

Solicitation (IFB, RFP, RFQ) No. _____

Bidder/Offeror: _____

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

ATTENTION

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

Enter ID number here: _____

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

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

STATE OF NORTH CAROLINA REQUEST FOR PROPOSALS

RFP #201200753

TITLE: Motor Fleet Gas Credit Card

USING AGENCY: ***PURCHASE AND CONTRACT***

ISSUE DATE: May 2, 2012

ISSUING AGENCY: North Carolina Department of Administration, Division of Purchase & Contract

Sealed Proposals subject to the conditions made a part hereof will be received until **2:00 p.m. June 20, 2012**, for furnishing services described herein.

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

<u>DELIVERED BY US POSTAL SERVICE (REGULAR/STANDARD MAIL ONLY)</u>	<u>DELIVERED BY ANY OTHER MEANS/SPECIAL DELIVERY/OVERNIGHT (BY ANY OTHER CARRIER)</u>
RFP NO. _____ NC DEPARTMENT OF ADMINISTRATION DIVISION OF PURCHASE AND CONTRACT 1305 MAIL SERVICE CENTER RALEIGH NC 27699-1305	RFP NO. _____ NC DEPARTMENT OF ADMINISTRATION DIVISION OF PURCHASE AND CONTRACT 116 WEST JONES STREET Room 4062 4 th Flr. RALEIGH NC 27603-8002

*******SPECIAL NOTE – PLEASE READ*******

The US Postal Service DOES NOT deliver any mail (US Postal Express Mail, Certified, Priority, Overnight, etc.) to our physical address of 116 West Jones Street.

IMPORTANT NOTE: Indicate firm name (“Technical Proposal” or “Cost Proposal”), 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:

Garey Graham
116 W. Jones St. 4th Flr-DOA Bldg
<http://www.pandc.nc.gov>
Raleigh, NC 27603
919-807-4563
919-807-4509
garey.graham@doa.nc.gov

NOTE: Questions concerning the specifications in this Request for Proposals will be received until May 16, 2012.

A summary of all questions and answers will be posted on the Internet as an addendum to this RFP.

It is the offeror's responsibility to assure that all addenda have been reviewed and, if need be, signed and returned.

<http://www.pandc.nc.gov/>

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

PURPOSE

The Division of Purchase and Contract ("Division") seeks proposals from firms to provide and maintain a fuels credit card program for the purchase of gasoline, diesel, or other designated motor fuels and oil at contractor-owned, or third-party, service and cardlock stations with extensive accessibility. The North Carolina Department of Administration is the lead agency awarding this contract. Entities specified below may sign up for the services of the contractor(s) provided under this agreement (see Attachment A):

POTENTIAL PARTICIPANTS: State of North Carolina State Agencies
 North Carolina State Universities
 Political Subdivisions of the State,
 such as city and county governments
 and community college districts

Agencies may elect to participate at the outset or may be added to the program thereafter.

The State reserves the right to award contracts to more than one firm if that is determined to be in the State's best interest.

The initial contract will be issued for three (3) years from date it is signed by both parties. The State will have the option to renew the contract for up to two (2) additional years under the same terms and conditions.

II. SCOPE OF SERVICES

- A. Requirements are **mandatory** unless specifically designated as desirable/optional.
- B. The contractor will charge no fees for issuance or maintenance of the cards.
- C. Cards will be issued only at the direction of the purchasing officer or designee at each participating agency. Applications without such authorization are to be returned. Cards will be delivered to the purchasing officer or designee (via a traceable delivery system) rather than to individual cardholders.
- D. Purchase authorization process must have the flexibility to limit purchases by at least the following:
 - Dollar limit per transaction (by vehicle, etc.)
 - Dollar limit per billing period (by agency, subdivision)
 - Number of transactions per day or per budget cycle
- E. The State or its participating agencies will not be liable for purchases made outside the dollar limits authorized by each using agency. Liability for each lost/stolen card shall be limited by dollar amount and time (e.g., 24 hours after notification to the contractor by the cardholder), whichever is less. Each participating agency will set a transaction limit(s) as appropriate.
- F. Billing must accommodate multiple cost centers, as defined by the purchasing officer and/or chief fiscal officer of each participating agency. At the option of the participating agency, billing may be by electronic means, hard copy, or a combination. Flexibility of billing modes will be an important factor in contract award.

- G. Compatibility of vendor identification methods will be important for ease of use by agency purchasing and accounting staff. Many agencies use suppliers' federal employer I.D. numbers (nine numeric characters, often with an extra alpha character) or similar systems to identify vendors.
- H. Reports must identify vendors by specific city and state locations. This information is necessary for tax accounting by county (in-state) and state (out-of-state).
- I. The contractor will provide to the Division consolidated reports on total expenditures, (including totals by agency), number and average purchase amount of transactions, and supplier analysis by vendor type.
- J. Payment will be made no less often than monthly. It is highly desirable that a variety of payment schedules be available to accommodate agencies that choose to pay more frequently and realize more favorable financial terms thereby.
- K. A schedule of any rebates or discounts to participating agencies based on prompt payment and/or dollar volume is desirable. Any rebates offered are to be credited to each agency rather than to a central fund.
- L. The contractor must have a toll-free telephone line for inquiries, resolution of billing questions, reporting of lost/stolen cards, etc.
- M. A person or persons must be designated as customer service coordinator(s) for the State of North Carolina account. Any change in personnel must be communicated immediately to the Division and participating agencies.
- N. The Division will publicize the RFP for Motor Fleet Gas Credit Card by sending a notice of award (with general information) to all state agencies, adding an outline of the program to its Internet listing of statewide contracts, and using other means. The selected contractor(s) must be available on reasonable notice to explain its program to interested agencies and work with them in establishing accounts. Implementation is expected to be a continuing process, with some agencies ready to begin a program as soon as possible and others joining later. Account set-up capabilities must be in place no later than forty-five (45) days after a notice of contract award by an agency. Offerors' ability and commitment to assist participating agencies in implementing the card program will be an important factor in contract award.
- O. It is anticipated that local school boards, community colleges, and non-state governmental entities such as counties and municipalities may also be interested in participating in the procurement card program. It is therefore desirable that offerors be willing and able to serve these potential customers under this contract.
- P. During the course of the contract, the Division, participating agencies, and the contractor will work together to implement improvements to the program based on advances in the industry and the State's experiences with credit card programs. Cooperation to meet agencies' evolving needs will be very important.
- Q. No dollar volume or participation level can be guaranteed by the State.

III. PROPOSAL CONTENT

- A. Each offeror's proposal must address how the firm will meet all the requirements of this RFP, with particular attention to:
1. Description of account setup, billing, and reporting procedures, including samples of reports, bills, and cardholder information materials.
 2. Plans for training, orientation, and account maintenance/enhancement for participating agencies
 3. Provision for customer service, including personnel assigned, toll-free number, and account inquiry.
 4. Resumes for account manager, designated customer service representative(s) and any other key personnel to be assigned to this account
 5. References for at least three large government agencies, states, or private firms for whom similar services are currently being provided. Include a contact person and telephone number for each reference.
 6. Directory, listing, or similar information showing the acceptance range of the card, both geographically and by industry type
 7. Information demonstrating the offeror's financial stability (financial statements, annual reports, or similar data for the last three years)
 8. Any other information deemed pertinent by the offeror
- B. The following are questions and/or concerns that should be addressed in the proposal. These questions/concerns may be answered individually or used as a guide in responding to the RFP:
1. Can cards be printed with **“State of North Carolina, Official Use Only”**?
 2. Can the card design be modified with a “State” design?
 3. Can a vehicle registration number references in the credit card number, and how can this be done?
 4. Can you provide credit card PIN numbers?
 - a) Could this possibly reflect at least five digits of the vehicle VIN number?
 5. Is the card honored in all states?
 6. How many stations in North Carolina honor this credit card?
 7. How quickly can new cards be produced?
 8. Is there a charge for replacement cards?
 9. What are the procedures for lost or stolen cards?

10. What is our liability on lost or stolen cards? Please explain in detail.
11. Do you offer a discount from the gasoline pump price?
12. Can invoices be supplied on magnetic tape disk, as well as hard copy, in a format compatible with a current mainframe system?
13. Will state and federal taxes be deducted from our invoice on each charge or on a gross amount?
14. Will you provide a contract person for card replacement and for accounts receivable?
15. Will the card be disabled when the maximum daily or monthly limits on charges are reached?
 - A) Explain how this will be accomplished.
16. Can charges be limited to petroleum products only?
17. What are the procedures when the card cannot be read electronically at POS?
18. Can special credit limits be set for different cards issued?
19. How many character positions will be available to customize agency needs?
20. How many days is allowed to pay a bill after receipt of invoice?
21. How many days is allowed to dispute a charge? (Please explain your policy for payment, dispute procedures and reimbursement of payment by credit card company if necessary.)

IV. THE PROCUREMENT PROCESS

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

1. RFPs are being sent to prospective contractors via posting on the Internet.
2. Questions are accepted concerning the specifications. Questions must be submitted by the due date specified on page 1 of this RFP document. A summary of questions and answers is sent to all prospective offerors.
3. Proposals in one original and three copies will be received from each offeror in a sealed package. Each original must be signed and dated by an official authorized to bind the firm.
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 and the name of the firm announced publicly.
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, evidence of successful implementation and management of similar programs for other large organizations (particularly governmental entities), commitment of the offeror to the success of the State of North Carolina program, ability to limit transactions as specified by each participating agency, content and flexibility of reporting and billing mechanisms, proposed payment process(es), financial incentive (e.g., rebates), range of card acceptance, and the abilities of the offeror and its staff. The award of a contract to one offeror does not mean that the other proposals lacked merit, but that, all factors considered, the selected proposal(s) was deemed to be in the best interest of the State.
8. Offerors are cautioned that this is a request for offers, not a request to contract, and the State reserves the unqualified right to reject any and all offers when such rejection is deemed to be in the best interest of the State.

EXECUTION OF PROPOSAL

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

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

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

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

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 60 days from the date of the opening, to furnish the subject services as proposed.

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.):

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

(Typed or printed name)

ACCEPTANCE OF PROPOSAL

(NC Division of Purchase and Contract)

BY: _____ TITLE: _____ DATE: _____

THIS PAGE MUST BE SIGNED AND INCLUDED IN YOUR PROPOSAL.

Unsigned proposals will not be considered.

THE PROCUREMENT PROCESS

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

1. Request for Proposals (RFP) is issued to prospective contractors.
2. A preproposal conference and/or deadline for written questions is set. (See cover sheet of this RFP for details.)
3. Proposals in one original and three 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, and cost. Financial information, statements and/or documents submitted with a proposal shall be evaluated to determine: whether the offeror has sufficient ability to perform the contract; whether the offeror is able to meet its short term obligations, debts, liabilities, payroll, and expenses; whether offeror has provided complete, reliable and accurate financial information regarding its business operation; whether the offeror is financially solvent; and whether offeror has sufficient cash flow and/or available financing from a financial institution to perform the proposed contract for 60 days without receiving payment from the State. The evaluators will randomly select at least three of offeror's references, but the evaluators' reserve the right to contact all the references listed, if information from the three references contacted warrant further inquiry. The failure of the offeror to list all similar contracts in the specified period may result in the rejection of the offeror's proposal. The evaluators may check all public sources to determine whether offeror has listed all contracts for similar work within the designated period. If the evaluators determine that references for other public contracts for similar contracts were not listed, the evaluators may contact the public entities to make inquiry into offeror's performance of those contracts and the information obtained may be considered in evaluating offeror's proposal. 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.

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

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

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

PROPOSAL REQUIREMENTS

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

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

1. Corporate Background and Experience

This section shall include background information on the organization and should give details of experience with similar projects. A list of references (including contact persons and telephone numbers) for whom similar work has been performed shall be included and the list shall include all similar contracts performed by the offeror in the past two, three, four, five (pick a reasonable period) years. The evaluators will randomly select at least three of these references, but the evaluators reserve the right to contact all the references listed, if information from the three references contacted warrant further inquiry. The failure to list all similar contracts in the specified period may result in the rejection of the offeror's proposal. The evaluators may check all public sources to determine whether offeror has listed all contracts for similar work within the designated period. If the evaluators determine that references for other public contracts for similar contracts were not listed, the evaluators may contact the public entities to make inquiry into offeror's performance of those contracts and the information obtained may be considered in evaluating offeror's proposal.

2. Financial Statement

The offeror shall provide the following financial information:

- Recent audited or reviewed financial statements prepared by an independent certified public accountant (CPA) that shall include, at a minimum, a balance sheet, income statement (i.e., profit/loss statement) and cash flow statement **and**, if the audited or reviewed financial statements were prepared more than six (6) months prior to the issuance of this RFP, the offeror shall submit its most recent internal financial statements (balance sheet, income statement and cash flow statement or budget with entries reflecting revenues and expenditures from the date of the audited or reviewed financial statements to the end of the most recent financial reporting period (i.e., the quarter or month preceding the issuance date of this RFP)); or
- Recent compiled financial statements prepared by an independent CPA that shall include, at a minimum, a balance sheet, income statement (i.e., profit/loss statement) and cash flow statement **and**, if the compiled financial statements were prepared more than three (3) months prior to the issuance of this RFP, the offeror shall submit its most recent internal financial statements (balance sheet, income statement and cash flow statement or budget with entries reflecting revenues and expenditures to date), and other evidence of financial stability such as most recently filed income tax return, evidence of a line of credit/loans/other type of financing with statement of amount in use/outstanding balance (e.g., a complete copy commitment letter, loan agreement, billing statement reflecting the line of credit or statement from lender acknowledging the commitment to fund the offeror's stated financing), performance bond, personal guaranty with copies of personal income tax filing and statement of net worth or such other evidence that is accurate, reliable and trustworthy regarding the offeror's financial stability.

Recent shall be defined as financial statements that were prepared within the 12 months preceding the issuance date of this RFP.

Consolidated financial statements of the offeror's parent or related corporation/business entity shall not be considered, unless: (1) the offeror's actual financial performance for the designated period is separately identified in and/or attached to the consolidated statements; (2) the parent or related corporation/business entity provides the State with a document wherein the parent or related corporation/business entity will be financially responsible for the offeror's performance of the contract and the consolidated statement demonstrates the parent or related corporation's/business entity's financial ability to perform the contract, financial stability and/or such other financial considerations identified in the evaluation criteria; and/or (3) offeror provides its own internally prepared financial statements and such other evidence of its own financial stability identified above.

The offeror's failure to provide any of the above-referenced financial statements or failure to submit all the requested financial statements may result in the rejection of the offeror's proposal and rejection is more likely to occur if other offerors provide financial documentation in compliance with the foregoing provisions. Offerors are also encouraged to explain any negative financial information in its financial statements and are encouraged to provide documentation supporting those explanations.

All financial information, statements and/or documents provided in response to this proposal requirement shall be kept confidential, IF THE OFFEROR COMPLIES WITH PARAGRAP 13 OF THE GENERAL INFORMATION ON SUBMITTING PROPOSALS BY MARKING THE FINANCIAL INFORMATION, STATEMENTS AND/OR DOCUMENTS CONFIDENTIAL.

3. Project Organization

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

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

4. Technical Approach

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

5. Outsourcing

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

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

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

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

6. Cost Proposal

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

Personnel costs (including hourly rates and total hours)
Travel and Subsistence Expenses
Subcontractor Costs (if any)
Other Costs (e.g., office expenses)

COST PROPOSAL/EXECUTION OF PROPOSAL

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

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

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

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

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

The 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 120 days from the date of the opening, to furnish the subject services.

OFFEROR: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

TELEPHONE NUMBER: _____ FAX: _____

E-MAIL: _____

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

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

☐ Yes

☐ No

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

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

(Printed name)

ACCEPTANCE OF PROPOSAL

(Using Agency Name)

BY: _____ TITLE: _____ DATE: _____

THIS PAGE MUST BE SIGNED AND INCLUDED IN YOUR PROPOSAL.

Unsigned proposals will not be considered.

Where Service Contracts Will Be Performed

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

.....

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

OFFEROR: _____
City & State: _____

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

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

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

_____	_____	_____
_____	_____	_____

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

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

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

_____	_____	_____	_____
_____	_____	_____	_____

(Attach additional pages if necessary.)

GENERAL INFORMATION ON SUBMITTING PROPOSALS

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

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

It is desirable that all responses meet the following requirements:

- All copies are printed **double sided**.
 - All submittals and copies are printed on **recycled paper with a minimum post-consumer content of 30%** and indicate this information accordingly on the response.
 - Unless absolutely necessary, all proposals and copies should **minimize or eliminate use of non-recyclable or non re-usable materials** such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
 - Materials should be submitted in a format which allows for **easy removal and recycling** of paper materials.
6. **COST FOR PROPOSAL PREPARATION:** Any costs incurred by offerors in preparing or submitting offers are the offerors' sole responsibility; the State of North Carolina will not reimburse any offeror for any costs incurred prior to award.
 7. **TIME FOR ACCEPTANCE:** Each proposal shall state that it is a firm offer which may be accepted within a period of 120 days. Although the contract is expected to be awarded prior to that time, the 120 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. . Only those communications with the using agency or issuing agency authorized by this RFP are permitted. All offerors are advised that they are not to have any communications with the using or issuing agency during the evaluation of the proposals (i.e., after the public opening of the proposals and before the award of the contract), unless the State's purchaser contacts the offeror(s) for purposes of seeking clarification. An offeror shall not: transmit to the issuing and/or using agency any information commenting on the ability or qualifications of other offerors to perform the advertised contract and/or the other offerors' proposals and/or prices at any time during the procurement process; or engage in any other communication or conduct attempting to influence the evaluation and/or award of the contract that is the subject of this RFP. 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)

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

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

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

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

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

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

7. **TERMINATION:** The Agency may terminate this agreement at any time by 60 days notice in writing from the Agency to the Contractor. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Agency, become its property. If the contract is terminated by the Agency as provided herein, the Contractor shall be paid for services satisfactorily completed, less payment or compensation previously made.
8. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice(s) or acceptance of services, whichever is later, or in accordance with any special payment schedule identified in this RFP. The using agency is responsible for all payments to the contractor under the contract. Payment by some agencies may be made by procurement card and it shall be accepted by the contractor for payment if the contractor accepts that card (Visa, Mastercard, etc.) from other customers. If payment is made by procurement card, then payment may be processed immediately by the contractor.
9. **AVAILABILITY OF FUNDS:** Any and all payments to the Contractor are dependent upon and subject to the availability of funds to the Agency for the purpose set forth in this agreement.
10. **CONFIDENTIALITY:** Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Contractor under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the Agency.
11. **CARE OF PROPERTY:** The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished it for use in connection with the performance of this contract or purchased by it for this contract and will reimburse the State for loss of damage of such property.

12. **COPYRIGHT:** No deliverable items produced in whole or in part under this agreement shall be the subject of an application for copyright by or on behalf of the Contractor.
13. **ACCESS TO PERSONS AND RECORDS:** The State Auditor and the using agency's internal auditors 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 and Session Law 2010-194, Section 21 (i.e., the State Auditors and internal auditors may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees or performance).
14. **ASSIGNMENT:** No assignment of the Contractor's obligations nor the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the State may:
- Forward the contractor's payment check(s) directly to any person or entity designated by the Contractor, or
 - Include any person or entity designated by Contractor as a joint payee on the Contractor's payment check(s).
- In no event shall such approval and action obligate the State to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of all contract obligations.
15. **COMPLIANCE WITH LAWS:** The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.
16. **AFFIRMATIVE ACTION:** The Contractor shall take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or disability.
17. **INSURANCE:** During the term of the contract, the contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the contractor shall provide and maintain the following coverage and limits:
- Worker's Compensation - The contractor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$150,000.00, covering all of Contractor's employees who are engaged in any work under the contract. If any work is subcontracted, the contractor shall require the subcontractor to provide the same coverage for any of its employees engaged in any work under the contract.
 - Commercial General Liability - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability).
 - Automobile - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the contract. The minimum combined single limit shall be \$150,000.00 bodily injury and property damage; \$150,000.00 uninsured/under insured motorist; and \$1,000.00 medical payment.

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

18. **ADVERTISING:** The offeror shall not use the award of a contract as part of any news release or commercial advertising.
19. **ENTIRE AGREEMENT:** This contract and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This Request for Proposals, any addenda thereto, and the offeror's proposal are incorporated herein by reference as though set forth verbatim.
- All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.
20. **AMENDMENTS:** This contract may be amended only by written amendments duly executed by the Agency and the Contractor. The NC Division of Purchase and Contract shall give prior approval to any amendment to a contract awarded through that office.

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.

21. **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.
22. **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.
23. **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.

24. **By EXECUTIVE ORDER 24**, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:
- (1) have a contract with a governmental agency; or
 - (2) have performed under such a contract within the past year; or
 - (3) anticipate bidding on such a contract in the future.

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

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24."