

# STATE OF NORTH CAROLINA REQUEST FOR PROPOSALS

**RFP #42009587**

**TITLE:** **Employee & Applicant Drug Testing**

USING AGENCY: NC Department of Correction

ISSUE DATE: **November 26, 2008**

ISSUING AGENCY: NC Department of Correction

Sealed Proposals subject to the conditions made a part hereof will be received until **2:00 p.m., Thursday, December 11th, 2008** for furnishing services described herein.

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

| <u>DELIVERED BY US POSTAL SERVICE</u>                                                                                                              | <u>DELIVERED BY ANY OTHER MEANS</u>                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| RFP NO. <u>42009587</u><br>NC DEPARTMENT OF CORRECTION<br>DEPARTMENTAL PURCHASING & SERVICES<br>MAIL SERVICE CENTER 4227<br>RALEIGH, NC 27699-4227 | RFP NO. <u>42009587</u><br>NC DEPARTMENT OF CORRECTION<br>DEPARTMENTAL PURCHASING & SERVICES<br>2020 YONKERS ROAD, ROOM PR 02<br>RALEIGH, NC 27604 |

IMPORTANT NOTE: Indicate firm name and RFP number on the front of each sealed proposal envelope or package, along with the date for receipt of proposals specified above.

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

Direct all inquiries concerning this RFP to:

**Michael R. Tart, Purchasing Agent**  
**NC Department of Correction**  
**2020 Yonkers Road, MSC 4227**  
**Raleigh, NC 27699-4227**  
**919-716-3273**  
**Email: [tmr13@doc.state.nc.us](mailto:tmr13@doc.state.nc.us)**

**NOTE:** Questions concerning the specifications in this Request for Proposals will be received until **the close of business Monday, December 8th 2008**. A summary of all questions and answers will be posted on the internet as an addendum, located under the RFP # being modified. **It is the offeror's responsibility to assure that all addenda have been reviewed and, if need be, signed and returned.**

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

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

## I. BACKGROUND

The North Carolina Department of Correction (DOC) employees are public servants and must be persons of sound moral character. In dealing with criminal offenders and the public, employees must firmly establish authority, yet show themselves worthy of trust by maintaining appropriate conduct on and off duty as well as demonstrating reliability to the citizens of the State for general safety and protection.

It is the policy of the Department of Correction to maintain a drug free and alcohol-free work environment through the use of an employee and applicant drug and alcohol-testing program. This program is designed for pre-employment applicants and current employees of the Department and the program is comprised into two main categories:

- A. Pre-employment Drug Screens for Criminal Justice Certified Applicants
- B. U.S. Department of Transportation (USDOT) Drug and Alcohol Testing of Employees occupying positions requiring a Commercial Driver's License (CDL)
- C. Reasonable Suspicion (Non-CDL, Non Pre-employment Criminal Justice) Drug and Alcohol Testing of Employees

**The North Carolina Department of Correction (DOC) will perform approximately 3,800 drug screens per year and will utilize approximately 3,000 alcohol test kits per year for both actual testing and training purposes.**

## II. TERM OF CONTRACT

The contract service shall be for a period of one (1) year and shall begin when a purchase order has been issued by the Department of Correction, subject to the continuation of the program and the availability of funds. The Department of Correction reserves the right to extend the contract for an additional two (2), one (1) year periods, making the total length of the contract three (3) years.

## III. SCOPE OF WORK

All Vendors responding to this RFP shall meet the following minimum requirements, in addition to the terms and conditions outlined elsewhere.

### A. **Pre-employment Drug Screens for Criminal Justice Certified Applicants**

Drug testing via urine specimen is accomplished by sending the DOC employee to a vendor recommended third party testing site, where the specimen will be administered and sent on for testing.

An Applicant reports to one of the Regional Employment Offices listed below at scheduled time for processing necessary employment paperwork. The Applicant is issued chain of custody authorization form to take to the pertinent collection site. Applicants have 24 hours to report to the collection site for a urine drug screen. Please Note: Training is not required for Regional Employment Office staff.

### **Regional Employment Offices**

#### **Western Foothills Regional Employment Office (WFREO)**

613 Harper St  
P.O. Box 1946  
Lenoir, NC 28645  
Caldwell County

#### **Piedmont Triad Regional Employment Office (PTREO)**

771 Park Centre Dr, Suite D  
Kernersville, NC 27284  
Forsyth County

#### **Raleigh Regional Employment Office (RREO)**

2728 Capital Blvd  
4205 MSC  
Raleigh, NC 27699  
Wake County

**Southern Coastal Plains Regional Employment Office (SCPREO)**

180 Sandhills Dr  
P.O. Box 40  
Raeford, NC 28376  
Hoke County

**Eastern Carolina Regional Employment Office (ECREO)**

2241 Dickinson Ave  
Greenville, NC 27834  
Pitt County

**Vendor Requirements for Pre-employment Drug Screens**

1. Collection sites should be within convenient mileage proximity from the assigned Regional Employment Offices already mentioned above. Applicants should also be able to use drug collection sites convenient to their home or work location.
2. Collection sites should be able to provide prompt collection of urine samples from applicants to minimize applicant wait time. This can be done by appointment or walk-in availability.
3. Weekend hours are not required for Criminal Justice Pre-employment purposes. Collection sites shall be available throughout the business day with preferably some evening hours.
4. Be responsible for establishing safeguards to ensure the confidentiality of test results. Current safeguard programs must be included in the Vendor's proposal. Social security numbers shall not be used to identify employee test results. The agency will provide another unique applicant/employee identifiers for each person tested.
5. Vendor to provide each individual being tested with a medical information form along with the laboratory collection form, at no additional cost to the Department. The medical information form must provide an area for the individual being tested to note any medications taken or used over the last thirty days
6. Vendor ensures that all testing must be conducted by a **Substance Abuse & Mental Health Services Administration (SAMHSA)** certified laboratory, and test for the HHS-5 profile (amphetamines, cannabinoids, cocaine metabolites, opiates and phencyclidine) in accordance with the policies and procedures of Department of Correction. The laboratory must be certified for federal workplace drug testing. The lab must use the SAMHSA testing process.
7. Vendor to provide all required laboratory drug-testing forms (Federal and Non-Federal) to the Department at no additional charge.
8. Vendor to provide general informational literature on drug screening upon request to the Department to answer inquiries.
9. The Vendor must notify the appropriate Regional Employment Office of test results the next work day in writing via fax, email, secure web reporting or other viable method.
10. Vendor to designate a contact person and a toll free number to verify and consult with the Department's applicant/employee about a positive drug result.
11. Vendor to ensure that all test results shall be sent directly to the Vendor's medical review officer. Should any initial screening tests produce a positive result, the lab will perform a second test on the original specimen(s) using gas chromatography/mass spectrometry (GC/MS) testing or other reliable confirmatory tests as may be authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs. Confirmed positive results will be further reviewed by the Vendor's medical review officer, a physician, who will review the medical information form submitted by the individual being tested and contact the individual being tested for more information, if necessary, before issuing a final determination of results. Should the medical review officer confirm the results as positive and find no exculpatory explanation, the results must be reported as 'positive' to the Department's Director of Personnel.

12. Vendor to confer test results only to the following personnel: the Department's Personnel office and the requesting DOC work location, the applicant, and/or the Vendor's personnel directly engaged in evaluating test results. Following receipt of test results from the laboratory and medical review, the Vendor will supply notice of all test results the next workday, by fax, to the DOC work location or the Regional Employment Office. The address for the DOC Director of Personnel is: 214 West Jones Street, 4203 MSC, Raleigh, NC 27699-4203.

## **B. U.S. Department of Transportation (USDOT) Drug and Alcohol Testing of Employees**

The Omnibus Transportation Employee Testing Act of 1991 requires alcohol and drug testing of employees in transportation who drive commercial motor vehicles (CMV) requiring a Commercial Driver's License (CDL) to operate. The U.S. Department of Transportation (USDOT) expanded coverage to include State governments. Therefore, effective January 1, 1995, the Department of Correction was required to implement an Alcohol and Drug Testing Program consistent with the rules published by the USDOT.

All **applicants** for employment for positions requiring a CDL shall be subject to **pre-employment mandatory urinalysis drug testing**. This includes:

- All external applicants applying for positions requiring a CDL,
- Current employees of the Department of Correction that do not occupy a position requiring a CDL, but who apply for a position requiring a CDL or who are reassigned to a post requiring a CDL,
- Current employees of other state agencies who apply for a position with Department of Correction requiring a CDL, and former Department of Correction employees applying for a position requiring a CDL.

All **current employees** occupying positions/assignments requiring a CDL shall be subject to; **random alcohol and urinalysis drug testing, reasonable suspicion alcohol and urinalysis drug testing, post-accident alcohol and urinalysis drug testing, return-to-duty up alcohol testing, and follow-up alcohol testing.**

Such employees are assigned to Division of Prisons, Correction Enterprises, and Central Supply/Central Warehouse. Locations are statewide. The employees subject to USDOT testing assigned to Correction Enterprises will physically work at a correctional facility. The employees assigned to Central Supply/Warehouse are physically located in Raleigh, NC.

Please note: The Department of Correction will utilize their own personnel to conduct Alcohol testing. The awarded vendor does not come onto DOC property except for specific training as further outlined below.

## **Vendor Requirements for U.S. Department of Transportation (USDOT) Drug and Alcohol Testing**

1. Vendor to work in conjunction with pre-employment (pre-CDL duties) drug testing, coordinated by the individual work units
2. Vendor Collection sites should be within a convenient distance of the correctional facilities; please see <http://www.doc.state.nc.us/dop/index.htm>. Locations should be available in at least the major areas, i.e, Raleigh, Morganton, Greensboro/Winston Salem, Greenville, etc. Note: The collections sites for CDL and Non-CDL may be the same, provided they comply with the requirements for both types of drug testing.
3. Vendor to provide limited weekend and evening hours needed for reasonable suspicion and post accident drug testing
4. Vendor will abide and understands that Random drug and alcohol testing is conducted quarterly, with an additional pull at the end of the calendar year if necessary to satisfy USDOT required percentages (50% for drug and 10% for alcohol).
5. Vendor will add to the database that permits random selection, the roster of employees subject to the USDOT Drug and Alcohol regulations following receipt of the negative drug test results for pre-employment of CDL duty employees.
6. Vendor will ensure test results are returned to the work unit via a secure fax number/machine, although other methods may be considered

7. Vendor will provide a recommended Alcohol Test Kit and related forms/literature to the work units to be utilized in alcohol testing; because of the rules for alcohol testing vary depending on the reason, i.e., CDL, non-CDL reasonable suspicion, etc. It is necessary that the recommended product allow for a numerical result as opposed to a pass/fail.
8. The vendor shall ship the provided Alcohol Test Kits and related forms/literature to the following address when requested by the DOC : **ATTEN: Danny Boykin  
Department of Correction  
Office Services  
2020 Yonkers Road  
Raleigh, NC 27699**
9. Vendor to provide the work units the initial and refresher training provided for administration of the alcohol test kit; training should be vendor-instructor led and included in the overall cost of the RFP. This should be at no additional cost to DOC.
10. Vendor to provide on-site training to be conducted regionally at DOC facilities located in Raleigh; (5) DOP Regional Offices, (4) DCC Regional Offices) and thereafter every six (6) months if requested. This should be at no additional cost to DOC.
11. The vendor shall ensure all employees who will administer tests are DOT certified. These tests for the purpose of training shall be provided at no additional cost to the Department for up to 150 employees per year.
12. Vendor to provide a dedicated representative, needed as a resource for issues arising during the testing process, such as diluted specimens, invalid test results, need for direct observation collections, testing of secondary specimen, etc. These are usually situations where a test result is one of the listed examples and the agency is needs advisement regarding interpretation of the USDOT regulations. A quick resolution is needed within 48 hours.

**Additional Vendor Responsibilities concerning Pre-Employment, CDL Pre-Employment and CDL Random Drug Testing**

1. The Vendor is to maintain an up-to-date list of collection sites and furnish an electronic copy in MicroSoft Excel format to the Departmental purchasing agent at the beginning of each contract term and as updated through the term of the contract. At a minimum, the following information shall be provided on the spreadsheet; **Site Name, Street Address, City, State, Zip Code, County, Weekday hours of operation and Weekend hours of operation (if applicable).** The Vendor must include a listing of their current drug testing sites and describe their procedures for establishing 3<sup>rd</sup> party drug testing sites to meet the needs of the Department. Drug testing sites should be located to reasonably accommodate personnel statewide. When additional third party drug testing sites are needed, the Vendor must provide this location at no additional charge to the Department, within ten (10) working days of the request
2. Comply with all federal, state, and local statutes, ordinances, and regulations which are applicable to entering into and performing a contract under these specifications; and shall procure all necessary licenses and permits.
3. Furnish the Department with a CDL employee random testing lottery for all DOT testing protocols. Lottery pulls shall occur as required by DOT. The Vendor will maintain and report all necessary drug summaries and related information to DOT as part of the contract. These records shall be retained by the Vendor for a period of three years.
4. During the life of the contract, communicate any changes in federally mandated procedures and policies and/or forms, and obtain approval by the Department's Contract Administrator prior to implementation.
5. At the end of the contract the vendor shall transfer the DOT-required testing data base to the new vendor as directed by the Department

**C. Reasonable Suspicion (Non-CDL, Non Pre-employment Criminal Justice) Drug and Alcohol Testing of Employees**

Any non-CDL or DOC employee is subject to reasonable suspicion Drug and Alcohol testing should a situation or observation warrant it. Prior to conducting a test, approval from the DOC Personnel Office is required. Once approval is received, the work unit coordinates the testing or if necessary, by taking the specimen on site and follows the DOC chain of command to preserve the integrity of the specimen. Negative test results remain at the work unit in the employee's medical file. Positive test results are dealt with in accordance with the DOC Disciplinary Policy and Procedures. Vendor responsibilities requirements will apply and follow the same protocol as mentioned already in this document.

**D. INVOICES AND PAYMENT**

Reimburse the Contractor for work performed in accordance with the contract, accepted and approved for payment by the DOC. The DOC will issue a Purchase Order to the successful Offeror, against which a final invoice shall be submitted upon completion and acceptance of the work. Payments will be processed within thirty (30) days after invoices are approved by the DOC. Payments will not be unreasonably withheld. Vendors should direct all questions concerning billing inquiries to the DOC Accounting Section at (919) 716-3300

**IV. VENDOR (OFFEROR) COST RESPONSE**

**Fees offered in the cost proposal shall be a firm fixed price which is all inclusive of Labor, Materials, Equipment, Transportation, Labor fees, General and Administrative Overhead, and Profit.**

- 1. Cost per Drug Test specimen at an estimated volume of 3,800 screens per year**

**\$ \_\_\_\_\_ per Drug Screen administered**

- 2. Cost per Alcohol Test Kit at an estimated volume of 3,000 kits needed for testing or training**

**\$ \_\_\_\_\_ per recommended Test Kit**

**Note:** Alcohol tests for DOT Certification Training shall be provided at No Cost to DOC of up to 150 DOC employees per year. See RFP, Section III, Scope of Services, under Letter B, number 11 -. Vendor requirements for U.S. Department of Transportation (USDOT) Drug and Alcohol Testing of Employees

## **V. INSTRUCTIONS TO VENDORS**

### **A. THE PROCUREMENT PROCESS**

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

1. Request for Proposals (RFP) is issued to prospective contractors.
2. A deadline for written questions is set. (See cover sheet of this RFP for details).
3. Proposals in one original and three (3) copies will be received from each offeror in a sealed envelope or package. Each original shall be signed and dated by an official authorized to bind the firm. Unsigned proposals will not be considered.
4. All proposals must be received by the issuing agency not later than the date and time specified on the cover sheet of this RFP.
5. At that date and time the package containing the proposals from each responding firm will be opened publicly and the name of the offeror and cost(s) offered will be announced. Interested parties are cautioned that these costs and their components are subject to further evaluation for completeness and correctness and therefore may not be an exact indicator of an offeror's pricing position.
6. At their option, the evaluators may request oral presentations or discussion with any or all offerors for the purpose of clarification or to amplify the materials presented in any part of the proposal. However, offerors are cautioned that the evaluators are not required to request clarification; therefore, all proposals should be complete and reflect the most favorable terms available from the offeror.
7. Proposals will be evaluated according to completeness, content, experience with similar projects, ability of the offeror and its staff, list of collection sites, current NIDA/HHS certification and cost. Award of a contract to one offeror does not mean that the other proposals lacked merit, but that, all factors considered, the selected proposal was deemed most advantageous to the State.
8. In addition to any other evaluation criteria identified in the State agency's solicitation document, the agency shall, for purposes of evaluating proposed or actual contract performance outside of the United States, consider the following factors to ensure that any award will be in the best interest of the State:
  - Total cost to the State
  - Level of quality provided by the vendor
  - Process capability across multiple jurisdictions
  - Protection of the State's information and intellectual property
  - Availability of pertinent skills
  - Ability to understand the State's business requirements and internal operational culture
  - Risk factors such as the security of the State's information technology
  - Relations with citizens and employees
  - Contract enforcement jurisdictional issues
9. Offerors are cautioned that this is a request for offers, not a request to contract, and the State reserves the unqualified right to reject any and all offers when such rejection is deemed to be in the best interest of the State.

## B. PROPOSAL REQUIREMENTS

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

1. **Corporate Background / Experience with (3) references**
2. **Outsourcing Plan**
3. **Vendor (Offeror) Price Proposal, section IV.**
4. **Vendor's Medical Review Officer's credentials**
5. **Vendor's testing, medical reviewing procedures and confidentiality safeguards. All evidence of current SAMHSA certification for the proposed laboratory(s) must also be included.**
6. **State wide test kits that will be utilized. (Brand names)**
7. **List of collection sites for drug testing**
8. **State which testing laboratory will be used, and furnish evidence of current SAMHSA certification.**

1. **Corporate Background and Experience:**

Include background information on the organization and give details of experience with similar projects. A list of at least three references (including contact persons and current telephone numbers) for whom similar work has been performed shall be included.

2. **Outsourcing:**

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

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

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

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

3. **Vendor (Offeror) Price Proposal:**

Vendor shall offer a firm fixed price, all inclusive of labor, materials, transportation, general and administrative overhead, and profit.

4. **Vendor's Medical Review Officer's credentials:**

Credentials of the Medical Review Officer

5. **Vendor's testing, medical review procedures and confidentiality safeguards:**

Describe, in detail, your vendor's testing, medical reviewing procedures and confidentiality safeguards. All evidence of current NIDA/HHS certification for the proposed laboratory(s) must be included.

6. **Statewide test kits:**

The brand name of the statewide test kits that will be utilized.

7. **Collection sites for drug testing:**

List of all the collection sites for the drug testing.

8. **State in which testing laboratory will be used:**

The state which testing laboratory will be used. Furnish evidence of current **SAMHSA** certification.

## VI. EXECUTION OF PROPOSAL

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

- This proposal is signed by an authorized representative of the firm.
- It can obtain insurance certificates as required within 10 calendar days after notice of award.
- The cost and availability of all equipment, materials, and supplies associated with performing the services described herein have been determined and included in the proposed cost.
- All labor costs, direct and indirect, have been determined and included in the proposed cost.
- The potential contractor has read and understands the conditions set forth in this RFP and agrees to them with no exceptions.
- The offeror is registered in NC E-Procurement @ Your Service or agrees to register within two days after notification of contract award.

Therefore, in compliance with this Request for Proposals, and subject to all conditions herein, the undersigned offers and agrees, if this proposal is accepted within 45 days from the date of the opening, to furnish the subject services as indicated in its proposal.

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

ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ FAX: \_\_\_\_\_

FEDERAL EMPLOYER IDENTIFICATION NUMBER: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

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

\_\_\_\_\_

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

☐ Yes

☐ No

BY: \_\_\_\_\_ TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed or printed name)

\*\*\*\*\*

## ACCEPTANCE OF PROPOSAL

### NORTH CAROLINA DEPARTMENT OF CORRECTION

BY: \_\_\_\_\_ TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

THIS PAGE MUST BE SIGNED AND INCLUDED IN YOUR PROPOSAL.

Unsigned proposals will not be considered.

**WHERE SERVICE CONTRACTS WILL BE PERFORMED**

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

AGENCY FILL IN THIS PART:

Issuing Agency: **Department of Correction Personnel Solicitation # RFP 42009587**

Agency Contact Person & phone #: **Michael R. Tart, Purchasing Agent; Phone: (919) 716-3273**

Solicitation Title / Type of Services: **Services, Employee & Applicant Drug Testing**

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

CITY & STATE: \_\_\_\_\_

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

Service City/Province/State Country

|       |       |       |
|-------|-------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

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

|       |       |       |
|-------|-------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |

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

Service Subcontractor City/Province/State Country

|       |       |       |       |
|-------|-------|-------|-------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

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

|       |       |       |       |
|-------|-------|-------|-------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

(Attach additional pages if necessary.)

## VII. GENERAL INFORMATION ON SUBMITTING PROPOSALS

- A. **EXCEPTIONS:** All proposals are subject to the terms and conditions outlined herein. All responses shall be controlled by such terms and conditions and the submission of other terms and conditions, price lists, catalogs, and/or other documents as part of an offeror's response will be waived and have no effect either on this Request for Proposals or on any contract that may be awarded resulting from this solicitation. Offeror specifically agrees to the conditions set forth in the above paragraph by signature to the proposal.
- B. **CERTIFICATION:** By executing the proposal, the signer certifies that this proposal is submitted competitively and without collusion (G.S. 143-54), that none of our officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and that we are not an ineligible vendor as set forth in G.S. 143-59.1. False certification is a Class I felony.
- C. **ORAL EXPLANATIONS:** The State shall not be bound by oral explanations or instructions given at any time during the competitive process or after award.
- D. **REFERENCE TO OTHER DATA:** Only information which is received in response to this RFP will be evaluated; reference to information previously submitted shall not be evaluated.
- E. **ELABORATE PROPOSALS:** Elaborate proposals in the form of brochures or other presentations beyond that necessary to present a complete and effective proposal are not desired.

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

**It is desirable that all responses meet the following requirements:**

- All copies are printed **double sided**.
  - All submittals and copies are printed on **recycled paper with a minimum post-consumer content of 30%** and indicate this information accordingly on the response.
  - Unless absolutely necessary, all proposals and copies should **minimize or eliminate use of non-recyclable or non re-usable materials** such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
  - Materials should be submitted in a format which allows for **easy removal and recycling** of paper materials.
- F. **COST FOR PROPOSAL PREPARATION:** Any costs incurred by offerors in preparing or submitting offers are the offerors' sole responsibility; the State of North Carolina will not reimburse any offeror for any costs incurred prior to award.
- G. **TIME FOR ACCEPTANCE:** Each proposal shall state that it is a firm offer which may be accepted within a period of 30 days. Although the contract is expected to be awarded prior to that time, the 30 day period is requested to allow for unforeseen delays.
- H. **TITLES:** Titles and headings in this RFP and any subsequent contract are for convenience only and shall have no binding force or effect.
- I. **CONFIDENTIALITY OF PROPOSALS:** In submitting its proposal the offeror agrees not to discuss or otherwise reveal the contents of the proposal to any source outside of the using or issuing agency, government or private, until after the award of the contract. Offerors not in compliance with this provision may be disqualified, at the option of the State, from contract award. Only discussions authorized by the issuing agency are exempt from this provision.
- J. **RIGHT TO SUBMITTED MATERIAL:** All responses, inquiries, or correspondence relating to or in reference to the RFP, and all other reports, charts, displays, schedules, exhibits, and other documentation submitted by the offerors shall become the property of the State when received.
- K. **OFFEROR'S REPRESENTATIVE:** Each offeror shall submit with its proposal the name, address, and telephone number of the person(s) with authority to bind the firm and answer questions or provide clarification concerning the firm's proposal.

- L. **SUBCONTRACTING:** Offerors may propose to subcontract portions of the work provided that their proposals clearly indicate what work they plan to subcontract and to whom and that all information required about the prime contractor is also included for each proposed subcontractor.
- M. **PROPRIETARY INFORMATION:** Trade secrets or similar proprietary data which the offeror does not wish disclosed to other than personnel involved in the evaluation or contract administration will be kept confidential to the extent permitted by NCAC T01:05B.1501 and G.S. 132-1.3 if identified as follows: Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL". Any section of the proposal which is to remain confidential shall also be so marked in boldface on the title page of that section. Cost information may not be deemed confidential. In spite of what is labeled as confidential, the determination as to whether or not it is shall be determined by North Carolina law.
- N. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order #150, the State invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.
- O. **PROTEST PROCEDURES:** A party wanting to protest a contract awarded pursuant to this solicitation must submit a written request to the Department of Correction, Departmental Purchasing & Services, 2020 Yonkers Road, 4227 MSC, Raleigh, NC 27699-4227. This request must be received by Departmental Purchasing & Services within thirty (30) consecutive calendar days from the date of the contract award, and must contain specific sound reasons and any supporting documentation for the protest. Contracts not exceeding \$10,000 are not formally protestable. NOTE: Contract award notices are sent only to those actually awarded contracts, and not to every person or firm responding to this solicitation. Offerors may call (919) 716-3250 to obtain a verbal status of contract award.
- All protests will be handled pursuant to the North Carolina Administrative Code, Title 1, Department of Administration, Chapter 5, Purchase and Contract, Section 5B.1519.
- P. **TABULATIONS:** The Division has implemented an Interactive Purchasing System (IPS) that allows the public to retrieve bid tabulations electronically from our Internet web site: <http://www.state.nc.us/pandc/>. Click on the IPS BIDS icon, click on Search for Bid, enter the RFP number, and then search. Tabulations will normally be available at this web site not later than one working day after opening. Lengthy tabulations may not be available on the Internet, and requests for these verbally or in writing cannot be honored.
- Q. **VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM:** Vendor Link NC allows vendors to electronically register free with the State to receive electronic notification of current procurement opportunities for goods and services available on the Interactive Purchasing System. Online registration and other purchasing information are available on our Internet web site: <http://www.state.nc.us/pandc/>.
- R. **RECIPROCAL PREFERENCE:** G.S. 143-59 establishes a reciprocal preference law to discourage other states from applying in-state preferences against North Carolina's resident offerors. The "Principal Place of Business" is defined as the principal place from which the trade or business of the offeror is directed or managed.

## **VIII. NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS** **(Contractual and Consultant Services)**

- A. **GOVERNING LAW:** This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina.
- B. **SITUS:** The place of this contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.
- C. **INDEPENDENT CONTRACTOR:** The Contractor shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with the Agency.
- D. **KEY PERSONNEL:** The Contractor shall not substitute key personnel assigned to the performance of this contract without prior written approval by the Agency's Contract Administrator. The individuals designated as key personnel for purposes of this contract are those specified in the Contractor's proposal.

- E. **SUBCONTRACTING:** Work proposed to be performed under this contract by the Contractor or its employees shall not be subcontracted without prior written approval of the Agency's Contract Administrator. Acceptance of an offeror's proposal shall include any subcontractor(s) specified therein.
- F. **PERFORMANCE AND DEFAULT:** If, through any cause, the Contractor shall fail to fulfill in timely and proper manner the obligations under this agreement, the Agency shall thereupon have the right to terminate this contract by giving written notice to the Contractor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items under this contract prepared by the Contractor shall, at the option of the Agency, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials. Notwithstanding, the Contractor shall not be relieved of liability to the Agency for damages sustained by the Agency by virtue of any breach of this agreement, and the Agency may withhold any payment due the Contractor for the purpose of setoff until such time as the exact amount of damages due the Agency from such breach can be determined.

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

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

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

Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

- G. **TERMINATION:** The Agency may terminate this agreement at any time by 30 days notice in writing from the Agency to the Contractor. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Agency, become its property. If the contract is terminated by the Agency as provided herein, the Contractor shall be paid for services satisfactorily completed, less payment or compensation previously made.
- H. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice(s) or acceptance of services, whichever is later, or in accordance with any special payment schedule identified in this RFP. The using agency is responsible for all payments to the contractor under the contract. Payment by some agencies may be made by procurement card and it shall be accepted by the contractor for payment if the contractor accepts that card (Visa, MasterCard, etc.) from other customers. If payment is made by procurement card, then payment may be processed immediately by the contractor.
- I. **AVAILABILITY OF FUNDS:** Any and all payments to the Contractor are dependent upon and subject to the availability of funds to the Agency for the purpose set forth in this agreement.
- J. **CONFIDENTIALITY:** Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Contractor under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the Agency.
- K. **CARE OF PROPERTY:** The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished it for use in connection with the performance of this contract or purchased by it for this contract and will reimburse the State for loss of damage of such property.
- L. **COPYRIGHT:** No deliverable items produced in whole or in part under this agreement shall be the subject of an application for copyright by or on behalf of the Contractor.
- M. **ACCESS TO PERSONS AND RECORDS:** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7. The Contractor shall retain all records for a period of three years following completion of the contract.

N. **ASSIGNMENT:** No assignment of the Contractor's obligations nor the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the State may:

a. Forward the contractor's payment check(s) directly to any person or entity designated by the Contractor,

OR

b. Include any person or entity designated by Contractor as a joint payee on the Contractor's payment check(s).

In no event shall such approval and action obligate the State to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of all contract obligations.

O. **COMPLIANCE WITH LAWS:** The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

P. **AFFIRMATIVE ACTION:** The Contractor shall take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or disability.

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

a. Worker's Compensation - The contractor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$150,000.00, covering all of Contractor's employees who are engaged in any work under the contract. If any work is subcontracted, the contractor shall require the subcontractor to provide the same coverage for any of its employees engaged in any work under the contract.

b. Commercial General Liability - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability).

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 \$150,000.00 bodily injury and property damage; \$150,000.00 uninsured/under insured motorist; and \$1,000.00 medical payment.

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

R. **ADVERTISING:** Contractor agrees not to use the existence of this contract, the name of the agency, or the name of the State of North Carolina as part of any commercial advertising.

S. **ENTIRE AGREEMENT:** This contract and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This Request for Proposals, any addenda thereto, and the offeror's proposal are incorporated herein by reference as though set forth verbatim.

All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

- T. **AMENDMENTS:** This contract may be amended only by written amendments duly executed by the Agency and the Contractor. The NC Division of Purchase and Contract shall give prior approval to any amendment to a contract awarded through that office.
- U. **TAXES:** G.S. 143-59.1 bars the Secretary of Administration from entering into contracts with vendors if the vendor or its affiliates meet one of the conditions of G. S. 105-164.8(b) and refuse to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the bid document the vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.
- V. **YEAR 2000 COMPLIANCE/WARRANTY:** Vendor shall ensure the product(s) and service(s) furnished pursuant to this agreement ("product" shall include, without limitation, any piece of equipment, hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interfaces therein) which perform any date and/or time data recognition function, calculation, or sequencing, will support a four digit year format, and will provide accurate date/time data and leap year calculations on and after December 31, 1999, at the same level of functionality for which originally acquired without additional cost to the user. This warranty shall survive termination or expiration of the agreement.
- W. **GENERAL INDEMNITY:** The contractor shall hold and save the State, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the contractor in the performance of this contract and that are attributable to the negligence or intentionally tortious acts of the contractor provided that the contractor is notified in writing within 30 days that the State has knowledge of such claims. The contractor represents and warrants that it shall make no claim of any kind or nature against the State's agents who are involved in the delivery or processing of contractor goods to the State. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.
- X. **OUTSOURCING:** Any vendor or subcontractor providing call or contact center services to the State of North Carolina shall disclose to inbound callers the location from which the call or contact center services are being provided.

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

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

## IX. TERMS AND CONDITIONS SPECIFIC TO THIS CONTRACT

- A. **CONTRACT PERIOD:** The contract service shall be for a period of one (1) year and shall begin when a purchase order has been issued by the Department of Correction, subject to the continuation of the program and the availability of funds. The Department of Correction reserves the right to extend the contract for up to two (2) additional one-year periods.
- B. **ESCALATION CLAUSE:** Prices offered herein shall be firm for a period of one (1) year from the date of initial contract performance. Price increase for option year(s) (if exercised) should not exceed the CPI for Urban Area (All Items) or 5% whichever is less. Price increase due to unusual circumstances should be requested utilizing explicit data and facts supporting the request. The State reserves the right to refuse the request for price increase.
- C. **ALCOHOL AND DRUG FREE WORKPLACE POLICY:** The Contractor will find attached a copy of the Department of Correction's Alcohol/Drug Free Work Place Policy and understands that it is required to abide by these standards and to notify the Department immediately upon conviction of any drug related offense. The contractor understands that possession, use, manufacture, or distribution of illegal drugs or alcohol in violation of this policy shall result in immediate termination of this contract for cause.
- D. **ACCOUNTABILITY:** Employees of other public and private organizations providing a service to the agency are accountable to the North Carolina Department of Correction (DOC) Departmental Purchasing Contract Administrator and the facility head or designee of the program in which they work. The facility head or designee shall report all non-compliance issues in writing to the North Carolina DOC Departmental Purchasing Contract Administrator. The North Carolina DOC Departmental Purchasing Contract Administrator shall work with the employee of the public or private organization providing the service in order to bring performance up to expectations or terminate services if the conditions justify.

## **ATTACHMENT A**

### **ALCOHOL/DRUG-FREE WORK PLACE POLICY**

#### **Policy**

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

#### **Purpose**

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

#### **Procedures/Operational Guidelines**

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

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

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

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

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

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

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

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