

NORTH CAROLINA CENTRAL UNIVERSITY

August 19, 2009

RFP#-0819.dpl

INVESTMENT MANAGEMENT SERVICES

ATTENTION BIDDERS:

Sealed proposals will be received in the office of the Vice Chancellor of Administration and Finance, North Carolina Central University (NCCU) until 2:00 p.m. on September 8, 2009. The proposal should be clearly marked INVESTMENT MANAGEMENT SERVICES. Please include the original signed proposal along with six (6) copies.

Proposals should be mailed to:

**Dr. Alan D. Robertson
Vice Chancellor of Administration and Finance
North Carolina Central University
Hoey Administration Building, Suite 301
1801 Fayetteville Street
Durham, North Carolina 27707**

Proposer's Questions Regarding the RFP. All questions, including those of a technical nature, regarding the RFP must be submitted electronically via e-mail to Deborah Lane, Assistant Vice Chancellor for Administration and Finance Operations and Project Management, lanedp@nccu.edu by 5:00 p.m. EST on August 25, 2009. Answers to questions that we feel require a response will be posted on the following web address: <https://www.i.p.s.state.nc.us/IPS/DeptBids.aspx>.

**NORTH CAROLINA CENTRAL UNIVERSITY
DURHAM, NORTH CAROLINA**

**REQUEST FOR PROPOSALS (RFP# - 0807.dpl)
INVESTMENT MANAGEMENT SERVICES**

North Carolina Central University, founded in 1909, is a constituent institution within The University of North Carolina System. The University offers degree programs at the baccalaureate and master's level and at the first professional level in law. With a student enrollment of approximately 8,400, North Carolina Central University (NCCU) offers a broad range of programs designed to provide its students with an educational environment that will stimulate their intellectual curiosities; enhance and develop academic and professional skills; instill a sense of pride, dignity and discipline; and promote a consciousness of social responsibility and dedication to the advancement of the general welfare of the people of North Carolina, of the United States and of the world.

1. PROPOSAL INSTRUCTIONS

1.1 SCOPE OF WORK

North Carolina Central University is seeking to contract with an investment management firm experienced in managing bond proceeds. NCCU currently has approximately \$60 Million in bond proceeds invested in a STIF account with the NC State Treasurer. Proceeds from the bond will be used to fund on-going capital projects. NCCU wishes to reinvest the proceeds in a manner that safeguards the principal, provides for maximum liquidity and generates a reasonable yield.

1.2 PROPOSAL EVALUATION

This Request for Proposal does not constitute a commitment by NCCU to award a contract. NCCU reserves the right to waive any NCCU informality and to reject any or all proposals and/or to cancel the Request For Proposal. The award shall be made on the proposal(s) that serves the best interest of NCCU and will not be evaluated solely on monetary basis. No contract award shall exist until executed in writing.

1.3 PROPOSAL FORM

All proposals must be submitted in writing. Oral, telephone, facsimile (fax machine) or computer data transfer proposal **will not** be accepted. Each proposal shall be prepared simply, providing the straightforward, concise description of the Proposer's ability to meet the requirement of the RFP. Emphasis should be on completeness and clarity of contents. No proposal shall exceed twenty-five (25) typewritten pages in length plus any pricing schedule(s), exhibits, or attachments.

1.4 MODIFICATIONS TO PROPOSALS

No oral, telephone, telegraphic, facsimile or computer data transfer proposals or modifications will be considered.

1.5 WITHDRAWAL OF PROPOSALS

Any Proposer may withdraw their proposal by written request at any time prior to the deadline set for receipt of proposals. No proposal may be withdrawn or modified after that deadline and shall be binding upon Proposer for a period of ninety (90) days after due date. Withdrawn proposals may be resubmitted up to the time designated for the receipt of proposals provided that they are then fully in conformance with the general terms and conditions of the RFP.

1.6 ORAL PRESENTATIONS

Proposers may, after opening and prior to award, be required to make oral and visual presentations at the request of NCCU. NCCU will schedule the time and location for any presentations as requested. Oral presentations will be evaluated and may be subjected to appointments-earned scoring matrix.

1.7 AWARD WITHOUT DISCUSSION

NCCU reserves the right to make an award without further discussion of the proposals received. It is therefore critical that all proposals be submitted initially in the most favorable terms possible, both economically and technically.

1.8 CONTRACT COMMENCEMENT/TERM

It is the intent of NCCU to commence the resulting contract as soon as possible after evaluation of the proposals. A written Notice of Award will be made prior to commencement of performance. Initial performance period will be from date of award through June 30, 2010. The University may at its discretion and with the concurrence of the successful Proposer, exercise up to two (2) one-year option periods for a total contract period not to exceed three (3) years.

1.9 NCCU MODIFICATIONS TO PROPOSALS

Any interpretation, correction, or change of this RFP will be made by written Addendum. Interpretations, corrections, or changes to this RFP made in any other manner will not be binding, and Proposers shall not rely upon such interpretations, corrections, and changes. Any

changes or corrections will be issued by NCCU Purchasing. Addenda will be mailed or faxed to all that are known to have received a copy of the RFP. Since failure to acknowledge any addendum(s) may be cause for rejection, Proposers must return the addendum-completed acknowledgment(s) prior to, or with, the proposal.

2. PROPOSAL REQUIREMENTS

Paragraph 2.1 & 2.2 below requires specific, written responses or confirmations. To be considered for selection, respondents shall meet/provide the following requirements.

2.1 MINIMUM REQUIREMENTS

The Proposer:

- 2.1.1 Must be licensed in the State of North Carolina, if duties requested require such licensure
- 2.1.2 Must provide a completed pricing schedule signed by an authorized company signatory
- 2.1.3 Must have carefully read and understand all parts of the RFP and certify that the proposal is made in accordance therewith
- 2.1.4 Must submit written answers to the respondent questionnaire (Attachment 1). All answers must be in the order in which the questions are asked
- 2.1.5 Must be a registered Investment Advisor as defined and regulated by the Securities and Exchange Commission

2.2 SPECIFIC REQUIREMENTS

- 2.2.1 Must have been engaged continuously during the last 10 years as an Investment Advisor for state and local governments, which may include colleges and universities
- 2.2.2 Proposer may not subcontract any portion of this contract to another entity
- 2.2.3 Must have the ability to comply with the relevant State and Federal statutes, policies, procedures, and guidelines
- 2.2.4 Must have the ability to meet NCCU's investment objectives of safety, liquidity and yield
- 2.2.5 Must have a thorough understanding of public funds investment objectives and constraints
- 2.2.6 Must be willing to develop an investment plan that is reasonable and appropriate for NCCU
- 2.2.7 Must have a professional staff that has worked together and successfully managed assets through one or more full interest rate cycles
- 2.2.8 Must have a number of positive client references regarding customer service and investment performance
- 2.2.9 Must be reasonably available for consultation and meeting with NCCU
- 2.2.10 Must be able to demonstrate a quantifiable performance track record

2.3 Deviations From RFP

Proposers must specifically provide a separate listing of each circumstance in which their proposal differs from any terms or conditions of the RFP. Failure to list such a deviation will result in terms of the proposal being disregarded in favor of the correlative term(s) of the RFP.

2.4 Signature

The Proposer shall furnish and include all requested information with their proposal. Statements are required to be complete and accurate, and the proposal shall be signed by an authorized signatory of the company. A proposal submitted by an agent must have a current Power of Attorney attached certifying the agent's authority to bind the Proposer. Omission, inaccuracy, or misstatement may be sufficient cause of rejection of the proposal.

2.5 Award Consideration

From the total information requested, determination shall be made of the Proposer's ability to serve NCCU. Only proposals from responsible organizations or individuals, as determined by NCCU, which have the capability of providing the required services under this RFP, shall be considered. Representatives from NCCU reserve the right to conduct interviews with the individual proposers for clarification of the proposals presented. NCCU reserves the right to negotiate any and all provisions presented in the proposals.

REQUEST FOR PROPOSALS (RFP-0807.dpl)
INVESTMENT MANAGEMENT SERVICES
ATTACHMENT 1

REQUIRED INFORMATION

1. Organization

- Describe the organization, date founded, ownership and other business affiliations.
 - Identify specific experience in serving as investment advisor for state government, local government, community colleges, colleges or universities, public schools and other governmental entities.
 - Identify the types of accounts primarily sought by the firm.
 - Identify the types of accounts managed by the firm (e.g., government, pension, corporate, high net worth, and endowment/foundation).
- Within the past five years, have there been any significant developments within the organization (e.g., changes in ownership, new business ventures)? Do you expect any changes in the near future?
- Describe any U.S. Securities and Exchange Commission (SEC), NASD or any other regulatory, federal or state censure or litigation involving the organization, officer(s) or employee(s) at any time.
- Describe the firm's fiduciary liability and/or errors and omissions insurance coverage. Include dollar amount of coverage.
- Is the firm a Registered Investment Advisor under the Investment Advisor's Act of 1940? If not, please indicate why the firm is exempt from registration. Please include any application forms, ADV Parts I and II.
- Describe the firm's primary revenue source and comment on your firm's financial condition.
- Provide a copy of the firm's most recent audited financial statements.

2. Experience

- Describe the firm's experience in developing and implementing investment strategies for tax-exempt bond proceeds, including ensuring compliance with Internal Revenue Service regulations and guidelines.
- Summarize fixed income assets under management(institutional only) over the last ten years by the following categories: short term operating funds, medium term operating funds, long term operating funds, and capital/bond

proceeds funds. Categorize the assets by category (governmental institutions, other institutions).

- How many investment advisory accounts have been gained over the past 12 months? List the number of investment advisory accounts lost in the last 12 months and provide an explanation for the loss of each of the accounts.
- Provide a list of at least 10 clients, for which the firm has provided similar services, for at least five (5) years.
- Provide audited performance history for the past ten years for current accounts. Indicate whether your returns are calculated and complied in accordance with the Association for Investment Management and Research (AIMR) standards. If not, how does the performance presentation differ from AIMR standards?

3. Approach

- Describe how investment ideas are originated, researched, and how the ultimate investment recommendations are made. Explain how investment recommendations are then implemented, monitored and evaluated.
- NCCU desires to invest the bond proceeds in tactical short duration and mid-term investments. Please describe the recommended duration and rationale for the investment strategy. Outline the steps that would be taken to ensure NCCU's objectives of safety, liquidity and yield.
- What are the primary strategies for adding value to portfolios (e.g., market timing, credit research, trading)?
- Describe the firm's trading methodology.
- Describe the in-house technical and research support services you have available. What other sources are used by the firm on a regular basis?
- Describe the proposed investment program for NCCU, including the type of securities you propose to purchase, how the funds will be managed after the initial investment, and how you will provide liquidity.

4. Personnel

- Identify the number of professionals employed by the firm by classification (portfolio managers, analysts and researchers) and provide the average number of accounts handled by the portfolio managers.
- Identify the key personnel who will be assigned to NCCU's account(s). Describe the roles of each person and indicate who will be the primary contact. Also, provide detailed resumes and biographical information for all identified key personnel who will be assigned to the account(s). Include the following information: title, number of years at the firm, total years of experience, professional designations or licenses.
- Does the firm have a written code of conduct or ethics? How is it monitored and enforced?

5. Portfolio Management

- Explain the portfolio management process. Are portfolios managed by teams or one individual?
- What is the average number of accounts handled per manager?
- How frequently are you willing to meet with NCCU to make recommendations and discuss performance?
- Describe procedures used to ensure that portfolios comply with client investment objectives, policies and bond resolutions.

6. Performance Reporting and Accounting

- Describe how performance is reported. Include the methods and formulas used to calculate yield and performance.
- What are the suggested performance benchmarks?
- How will NCCU be notified of investment transactions?
- Are confirmations of investment transactions sent directly by the broker/dealer to the client?
- Describe and submit samples of the reports that would be provided and their frequency.

7. Fees

- Provide the fee schedule that would apply to this account. Is there a minimum fee? What expenses would be covered by the fee structure?
- Define the following costs:
 - Custodian fees
 - Internal expense ratios for STIF Funds (i.e. short-term investment funds, etc.)
 - Investment management fees
 - Trading costs
 - Consultative fees
 - Performance measurement and monitoring costs
 - Hard dollar costs
 - Soft dollar costs
 - Total cost in dollars and basis points for services rendered
 - Additional expenses not covered by the fee schedule
 - Provide a description and /or example of the billing method that will be used.

8. References

- Provide name, title, company name, address and phone number of three clients whom you provide similar services.

EXECUTION OF PROPOSAL

ISSUE DATE: August 07, 2009

PROPOSAL NUMBER: 0807.dpl

ISSUING AGENCY: North Carolina CENTRAL UNIVERSITY
ADMINISTRATION AND FINANCE DIVISION
301 HOEY ADMINISTRATION BLDG
1801 FAYETTEVILLE STREET
DURHAM, NORTH CAROLINA 27707
ATTENTION: Dr. Alan D. Robertson
Phone: 919.530.7425
Fax: 919.530.5062

TITLE: INVESTMENT MANAGEMENT SERVICES - NCCU Bond Proceeds

USING AGENCY: North Carolina CENTRAL UNIVERSITY

The signature of an authorized company representative below certifies that the proposal was submitted competitively and without collusion.

Firm Name: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Fax Number: _____

Federal Tax Id Number: _____

Name of Authorized Representative: _____

Title: _____

SIGNATURE: _____ DATE: _____

NORTH CAROLINA CENTRAL UNIVERSITY

DURHAM, NORTH CAROLINA

Solicitation (IFB, RFP, RFQ) No.RFP#-0807.dpl

Bidder/Offeror: North Carolina Central University

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

ATTENTION

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

Enter ID number here: _____

Pursuant to N.C.G.S. 132-1.10(b) this identification number shall not be released to the public.

This page will be removed and shredded, or otherwise kept confidential,
before the procurement file is made available for public inspection.

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.

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Issuing Agency: North Carolina Central University Solicitation # *RFP#-0807.dpl*
Agency Contact Person & phone #: **Dr. Alan D. Robertson**
Vice Chancellor of Administration and Finance
919.530.6204

Solicitation Title / Type of Services: *Professional Investment Management Services*

OFFEROR: _____
City & State: _____

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

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

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

_____	_____	_____
_____	_____	_____

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

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

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

_____	_____	_____	_____
_____	_____	_____	_____

(Attach additional pages if necessary.)

GENERAL INFORMATION ON SUBMITTING PROPOSALS

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

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

It is desirable that all responses meet the following requirements:

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

11. **OFFEROR'S REPRESENTATIVE:** Each offeror shall submit with its proposal the name, address, and telephone number of the person(s) with authority to bind the firm and answer questions or provide clarification concerning the firm's proposal.
12. **SUBCONTRACTING:** Offerors may propose to subcontract portions of the work provided that their proposals clearly indicate what work they plan to subcontract and to whom and that all information required about the prime contractor is also included for each proposed subcontractor.
13. **PROPRIETARY INFORMATION:** Trade secrets or similar proprietary data which the offeror does not wish disclosed to other than personnel involved in the evaluation or contract administration will be kept confidential to the extent permitted by NCAC T01:05B.1501 and G.S. 132-1.3 if identified as follows: Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL". Any section of the proposal which is to remain confidential shall also be so marked in boldface on the title page of that section. Cost information may not be deemed confidential. In spite of what is labeled as confidential, the determination as to whether or not it is shall be determined by North Carolina law.
14. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order #150, the State invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.
15. **PROTEST PROCEDURES:** When an offeror wants to protest a contract awarded by the Secretary of Administration or by an agency over \$25,000 resulting from this solicitation, they must submit a written request to the State Purchasing Officer at Purchase and Contract, 1305 Mail Service Center, Raleigh, NC 27699-1305. This request must be received in the Division of Purchase and Contract within thirty (30) consecutive calendar days from the date of the contract award. When an offeror wants to protest a contract awarded by an agency or university resulting from this solicitation that is over \$10,000 but less than \$25,000 for any agency, or any contract awarded by a university, they must submit a written request to the issuing procurement officer at the address of the issuing agency. This request must be received in that office within thirty (30) consecutive calendar days from the date of the contract award. Protest letters must contain specific reasons and any supporting documentation for the protest. Note: Contract award notices are sent only to those actually awarded contracts, and not to every person or firm responding to this solicitation. Contract status and Award notices are posted on the Internet at <http://www.pandc.nc.gov/>. All protests will be handled pursuant to the North Carolina Administrative Code, Title 1, Department of Administration, Chapter 5, Purchase and Contract, Section 5B.1519. (See Protest Information at <http://www.pandc.nc.gov/protests.pdf> for more information.)
16. **TABULATIONS:** The Division has implemented an Interactive Purchasing System (IPS) that allows the public to retrieve bid tabulations electronically from our Internet web site: <http://www.pandc.nc.gov/>. Click on the IPS BIDS icon, click on Search for Bid, enter the RFP number, and then search. Tabulations will normally be available at this web site not later than one working day after opening. Lengthy tabulations may not be available on the Internet, and requests for these verbally or in writing cannot be honored.
17. **VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM:** Vendor Link NC allows vendors to electronically register free with the State to receive electronic notification of current procurement opportunities for goods and services available on the Interactive Purchasing System. Online registration and other purchasing information are available on our Internet web site: <http://www.pandc.nc.gov/>.
18. **RECIPROCAL PREFERENCE:** G.S. 143-59 establishes a reciprocal preference law to discourage other states from applying in-state preferences against North Carolina's resident offerors. The "Principal Place of Business" is defined as the principal place from which the trade or business of the offeror is directed or managed.

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

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

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

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

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

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

7. **TERMINATION:** NCCU may terminate this agreement at any time by 30 days notice in writing from NCCU to the Contractor. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of NCCU, become its property. If the contract is terminated by NCCU as provided herein, the Contractor shall be paid for services satisfactorily completed, less payment or compensation previously made.
8. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice(s) or acceptance of services, whichever is later, or in accordance with any special payment schedule identified in this

RFP. The using agency is responsible for all payments to the contractor under the contract. Payment by some agencies may be made by procurement card and it shall be accepted by the contractor for payment if the contractor accepts that card (Visa, Mastercard, etc.) from other customers. If payment is made by procurement card, then payment may be processed immediately by the contractor.

9. **AVAILABILITY OF FUNDS:** Any and all payments to the Contractor are dependent upon and subject to the availability of funds to NCCU for the purpose set forth in this agreement.
10. **CONFIDENTIALITY:** Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Contractor under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of NCCU.
11. **CARE OF PROPERTY:** The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished it for use in connection with the performance of this contract or purchased by it for this contract and will reimburse the State for loss of damage of such property.
12. **COPYRIGHT:** No deliverable items produced in whole or in part under this agreement shall be the subject of an application for copyright by or on behalf of the Contractor.
13. **ACCESS TO PERSONS AND RECORDS:** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7.
The Contractor shall retain all records for a period of three years following completion of the contract.
14. **ASSIGNMENT:** No assignment of the Contractor's obligations nor the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the State may:
 - 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.
15. **COMPLIANCE WITH LAWS:** The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.
16. **AFFIRMATIVE ACTION:** The Contractor shall take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or disability.
17. **INSURANCE:** During the term of the contract, the contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the contractor shall provide and maintain the following coverage and limits:
 - 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.

18. **ADVERTISING:** The offeror shall not use the award of a contract as part of any news release or commercial advertising.

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

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

20. **AMENDMENTS:** This contract may be amended only by written amendments duly executed by NCCU and the Contractor. The NC Division of Purchase and Contract shall give prior approval to any amendment to a contract awarded through that office.

21. **TAXES:** G.S. 143-59.1 bars the Secretary of Administration from entering into contracts with vendors if the vendor or its affiliates meet one of the conditions of G. S. 105-164.8(b) and refuse to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the proposal document the vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.

22. **YEAR 2000 COMPLIANCE/WARRANTY:** Vendor shall ensure the product(s) and service(s) furnished pursuant to this agreement ("product" shall include, without limitation, any piece of equipment, hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interfaces therein) which perform any date and/or time data recognition function, calculation, or sequencing, will support a four digit year format, and will provide accurate date/time data and leap year calculations on and after December 31, 1999, at the same level of functionality for which originally acquired without additional cost to the user. This warranty shall survive termination or expiration of the agreement.

23. **GENERAL INDEMNITY:** The contractor shall hold and save the State, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the contractor in the performance of this contract and that are attributable to the negligence or intentionally tortious acts of the contractor provided that the contractor is notified in writing within 30 days that the State has knowledge of such claims. The contractor represents and warrants that it shall make no claim of any kind or nature against the State's agents who are involved in the delivery or processing of contractor goods to the State. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.

24. **OUTSOURCING:** Any vendor or subcontractor providing call or contact center services to the State of North Carolina shall disclose to inbound callers the location from which the call or contact center services are being provided.

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

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

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