

NORTH CAROLINA CENTRAL UNIVERSITY

July 21, 2009

RFP#-0721.dpl

**INVESTMENT MANAGEMENT SERVICES – NCCU ENDOWMENT FUND
FIXED INCOME PORTFOLIO**

ATTENTION BIDDERS:

Sealed proposals will be received in the office of the Vice Chancellor of Administration and Finance, North Carolina Central University (NCCU) until August 21, 2009. The proposal should be clearly marked INVESTMENT MANAGEMENT SERVICES - FIXED INCOME PORTFOLIO. 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**

Bidder'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 5, 2009. Questions and answers will be shared without reference to the Bidder who submitted the questions(s). Bidders must provide a single point-of-contact in order to receive an official Foundation response.

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

**REQUEST FOR PROPOSALS (RFP# - 0721.dpl)
INVESTMENT MANAGEMENT SERVICES - NCCU ENDOWMENT FUND
FIXED INCOME PORTFOLIO**

I. INTRODUCTION - BID DEADLINE

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 masters' 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.

The NCCU Endowment Fund was established under the North Carolina General Statutes Chapter 116-36 with the intent that the proceeds shall supplement State appropriations to the end that "the Institution may improve and increase its functions, may enlarge its area of service, and may become more useful to a greater number of people."

The Board of Trustees of the North Carolina Central University Endowment Fund (hereinafter referred to as "Board") is requesting bid proposals for the provision of services for fixed income investment management of a portion of the North Carolina Central University Endowment Fund (hereinafter referred to as the "Fund") over a three year period beginning October 1, 2009 to August 31, 2012 and thereafter may be extended at the option of the Board on a year-to-year-basis, not to exceed a combined total of five (5) years. The portion of the Fund allocated to a fixed term portfolio is valued at approximately **\$1,027,890 as of June 30, 2009**. The cash is currently invested in a STIF account with the NC State Treasurer.

Sealed proposals will be received in the Vice Chancellor of Administration and Finance Office, North Carolina Central University, until 2:00 p.m. on August 21, 2009, and should be clearly marked **INVESTMENT MANAGEMENT SERVICES – FIXED INCOME PORTFOLIO**.

2. CRITERIA FOR INVESTMENT MANAGER

The Board recognizes that it is not always the investment manager with the highest total performance in terms of total monetary return that represents the best option for management of its assets. Rather, the Board will analyze the manager's portfolio in terms of "risk adjusted return" in light of the given set of particular investment constraints imposed by the administrative committee primarily responsible for the assets involved.

Particular attention will be given to the investment manager's management organization including continuity of management, in-house capability for fundamental and economic research, and a clearly defined investment process with established disciplines to insure that this process is adhered to. Further, the Board must be convinced that the investment manager has the capability to accept the NCCU account and that the account will be actively monitored – with active attention given to the account so that it can meet desired goals.

Each proposal should include, at the minimum, all elements found in Attachment I – Required Information. Consideration will be given to managers whose investment philosophy and performance are determined to be compatible with the objectives set by the Board.

3. GENERAL INFORMATION ON SUBMITTING PROPOSALS

EXCEPTIONS: All proposals are subject to the terms and conditions outlined herein. All responses will be controlled by such terms and conditions and the submission of other terms and conditions as part of an investment manager's response will be waived and have no effect on this Request for Proposal or any other contract that may be awarded resulting from this solicitation. The investment manager specifically agrees to the conditions set forth in this paragraph by signature to the enclosed Execution of Proposal document.

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 violation of Chapter 78A of the general Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.20), and that we are not an ineligible vendor as set forth in G.S. 143-59.1. False certification is a Class 1 felony.

ORAL EXPLANATION: The Board will not be bound by oral explanations or instructions given at any time during the competitive process or afterwards.

REFERENCE TO OTHER DATA: Only information received in response to this RFP will be evaluated; reference to information previously submitted will not be considered.

TITLES: Titles and headings in this RFP and any subsequent contract are for convenience only and shall have no binding force or effect.

RIGHTS TO SUBMITTED MATERIAL: All responses, inquires or correspondence relating to or in reference to this RFP and all other reports, charts, displays, schedules, exhibits and other documentation

submitted by the investment manager responding to the RFP will become the property of the Board when received.

TIME OF ACCEPTANCE: Each proposal shall state that it is a firm offer which may be accepted within a period of sixty (60) days. Although the contract is expected to be awarded prior to that time, the 60 day period is requested to allow for unforeseen delays.

CONFIDENTIALITY OF PROPOSALS: In submitting its proposal the bidder agrees not to discuss or otherwise reveal the contents of the proposal to any source outside of the University until the award of the contract. Bidders not in compliance with this provision may be disqualified from contract award. Only discussions authorized by the Board are exempt from this provision.

BIDDER'S REPRESENTATION: Each bidder 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.

COST FOR PROPOSAL PREPARATION: Any costs incurred by bidders in preparing or submitting offers are the bidders' sole responsibility; the Board will not reimburse any bidder for costs incurred prior to the award of the contract.

ACCEPTANCE OF PROPOSALS: The Board reserves the right to accept or reject any or all proposals received as a result of this solicitation.

4. BID OPENING AND SELECTION PROCESS

Proposals from respondents will be opened in Room 301 Hoey Administration Building, NCCU, **on August 21, 2009 at 2:00 p.m.** No details of the proposal will be publicly identified.

All eligible proposals will be reviewed under the auspices of NCCU's Vice Chancellor of Administration and Finance. Through the review process those respondents submitting proposals deemed to best satisfy the evaluation criteria of the RFP may be invited to make presentations before the Board. Presentations will be evaluated and the award made to the firm whose proposal is deemed in the best interest of the NCCU Endowment Fund.

EXECUTION OF PROPOSAL

ISSUE DATE: July 21, 2009

PROPOSAL NUMBER: 0721.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 ENDOWMENT-
FIXED INCOME PORTFOLIO

USING AGENCY: NCCU ENDOWMENT FUND
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**

**REQUEST FOR PROPOSALS (RFP-0721.dpl)
INVESTMENT MANAGEMENT SERVICES- NCCU ENDOWMENT FUND
FIXED INCOME PORTFOLIO**

ATTACHMENT 1

REQUIRED INFORMATION

1. Organization

- Describe your organization, date founded, ownership and other business affiliations.
 - Identify the types of accounts primarily sought by your firm.
 - Identify the types of accounts managed by your firm (e.g., government, pension, corporate, high net worth, endowment/foundation).
- Within the past five years, have there been any significant developments in your 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 your 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 your firm a Registered Investment Advisor under the Investment Advisor's Act of 1940? If not, please indicate why you are exempt from registration. Please include any application forms, ADV Parts I and II.
- Describe your firm's primary revenue source and comment on your firm's financial condition.
- Provide a copy of your firm's most recent audited financial statements.

2. Experience

- Describe your firm's experience in managing fixed income portfolios for endowments/foundations Funds.
- Describe your firm's experience in developing investment policies and portfolio management guidelines for endowment/foundation funds.

- Summarize your 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 you gained over the past 12 months? List the number of investment advisory accounts you have 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, with accounts similar to the Fund, for which the firm has provided 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.
- What are the primary strategies for adding value to portfolios (e.g., market timing, credit research, trading)?
- Describe your 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 investment program you are proposing for the Fund, 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.
- Please describe your recommended duration and rationale for your investment strategy. Outline the steps that would be taken to ensure the Fund's objectives of safety, liquidity and yield.
- Provide recommendations regarding performance benchmarks for a portfolio similar to that of the Fund.

4. Personnel

- Identify the number of professionals employed by your 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 these accounts. 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 accounts. Include the following information: title, number of years at the firm, total number of years experience, professional designations or licenses.

- Does your 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 us 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 you typically report performance. Include the methods and formulas used to calculate yield and performance.
- What performance benchmarks would you suggest for the portfolio?
- How will you notify us 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 for the Fund
- 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 to whom you provide similar services.

Where Service Contracts Will Be Performed

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

Issuing Agency: North Carolina Central University Solicitation # RFP#-0721.dpl

Agency Contact Person & phone #: **Dr. Alan D. Robertson**
Vice Chancellor of Administration and Finance
[\(919\) 530-6204](tel:9195306204)

Solicitation Title / Type of Services: *Professional services of Endowment*

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 60 days. Although the contract is expected to be awarded prior to that time, the 60 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 Dr. Alan Robertson, Vice Chancellor for Administration and Finance, North Carolina Central University, Hoey Administration Building, Suite 301, 1801 Fayetteville Street, Durham, North Carolina 27707. 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.)
15. **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.
16. **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/>.
17. **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 10 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.

7/7/2009