable data to document templates.
 - 3. (Desired) Ad hoc as well as batch (mass) document generation.
- f) (Desired) Internal and external collaboration for case management. Discuss collaboration functionality in detail; specifically address methods to allow state agencies external to the Department to access NCDOL case files electronically.
- g) (Desired) Describe the work queue management/triage capabilities, to allow incoming cases to be vetted, prioritized and assigned to investigators either in round-robin (next available) or rules-based fashion.

At a high level, we can include the following insights into the relative numbers of each requirement category outlined above (basic vs. production workflows vs. case management):

- **Basic workflows:** The Department of Labor considers every form (paper or electronic) to represent a basic workflow. An inventory of existing DOL forms indicates that no less than 150 forms are currently in use, the large majority of which are candidates for workflow automation. In addition, it is expected that once a proven methodology exists for automating basic workflows, additional requirements will emerge from the business units.
- **Production workflows:** Approximately five workflows have been identified within the Department, depending on the definition of “production workflow.” Not all instances of production workflows are necessarily intended for automation via the proposed ECM/BPM system.
- **Case management:** There are three clearly defined instances of investigative case management as the primary mission of a business unit within DOL. Additional case management tools/techniques could be deployed in several other business units, where the requirements do not form the primary mission of those business units.

Section III.11.8: BPM Integration Support

Whereas NCDOL requirements are decidedly human-centric, the need for system-to-system integration in the future cannot be ruled out. Therefore, integration requirements exist but are secondary to the automation of human-centric tasks.

In a broader sense, the proposed BPM suite is expected to embody a service-oriented architecture (SOA), where the ultimate goal is to orient IT more responsively to the needs of business units.

This definition of SOA speaks to the fundamental purpose of the software acquisition project outlined in this RFP. This project's underlying objective is to create a more responsive IT environment to enable all NCDOL business units to function more efficiently. As such, the acquisition and deployment of ECM and BPM technologies is the foundation of an effort to build a SOA approach to software development in the Department of Labor. Specifically, provide information on the following if they are provided:

- a) (Desired) A service-oriented architecture (SOA). Describe in detail how the proposed system embodies service-oriented architecture, both in design intent and in technical implementation.
- b) (Desired) An application programming interface (API). Describe the API in detail.

- c) (Desired) Functionality exposed by means of web services. List all web service types/formats supported by the proposed system, such as SOAP, REST, etc. Describe the functionality exposed in the BPM suite by means of web services.
- d) (Desired) An enterprise service bus (ESB) approach implemented in such a way as to simplify system integration by providing a means to allow disparate systems to communicate and exchange data without explicitly writing code to perform the communication. Describe this capability in detail.
- e) (Desired) Integrate programmatically with Microsoft® Office® products. Describe this capability, if available.
- f) (Desired) A software development kit (SDK) with features and functionality beyond that of the API. Describe the SDK, if available.

SERVICES SPECIFICATIONS

NOTE: Each of the following Services MUST be addressed and priced separately in the bid response.

Section III.11.9: Migration of Legacy Content

The Department has approximately 1 TB of existing content on the current FileNet® system. Migration of this content to the proposed new system will be a top priority upon successful deployment of that system. Enterprise content management vendors responding to this bid must provide a bid to address the following considerations:

- a) (Mandatory) Migration of ~1TB of content (estimated at between 15MM and 20MM pages) from FileNet® Content Services V5.4 to the proposed ECM system, including migration of all metadata.
- b) (Mandatory) Migration bid to include the following:
 - 1) References for at least two customers with successful ECM content migration, preferably for FileNet® CS content.
 - 2) Expected duration of the migration.
 - 3) Level of effort required from the Department of Labor for this migration.
 - 4) Quality assurance methods employed to ensure the integrity of the migration.

Note: The State intends to award a single contract for all products and services combined. Content migration specialists may partner with ECM/BPM vendors as appropriate to submit a single proposal.

Section III.11.10: Training

Training of NCDOL end users, system administrators and developers is imperative for successful implementation. All bids must address the following training considerations for ECM and BPM:

- a) (Mandatory) Provide a formal training plan, including costs, duration and available training options (onsite instruction; online instructor-led classes; on-demand self-paced online instruction; software-based locally installed training materials; etc.) for:
 - 1) End users, not to exceed one hundred (100) total.
 - 2) System administrators, total of four (4)
 - 3) Developers, total of six (6).
- b) (Mandatory) Comprehensive documentation of additional training/knowledge transfer options, including, but not limited to: online forums, FAQs, knowledge bases, user groups, etc.

Section III.11.11: Technical Support/Maintenance

Any maintenance agreements shall be subject to the terms of this contract, specifically Paragraph 5 of the Supplemental Terms and Conditions for Software and Services.

- a) (Mandatory) Annual maintenance to include technical support. Describe in detail all available types, availability, service-level agreement and extent of technical support.

Section III.11.12: Deployment Assistance

Deployment assistance is defined as predefined project development support packages, in which the Vendor offers different levels of on-demand technical support (including, for instance, a set number of hours of access to Vendor programmers or subject matter experts). These packages offer the Customer direct guidance in developing projects as defined by the Customer, where the goal is not to have the Vendor do the work *for* the NCDOL, but rather *with* the NCDOL. The objective is knowledge transfer and accelerated deployment of high-value projects with an immediate return.

- a) (Mandatory) In the absence of predefined project development support packages, Vendors must quote blocks of engineering support in 100-, 250- and 500-hour increments. Bids must include the hourly rate and qualification levels of Vendor personnel by role (Senior Programmer, Business Analyst, etc.) and costs/availability for onsite support.
- b) (Mandatory) Describe and cost all additional Services and/or resources available to accelerate deployment.
- c) (Desired) Any other Predefined project development support packages. Describe the nature, duration (in person-hours or equivalent) and scope of Services for these packages.

Section III.11.13: Architecture Requirements

Vendor should describe application/service characteristics across the following dimensions. The Vendor may provide other information by category to assist in demonstrating its ability to provide the desired level of architectural consistency:

- a) Scalability
 - 1) Provide detailed diagrams with complimenting narrative describing proposed technical solution.
 - 2) Describe the largest production implementation by an existing customer that utilizes the proposed technical solution.
 - 3) Describe the testing methodology used in the development of the proposed technical solution (e.g. Performance, Load, Stress, Security, etc).
 - 4) Describe the ability of the proposed solution to scale both horizontally and vertically.
 - 5) Describe how the proposed solution can be scaled to manage pilot, rollout, and growth rate requirements.
- b) Adaptability
 - 1) Describe the overall architectural approach utilized to design the proposed solution (e.g. Service Oriented, 3/N Tier, Composite Application).
 - 2) Describe how the architectural approach and the technologies used enable solution adaptability.
 - 3) Describe the technology roadmap for the proposed solution.
 - 4) Describe how the solution will be capable of adapting to meet changing business requirements.
- c) Secureability
 - 1) Describe how the solution can be deployed to provide layered access controls.
 - 2) Describe how the solution can be deployed to accommodate both an integrated or externalized identity access and management solution.
- d) Availability
 - 1) Should the proposed system be hosted by the vendor, describe the technologies and approach used to meet and/or exceed availability requirements, below:
 - a. Scheduled availability: 4 am – 12 am (midnight), seven (7) days/week
 - b. 99.9% uptime during scheduled available hours (i.e., no greater than 36 minutes/month unscheduled downtime during scheduled available hours)
 - 2) Should the proposed system be hosted by the vendor, describe an acceptable backup and recovery approach to meet and/or exceed availability requirements, below:
 - a. Recovery point objective = 1 hour (amount of data lost due to system failure)
 - b. Recovery time objective = 24 hours (time to bring the system back up after failure)

- e) Manageability
 - 1) Describe the versioning and patch management process for the proposed solution.
- f) Interoperability
 - 1) Describe the programming language(s) and development framework(s) that are utilized in the design and implementation of the proposed solution.
 - 2) Describe any open (industry and/or de facto) standards utilized to ensure interoperability of this solution within a heterogeneous environment.
 - 3) Describe the flexibility of this solution to meet future integration needs.
 - 4) Describe how the solution meets accessibility (i.e. W3C and/or 508) requirements.

12) References: Vendor must provide three (3) references with their bid response. Every attempt should be made to supply references of a profile similar to the Department of Labor in size and organizational structure. The following information should be provided for each of the three references:

- a) Name of company or government entity
- b) Product(s) and related implementation Services provided by the Vendor to the referenced entity
- c) Scope and approximate dollar value of product(s) and related implementation Services provided
- d) Contact names, with titles/responsibilities, telephone numbers and email addresses
- e) Purposes and/or business processes for which the reference product(s) and related implementation Services were performed and how the product(s) and implementation Services benefited these.
- f) Dates of purchase for product(s) and related implementations
- g) How the product(s) and the related implementation approaches are relevant to the State's situation described in this RFP

Section IV. Cost Proposal

- 1) The vendor must list and describe any applicable proposal costs which may include, but are not limited, to the following:
 - a) Software License fees or costs
 - b) Base system software
 - c) Customization required or proposed addressing specification
 - d) Additional modules required or proposed addressing specifications
 - e) 3rd party software, if any, required for the operation of the system
 - f) Installation/integration costs
 - g) Migration/conversion/transition costs
 - h) Training including training materials
 - i) Technical and user documentation
 - j) Technical support/customer service, per year (with Unlimited phone technical support for the technical staff)
 - k) Maintenance costs, to be listed per year
 - l) Other costs
 - m) The costs for customization shall be detailed on an attached sheet of paper by item and cost for each base system modification.
 - n) The consulting and other value added service hourly rates or costs shall be listed separately by type of service. Travel and lodging expenses, if any, must be thoroughly described; and are limited by the State's General Terms and Conditions for Goods and Services.
- 2) Vendors who propose an Alternative cost response must submit a separate document labeled "ALTERNATIVE COST RESPONSE".

Detailed Cost Proposal Instructions For General Requirements

Failure to meet the requirements detailed below may result in a proposal being judged non-responsive.

This subsection defines the required format and content of the Cost Proposal section for general requirements of an ECM/BPM system. *General requirements* include all core components, modules and/or products needed to implement the Vendor's proposed solution for basic, overall ECM/BPM functionality. General requirements are typically used as the foundation for specialized modules that are addressed in the Specific Requirements Subsection, below.

For general technical and business requirements as outlined in this RFP, Vendors must respond with:

- a) An explicit listing of all core components, modules and/or products required to support the vendor's proposed solution for basic, overall ECM/BPM functionality.
- b) The exact name and version of the vendor product or module required.
- c) To support four hundred (400) overall users and no more than fifty (50) concurrent users, Vendors must respond with:
 - i. Software license cost for EACH required module and all necessary supporting modules.
 - ii. Licensing model (i.e., per CPU, per site, per named user, per concurrent user, per transaction, etc.) List all available licensing models that may be applicable to the requirements in this RFP, to facilitate the State in making the most cost-effective selection.
 - iii. IMPORTANT: If a given module is licensed per processor and requires the State to additionally purchase some ratio of named user licenses for development and/or test purposes, the Cost Proposal must state this policy clearly, as well as detailing the required additional named user licenses as a separate line item.
 - iv. All pertinent information necessary to clarify the definition of the licensing model terms, such as:
 1. Definition of "CPU"—e.g., per core, per processor or socket, etc...
 2. Definition of "transaction"—e.g., per page scanned, per document, etc...
 3. Definitions of any other concepts or terms central to the licensing of the proposed solution.
 4. Thorough explanation of licensing in a virtualized environment. E.g., are servers counted as virtual or physical servers? Is software partitioning in a VMware environment accepted as a means of restricting the number of processors available to a given module? Etc.
- d) A total cost for all general and specific requirements in the Cost Proposal.
- e) A total annual maintenance fee for all software licensed.

3) Detailed Cost Proposal Instructions For Specific Requirements

This subsection defines the required format and content of the Cost Proposal section for *specific requirements* of an ECM/BPM system. Specific requirements include all additional components, modules and/or products needed to implement the Vendor's proposed solution to meet the technical and business requirements of this RFP beyond the basic, overall ECM/BPM functionality supplied by the general requirements outlined above.

For each of the specific requirements listed in the numbered outline below, **Vendors must respond using the matrix provided below**, where the following explanations apply. Note that the matrix is provided as a separate Excel spreadsheet, attached.

- a) The **Product or Vendor Module** column must contain the exact name and version of the vendor product or module required to support this requirement. If the requirement cannot be supported, enter "Not Supported."
- b) Under each specific requirement, list all necessary additional modules ***not listed in the general requirements section*** (above) that are required to implement the specific requirements module in question. For example, if distributed scanning requires a specialized web server not listed in the general requirements, Vendors must list and cost the web server under the distributed scanning special requirement.
- c) For the number of users and/or the demand level specified in each requirement, Vendors must respond with:
 - i. The quoted licensing model (i.e., per CPU, per site, per named user, per concurrent user, etc.) in the **Licensing Method** column.
 - ii. In the **Quantity** column, enter the number of units required to support the quoted number of users.
 - iii. In the **List Price** column, enter the retail price of the module(s) quoted.
 - iv. In the **Extended Price** column, enter the most favorable cost the Vendor can extend to the State.
- d) If a given specific requirement is listed more than once in this subsection, only enter cost and module specifics once. Simply refer to the initial instance on subsequent line items.
- e) Clarification of terms in the matrix below:
 - i. ENTERPRISE means that the module will be used to support overall DOL business objectives, and may be used by all internal users as well as an unknown number of external users.
 - ii. User Number Columns with two numbers separated by a slash indicate the number of developers with the first number and the number of end-users with the second number, when applicable.

ECM-Specific Requirements	Location in RFP	Max Total Users	Max Concurrent	Product or Vendor Module	Licensing Method	Quantity	List Price	Extended Cost
Image Capture and Manipulation	3.11.2.a thru f	250	25					
Centralized Image Capture	3.11.2.d	50	10					
Distributed Image Capture	3.11.2.d	200	25					
Image Document Display/Viewing	3.11.2.g	400	50					
Mark-up/Annotation	3.11.2.h	200	25					
Redaction	3.11.2.i	25	5					
Barcode Recognition	3.11.2.j	400	50					
Optical Character Recognition	3.11.2.j	400	50					
Optical Mark Recognition	3.11.2.j	400	50					
Records Management Application	3.11.2.k	25	5					
Document Import Capabilities	3.11.3.a thru d	400	50					
Integration into Windows Explorer	3.11.3.a	400	50					
Integration into MS Office	3.11.3.a	400	50					
Electronic Document Display/Viewing	3.11.3.d	400	50					
Case File Support	3.11.3.e	200	25					
Fileserver Replacement	3.11.3.f	400	50					
Electronic Collaboration	3.11.3.g, 3.11.7.f	200	25					
E-Discovery	3.11.3.h	10	2					
Digital Asset Management	3.11.3.i	50	10					
ECM Integration Support	3.11.4, all	Enterprise	NA					
BPM-Specific Requirements								
Process Modeling (Basic Workflows)	3.11.5.a	25	5					
Basic Workflow Automation	3.11.5.b	25/Enterprise	5/NA					
Develop/Publish E-Forms	3.11.5.b.2	25/Enterprise	5/NA					
Digital Signatures	3.11.5.b.5	Enterprise	NA					
Basic Workflow Management	3.11.5.c	400	50					
Production Workflow Automation	3.11.6, all	25/400	5/50					
Business Rules Engine	3.11.6.h	25/400	5/50					
Case Management Support	3.11.7, all	200	25					
Document Assembly	3.11.7.e	25/400	5/50					
BPM Integration Support	3.11.8, all	Enterprise	NA					

Section V. Other Requirements and Special Terms

- 1) VENDOR UTILIZATION OF WORKERS OUTSIDE U.S.: In accordance with NC General Statute 147-33.97, the Vendor must detail in the bid response, the manner in which it intends to utilize resources or workers. The State of North Carolina will evaluate the additional risks, costs, and other factors associated with such utilization prior to making an award for any such Vendor's proposal. The Vendor shall provide the following for any proposal or actual utilization or contract performance:
- a) The location of work performed under a state contract by the Vendor, any subcontractors, employees, or other persons performing the contract and whether any of this work will be performed outside the United States
 - b) The corporate structure and location of corporate employees and activities of the Vendors, its affiliates or any other subcontractors
 - c) Notice of the relocation of the Vendor, employees of the Vendor, subcontractors of the Vendor, or other persons performing services under a state contract outside of the United States
 - d) Any Vendor or subcontractor providing call or contact center services to the State of North Carolina shall disclose to inbound callers the location from which the call or contact center services are being provided

Will any work under this contract be performed outside the United States?

Where will Services be performed:

YES _____ NO _____

2) Special Terms and Conditions: Reserved

- 3) Financial Statements - *If requested by the State*, the Vendor shall provide evidence of financial stability with its response to this RFP as further described hereinbelow. As used herein, Financial Statements shall exclude tax returns and compiled statements.
- a) For a publicly traded company, Financial Statements for the past three (3) fiscal years, including at a minimum, income statements, balance sheets, and statement of changes in financial position or cash flows. If three (3) years of financial statements are not available, this information shall be provided to the fullest extent possible, but not less than one year. If less than 3 years, vendor must explain the reason why they are not available.
 - b) For a privately held company, when certified audited financial statements are not prepared: a written statement from the company's certified public accountant stating the financial condition, debt-to-asset ratio for the past three (3) years and any pending actions that may affect the company's financial condition.
 - c) The State may, in its sole discretion, accept evidence of financial stability other than Financial Statements for the purpose of evaluating Vendors' responses to this RFP. The State reserves the right to determine whether the substitute information meets the requirements for Financial Information sufficiently to allow the State to evaluate the sufficiency of financial resources and the ability of the business to sustain performance of the contract award. Scope Statements issued may require the submission of Financial Statements and specify the number of years to be provided, the information to be provided, and the most recent date required.
- 4) Disclosure of Litigation – The Vendor's failure to fully and timely comply with the terms of this section, including providing reasonable assurances satisfactory to the State, may constitute a material breach of this Contract.
- a) The Vendor shall notify the State in its bid proposal, if it, or any of its subcontractors, or their officers, directors, or key personnel who may provide services under any contract awarded pursuant to this solicitation, have ever been convicted of a felony, or any crime involving moral turpitude, including, but

not limited to fraud, misappropriation or deception. Vendor shall promptly notify the State of any criminal litigation, investigations or proceeding involving Vendor or any subcontractor, or any of the foregoing entities' then current officers or directors during the term of this Contract or any Scope Statement awarded to Vendor.

- b) Vendor shall notify the State in its bid proposal, and promptly thereafter as otherwise applicable, of any civil litigation, arbitration, proceeding, or judgments against it or its subcontractors during the three (3) years preceding its bid proposal, or which may occur during the term of any awarded to Vendor pursuant to this solicitation, that involve (1) services or related goods similar to those provided pursuant to any contract and that involve a claim that may affect the viability or financial stability of the Vendor, or (2) a claim or written allegation of fraud by the Vendor or any subcontractor hereunder, arising out of their business activities, or (3) a claim or written allegation that the Vendor or any subcontractor hereunder violated any federal, state or local statute, regulation or ordinance. Multiple lawsuits and or judgments against the Vendor or subcontractor shall be disclosed to the State to the extent they affect the financial solvency and integrity of the Vendor or subcontractor.
 - c) All notices under subsection A and B herein shall be provided in writing to the State within thirty (30) calendar days after the Vendor learns about any such criminal or civil matters; unless such matters are governed by the ITS General Terms and Conditions annexed to the solicitation. Details of settlements which are prevented from disclosure by the terms of the settlement shall be annotated as such. Vendor may rely on good faith certifications of its subcontractors addressing the foregoing, which certifications shall be available for inspection at the option of the State.
- 5) Criminal Conviction – In the event the Vendor, an officer of the Vendor, or an owner of a 25% or greater share of the Vendor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or subcontract; or convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of North Carolina employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects upon the Vendor's business integrity and such vendor shall be prohibited from entering into a contract for goods or services with any department, institution or agency of the State.
- 6) 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.
- 7) Confidentiality of Data and Information – All financial, statistical, personnel, technical and other data and information relating to the State's operation which are designated confidential by the State and made available to the Vendor in order to carry out this Contract, or which become available to the Vendor in carrying out this Contract, shall be protected by the Vendor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the Vendor. If the methods and procedures employed by the Vendor for the protection of the Vendor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this section. The Vendor shall not be required under the provisions of this section to keep confidential, (1) information generally available to the public, (2) information released by the State generally, or to the Vendor without restriction, (3) information independently developed or acquired by the Vendor or its personnel without reliance in any way on otherwise protected information of the State. Notwithstanding the foregoing restrictions, the Vendor and its personnel may use and disclose any information which it is otherwise required by law to disclose, but in each case only after the State has been so notified, and has had the opportunity, if possible, to obtain reasonable protection for such information in connection with such disclosure.

- 8) Project Management – All project management and coordination on behalf of the Agency shall be through a single point of contact designated as the Agency Project Manager. Vendor shall designate a Vendor Project Manager who will provide a single point of contact for management and coordination of Vendor's work. All work performed pursuant to this Contract shall be coordinated between the Agency Project Manager and the Vendor Project Manager.
- 9) Meetings – The Vendor is required to meet with Agency personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of the Contract. Meetings will occur as problems arise and will be coordinated by Agency. The Vendor will be given reasonable and sufficient notice of meeting dates, times, and locations. Face to face meetings are desired. However, at the Vendor's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution meetings, two (2) consecutive missed or rescheduled meetings, or failure to make a good faith effort to resolve problems, may result in termination of the Contract.
- 10) Transition Assistance – If this Contract is not renewed at the end of this term, or is canceled prior to its expiration, for any reason, the Vendor must provide for up to six (6) months after the expiration or cancellation of this Contract, all reasonable transition assistance requested by the State, 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. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this 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 pay the Vendor for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for Contract performance. If the State cancels this Contract for cause, then the State will be entitled to offset the cost of paying the Vendor for the additional resources the Vendor utilized in providing transition assistance with any damages the State may have otherwise accrued as a result of said cancellation.
- 11) Unanticipated Tasks – In the event that additional work must be performed that was wholly unanticipated, and that is not specified in this Contract, but which in the opinion of both parties is necessary to the successful accomplishment of the contracted scope of work, the procedures outlined in this article will be followed. For each item of unanticipated work, Vendor shall prepare a work authorization in accordance with the State's practices and procedures.
- a) It is understood and agreed by both parties that all of the terms and conditions of this Contract shall remain in force with the inclusion of any work authorization. A work authorization shall not constitute a contract separate from this Contract, nor in any manner amend or supersede any of the other terms or provisions of this Contract or any amendment hereto.
 - b) Each work authorization shall comprise a detailed statement of the purpose, objective, or goals to be undertaken by Vendor, the job classification or approximate skill level or sets of the personnel required, an identification of all significant material then known to be developed by Vendor's personnel as a Deliverable, an identification of all significant materials to be delivered by the State to Vendor's personnel, an estimated time schedule for the provision of the Services by Vendor, completion criteria for the work to be performed, the name or identification of Vendor's personnel to be assigned, the Vendor's estimated work hours required to accomplish the purpose, objective or goals, the Vendor's billing rates and units billed, and the Vendor's total estimated cost of the work authorization.
 - c) All work authorizations must be submitted for review and approval by the procurement office that approved the original Contract and procurement. This submission and approval must be completed prior to execution of any work authorization documentation or performance thereunder. All work authorizations must be written and signed by Vendor and the State prior to beginning work.
 - d) The State has the right to require Vendor to stop or suspend performance under the "Stop Work" provision of the General Terms and Conditions for Goods and Related Services.
 - e) Vendor shall not expend Personnel resources at any cost to the State in excess of the estimated work hours unless this procedure is followed: If, during performance of the work, the Vendor determines that a work authorization to be performed under this Contract cannot be accomplished within the estimated

work hours, the Vendor will be required to complete the work authorization in full. Upon receipt of such notification, the State may:

1. Authorize the Vendor to expend the estimated additional work hours or service in excess of the original estimate necessary to accomplish the work authorization, or
 2. Terminate the work authorization, or
 3. Alter the scope of the work authorization in order to define tasks that can be accomplished within the remaining estimated work hours.
 4. The State will notify Vendor in writing of its election within seven (7) calendar days after receipt of the Vendor's notification. If notice of the election is given to proceed, the Vendor may expend the estimated additional work hours or Services.
- 12) The Agency acknowledges that a Reseller has merely purchased the Third Party Items for resale or license to the Agency, and that the proprietary and intellectual property rights to the Third Party Items are owned by parties other than the Reseller ("Third Parties"). The Agency further acknowledges that except for the payment to the Reseller for the Third Party Items, all of its rights and obligations with respect thereto flow from and to the Third Parties. The Reseller shall provide the Agency with copies of all documentation and warranties for the Third Party Items which are provided to the Reseller. The Reseller shall assign all applicable third party warranties for Deliverables to the Agency.
- 13) The terms and conditions of Vendor's standard license and/or maintenance agreement(s) applicable to Software and other Products acquired under this Agreement may apply to the extent such terms or conditions do not materially change the terms of conditions of this Agreement. In the event of any conflict between the terms or conditions of this Agreement and the Vendor's standard agreement(s), the terms or conditions of this Agreement relating to audit and records, jurisdiction, choice of law, the remedy for intellectual property infringement and the exclusive remedies and limitation of liability in Section VII, the State's General Terms and Conditions for Goods and Related Services herein shall apply in all cases and supersede any provisions contained in Vendor's Software licensing agreement or any other agreement. The State shall not be obligated under any standard license and/or maintenance agreement(s) to indemnify or hold harmless the vendor, its licensors, successors or assigns.

Section VI. Proposal Content and Organization

- 1) This section should contain all relevant and material information relating to the Vendor's organization, personnel, and experience that would substantiate its qualifications and capabilities to perform the Services and/or provide the goods described in this RFP. If any relevant and material information is not provided, the offer may be rejected from consideration and evaluation. Proposals will be considered and evaluated based upon the Vendor's full completion and response to the following, and any additional requirements herein, or stated in a separate Exhibit.
- 2) Information and Descriptive Literature. Vendor must furnish all information requested; and if response spaces are provided in this document, the Vendor shall furnish said information in the spaces provided. Further, if required elsewhere in this proposal, each Vendor must submit with their proposal sketches, descriptive literature and/or complete specifications covering the products offered. References to literature submitted with a previous proposal will not satisfy this provision. Proposals that do not comply with these requirements may be rejected.
- 3) Proposal Content. Demonstrate compliance with all mandatory conditions, requirements and terms of performance.
 - a) Clearly state your understanding of the problem(s) presented by this RFP.
 - i) Response to mandatory and desired technical specifications
 - ii) Cost proposal
 - b) Detailed description of Vendor's firm should include all of the following:
 - i) Full name, address, and telephone number of the organization;

- ii) Date established;
 - iii) Background of firm;
 - iv) Ownership (public company, partnership, subsidiary, etc.);
 - v) If incorporated, state of incorporation must be included.
 - vi) Number of full-time employees on January 1st for the last three years or for the duration that the Vendor's firm has been in business, whichever is less.
- 4) Any errata or exceptions must be stated on a separate page, labeled "Errata and/or Exceptions" with references to the corresponding terms or provisions of the Solicitation.
 - 5) Proposal Format. The proposals should be organized in the exact order in which the requirements and/or desirable performance criteria are presented in the RFP. The Execution page of this RFP must be placed at the front of the Proposal. Each page should be numbered. The proposal should contain a table of contents, which cross-references the RFP requirement and the specific page of the response in the Vendor's proposal. All proposals should be typewritten on standard 8 ½ x 11 paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within a binder with tabs delineating each section.
 - 6) Vendors are strongly encouraged to adhere to the following general instructions in order to bring clarity and order to the proposal and subsequent evaluation process:
 - a) Elaborate proposals in the form of brochures or other presentations beyond that necessary to present a complete and effective proposal are not desired.
 - b) The response should be complete and comprehensive with a corresponding emphasis on being concise and clear.
 - 7) Proposal Organization: The proposal should be organized and indexed in the following format and should contain, at a minimum, all listed items in the sequence indicated.
 - a) Letter of Transmittal - Each proposal must be accompanied by a letter of transmittal that provides the following information:
 - i) Identify the submitting organization;
 - ii) Identify the name, title, telephone and fax number, along with an e-mail address of the person authorized by the organization to contractually obligate the organization;
 - iii) Identify the name, title, telephone and fax number, along with an e-mail address of the person authorized to negotiate the contract on behalf of the organization;
 - iv) Identify the names, titles, telephone and fax number, along with an e-mail address of the person to be contacted for clarification;
 - v) Acknowledge receipt of any and all amendments to this RFP.
 - b) Table of Contents
 - c) Proposal Summary. A proposal summary may be included by Vendors to provide the Evaluation Committee with an overview of the technical and business features of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Vendor's proposal
 - d) Response to Technical Requirements/Specifications
 - e) Vendor References as described in Section III.12)
 - f) Completed Cost Response Form
 - g) Conflict of Interest:
 - i. Provide a statement that no assistance in preparing the response was received from any current or former employee of the State of North Carolina whose duties relate(d) to this RFP, unless such assistance was provided by the state employee in his or her official public capacity and that neither such employee nor any member of his or her immediate family has any financial interest in the outcome of this RFP;
 - ii. State if the Vendor or any employee of the Vendor is related by blood or marriage to an Agency employee or resides with an Agency employee. If there are such relationships, list the names and relationships of said parties. Include the position and responsibilities within the Vendor's organization of such Vendor employees; and
 - iii. State the employing State Agency, individual's title at that State Agency, and termination date.

- h) Vendor's Additional Terms and Conditions
 - i) Errata and Exceptions, if any
 - j) Copy of Vendor's License and Maintenance Agreements
 - k) Other Supporting Material Including Technical System Documentation
 - l) Training and Other Materials, Samples or Examples
 - m) Within each section of their proposal, Vendors should address the items in the order in which they appear in this RFP. Forms, if any provided in the RFP, must be completed and included in the appropriate section of the proposal. All discussion of proposed costs, rates, or expenses must be presented with the cost response.
- 8) Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.
- 9) Vendors may attach other materials that they feel may improve the quality of their responses. However, these materials should be included as items in a separate appendix.

Section VII. North Carolina Information Technology Procurement Office General Terms and Conditions for Goods and Related Services

Definitions: As used herein;

Services shall mean the professional and other tasks undertaken with respect to the requirements of this solicitation.

State shall mean the State of North Carolina, the Office of Information Technology Services as an Agency or in its capacity as the Award Authority.

Purchasing State Agency or Agency shall mean the Agency purchasing the goods or Services.

1) Standards: Any 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,
 - 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, if any, 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.

2) Warranties: Especially as to goods Deliverables, the Vendor warrants to the State that all items furnished will be new (unless otherwise requested in this bid), of good material and workmanship, and agrees to 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 a minimum of 90 days from date of acceptance. Such replacement shall include 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. Vendor shall assign all applicable third party warranties for Deliverables to the Purchasing State Agency.

3) 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.

4) 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.

5) 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.

6) Software License (for internal embedded software, firmware and unless otherwise provided in the State's solicitation document, or in an attachment hereto): Any 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.

7) Maintenance/Support Services: Reserved

8) Travel Expenses: Travel expenses are to be included in the quoted costs for Goods and Services. Vendor may be reimbursed for travel expenses for such travel, or other travel expressly requested by the State and arising under the performance of this Agreement, at the out-of-state rates set forth in GS §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 Agreement.

9) 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.

10) 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 9 NCAC 06B.1030, or other provision of law.

11) 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.

12) 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.

13) Acceptance Criteria: In the event acceptance of Deliverables is not described in additional Contract documents, the State shall have the obligation to notify Vendor, in writing ten calendar days following installation of any Deliverable described in the Contract if it is not acceptable. The notice shall specify in reasonable detail the reason(s) a deliverable is unacceptable. Acceptance by the State shall not be unreasonably withheld; but may be conditioned or delayed as required for installation and/or testing of Deliverables. Final acceptance is expressly conditioned upon completion of all applicable inspection and testing procedures. Should the Deliverables fail to meet any specifications or acceptance criteria the State

may exercise any and all rights hereunder, including such rights provided by the Uniform Commercial Code as adopted in North Carolina. Deliverables discovered to be defective or failing to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the Deliverables or non-compliance with the specifications was not reasonably ascertainable upon initial inspection. If the Vendor fails to promptly cure the defect or replace the Deliverables, the State reserves the right to cancel the Purchase Order, contract with a different Vendor, and to invoice the original Vendor for any differential in price over the original Contract price. When Deliverables are rejected, the Vendor must remove the rejected Deliverables from the premises of the State Agency within seven (7) calendar days of notification, unless otherwise agreed by the State Agency. Rejected items may be regarded as abandoned if not removed by Vendor as provided herein.

14) 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.

15) Inspection at Vendor's Site: Reserved.

16) 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.

17) Confidentiality: In accordance with 9 NCAC 06B.0103, 06B.0207 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. Gen. Stat. §132-1 et. seq. Such information may include trade secrets defined by N.C. Gen. Stat. §66-152 and other information exempted from the Public Records Act pursuant to N.C. Gen. Stat. §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. Gen. Stat. §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. Gen. Stat. §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 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 Insurance Portability and Accountability Act), any implementing regulations in the Code of Federal Regulations, and any future regulations imposed upon the

Office of Information Technology Services 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.

18) 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. Non-licensed Deliverables are the property of the State of North Carolina. 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.

19) 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 performed or 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.

20) 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. 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.

21) Access to Persons and Records: Pursuant to N.C. General Statute 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.

22) 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.

23) 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.

24) 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.

25) Default: In the event any Deliverable furnished by the Vendor during performance of any Contract term fails to conform to any material requirement of the Contract specifications, notice of the failure is provided by the State and if the failure is not cured within ten (10) days, or Vendor fails to meet the requirements of Paragraph 13) herein, 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 28) and 29) and the obligation to informally resolve disputes as provided in Paragraph 24) of these Terms and Conditions. Default may be cause for debarment as provided in 09 NCAC 06B.1030. The State reserves the right to require performance guaranties pursuant to 09 NCAC 06B.1031 from the Vendor without expense to the State. 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 Deliverables within the time required by this Contract, the State may provide written notice of said failure to Vendor, and by such notice require payment of a penalty.

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 due to the State's failure. Vendor will use reasonable efforts to mitigate delays, costs or expenses arising from assumptions in the Vendor's bid documents 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 default if requested by the State. The plan shall state the nature of the default, the time required for cure, any mitigating factors causing or tending to cause the default, and such other information as the Vendor may deem necessary or proper to provide.

26) 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.

27) 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 25), 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 28) and 29) 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 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.

28) 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 for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, shall be limited to two times the value of the Contract.

c) The foregoing limitation of liability shall not apply to the payment of costs and damage awards referred to in the Paragraph entitled "Patent, Copyright, and Trade Secret Protection", to claims covered by other specific provisions calling for liquidated damages or specifying a different limit of liability, or to claims for injury to persons or damage to property caused by Vendor's negligence or willful or wanton conduct. This limitation of liability does not apply to 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.

29) 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 tangible 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, or for damage to alterations or attachments that may result from the normal operation and maintenance of the Vendor's goods.

30) General Indemnity: The Vendor shall hold and save the State, its officers, agents and employees, harmless from liability of any kind, including all claims and losses, with the exception of consequential damages, 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. The foregoing indemnification and defense by the Vendor shall be conditioned upon the following:

a) The Agency shall give Vendor written notice within thirty (30) days after it has actual knowledge of any such claim(s) or action(s) filed; and

b) The Vendor shall have the sole control of the defense of any such claim(s) or action(s) filed and of all negotiations relating to settlement or compromise thereof, provided, however, that the Agency or State shall have the option to participate at their own expense in the defense of such claim(s) or action(s) filed.

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 proposal 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 90 days after the Stop Work Order is delivered to the Vendor. The 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 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 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 a proposal submitted at any time before final payment under this Contract.
- c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for Convenience of the State, the State shall allow reasonable direct costs resulting from the Stop Work Order in arriving at the termination settlement.
- d) The State shall not be liable to the Vendor for loss of profits because of a Stop Work Order issued under this term.

33) Price Adjustments for Term Contracts: Reserved.

34) Time is of the Essence. Time is of the essence in the performance of this Contract.

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

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

37) Transportation: Transportation of goods 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. In providing Services and Deliverables, and without limiting or modifying in any respect the Vendor's obligations, Vendor shall comply, and shall cause each of its employees and subcontractors to comply at all times, with State policies that are of general application to State contractors or that Vendor has otherwise agreed to, comply with, including, without limitation, the Statewide Information Security Manual and ITS Security Standards and Policies.

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

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

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

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

b) Vendor, or its authorized Reseller, as applicable, will be invoiced monthly for the State's transaction fee by the Supplier Manager. The transaction fee shall be based on purchase orders issued for the prior month. Unless Supplier Manager receives written notice from the Vendor identifying with specificity any errors in an invoice within thirty (30) days of the receipt of invoice, such invoice shall be deemed to be correct and Vendor shall have waived its right to later dispute the accuracy and completeness of the invoice. Payment of the transaction fee by the Vendor is due to the account designated by the State within thirty (30) days after receipt of the correct invoice for the transaction fee, which includes payment of all portions of an invoice not in dispute. Within thirty (30) days of the receipt of invoice, Vendor may request in writing an extension of the invoice payment due date for that portion of the transaction fee invoice for which

payment of the related goods by the governmental purchasing entity has not been received by the Vendor. If payment of the transaction fee invoice is not received by the State within this payment period, it shall be considered a material breach of contract. The Supplier Manager shall provide, whenever reasonably requested by the Vendor in writing (including electronic documents), supporting documentation from the E-Procurement Service that accounts for the amount of the invoice.

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

North Carolina Office of Information Technology Supplemental Terms and Conditions for Software and Services

1) Supplement: The additional terms and conditions set forth herein shall supplement the General Terms and Conditions for Goods and Related Services. In the event of a conflict between this Supplement and the General Terms and Conditions, or any other document, the order of precedence shall be determined by the State's solicitation document(s).

2) License Grant: This paragraph recites the scope of license granted, if not superseded by a separate licensing agreement as follows:

a) Vendor grants to the State, its Agencies and lawful customers a non-exclusive, non-transferable and non-sublicensable license to use, in object code format, Vendor's software identified in the solicitation documents, Vendor's Statement of Work (SOW), or an Exhibit thereto executed by the parties ("Software"), subject to the restrictions set forth therein, such as the authorized computer system, the data source type(s), the number of target instance(s) and the installation site. Use of the Software shall be limited to the data processing and computing needs of the State, its Agencies and lawful customers. This license shall be perpetual, unless terminated as provided herein. The State agrees not to distribute, sell, sublicense or otherwise transfer copies of the Software or any portion thereof. For purposes of this Agreement, a State Entity shall be defined as any department or agency of the State of North Carolina, which is controlled by or under common control of the State or who is a lawful customer of the State pursuant to Article 3D of Chapter 147 of the General Statutes.

b) Vendor shall provide all encryption or identification codes or authorizations that are necessary or proper for the operation of the licensed Software.

c) The State shall have the right to copy the Software, in whole or in part, for use in conducting benchmark or acceptance tests, for business recovery and disaster recovery testing or operations, for archival or emergency purposes, for back up purposes, for use in preparing derivative works if allowed by the solicitation documents or statements of work, or to replace a worn copy.

d) The State may modify non-personal Software in machine-readable form for its internal use in merging the same with other software program material. Any action hereunder shall be subject to uses described in this paragraph, the restrictions imposed by Paragraph 2, and applicable terms in the solicitation documents or statements of work.

3) Restrictions. State's use of the Software is restricted as follows:

a) The license granted herein is granted to the State and to any political subdivision or other entity permitted or authorized to procure Information Technology through the Office of Information Technology. If the License Grant and License Fees are based upon the number of Users, the number of Users may be increased at any

time, subject to the restrictions on the maximum number of Users specified in the solicitation documents.

b) No right is granted hereunder to use the Software to perform services for commercial third parties (so-called "service bureau" uses). Services provided to other State Departments, Agencies or political subdivisions of the State is permitted.

c) The State may not copy, distribute, reproduce, use, lease, rent or allow access to the Software except as explicitly permitted under this Agreement, and State will not modify, adapt, translate, prepare derivative works (unless allowed by the solicitation documents or statements of work,) decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Software or any internal data files generated by the Software.

d) State shall not remove, obscure or alter Vendor's copyright notice, trademarks, or other proprietary rights notices affixed to or contained within the Software.

4) Vendor's Retained Rights: Subject only to the rights granted to State hereunder, Vendor retains all right, title and interest in and to the Software and all copies of the Software, including without limitation all modifications, enhancements, upgrades and new versions with respect to any of the foregoing, all patent rights, copyrights and trade secret rights embodying any of the foregoing, and all know-how, concepts, inventions and ideas related to the foregoing. State shall provide Vendor with access to State's facilities, at reasonable times and upon reasonable notice, to verify State's compliance with the terms of this Agreement.

5) Support or Maintenance Services: This paragraph recites the scope of maintenance Services due under the license granted, if not superseded by a separate licensing and maintenance agreement or as may be stated in the solicitation documents. Subject to payment of a Support Service or Maintenance Fee stated in the solicitation documents for the first year and all subsequent years, if requested by the State, Vendor agrees to provide the following support Services ("Support Services") for the current version and one previous version of the Software commencing upon delivery of the Software:

a) Error Correction: If the error conditions reported by the State pursuant to the General Terms and Conditions are not corrected in a timely manner, the State may request a replacement copy of the licensed Software from Vendor. In such event, Vendor shall then deliver a replacement copy, together with corrections and updates, of the licensed Software within 24 hours of the State's request at no added expense to the State.

b) Other Agreement: This Paragraph 6 may be superseded by agreement provided that: Support and maintenance Services shall be fully described in a separate agreement annexed hereto and incorporated herein

c) Temporary Extension of License: If any licensed Software or CPU/computing system on which the Software is installed fails to operate or malfunctions, the term of the license granted shall be temporarily extended to another CPU selected by the State and continue until the earlier of:

- i) Return of the inoperative CPU to full operation, or
- ii) Termination of the license.

d) Encryption Code: Vendor shall provide any temporary encryption code or authorization necessary or proper for operation of the licensed Software under the foregoing temporary license. The State will provide notice by expedient means, whether by telephone, e-mail or facsimile of any failure under this paragraph. On receipt of such notice, Vendor shall issue any temporary encryption code or authorization to the State within 24 hours; unless otherwise agreed.

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

f) 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, 7:00 AM - 7:00 PM Eastern Time, Monday-Friday. Vendor shall respond to the telephone requests for Program maintenance service, within four (4) hours, for calls made at any time

6) Termination of Support or Maintenance: If the State fails to pay Support or Maintenance Services for the Software or choose not to pay for Support or Maintenance Services, the State may continue to use the Software pursuant to the license granted hereunder, but will not be entitled to receive routine Support Services for such Software. If the State does not subscribe or purchase Support or Maintenance Services effective with

the date of this Contract, Support or Maintenance Services may be subsequently subscribed or purchased at any time during the term of this Contract by payment of Support Service or Maintenance Fees at Vendor's then current prices. During the term of this Agreement, the State may also purchase implementation Services, consulting and training from Vendor at Vendor's then current prices.

7) Program Retirement: Vendor retains the right to retire a version of the Program and stop providing Maintenance, Updates or Services, upon providing 180 day written notice to the State of its intent to do so. The decision to stop maintaining a version of the Program is the sole business discretion of Vendor and shall not be deemed a breach of contract. If Vendor retires the version of the Program provided to the State and if the State has paid all applicable annual Maintenance Fees subsequent to executing this Agreement, the State shall be entitled to receive, at no additional charge, a newer version of the Program that supports substantially the same functionality as the licensed version of the Program. Newer versions of the Program containing substantially increased functionality will be made available to the State for an additional fee.

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

9) Payment Terms: The total License Fee and the Support Service or Maintenance Fee (provided the State subscribes or purchases such Services) for the first year shall be invoiced upon delivery of the Software. The Support Service or Maintenance Fee for subsequent contract years, if any, will be invoiced annually 60 days prior to the anniversary date beginning each subsequent year. Increases in Vendor's Contract price for Support Services or Maintenance shall not exceed five percent (5%) per year following the first Contract year. Payment terms for software are Net 30 days after receipt of correct invoice or acceptance of software, whichever is later. Payment terms for Services are due and payable the month following the month for which charges accrue, or in accordance with the contract payment schedule. The using agency is responsible for all payments under the contract.

10) Acceptance: Acceptance testing is required for all Vendor supplied software unless provided otherwise in the solicitation documents or a Statement of Work. The State may define such processes and procedures as may be necessary or proper, in its opinion and discretion, to ensure compliance with the State's specifications and Vendor's technical representations. Acceptance of software or Services may be controlled by amendment hereto, or additional terms as agreed by the parties. In the event acceptance of software or Services is not described in additional contract documents, the State shall have the obligation to notify Vendor, in writing and within a reasonable time following installation of any software 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 software.

11) Warranty Terms: Notwithstanding anything in this Contract or Exhibit hereto to the contrary, Vendor shall assign warranties for any Deliverable supplied by a third party to the State.

a) Vendor warrants that any Software or Deliverable will operate substantially in conformity with prevailing specifications as defined by the current standard documentation (except for minor defects or errors which are not material to the State) for a period of 90 days from the date of acceptance ("Warranty Period"), unless otherwise specified in the Solicitation Documents. If the Software does not perform in accordance with such specifications during the Warranty Period, Vendor will use reasonable efforts to correct any deficiencies in the Software so that it will perform in accordance with or substantially in accordance with such specifications.

b) Vendor warrants to the best of its knowledge that:

i) The licensed Software and associated materials do not infringe any intellectual property rights of any third party;

ii) There are no actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party;

iii) The licensed Software and associated materials do not contain any surreptitious programming codes, viruses, Trojan Horses, "back doors" or other means to facilitate or allow unauthorized access to the State's information systems.

iv.) The licensed Software and associated materials do not contain any timer, counter, lock or similar device (other than security features specifically approved by Customer in the Specifications) that inhibits or in any way limits the Software's ability to operate.

c) UNLESS MODIFIED BY AMENDMENT OR THE SOLICITATION DOCUMENTS, THE WARRANTIES IN THIS PARAGRAPH ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, OR WHETHER ARISING BY COURSE OF DEALING OR PERFORMANCE, CUSTOM, USAGE IN THE TRADE OR PROFESSION OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND NO OTHER REPRESENTATIONS OR WARRANTIES HAVE FORMED THE BASIS OF THE BARGAIN HEREUNDER.

12) Escrow of Code: Reserved.

13) Confidentiality: Vendor shall employ security measures and standards, including encryption technologies, as may be necessary or proper, and as mutually agreed by the State and Vendor during performance of this Agreement. Vendor and its agents, if any, shall not have access to any information except as required to perform Vendor's obligations under this Contract.

14) State Property and Intangibles Rights: The parties acknowledge and agree that the State shall own all right, title and interest in and to the copyright in any and all software, technical information, specifications, drawings, records, documentation, data and other work products first originated and prepared by the Vendor for delivery to the State (the "Deliverables"). To the extent that any Vendor Technology is contained in any of the Deliverables, 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 internal business purposes. 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 to non-confidential Deliverables first originated and prepared by the Vendor for delivery to the State.

15) License Rights: All licenses granted to either party include the right to make, have made, use, have used, import, offer to sell, sell, lease or otherwise transfer any apparatus, or practice and have practiced any method and shall include the right to grant, directly or indirectly, revocable or irrevocable sublicenses to affiliates of such party; and nothing contained in this contract shall be deemed to grant any license under any other patents or patent applications arising out of any other inventions of either party.

16) Default: If the prescribed acceptance testing stated in the Solicitation Documents or performed pursuant to Paragraph 13 of the General Terms and Conditions for Goods and Related Services is not completed successfully, the State may request substitute Software, cancel the portion of the Contract that relates to the unaccepted Software, or continue the acceptance testing with or without the assistance of Vendor. These options shall remain in effect until such time as the testing is successful or the expiration of any time specified for completion of the testing. If the testing is not completed after exercise of any of the State's options, the State may cancel any portion of the contract related to the failed Software and take action to procure substitute software. If the failed software (or the substituted software) is an integral and critical part of the proper completion of the work for which the Deliverables identified in the solicitation documents or statement of work were acquired, the State may terminate the entire contract pursuant to the Default terms in the General Terms and Conditions.

17) Limitation of Liability for Software Deliverables:

a) Where equipment is under the State's exclusive management and control, Vendor shall not be liable for any damages caused by the State's failure to fulfill any State responsibilities including, without limitation, those relating to assuring the proper use, management and supervision of the equipment and programs, audit controls, operating methods, office procedures or for establishing all property checkpoints necessary for the State's intended use of the machines.

b) The Vendor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, shall not exceed two times the value of the contract, but in no event shall the liability for damages be less than the total value of the contract.

c) WITH THE EXCEPTIONS OF INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT ACTIONS, THE STATE'S CONSTITUTIONAL RIGHTS AS A SOVEREIGN, AND PENALTIES IMPOSED UPON THE STATE BY ANY FEDERAL ENTITY OR EXPENDITURES OF PUBLIC FUNDS REQUIRED OR RESULTING FROM

AN OPERATIONAL FAILURE OF THE DELIVERABLE(S) OR SERVICES PROVIDED HEREUNDER, BUT NOTWITHSTANDING ANY OTHER TERM TO THE CONTRARY CONTAINED IN THIS CONTRACT, NEITHER PARTY NOR THEIR RESPECTIVE AFFILIATES SHALL, UNDER ANY CIRCUMSTANCES, BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES (I) FOR ANY CLAIM BASED UPON ANY THIRD PARTY CLAIM, (II) FOR ANY CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST SAVINGS OR OTHER ECONOMIC CONSEQUENTIAL DAMAGES, WHETHER RESULTING FROM DELAYS, LOSS OF DATA, INTERRUPTION OF SERVICE OR OTHERWISE, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR (III) FOR ANY PUNITIVE OR EXEMPLARY DAMAGES OF ANY NATURE WHATSOEVER.

18) Vendor Obligations: In the event the State does not perform the State Obligations in a timely manner; Vendor may revise the applicable SOW and/or amount it is charging for Services, and present it as a Change pursuant to Paragraph 31 of the General Terms and Conditions for Goods and Related Services, or terminate this Agreement, at Vendor's option. For each SOW, Vendor will designate one (1) Vendor point of contact who shall be responsible for responding to the State's questions and issues relating to the Services. The State understands and agrees that Vendor may subcontract with third parties to perform all or part of the Services in conformance with Paragraph 4 of the General Terms and Conditions for Goods and Related Services.

19) Qualified Personnel: Each party shall provide sufficient, qualified, knowledgeable personnel capable of: (i) performing obligations set forth in this Agreement and each SOW; (ii) making timely decisions necessary to move the Services forward; (iii) participating in the project and assisting Vendor in rendering the Services; and (iv) facilitating development, testing and implementation of Vendor software, if applicable. Vendor warrants that qualified personnel will perform the Services in a professional manner. As used in this Paragraph, "professional manner" means that the personnel performing the Services will be of a skill and competence consistent with prevailing norms of company providers in the information technology industry.

20) Vendor Responsibilities. Vendor shall not be responsible for any alleged breach of the foregoing Paragraph 17) that is attributable to (i) misuse or modification of Vendor's Software by or on behalf of the State, (ii) the State's failure to use corrections or enhancements made available by Vendor, (iii) the quality or integrity of data from other automated or manual systems with which the Vendor's Software interfaces, (iv) errors in or changes to third party software or hardware implemented by the State or a third party (including the vendors of such software or hardware) that is not a subcontractor of Vendor or that is not supported by the Deliverables, or (v) the operation or use of the Vendor's Software not in accordance with the operating procedures developed for the Vendor's Software or otherwise in a manner not contemplated by this Agreement.

21) Transportation: Transportation of software shall be FOB Destination unless delivered by internet or file transfer as agreed by the State, or otherwise specified in the solicitation document or purchase order.

Section VIII. Attachments and Exhibits

Attachment A – Certification of Compliance With Executive Order # 24

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

By Executive Order 24, issued by Governor Perdue, and N.C.G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. § 133-32.

The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-contractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction.

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee 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 Attachment and submitting a bid in response to the accompanying solicitation, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

TYPE OR PRINT NAME & TITLE OF PERSON SIGNING:	E-MAIL:
AUTHORIZED SIGNATURE:	DATE:

Attachment B—NCDOL Organizational Structure

The North Carolina Department of Labor is organized into three primary divisions:

- Occupational Safety and Health
- Standards and Inspections
- Administration

The N.C. Department of Labor enforces the federal Occupational Safety and Health Act through a state plan approved by the U.S. Department of Labor. The Occupational Safety and Health Division (OSH) accounts for approximately half of the personnel in the Department, and has five bureaus:

- The ***Agricultural Safety and Health Bureau (ASH)*** conducts preoccupancy inspections for migrant labor camps and conducts other inspections to ensure compliance with applicable agricultural safety and health standards.
- The ***Compliance Bureau*** conducts random inspections of North Carolina businesses to ensure compliance with applicable workplace safety and health standards. The bureau also manages the OSH Complaint Desk that process work-related safety and health concerns.
- The ***Consultative Services Bureau*** provides free, on-site consultation upon employer request to help employers comply with workplace safety and health standards. The bureau also administers three recognition programs, the Carolina Star Program, the Safety Awards Program and the Safety and Health Achievement Recognition Program (SHARP) that acknowledge businesses with exemplary safety and health programs.
- The ***Education, Training and Technical Assistance Bureau (ETTA)*** coordinates and conducts various outreach programs such as safety and health schools/workshops, speaking engagements, training events and booth displays. The bureau also reviews the federal standards for state adoption, coordinates state-specific rulemaking activities, distributes OSH publications, and provides written, electronic or telephone interpretive guidance to employers and employees. The bureau also processes variance requests.
- The ***Planning, Statistics and Information Management Bureau (PSIM)*** provides statistical data about North Carolina employers. The bureau produces several annual statistical documents and manages inspection case file disclosures.

The ***Standards and Inspections Division (S&I)*** is charged with performing specialized safety inspections, enforcing wage and hour as well as employment discrimination laws, and managing the state apprenticeship program. S&I employs approximately one third of the Department's personnel, and includes six bureaus:

- The ***Apprenticeship and Training Bureau*** promotes and monitors a broad range of apprenticeship programs that train journeyman-level craft workers to meet the demand for high-skill workers. Apprenticeship programs are sponsored through private employers or under joint labor-management committees.
- The ***Boiler Safety Bureau*** regulates the construction, installation, repair, alteration, inspection, use and operation of boilers and pressure vessels. The bureau conducts periodic inspections of vessels, monitors inspection reports and maintains records on ownership, location and condition of working boilers and pressure vessels. It also issues operating certificates to boiler owners and operators who meet requirements.
- The ***Elevator and Amusement Device Bureau*** oversees, except in federal buildings, the installation and safe operation of elevators, escalators, workman's hoists, dumbwaiters, moving walks, aerial

passenger tramways, amusement rides, included railways and lifting devices for people with disabilities. The bureau conducts more than 24,000 annual inspections and approves plans and applications for equipment that falls under its jurisdiction.

- The **Employment Discrimination Bureau** enforces the Retaliatory Employment Discrimination Act, which protects employees who in good faith file or initiate an inquiry about workers' compensation claims or exercise their rights under state law. Investigators examine the complaints filed and, if the complaint is found to be without merit, advise the complainant on legal recourses. If the complaint is found to be valid, the bureau attempts conciliation through information-gathering means before issuing a right-to-sue letter or taking the complaint to court.
- The **Mine and Quarry Bureau** conducts inspections, education and training, and technical assistance on the operation of more than 440 private-sector mines, quarries and sand and gravel pit operations. The bureau also inspects abandoned surface mines for the protection of the general public, promotes rock-hound safety, and conducts an explosives safety course for anyone handling or using explosives.
- The **Wage and Hour Bureau** has multiple missions:
 - o It enforces laws that cover minimum wage, maximum hours, wage payment and child labor. Wage payment provisions—which include the payment of promised vacation, sick pay or other benefits—cover all employees except those in federal, state and local government. The bureau investigates worker complaints and collects back wages owed to employees.
 - o The bureau also licenses and regulates private personnel and job listing services. Such companies that charge their clients must obtain a license from the Department.
 - o Youth employment certificates are required for workers under 18 years of age and are available online. This age group is prohibited from employment in certain hazardous conditions. Wage and Hour issues these certificates.

Finally, the **Administration Division** encompasses the typical functions required to support a government agency (Budget, HR, IT, etc...) as well as a number of additional operating bureaus. The Administration Division is composed of seven divisions, one bureau, one program and a library.

- The **Budget and Management Division** oversees the budget for the Department, and processes all payments to the individual bureaus of the Department. Note that three bureaus (Apprenticeship, Boiler and Elevator) are fully or partially receipt-funded, in that they accept payments for their services to support their missions.
- The **Communications Division** provides information to media outlets and the general public. Communications also supervises two other bureaus:
 - o The **N.C. Department of Labor Library** provides more than 12,000 volumes, 120 periodical titles and about 1,300 audiovisual items on various topics regulated by the Department to the public free of charge.
 - o The **Publications Bureau**, which produces printed matter required by the Department.
- The **Human Resources Division (HR)** performs all typical HR support functions, including administering/advising on employee benefits, employee evaluations and job descriptions.
- The **Information Technology Division (IT)** provides software, hardware and server/infrastructure support to the Department, as well as end-user training.
- The **Legal Affairs Division (LAD)** manages rulemaking activity and provides legal support to the Department as needed.
- The **Research and Policy Division (R&P)** collects information and data related to NCDOL functions, including the Census for Fatal Occupational Injuries (CFOI) and nonfatal injury and illness rates.
 - o R&P also oversees the **Individual Development Accounts (IDA) Program**, which seeks to provide assistance to low-income individuals toward attaining self-sufficiency. This program is

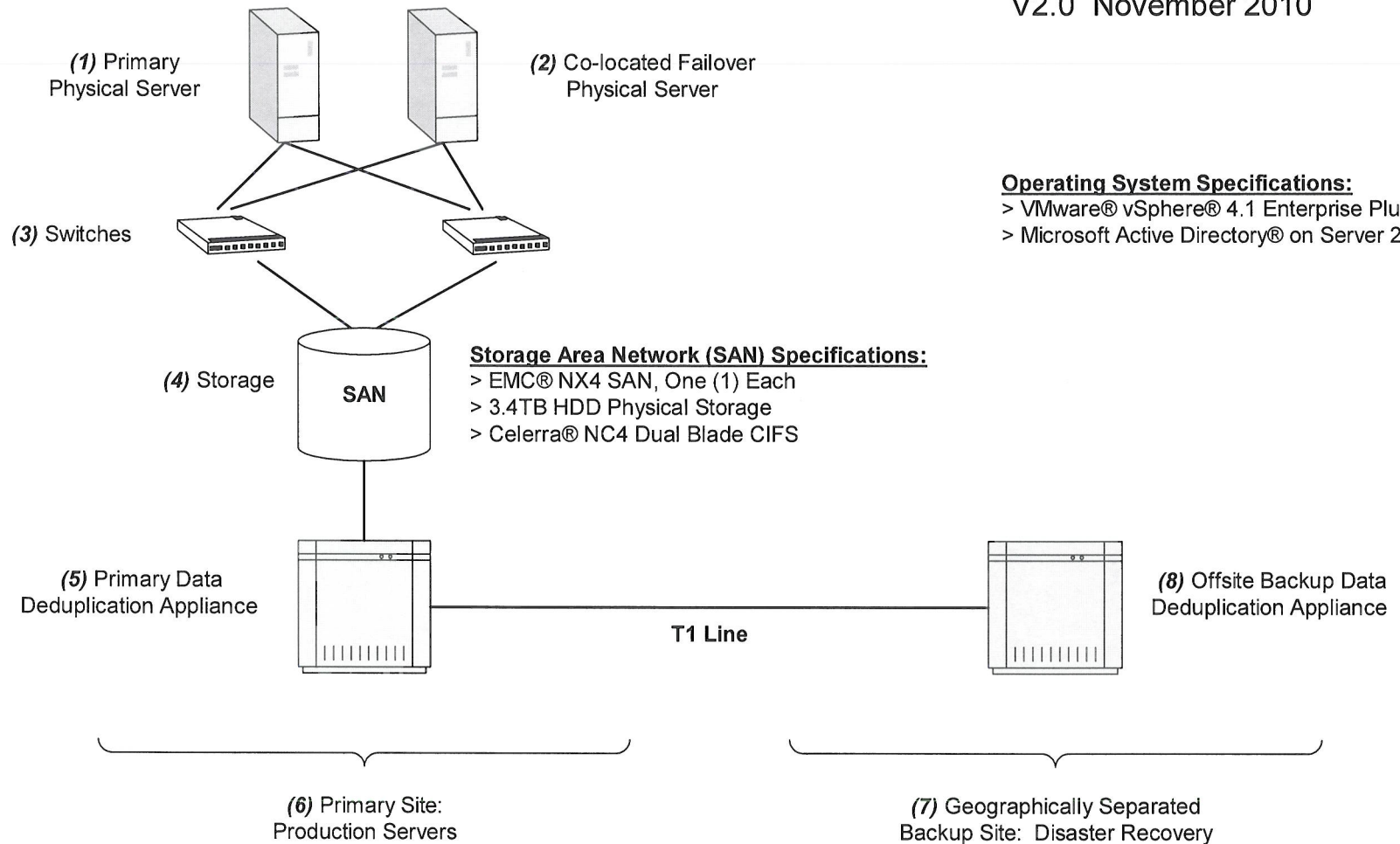
designed to help low-wealth individuals build assets for the start-up of new businesses, post-secondary educational investments or the purchase of a home.

- The **Commissioner's Office** staff directly supports the Labor Commissioner's activities and scheduling requests. In addition, this office acts as the legislative liaison for the Department.

ATTACHMENT C

FIGURE 1

NCDOL Server/Infrastructure Architecture V2.0 November 2010



Primary and Secondary Server Specifications:

- > HP® ProLiant® DL380 G6 Servers, Two (2) Each
- > Two (2) Quad-Core Intel® Xeon® Processors (E5540) Each
- > 24 GB RAM Each
- > 300 GB HDD Physical Storage Each

Operating System Specifications:

- > VMware® vSphere® 4.1 Enterprise Plus
- > Microsoft Active Directory® on Server 2008

Deduplication Storage Device Specifications:

- > Data Domain® DD610 Systems, Two (2) Each
- > 3.5TB HDD Physical Storage Each

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