

State of North Carolina – Department of Commerce 4302 Mail Service Center Raleigh, North Carolina 27699-4302	REQUEST FOR QUOTE NO. 43-WFD-008 Quotes will be publicly opened: October 2, 2007 Contract Type: Open Market
Refer ALL Inquiries to: Torri Hobson Telephone No. 919-715-5614	Issue Date: September 19, 2007 Commodity: Workplace Skills Training
E-Mail: thobson@nccommerce.com	Using Agency Name: NC Workforce
(See page 2 for mailing instructions.)	Agency Requisition No.

NOTICE TO OFFEROR

Quotes, subject to the conditions made a part hereof, will be received at this office until (2:00 p.m.), on the day of opening and then opened, for furnishing and delivering the commodity as described herein. Refer to page 2 for proper mailing instructions.

Quotes and/or addenda submitted via facsimile (FAX) machine in response to this Request for Quotation **will not** be acceptable. Quotes are subject to rejection unless submitted on this form.

EXECUTION

In compliance with this Request for Quote, and subject to all the conditions herein, the undersigned offers and agrees to furnish and deliver any or all items upon which prices are offered, at the prices set opposite each item within the time specified herein. By executing this quote, I certify that this quote 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.

Failure to execute/sign quote prior to submittal shall render quote invalid. Late quotes are not acceptable.

OFFEROR:		FEDERAL ID OR SOCIAL SECURITY NO.	
STREET ADDRESS:		P.O. BOX:	ZIP:
CITY & STATE & ZIP:		TELEPHONE NUMBER:	TOLL FREE TEL. NO (800)
TYPE OR PRINT NAME & TITLE OF PERSON SIGNING:		FAX NUMBER:	
AUTHORIZED SIGNATURE:	DATE:	E-MAIL:	

Offer valid for 45 days from date of opening unless otherwise stated here: ____ days (See Instructions for Quotes, Item 5). Prompt Payment Discount: ____ % ____ days (See Instructions for Quotes, Item 6).

ACCEPTANCE OF QUOTE

If any or all parts of this quote are accepted by the State of North Carolina, an authorized representative of the Department of Commerce shall affix their signature hereto and this document and the provisions of the Instructions for Quotes, special terms and conditions specific to this Request for Quotes, the specifications, and the North Carolina General Contract Terms and Conditions shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful offeror.

<u>FOR STATE USE ONLY</u> Offer accepted and contract awarded this ____ day of _____, 20____, as indicated on attached certification, by _____ (Authorized representative of the Department of Commerce).
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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%. Please indicate this information accordingly on the response.
- ◆ Unless absolutely necessary, all bids and copies should minimize or eliminate use of non-recyclable or non-reusable 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 that allows for easy removal and recycling of paper materials.
- ◆ Mail only one fully executed quote document, unless otherwise instructed, and only one quote per envelope. Address envelope and insert quote number as shown below: It is the responsibility of the offeror to have the quote in this office by the specified time and date of opening.

<u>DELIVERED BY US POSTAL SERVICE</u>	<u>DELIVERED BY ANY OTHER MEANS</u>
QUOTE NO. 43-WFD-008 Department of Commerce Purchasing Office 4302 Mail Service Center Raleigh, North Carolina 27699-4302	QUOTE NO. 43-WFD-008 Department of Commerce Purchasing Office-New Education Bldg.-Rm. 587 301 N. Wilmington Street Raleigh, North Carolina 27601

QUOTES ARE DUE BY 2:00 PM on October 2, 2007.

USER: NC Workforce Commission

TABULATIONS: Verbal tabulations of quotes may be obtained by calling the purchaser listed on the first page of this document.

FIRM BID: Prices and any other entry made hereon by the bidder shall be considered firm and not subject to change or withdrawal.

ATTENTION: This is an e-procurement solicitation. See paragraph #19 of the attached North Carolina General Contract Terms and Conditions.

The Terms and Conditions made part of this solicitation contain new language necessary for implementation of North Carolina's statewide e-procurement initiative.

It is the offeror's responsibility to read these terms and conditions carefully and to consider them in preparing the offer. By signature, offeror acknowledges acceptance of all terms and conditions, including those related to e-procurement.

General information on the e-procurement service can be found at <http://eprocurement.ncgov.com/>

BIDDER NOTE: Electronic Procurement – Service Related Commodities Only: The 1.75% fee as described in Paragraph #19 of the attached North Carolina General Contract Terms and Conditions does not apply to services at this time and will not be assessed. **However, within two days after notification of award of a contract, the successful vendor must register in NC E-Procurement @Your Service.** This registration is necessary in order for the Department to have the capability to issue purchase orders for the services described herein. General information on the e-procurement service can be found at: <http://eprocurement.ncgov.com/>.

TRANSPORTATION CHARGES: FOB NC Department of Commerce, Workforce Commission, 313 Chapanoke Road, Suite 120, Raleigh, NC 27603, prepaid and included in prices quoted herein.

AWARD CRITERIA: As provided by Statute, award will be based on the lowest and best bid (most advantageous to the State) as determined by consideration of:

1. Price
2. Quality of item offered
3. General reputation and performance capabilities of bidder
4. Suitability of items for intended use
5. Conformity with intent of specifications
6. Conformity with the terms and conditions of this Request for Quotation
7. Guaranteed delivery schedule

INTENT OF RFQ: The purpose of this RFQ is to obtain pricing for training on a variety of necessary workplace skills to staff in the workforce systems throughout the state for the calendar year 2008.

SPECIFICATIONS

Workplace Skills / Scope of Work

<i>Number of sessions:</i>	8 sessions
<i>Length of session:</i>	1 day (Each workshop includes approximately 6 hours of training usually from 9:00 am – 4:00 pm, with approximately one hour for lunch and 30 minutes of set-up time. The trainer is expected to arrive on site no later than 30 minutes in advance of the scheduled start time.)
<i>Location:</i>	Regional within North Carolina – Locations based on need
<i>Target audience:</i>	Staff of Workforce Boards, Service Provider Agencies, Workforce Partner Agencies
<i>Anticipated attendance:</i>	35 - 45 attendees per session
<i>Timeframe:</i>	All sessions will be completed between January 1, 2008 – December 31, 2008

The overall goals of the training are as follows:

- To accommodate the local Workforce Boards in providing training on a variety of necessary workplace skills to staff in the workforce system throughout the state. Topics will include Time Management, Stress Management, Workload Organization, Interpersonal Communication Skills, and other related topics that the trainer chooses to include.
- To provide flexibility for the Training Center to choose the topics to be presented from a variety of related workshop topics on an as-needed basis.
- To enhance system-wide capacity by providing staff with specific techniques and strategies to enhance their effectiveness and efficiency in daily work.

The training summary must include:

- A workshop summary for the following topics: Time Management, Stress Management, Workload Organization, and Interpersonal Communication Skills. The trainer may include other related topics that s/he is willing to provide as part of this contract.
- A description of training methods to be used.
- Demonstration that the trainer has an understanding of the relationship of these skill areas to the workforce development system and the public employment system.

Respondents must include:

- List of equipment requested to be provided by WDTC, including LCD projector, laptop, DVD player, flipcharts, and incidental supplies such as tape and markers. Any other equipment must be provided by the facilitator.
- Description of the trainer's qualifications as a professional trainer who has experience in the workforce development arena.
- Three (3) references from organizations that have used their services for similar sessions.

Fee for services:

- Price is to be stated as a **flat fee per session, inclusive of travel costs and materials.**
- The **trainer will furnish all copies** of handouts, agenda, and other materials for each training session.
- The trainer will submit an **invoice for payment** that may be for single or multiple sessions.
- **Payment will be made only after training services have been provided; no advance payment is authorized.**

Special notes:

- It is understood that the contract will be for **not more than 8 onsite workshops**, but *fewer workshops may be offered* if demand is less than anticipated.
- **Regional locations in North Carolina, dates for training, and workshop topics** (*chosen from the list included in the contract*) will be identified and coordinated with the trainer, based on the staff development needs of the customer base.
- Locations anticipated include sites in the **East, Central and West parts of North Carolina.**
- The trainer **will be required to travel** to conduct training in various locations based on system need. This **will sometimes require overnight lodging** because of distances and consecutive days of training.

FURNISH AND DELIVER THE FOLLOWING:

Item	Quantity	Description	Unit Price	Total Cost
1	8 sessions	Fee for training services 8 workshops – Completed by December 31, 2008	\$_____/Workshop	\$_____
		TOTAL		\$_____

NOTE; BIDDERS MUST INCLUDE THE FOLLOWING IN THE RFQ RESPONSE; FAILURE TO DO SO MAY SUBJECT YOUR BID TO REJECTION:

- 1) List of equipment requested to be provided by WDTC, including LCD projector, laptop, DVD player, flipcharts, and incidental supplies such as tape and markers. Any other equipment must be provided by the facilitator.
- 2) Description of the trainer's qualifications as a professional trainer who has experience in the workforce development arena.
- 3) Three (3) references from organizations that have used their services for similar sessions.

NOTE: The Department of Commerce, Workforce Development Training Institute is requesting a maximum of 8 workshops during the contract period, but reserves the right to reduce the number of workshops actually offered, depending on the needs and interest.

Please indicate the number of trainers who would conduct the training sessions referenced above:_____

Please provide background information and qualifications of your organization (use additional space if necessary):

Please provide details of experience with similar projects (use additional space if necessary):

REFERENCES:

Provide at least three (3) names of corporate, government or educational customers who are using similar products to those listed in this RFQ. Reference information may be considered in the evaluation of the bid. Failure to submit this information may subject your bid to rejection.

[illegible]

In an effort to support the sustainability efforts of the State of North Carolina, www.sustainablenc.org/orders.htm
Executive Order Number 156, we solicit your cooperation in this effort.

Item(s) offered in response to this solicitation contain **recycled** content? **Yes** **No**

Regarding the **packaging** of the commodities:

What is the recycled content? _____%

Can this packaging be recycled? Yes/No

Regarding the items:

Do the item(s) offered have any recycled content? Yes/No

If yes, what is the recycled content? _____%

How can the items be disposed of or can it be recycled at the end of use:? _____

Are you a **Historically Underutilized Business** (i.e. minority, woman or disabled-owned business)?

Yes _____

No _____

www.doa.state.nc.us/doa/hub/welcome.htm

"Historically Underutilized Businesses (HUB's) consist of minority, women and disabled business firms that are at least fifty-one percent owned and operated by an individual(s) of the aforementioned categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled."

If applicable, specify classification: _____.

INSTRUCTIONS FOR QUOTES

1. **READ, REVIEW AND COMPLY:** It shall be the offeror's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements specified herein.
2. **NOTICE TO OFFERORS:** All quotes are subject to the provisions of the Instructions for Quotes, special terms and conditions specific to this Request for Quotes, the specifications, and the North Carolina General Contract Terms and Conditions. The Department objects to and will not evaluate or consider any additional terms and conditions submitted with a quote. This applies to any language appearing in or attached to the document as part of the offeror's response. **DO NOT ATTACH ANY ADDITIONAL TERMS AND CONDITIONS.**
By execution and delivery of this document, the offeror agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect.
3. **DEFINITIONS:**
 - **OFFEROR:** Company, firm, corporation, partnership, individual, etc., submitting a response to a Request for Quotes.
 - **TERM CONTRACT:** A contract generally intended to cover all normal requirements for a commodity for a specified period of time based on estimated quantities only.
 - **STATEWIDE TERM CONTRACT:** A Term Contract for all agencies, unless exempted by statute, rule, or special term and condition specific to this quote.
 - **AGENCY SPECIFIC TERM CONTRACT:** A Term Contract for a specific agency.
 - **OPEN MARKET CONTRACT:** A contract for the purchase of a commodity not covered by a term contract.
4. **EXECUTION:** Failure to sign under EXECUTION section will render quote invalid.
5. **TIME FOR CONSIDERATION:** Unless otherwise indicated on the first page of this document, the offer shall be valid for 45 days from the date of quote opening. Preference may be given to quotes allowing not less than 45 days for consideration and acceptance.
6. **PROMPT PAYMENT DISCOUNTS:** Offerors are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it will not be considered in the award of the contract except as a factor to aid in resolving cases of identical prices.
7. **SPECIFICATIONS:** Any deviation from specifications indicated herein must be clearly pointed out; otherwise, it will be considered that items offered are in strict compliance with these specifications, and offeror will be held responsible therefore. Deviations shall be explained in detail. **The offeror shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable.**
8. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this quote, the order of precedence shall be (1) special terms and conditions specific to this quote, (2) specifications, (3) North Carolina General Contract Terms and Conditions, and (4) Instructions for Quotes.
9. **INFORMATION AND DESCRIPTIVE LITERATURE:** Offeror is to furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this quote, each offeror must submit with their quote sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous offer will not satisfy this provision. Quotes which do not comply with these requirements will be subject to rejection.
10. **RECYCLING AND SOURCE REDUCTION:** It is the policy of this State to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective.
We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will protect the commodity and contain it for its intended use.
Companies are strongly urged to bring to the attention of the purchasers in the Division of Purchase and Contract those products or packaging they offer which have recycled content and that are recyclable.
11. **CLARIFICATIONS/INTERPRETATIONS:** Any and all questions regarding this document must be addressed to the purchaser named on the cover sheet of this document. Do not contact the user directly. Any and all revisions to this document shall be made only by written addendum from the Agency which issued the solicitation document. The offeror is cautioned that the requirements of this quote can be altered only by written addendum and that verbal communications from whatever source are of no effect.
12. **ACCEPTANCE AND REJECTION:** The Department reserves the right to reject any and all quotes, to waive any informality in quotes and, unless otherwise specified by the offeror, to accept any item in the quote. If either a unit price or extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.

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13. **REFERENCES:** The Department reserves the right to require a list of users of the exact item offered. The State may contact these users to determine acceptability of the quote. Such information may be considered in the evaluation of the quote.
14. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order #150, the Department 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. **AWARD OF CONTRACT:** Qualified quotes will be evaluated and acceptance may be made of the lowest and best quote most advantageous to the Department as determined upon consideration of such factors as: prices offered; the quality of the articles offered; the general reputation and performance capabilities of the offerors; the substantial conformity with the specifications and other conditions set forth in the quote; the suitability of the articles for the intended use; the related services needed; the date or dates of delivery and performance; and such other factors deemed by the Department to be pertinent or peculiar to the purchase in question. Unless otherwise specified by the Department or the offeror, the Department reserves the right to accept any item or group of items on a multi-item quote.
In addition, on TERM CONTRACTS, the Department reserves the right to make partial, progressive or multiple awards: where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service, geographical areas; other factors deemed by the Department to be pertinent or peculiar to the purchase in question.
16. **CONFIDENTIAL INFORMATION:** As provided by statute and rule, the Department will consider keeping trade secrets which the offeror does not wish disclosed confidential. Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the offeror. Cost information shall not be deemed confidential. In spite of what is labeled as a trade secret, the determination whether it is or not will be determined by North Carolina law.
17. **TAXES:**
- **FEDERAL:** All agencies participating in this contract are exempt from Federal Taxes, such as excise and transportation. Exemption forms submitted by the contractor will be executed and returned by the using agency.
 - **OTHER:** Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.
18. **SAMPLES:** Sample of items, when required, must be furnished as stipulated herein, free of expense, and if not destroyed will, upon request be returned at the offeror's expense. Request for the return of samples must be made within 10 days following date of quote opening. Otherwise the samples will become State property. Each individual sample must be labeled with the offeror's name, quote number, and item number. A sample on which an award is made, will be retained until the contract is completed, and then returned, if requested, as specified above.
19. **PROTEST PROCEDURES:** When an Offeror wants to protest a contract award pursuant to this solicitation, that is over \$10,000, they must submit a written request to the issuing agency at the address given in this document. This request must be received in this office within thirty (30) consecutive calendar days from the date of the contract award, and must contain specific sound reasons and any supporting documentation for the protest. Note: Contract award notices are sent only to those actually awarded contracts, and not to every person or firm responding to this solicitation. Offerors may call the purchaser listed on the first page of this document to obtain a verbal status of contract award. All protests will be handled pursuant to the North Carolina Administrative Code Title 1, Department of Administration, Chapter 5, Purchase and Contract, Section 5B.1519.
20. **MISCELLANEOUS:** Masculine pronouns shall be read to include feminine pronouns, and the singular of any word or phrase shall be read to include the plural and vice versa.

NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS

1. **DEFAULT AND PERFORMANCE BOND:** In case of default by the contractor, the Department may procure the articles or services from other sources and hold the contractor responsible for any excess cost occasioned thereby. The Department reserves the right to require performance bond or other acceptable alternative guarantees from successful bidder without expense to the Department.
2. **GOVERNMENTAL RESTRICTIONS:** In the event any Governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the items offered prior to their delivery, it shall be the responsibility of the contractor to notify, in writing, the issuing purchasing office at once, indicating the specific regulation which required such alterations. The Department reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the contract.
3. **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.
4. **TAXES:** Any applicable taxes shall be invoiced as a separate item.

G.S. 143-59.1 bars the Secretary of Administration from entering into contracts with vendors if the vendor or its affiliates meet one of the conditions of G. S. 105-164.8(b) and refuse to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the bid document the vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.
5. **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.
6. **GOVERNING LAWS:** This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina.
7. **INSPECTION AT CONTRACTOR'S SITE:** The Department reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective contractor prior to contract award, and during the contract term as necessary for the Department's determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the contract.
8. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice or acceptance of goods, whichever is later. 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. **AFFIRMATIVE ACTION:** The contractor will 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.
10. **CONDITION AND PACKAGING:** Unless otherwise provided by special terms and conditions or specifications, it is understood and agreed that any item offered or shipped has not been sold or used for any purpose and shall be in first class condition. All containers/packaging shall be suitable for handling, storage or shipment.
11. **STANDARDS:** All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate state inspector which customarily requires the label or re-examination listing or identification marking of the appropriate safety standard organization; such as the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and /or National Electrical Manufacturers' Association for electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type of device offered and furnished. Further, all items furnished shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.
12. **PATENT:** The contractor shall hold and save the Department, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, on account of any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this contract, including use by the government.
13. **ADVERTISING:** Contractor agrees not to use the existence of this contract or the name of the State of North Carolina as part of any commercial advertising.
14. **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.

15. **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 and solely as a convenience to the contractor, the Department may:
- Forward the contractor's payment check directly to any person or entity designated by the contractor, and
 - Include any person or entity designated by contractor as a joint payee on the contractor's payment check.
- 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.
16. **INSURANCE:**
- COVERAGE** - 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 sublet, the contractor shall require the subcontractor to provide the same coverage for any of his 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.
- REQUIREMENTS:** 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.
17. **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.
18. **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, with the exception of consequential damages, accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, 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 tortuous 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.
19. **ELECTRONIC PROCUREMENT (APPLIES TO ALL CONTRACTS THAT INCLUDE E-PROCUREMENT AND ARE IDENTIFIED AS SUCH IN THE BODY OF THE SOLICITATION DOCUMENT):** Purchasing shall be conducted through the Statewide E-Procurement Service. The State's third party agent shall serve as the Supplier Manager for this E-Procurement Service. The contractor shall register for the Statewide E-Procurement Service within two (2) business days of notification of award in order to receive an electronic purchase order resulting from award of this contract.

THE SUCCESSFUL BIDDER(S) SHALL PAY A TRANSACTION FEE OF 1.75% (.0175) ON THE TOTAL DOLLAR AMOUNT (EXCLUDING SALES TAXES) OF EACH PURCHASE ORDER ISSUED THROUGH THE STATEWIDE E-PROCUREMENT SERVICE This applies to all purchase orders, regardless of the quantity or dollar amount of the purchase order. This transaction fee shall neither be charged to nor paid by the State, or by any State approved users of the contract. The transaction fee shall not be stated or included as a separate item in the proposed contract or invoice. There are no additional fees or charges to the contractor for the services rendered by the Supplier Manager under this contract. Contractor will receive a credit for transaction fees they paid for the purchase of any item(s) if an item(s) is returned through no fault of the contractor. Transaction fees are non-refundable when an item is rejected and returned, or declined, due to the contractor's failure to perform or comply with specifications or requirements of the contract.

Contractor or its Authorized Reseller, as applicable, will be invoiced monthly for the State's transaction fee by the Supplier Manager. The transaction fee shall be based on purchase orders issued for the prior month. Unless Supplier Manager receives written notice from the Contractor identifying with specificity any errors in an invoice within thirty (30) days of the receipt of invoice, such invoice shall be deemed to be correct and Contractor shall have waived its right to later dispute the accuracy and completeness of the invoice. Payment of the transaction fee by the Contractor is due to the account designated by the State within thirty (30) days after receipt of the correct invoice for the transaction fee, which includes payment of all portions of an invoice not in dispute. Within thirty (30) days of the receipt of invoice, contractor may request in writing an extension of the invoice payment due date for that portion of the transaction fee invoice for which payment of the related goods by the governmental purchasing entity has not been received by the Contractor. If payment of the transaction fee is not received by the State within this payment period, it shall be considered a material breach of contract. The Supplier Manager shall provide, whenever reasonably requested by the contractor in writing (including electronic documents), supporting documentation from the E-Procurement Service that accounts for the amount of the invoice.

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

Contractor agrees at all times to maintain the confidentiality of its user name and password for the Statewide E-Procurement Services. If a contractor is a corporation, partnership or other legal entity, then the contractor may authorize its employees to use its password. Contractor shall be responsible for all activity and all charges by such employees. Contractor agrees not to permit a third party to use the Statewide E-Procurement Services through its account. If there is a breach of security through the contractor's account, contractor shall immediately change its password and notify the Supplier Manager of the security breach by e-mail. Contractor shall cooperate with the State and the Supplier Manager to mitigate and correct any security breach.

20. **ELECTRONIC PROCUREMENT (APPLIES ONLY TO STATEWIDE TERM CONTRACTS):** Within ten (10) calendar days of notice, the contractor shall provide supplier information, contract pricing and other product-related information requested by the State or the Supplier Manager. This information shall include such information as contractor name, SKU, brand/manufacturer, product name and a brief description, unit of measure, price, and other similar information or properly requested by the State or the Supplier Manager to facilitate purchasing from the contract. This information shall be posted by the contractor in the format provided by the Supplier Manager, or as otherwise provided in a template or format required by the State. No costs or expenses associated with providing this information shall be charged to the State, its agents (including Supplier Manager) or State approved users of the contract. For the purposes of this contract, the contractor warrants that it is authorized and empowered to and hereby grants the State and the Supplier Manager the right and license to use, reproduce, transmit, distribute and publicly display this information. In addition, for the purposes of this contract, the contractor warrants that it is authorized and empowered to and hereby grants the State and the Supplier Manager the right and license to reproduce and display contractor's trademarks, service marks, logos, trade dress or other branding designation that identifies the goods available under the contract. The Supplier Manager shall create and maintain, with contractor's timely assistance, web-based placement of contract information, where appropriate, that includes the contract items distributed by the contractor within the appropriate contract categories. The State shall provide any price adjustment/product modification information that it has approved during the course of the contract, to the Supplier Manager immediately upon such change.

If the contractor is not the manufacturer, then it shall be the contractor's responsibility to obtain authorization from the manufacturer to comply with the provisions of this contract, including any appropriate intellectual property rights of the manufacturer. If the contractor is the manufacturer, then the manufacturer shall only authorize dealers, outlets, distributors, value added resellers, etc. (together, "Authorized Resellers") within their network that can comply with the provisions of this contract.

CONTRACTOR IS AND SHALL REMAIN RESPONSIBLE FOR PAYING THE TRANSACTION FEE ON BEHALF OF ITS AUTHORIZED RESELLERS IN THE EVENT THAT THE AUTHORIZED RESELLER(S) DEFAULTS.

21. **CANCELLATION (TERM CONTRACTS ONLY):** All contract obligations shall prevail for at least 180 days after the effective date of the contract. After that period, in addition to the provisions of the paragraph entitled Price Adjustments, for the protection of both parties, this contract may be canceled in whole or in part by either party by giving 30 days prior notice in writing to the other party. Such notice of cancellation, as required herein, shall be transmitted via U.S. MAIL, Certified, Return Receipt Requested. The 30 days notice for cancellation shall begin on the day the return receipt is signed and dated.
22. **QUANTITIES (TERM CONTRACTS ONLY):** The award of a term contract neither implies nor guarantees any minimum or maximum purchases thereunder.
23. **PRICE ADJUSTMENTS (TERM CONTRACTS ONLY):** Any price changes, downward or upward, which might be permitted during the contract period must be general, either by reason of market change or on the part of the contractor to other customers.
- Notification:** Must be given to the Department, in writing, concerning any proposed price adjustments. Such notification shall be accompanied by copy of manufacturer's official notice or other acceptable evidence that the change is general in nature.
 - Decreases:** The Department shall receive full proportionate benefit immediately at any time during the contract period.

c. **Increases:** All prices shall be firm against any increase for 180 days from the effective date of the contract. After this period, a request for increase may be submitted with the Department reserving the right to accept or reject the increase, or cancel the contract. Such action by the Department shall occur not later than 15 days after the receipt by the Department of a properly documented request for price increase. Any increases accepted shall become effective not later than 30 days after the expiration of the original 15 days reserved to evaluate the request for increase.

d. **Invoices:** It is understood and agreed that orders will be shipped at the established contract prices in effect on dates orders are placed. Invoicing at variance with this provision will subject the contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item.