

<b>STATE OF NORTH CAROLINA</b>  <b>DEPARTMENT OF COMMERCE</b> <b>Division of Community Revitalization (DCR)</b>	<b>REQUEST FOR PROPOSAL NO. 1498190011</b>
	Contract Name: Implementation of Helene Recovery Programs for Housing Bid Opening Date/Time: April 14, 2025, at 2:00 pm ET
<b>Refer <u>ALL</u> inquiries regarding this RFP to:</b>  Angie Dunaway DCR Procurement Director angela.dunaway@commerce.nc.gov Phone: 919-526-8340	RFP Issue Date: March 21, 2025
	Commodity Code: 801016 Project Management (UNSPSC); 958-77 Project Management Services (NIGP) & 811115 Software and Hardware Engineering (UNSPSC); 920-05 Application, Infrastructure, Hosting and Cloud Computing Services (NIGP)
	Purchasing Agency: Department of Commerce
	Requisition No.: TBD

**OFFER**

The Purchasing Agency solicits offers for Services and/or goods described in this solicitation. All offers and responses received shall be treated as Offers to contract as defined in 9 NCAC 06A.0102(12).

**EXECUTION**

In compliance with this Request for Proposal (RFP), and subject to all the conditions herein, the undersigned offers and agrees to furnish any or all Services or goods upon which prices are offered, at the price(s) offered herein, within the time specified herein. This procurement complies with the State’s own procurement laws, rules and procedures per 2 CFR § 200.317.

**Failure to execute/sign offer prior to submittal shall render offer invalid. Late offers are not acceptable.**

OFFEROR:		
STREET ADDRESS:		P.O. BOX:
CITY, STATE & ZIP:		TELEPHONE NUMBER:
NAME & TITLE OF PERSON SIGNING:		TOLL FREE TEL. NO
AUTHORIZED SIGNATURE:		FAX NUMBER:
DATE:	E-MAIL:	

Offer valid for one hundred twenty (120) days from date of offer opening unless otherwise stated here: \_\_\_\_\_ days

**ACCEPTANCE OF OFFER**

If any or all parts of this offer are accepted, an authorized representative of the Department of Commerce shall affix its signature hereto and any subsequent Request for Best and Final Offer, if issued. Acceptance shall create a contract having an order of precedence as follows: Best and Final Offers, if any, Special terms and conditions specific to this RFP, Specifications of the RFP, the Department of Information Technology Terms and Conditions, and the agreed portion of the awarded Vendor's Offer. A copy of this acceptance will be forwarded to the awarded Vendor(s).

**FOR PURCHASING AGENCY USE ONLY**

Offer accepted and contract awarded this date \_\_\_\_\_, as indicated on attached certification,  
by \_\_\_\_\_ (Authorized representative of Department of Commerce).

## Table of Contents

1.0	Anticipated Procurement Schedule .....	4
2.0	Purpose of RFP.....	4
2.1	Introduction.....	4
2.2	Purpose of RFP and Agency Background .....	4
2.3	Summary of Problem Statement.....	5
2.4	Contract Term.....	5
2.5	Effective Date .....	5
2.6	Contract Type .....	6
3.0	RFP requirements and Specifications .....	6
3.1	General requirements and Specifications .....	6
3.2	Security Specifications.....	6
3.3	Enterprise Specifications .....	7
3.4	Enterprise, Services, and Standards .....	9
3.5	Business and Technical Requirements-Reserved .....	9
3.6	General Program Management .....	9
4.0	Contract Administration.....	22
4.1	Performance .....	22
5.0	Cost of Vendor's Offer.....	23
5.1	Offer Cost .....	23
5.2	Payment Schedule.....	23
6.0	Evaluation .....	24
6.1	Source Selection.....	24
6.2	Evaluation Criteria .....	25
6.3	Best and Final Offers (BAFO).....	25
6.4	Possession and Review.....	25
7.0	Vendor Information and Instructions .....	26
7.1	General Conditions of Offer .....	26
7.2	General Instructions for Vendor .....	27
7.3	Instructions for Offer Submission.....	30
8.0	Other Requirements and Special Terms .....	32
8.1	Vendor Utilization Of Workers Outside of U.S. ....	32
8.2	Financial Statements .....	32
8.3	Financial Resources Assessment, Quality Assurance, Performance and Reliability .....	33
8.4	Vendor's License or Support Agreements .....	33
8.5	Resellers-Reserved .....	33
8.6	Disclosure of Litigation.....	33
8.7	Criminal Convictions .....	34
8.8	Security and Background Checks.....	34
8.9	Assurances.....	34

8.10	Confidentiality of Offers .....	34
8.11	Project Management.....	35
8.12	Meetings .....	35
8.13	Recycling and Source Reduction.....	35
8.14	Special Terms and Conditions .....	35
8.15	Federal Funds Provision.....	36
Attachment A: Definitions.....		41
Attachment B: Department of Information Technology Terms and Conditions.....		43
Attachment C: Description of Offeror .....		64
Attachment D: Cost Form .....		65
Attachment E: Vendor Certification Form.....		67
Attachment F: Location of Workers Utilized by Vendor.....		68
Attachment G: References – Reserved .....		69
Attachment H: Financial Review Form.....		69
Attachment I: Firm Qualifications .....		71
Attachment J: Team Qualifications .....		74
Attachment K: Key Leader Qualifications.....		75
Attachment L: Historically Underutilized Businesses .....		78

## 1.0 ANTICIPATED PROCUREMENT SCHEDULE

The Agency Procurement Agent will make every effort to adhere to the following schedule:

Action	Responsibility	Date
RFP Issued	Agency	March 21, 2025
<b>Pre-Offer Conference</b>	Agency	<b>March 27, 2025 at 10:00 am</b>
Written Questions Deadline	Potential Vendors	March 31, 2025 by 2:00 pm
Agency's Response to Written Questions/ RFP Addendum Issued via Sourcing	Agency	April 4, 2025
<b>Offer Opening Deadline</b>	Vendor(s)	<b>April 14, 2025 at 2:00 pm</b>
Offer Evaluation	Agency	April 14-18, 2025
Selection of Finalists	Agency	April 18, 2025
Oral Presentations and/or Product Demonstrations by Finalists <i>(Optional)</i>	Selected Vendors	April 22, 2025
Negotiations with Finalists	Agency designees and selected Vendor(s)	April 24-25, 2025
Best and Final Offers Deadline from Finalists	Selected Vendors	April 29, 2025
Contract Award	Agency	May 1, 2025
Protest Deadline	Responding Vendors	15 days after award

## 2.0 PURPOSE OF RFP

### 2.1 INTRODUCTION

The purpose of this RFP is to solicit offers for a vendor to assist the Division of Community Revitalization (DCR) with implementation of the State's CDBG-DR Action Plan for Hurricane Helene recovery. The selected vendor will implement DCR's single family housing initiatives including owner occupied and small rental programs. Those services will include extensive outreach, applicant-facing and back-of-house workflow technology solutions, applicant eligibility review, damage and scoping assessments, environmental reviews, and construction management. To meet the unprecedented challenge of recovering from Hurricane Helene, the State has established the Division of Community Revitalization to be the grantee agency for management of all Hurricane Helene CDBG-DR awards to the State.

Proposals shall be summarized in accordance with the terms and conditions of this RFP and any addenda issued hereto.

### 2.2 PURPOSE OF THE RFP AND AGENCY BACKGROUND

The Department of Commerce, Division of Community Revitalization (DCR), is seeking a vendor to provide full spectrum disaster recovery operations to implement the State's Community Development Block Grant-Disaster Recovery (also referred to as the CDBG-DR) Action Plan for Hurricane Helene impacted Counties in Western North Carolina. The United States Department of Housing and Urban

Development (HUD) announced that the State of North Carolina (the State) will receive \$1,428,120,000 in funding to support long-term recovery efforts following Hurricane Helene (FEMA DR-4827-NC) through the North Carolina Department of Commerce (NCDOC). Community Development Block Grant—Disaster Recovery (CDBG-DR) funding is designed to address needs that remain after all other assistance has been exhausted. These funds will help meet remaining unmet housing, economic development, mitigation, and infrastructure needs that resulted from thousands of homes and small businesses being damaged or destroyed by Hurricane Helene in September 2024 bringing historic rainfall, strong winds, and tornadoes generated by the storm. On September 27, 2024, former Governor Roy Cooper requested a Major Disaster Declaration from the federal government for thirty-nine (39) North Carolina counties and the Eastern Band of Cherokee Indians. On September 28, 2024, twenty five (25) counties in the State were declared a major disaster by former President Biden under provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act or P.L. 93-288), approving Individual and Public Assistance (IA and PA) for these counties as well as the Eastern Band of Cherokee Indians. On October 5, 2024, two (2) additional North Carolina counties were declared eligible for federal individual assistance, followed by twelve more counties on October 16, 2024.

### **2.3 SUMMARY OF PROBLEM STATEMENT**

DCR is seeking proposals from qualified Vendors, interested in responding to this RFP, that have specific experience and qualifications in the areas identified in this solicitation to provide expert implementation support for currently expected or subsequent CDBG-DR funds, or any other state and federal grant awards, including but not limited to ERA or CDBG-CV, managed by DCR during the term of this contract. DCR will manage all aspects of these grants, including but not limited to planning and policy development, recovery program administration, compliance, monitoring, program financial management, and grant closeout. The programs that DCR may administer include, but are not limited to: single-family home repair reimbursement, rehabilitation, and reconstruction; repair and replacement of manufactured homes; repairs to public infrastructure; rehabilitation of public housing units; mitigation, rehabilitation or new construction of small rental and multi-family rental housing units; buyouts and acquisition of flood-prone residential properties; the small business recovery loan program; a code compliance program; housing counseling activities; and any other Action Plan-defined program on the publicly available [commerce.nc.gov/recovery](https://commerce.nc.gov/recovery) website.

The State will prioritize very low and low income households, with the highest prioritization for households with incomes less than 60% of AMI (Area Median Income) as well as households that have one or more of the following characteristics: households with members 62 or older, households with children under the age of 18, and households with special needs or special accommodation requirements (disabled). DCR will work with a pool of qualified general contractors to repair, reconstruct, or replace damaged properties. Further details on these recovery programs, including the State's Action Plan and Program Manuals, can be found on the State's website: [commerce.nc.gov/recovery](https://commerce.nc.gov/recovery). DCR may receive State and Federal funds and may require support in the administration of those funds as well. The Contract Award shall include the similar service for all funds, anticipated and unanticipated, received or managed by DCR during the contract term, at DCR's discretion.

### **2.4 CONTRACT TERM**

A contract awarded pursuant to this RFP shall have an effective date as provided in the Notice of Award. The term shall be three (3) year(s), with the option at the State's discretion to renew the contract for additional 1-year periods if need be, and will expire upon the anniversary date of the effective date unless otherwise stated in the Notice of Award, or unless terminated earlier. The State retains the option to extend the Agreement should there be a need.

### **2.5 EFFECTIVE DATE**

This solicitation, including any Exhibits, or any resulting contract or amendment shall not become effective nor bind the State until the appropriate State purchasing authority/official or Agency official has signed the document(s), contract or amendment; the effective award date has been completed on the

document(s), by the State purchasing official, and that date has arrived or passed. The State shall not be responsible for reimbursing the Vendor for goods provided nor Services rendered prior to the appropriate signatures and the arrival of the effective date of the Agreement. No contract shall be binding on the State until an encumbrance of funds has been made for payment of the sums due under the Agreement.

## **2.6 CONTRACT TYPE**

Definite Quantity Contract - This request is for a close-ended contract between the awarded Vendor and the State to furnish a pre-determined quantity of a good or service during a specified period of time.

The State reserves the right to make partial, progressive or multiple awards where it is advantageous to award separately by items; where more than one supplier is needed to provide the contemplated specifications as to quantity, quality, delivery, service, geographical areas; or where other factors are deemed to be necessary or proper to the purchase in question.

## **3.0 RFP REQUIREMENTS AND SPECIFICATIONS**

### **3.1 GENERAL REQUIREMENTS AND SPECIFICATIONS**

#### **3.1.1 REQUIREMENTS**

Requirement means, as used herein, a function, feature, or performance that the solution must provide. If the offer cannot meet the requirements, they will not be evaluated.

#### **3.1.2 SPECIFICATIONS**

Specification means, as used herein, a detailed description that documents the function and performance of a solution or solution component.

The apparent silence of the specifications as to any detail, or the apparent omission of detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only processes, configurations, materials and workmanship of the first quality may be used. Upon any notice of noncompliance provided by the State, Vendor shall supply proof of compliance with the specifications. Vendor must provide written notice of its intent to deliver alternate or substitute Services, products, goods or other Deliverables. Alternate or substitute Services, products, goods or Deliverables may be accepted or rejected in the sole discretion of the State; and any such alternates or substitutes must be accompanied by Vendor's certification and evidence satisfactory to the State that the function, characteristics, performance and endurance will be equal or superior to the original Deliverables specified.

### **3.2 SECURITY SPECIFICATIONS FOR APPLICANT-FACING TECHNOLOGY SOLUTIONS**

#### **3.2.1 SOLUTIONS NOT HOSTED ON STATE INFRASTRUCTURE**

The Program for Hurricane Helene Housing Recovery Efforts will be required to receive and securely manage data that is classified as High Risk, Department Critical. Refer to the North Carolina Statewide Data Classification and Handling policy for more information regarding data classification. The policy is located at the following website: <https://it.nc.gov/document/statewide-data-classification-and-handling-policy>.

To comply with the State's Security Standards and Policies, State agencies are required to perform annual security/risk assessments on their information systems using NIST 800-53 controls. This requirement additionally applies to all Vendor-provided, agency-managed Infrastructure as a Service (IaaS), Platform as a Service (PaaS), and Software as a Service (SaaS) solutions which will handle data classified as Medium Risk (Restricted) or High Risk (Highly Restricted) data.

(a) Vendors are strongly encouraged to provide a VRAR at offer submission. This report is located at the following website: <https://it.nc.gov/documents/vendor-readiness-assessment-report>

Upon request, Vendors must provide a completed Vendor Readiness Assessment Report for Non-State Hosted Solutions (“VRAR”) prior to contract award. Failure to do so within seven (7) days of request will render the Vendor’s offer as non-responsive.

(b) Upon request, Vendors shall provide a current independent 3<sup>rd</sup> party assessment report in accordance with the following subparagraphs (i)-(iii) prior to contract award. However, Vendors are encouraged to provide a current independent 3<sup>rd</sup> party assessment report in accordance with subparagraphs (i)-(iii) at the time of offer submission.

(i) Federal Risk and Authorization Management Program (FedRAMP) certification, SOC 2 Type 2, ISO 27001, or HITRUST are the preferred assessment reports for any Vendor solutions which will handle data classified as Medium Risk (Restricted) or High Risk (Highly Restricted).

(ii) A Vendor that cannot provide a preferred independent 3<sup>rd</sup> party assessment report as described above may submit an alternative assessment, such as a SOC 2 Type 1 assessment report. The Vendor shall provide an explanation for submitting the alternative assessment report. If awarded this contract, a Vendor who submits an alternative assessment report shall submit one of the preferred assessment reports no later than 365 days of the Effective Date of the contract. Timely submission of this preferred assessment report shall be a material requirement of the contract.

(iii) An IaaS vendor cannot provide a certification or assessment report for a SaaS provider UNLESS permitted by the terms of a written agreement between the two vendors and the scope of the IaaS certification or assessment report clearly includes the SaaS solution.

(c) Additional Security Documentation. Prior to contract award, the State may in its discretion require the Vendor to provide additional security documentation, including but not limited to vulnerability assessment reports and penetration test reports. The awarded Vendor shall provide such additional security documentation upon request by the State during the term of the contract.

### **3.3 ENTERPRISE SPECIFICATIONS FOR APPLICANT-FACING TECHNOLOGY SOLUTIONS**

#### **3.3.1 ARCHITECTURE DIAGRAMS**

The State utilizes architectural diagrams to better understand the design and technologies of a proposed solution. The two diagrams we are requesting are the Network Architecture and Technology Stack. Details on these diagrams can be found at the following link:

<https://it.nc.gov/resources/statewide-it-procurement/vendor-engagement-resources#Tab-Architecture-1192>

It is strongly encouraged to submit the Network Architecture and Technology Stack at offer submittal however they must be supplied upon request prior to contract award. Failure to do so within seven (7) calendar days of the State’s request will render the Vendor’s offer to be non-responsive.

There may be additional architectural diagrams requested of the vendor after contract award. This will be communicated to the vendor by the agency as needed during the project.



### **3.3.2 SOLUTION ROADMAP**

A Solution Roadmap defines the vision and strategic elements of the solution. The Solution Roadmap is a plan of action for how a Solution will evolve over time. The minimum content should include:

- a) Vision for the solution
- b) High-level functionality expected for each solution release into production environment
- c) High-level timeline
- d) Description of how customer feedback is collected and incorporated into solution enhancements

Describe the solution roadmap for your product. Include content on release strategies for functionality, roadmap for technical architecture, how scalability of solution is planned.

### **3.3.3 IDENTITY AND ACCESS MANAGEMENT**

The proposed solution must externalize identity and access management. The protocols describing the State's Identity and Access Management can be found at the following link: <https://it.nc.gov/services/vendor-engagement-resources#Tab-IdentityAccessManagement-1241>

Describe how your solution supports the above protocols, as well as making them available for application integration/consumption.

### **3.3.4 INTEGRATION APPROACH**

Describe proposed solution capabilities to interoperate with other solutions. Identify the standards supported, integrations platforms, adaptors, APIs, and the like.

### **3.3.5 DISASTER RECOVERY AND BUSINESS CONTINUITY**

Describe the proposed solution capabilities related to the following areas:

Disaster Recovery Plan (DRP) – describe how proposed solution supports Recovery Point Objectives (RPO) and Recovery Time Objectives (RTO) metrics.

System Backup – describe backup plan capabilities.

Disaster Recovery Testing – describe the frequency and test procedures for end-to-end disaster recovery testing. Business Continuity Plan (BCP) – describe capabilities proposed solution can provide in support of agency's continuity of operations and incident responses.

### **3.3.6 DATA MIGRATION-RESERVED**

### **3.3.7 APPLICATION MANAGEMENT**

Describe how the proposed solution monitors and reports the metrics on system performance.

Describe how the proposed solution manages user administration.

Describe the audit capabilities of proposed solution related to management of the application.

### **3.3.8 ACCESSIBILITY**

Describe how the proposed solution complies with industry accessibility standards.

Provide product documentation that demonstrates how the proposed solution is digitally accessible or if not fully accessible, provide the roadmap with timeline for remediation.

Standards include:

- a) W3C Web Accessibility Initiative - Web Content Accessibility Guidelines (WCAG) 2.1: <https://www.w3.org/TR/WCAG21/>

- b) Section 508: <https://www.section508.gov/>
- c) Voluntary Product Accessibility Template (VPAT®):  
<https://www.itic.org/policy/accessibility/vpat>

### **3.4 ENTERPRISE, SERVICES, AND STANDARDS**

Vendors can refer to the Vendor Resources Page for information on North Carolina Department of Information Technology regarding architecture, security, strategy, data, digital, identity and access management and other general information on doing business with state IT process.

The Vendor Resources Page found at the following link: <https://it.nc.gov/vendor-engagement-resources>. This site provides vendors with statewide information and links referenced throughout the RFP document. Agencies may request additional information.

### **3.5 BUSINESS AND TECHNICAL REQUIREMENTS-RESERVED**

#### **3.5.1 Business and Technical Specifications**

The Vendor is to describe in their offer its technical approach and how their solution will align with the Program Launch timeline as well as a Program Construction timeline. Timelines should describe in sufficient detail when the actual intake of applications will begin, when construction will begin and when construction milestones will be completed (25% of homes constructed, 50% of homes constructed, 75% of homes constructed, and 100% of homes constructed, at a minimum). The technical approach should also describe a general workflow summarizing the activities described below. There is a twenty-five (25) page limit on the Business and Technical Specification response.

DCR seeks a contractor capable of executing outreach activities, deploying applicant-facing technology solutions for intake, determining eligibility, assessing damage, scoping home repairs, issuing applicant awards, providing construction management and complying with all applicable laws, regulations, ordinances, and grant requirements.

The Vendor's offer is to describe the implementation approach of the topics and general categories outlined in this solicitation as well as describe how the offeror will provide those services to the citizens of North Carolina. The State expects exceptional management of the project and will not tolerate disallowable expenses, fraud, duplication of benefits, or any fiscal irresponsibility of taxpayer dollars. DCR refers any interested Vendor to [commerce.nc.gov/recovery](https://commerce.nc.gov/recovery) as a point of reference for the manner in which the current operation is conducted. DCR expects the successful offeror to conduct full spectrum recovery operations and construction management to repair, rebuild, or replace owner occupied and small rental properties impacted by Hurricane Helene. DCR estimates that Helene damaged approximately 74,000 homes, but depending on severity and construction costs, DCR estimates it can repair, reconstruct, or replace 3,200 homes +/- 10%.

### **3.6 GENERAL PROGRAM MANAGEMENT**

- 3.6.1** Describe in your offer how Vendor's Program Director will report to DCR's designated Program Manager and/or their designated representative.
- 3.6.2** Describe in your offer how your solution has the ability to ensure that 25% of all those employed to execute the contract are North Carolina residents with the goal of 75%; provided that there is no sacrifice in price or quality. This includes all prime and sub-contractors.
- 3.6.3** Describe in your offer how your solution has the ability to ensure that all Vendor personnel (prime and sub-contractors associated with the contract) are identified by a standard color

- collared shirt and photo identification with the words: 'Division of Community Revitalization' and 'Contractor' clearly visible on photo identification badges.
- 3.6.4** Describe in your offer how you will conduct a minimum of three (3) job fairs in counties as directed by the State, with one (1) job fair conducted in Buncombe County and one (1) job fair conducted in Watauga County.
- 3.6.5** Describe in your offer how your solution will recommend and establish physical office space in the impacted area in accordance with DCR's intake objectives.
- 3.6.5.1 Describe how the solution offered will provide for least three (3) physical office locations.
  - 3.6.5.2 Describe how the solution offered will have two (2) of those locations remain open for at least six (6) months or for the necessary intake period, if shorter than six (6) months, agreed to in writing by DCR.
  - 3.6.5.3 Describe how the solution offered will have one (1) location to remain open for at least three (3) years.
  - 3.6.5.4 Describe how the solution offered will have all offices open to the public that comply with HUD accessibility standards.
  - 3.6.5.5 Describe how the solution offered will be able to have DCR approve all site closures.
- 3.6.6** Describe in your offer how your solution will integrate with DCR's transparency website, clearly portraying all aspects of the single-family housing recovery.
- 3.6.7** Describe in your offer how you will establish and maintain a full transparency Hurricane Helene recovery website clearly portraying all aspects of the recovery which will integrate seamlessly with the current Division of Community Revitalization website.
- 3.6.8** Describe in your offer how you will establish a public transparency website that provides citizen access to all aspects of the recovery within 90 days of contract award.
- 3.6.8.1 Describe how the solution offered will post all recovery financial documents on the public website accounting for all funds associated with the project.
  - 3.6.8.2 Describe how your solution will include a project management tracking system on the public website accounting for all of the completed and ongoing recovery efforts.
  - 3.6.8.3 Describe how the solution offered will provide a link on the website to each established Long Term Recovery Group (LTRG) within the state and provide updates as requested by the LTRG. This may include, but is not limited to, items such as meeting dates, locations, and key contact numbers.
  - 3.6.8.4 Describe how the solution offered will provide a link on the website to each established Volunteer Organizations Active in the Disasters (VOAD) performing work within the state and provide updates as requested by the VOAD. This may include, but is not limited to, items such as locations, resources available, and key contact information.
- 3.6.9** Describe how the solution offered will allow all personnel, location, files and other pertinent information to be available to the State (and/or to the Federal government) at any time during the contract term.
- 3.6.10** Describe how the solution offered will support all internal and external compliance and financial reviews to ensure appropriate fiscal responsibility.
- 3.6.11** Describe how the solution offered will ensure strict compliance with all HUD and DCR standards and will adjust to any HUD or DCR updates.
- 3.6.12** Describe how the solution offered will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) in order to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low income persons, particularly those who are

recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

- 3.6.13** Describe how the solution offered will report to the State any evidence of suspected fraud within two (2) workdays of discovery.
- 3.6.14** Describe in your offer how the solution will provide pipeline and daily situation reports by 5:00 PM EST the following business day and weekly by 5:00 PM EST the following Monday and provide daily inventory dashboard reports by 5:00 PM EST the following business day, until the reports can be automatically generated. Describe how each briefing will include:
  - 3.6.14.1 Confirmation of all work completed to date, and forecasted performance in the near and far term.
  - 3.6.14.2 Provision and maintenance of a timeline of all critical aspects of the recovery and the estimated completion of all tasks.
  - 3.6.14.3 Report of the applications received and assisted relative to the stated housing priorities.
  - 3.6.14.4 Report of the funds obligated and expended to date compared to the total funds available and the funds available to spend in the HUD and State MID areas.
  - 3.6.14.5 How the solution offered will provide expertise in the HUD CDBG-DR program, ensure compliance with all requirements (which may include: HUD Community Development Block Grant disaster laws, regulations, and guidelines; the Davis Bacon Act, as applicable; and Section 3 of the Housing and Urban Development Act of 1968), and employ processes that align with applicable federal and state laws, Executive Orders, directives, policies, regulations, standards, and guidance.
- 3.6.15** Describe how the offered solution will coordinate with VOAD, Long Term Recovery Groups (LTRG), and the state's Disaster Case Management program to identify and serve impacted vulnerable populations.
- 3.6.16** Vendor to describe how they will, prior to intake and eligibility launch, develop approved Policies and Procedures in accordance with the state's Action Plan. Specifically cover the following topics in your offer:
  - 3.6.16.1 Describe how they will submit the Program Policies and Procedures for approval by DCR no less than ten (10) days prior to program launch. Subsequent revisions to such Program Policies and Procedures should be submitted to DCR for reapproval prior to implementation of such policy. New policies and procedures necessary after program launch should be submitted to DCR for approval no less than ten (10) days before the launch of such policy.
  - 3.6.16.2 Describe how they will train all its personnel in accordance with the approved policies and procedures.
  - 3.6.16.3 Describe how they will provide initial and ongoing training to all employees as well as all subcontracted and state government employees on applicable state policies and program policies and procedures.
  - 3.6.16.4 Describe how they will provide updated training on any policy changes to the workforce in a timely and efficient manner and retain records of everyone who has attended the training.
  - 3.6.16.5 Describe how they will maintain the Policies and Procedures throughout the program life cycle and must establish processes for changes and additions, including approval by DCR.

### **3.7 OUTREACH SERVICES**

- 3.7.1** Vendor to describe how the solution submits, prior to launching intake, an Outreach Plan to DCR for consideration and approval. The plan should include means and methods for accessing vulnerable populations and building community trust.
- 3.7.2** Describe how the solution's Outreach activities target the state's most vulnerable residents prioritized for housing recovery in the Action Plan. Specifically address in your description:
  - 3.7.2.1** How the Outreach program could commence as early as contract execution.
  - 3.7.2.2** How the solution attracts sufficient applications to expend the allocated funds. DCR estimates a minimum of 10,000 applications are required to expend the funds.
  - 3.7.2.3** How all outreach materials illustrate branding standards approved by DCR.
- 3.7.3** Vendor to describe the communication materials and how they comport with HUD's Fair Housing Act and the furtherance of Fair Housing objectives.
- 3.7.4** Vendor to describe the traditional and social media outlets to be used for attracting applicants.
- 3.7.5** Vendor to describe how they plan to adequately and consistently communicate the program objectives and opportunity to all HUD and State MID eligible areas.
- 3.7.6** Vendor to describe the solution's outreach methodologies and how they align with DCR's target populations and prioritizations. The description of the plan should also include how the Vendor measures that they have succeeded in reaching these priority populations.

### **3.8 INTAKE AND ELIGIBILITY SERVICES**

- 3.8.1** Vendor to describe in their offer what their plan is to launch intake and eligibility operations for both housing programs all within forty-five (45) days of contract execution.
- 3.8.2** Vendor to describe in their offer what their plan is to launch intake of applicants up to one hundred and eighty (180) days.
- 3.8.3** Vendor to describe in their offer what their plan is to launch intake of applicants at Intake Centers, various rotating mobile locations identified and scheduled by the Vendor, and in extreme circumstances, at a resident's home. Include how the solution ensures that an application can be securely submitted and processed via an easily accessible website.
- 3.8.4** Vendor to describe how program materials and public facing intake personnel will provide bi-lingual (Spanish) language services at all intake centers.
- 3.8.5** Vendor to describe how case managers are capable of quickly and efficiently processing applications to include determination of program eligibility in accordance with all approved policies and procedures.
- 3.8.6** Vendor to describe how they staff Intake centers with appropriate personnel for hours from Monday through Saturday, six (6) days a week from 8:00 EST to 18:00 EST.
- 3.8.7** Vendor to describe how the Intake Centers or mobile intake locations will be staffed with case managers for the life of the program.
- 3.8.8** Vendor to describe how they provide adequate supervision and support to ensure consistent compliance with program policies and procedures.
- 3.8.9** Vendor to describe the case loads of case workers to minimize wait times and comply with customer service expectations.
- 3.8.10** Vendor to describe how they establish a toll-free phone line for inbound and outbound calls to and from applicants.
- 3.8.11** Vendor to describe how they enter pertinent applicant data and communications into its software solution. Include in your description how the Vendor's system of record accepts the State's Disaster Case Management data (currently housed in Salesforce) regarding those disaster survivors who may be eligible for CDBG-DR housing benefits. The objective of this specification is to seamlessly transfer data to shorten the overall time in providing housing benefits to qualifying disaster survivors.

- 3.8.12** Describe how the Vendor’s solution proactively communicates all program criteria, including property insurance requirements, property affordability requirements (for rental), and any property disposition limitations described in the policies and procedures.
- 3.8.13** Vendor to describe how they comply with the Stafford Act, including ensuring how no applicant will receive duplicative benefits.
- 3.8.14** Vendor to describe how they prioritize service applications in accordance with the Action Plan and the approved policies and procedures.

**Table 1: Application Phasing Criteria for Reconstruction and Rehabilitation (R&R) Applicants**

Phase	Priority	MID Status	Percent of AMI	Is any member of the household: under 18, over 62, disabled, or has accessibility needs?
Phase 1	1	HUD	< 60%	Yes
	2	HUD	< 60%	No
	3	HUD	60% - 80%	Yes
	4	HUD	60% - 80%	No
Phase 2	1	STATE	< 60%	Yes
	2	STATE	< 60%	No
	3	STATE	60% - 80%	Yes
	4	STATE	60% - 80%	No
Phase 3	1	HUD	80% - 120%	N/A
	2	STATE	80% - 120%	N/A

- 3.8.15** Vendor to describe how their solution validates identity, family size, income, residency, benefits received, use of benefits, and other necessary data in accordance with approved policies and procedures.
- 3.8.16** Vendor to describe how their solution confirms adequate property ownership documentation in accordance with approved policies and procedures.
- 3.8.17** Vendor to describe how their solution identifies liens, encumbrances, or covenants that must be satisfied or honored prior to award or permitting.
- 3.8.18** Vendor to describe how their solution is in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act.
- 3.8.19** Vendor to describe how their solution documents all applicant communications within its IT system.
- 3.8.20** Vendor to describe how their solution promptly communicates applicants’ eligibility decisions, denial reasons, and appeal pathways.
- 3.8.21** Vendor to describe how their solution renders an eligibility decision for all applicants within 60 days of closing program intake.
- 3.8.22** Vendor to describe how their solution establishes a web-based escalation and appeals protocol for any resident eligibility, award, or customer service issue.
- 3.8.23** Vendor to describe how their solution provides DCR near real-time reporting of appeals status and outcomes.

- 3.8.24** Vendor to describe how their solution contacts and initially responds to escalations and appeals within two (2) business working days.
- 3.8.25** Vendor to describe how their solution resolves escalations and appeals in accordance with the DCR approved policies and procedures.
- 3.8.26** Vendor to describe how their solution establishes and follows excellent applicant service standards. At a minimum, include in your description how the Vendor's solution:
  - 3.8.26.1 Conducts the program in a manner that ensures that the least likely to apply are able to fully understand the program offerings.
  - 3.8.26.2 Returns applicant calls and inquiries within two (2) business days.
  - 3.8.26.3 Renders eligibility decisions in accordance with the approved policies and procedure within seven (7) days of receiving all required supporting data and documentation.
  - 3.8.26.4 Proactively communicates with all eligible applicants at least once every fifteen (15) days to convey their status, next steps, and/or required information.
  - 3.8.26.5 Maintains communication standards for eligible applicants from the point of intake to the completion of construction.
  - 3.8.26.6 Ensures a bi-lingual (Spanish) capability and address language issues at all Intake Centers as well as during all follow up communications with citizens.
  - 3.8.26.7 Provides their metrics of a minimal acceptable level of customer service for each medium.
  - 3.8.26.8 Provides their system and associated metrics for the minimal acceptable level of service for tracking, resolving, and analyzing complaints and/or issues.

### **3.9 DAMAGE ASSESSMENT AND ENVIRONMENTAL REVIEW**

- 3.9.1** Vendor to describe how their solution will conduct a damage assessment and scoping for eligible applicant properties.
- 3.9.2** Vendor to describe how their solution utilizes Xactimate (no substitute items will be allowed) construction estimation software to generate assessments.
- 3.9.3** Vendor to describe how their solution documents and accounts for the applicant's use of previously received benefits in accordance with HUD guidance and the approved policies and procedures.
- 3.9.4** Vendor to describe how their solution ensures that assessments contain sufficient documentation of damage and/or environmental conditions impacting the construction intent.
- 3.9.5** Vendor to describe how their solution determines the construction intent based on the cost reasonableness of rehabilitation versus reconstruction established in approved policies and procedures.
- 3.9.6** Vendor to describe how their solution conducts HUD compliant environmental reviews for each project.
- 3.9.7** Vendor to describe how their solution aligns with the DCR initiated Tier 1 Environmental reviews that are scheduled for completion in April 2025.
- 3.9.8** Vendor to describe how their solution complies with all Federal, State, and Local environmental standards and follows all established environmental standards for the duration of the contract.
- 3.9.9** Vendor to describe how their solution how Tier II checklists can be performed in parallel with the damage assessment to minimize applicant inconvenience.
- 3.9.10** Vendor to describe how their solution can test for lead-based paint in accordance with HUD and EPA environmental standards.

- 3.9.11 Vendor to describe how their solution acknowledges that DCR's general contractors will be responsible for certifying compliance with any identified environmental threats.
- 3.9.12 Vendor to describe how their solution establishes a process for assessing cost effectiveness of each eligible rehabilitation or reconstruction project.
- 3.9.13 Vendor to describe how their solution establishes criteria for rehabilitation and reconstruction feasibility guidelines.
- 3.9.14 Vendor to describe how their solution acknowledges that MHU's should be replaced with traditional construction, when feasible and acceptable to the applicant.
- 3.9.15 Vendor to describe how their solution acknowledges that eligible applications that cannot be reconstructed within a cost reasonable limit, the vendor must refer the applicant to the state's HMGP program for buyout consideration.
- 3.9.16 Vendor to describe how their solution assists DCR with potentially utilizing CDBG-DR funding to provide the HMGP match for eligible buyout applicants.

### **3.10 DUPLICATION OF BENEFITS, AWARD CALCULATION AND CLOSING**

- 3.10.1 Vendor to describe how their solution calculates each applicant's eligible award amount based on their use of previously received duplicative benefits and the construction services offered by the program.
- 3.10.2 Vendor to describe how their solution clearly communicates the applicant's award type (rehab, recon, MHU replacement or potential buyout) and provide a timeline for the applicant to accept or refuse the assistance.
- 3.10.3 Vendor to describe how their solution includes an approximate timeline for construction assistance.
- 3.10.4 Vendor to describe how their solution awards clearly identify the applicant's responsibility for securing personal property and coordinating temporary housing, if required.
- 3.10.5 Vendor to describe how their solution executes and records any liens or grant agreements required by the program's policies and procedures.
- 3.10.6 Vendor to describe how their solution coordinates with general contractors to adjust scope when necessary and feasible to account for duplication of benefits.
- 3.10.7 Vendor to describe how their solution collects, holds in escrow, and applies applicant funds to construction activities, when/if necessary to comply with program policies and procedures.
- 3.10.8 Vendor to describe how their solution coordinates temporary housing for awarded applicants in limited, extreme circumstances as allowed by the approved policies and procedures.
- 3.10.9 Vendor to describe how their solution includes temporary housing as a part of the construction scoping and coordination in accordance with the approved policies and procedures.
- 3.10.10 Vendor to describe how their solution supports temporary housing management and the fact that DCR will pay the general contractors for temporary housing expenses incurred.
- 3.10.11 Vendor to describe how their solution coordinates with DCR for review and approval of any eligibility determination outside of program guidelines, priority change outside of program guidelines, or proposed cost of estimates that exceed program guidelines.

### **3.11 CONSTRUCTION MANAGEMENT**

- 3.11.1 Vendor to describe how their solution identifies a Construction Manager as a part of its Key Personnel.
- 3.11.2 Vendor to describe how their solution manages and assigns DCR's pool of qualified and contracted general contractors.
- 3.11.3 Vendor to describe how their solution acknowledges that general contractors will be responsible for surveys, elevation, design and permitting of homes.
- 3.11.4 Vendor to describe how their solution establishes a methodology to assign and revoke work from DCR's general contractors.
- 3.11.5 Vendor to describe how their solution's methodology considers performance, capacity, geography, and outstanding warranty complaints.



- 3.11.6** Vendor to describe how their solution reports to DCR the overall performance and assignments of all participating general contractors.
- 3.11.7** Vendor to describe how their solution conducts construction progress inspections in accordance with an inspection schedule that appropriately aligns with the construction intent.
- 3.11.8** Vendor to describe how their solution will coordinate with DCR and its general contractors to establish reasonable construction standards for all homes.
- 3.11.9** Vendor to describe how their solution ensures that all constructed homes meet DCR's construction standards.
- 3.11.10** Vendor to describe how the inspections are not intended to supplant municipal or county inspections.
- 3.11.11** Vendor to describe how the inspections should clearly document construction progress for all scoped items.
- 3.11.12** Vendor to describe how they perform inspections within two (2) days of the general contractor's request.
- 3.11.13** Vendor to describe how the inspection requests and outcomes are tracked in the Vendor's technology solution as defined in Section 3.13.
- 3.11.14** Vendor to describe how they closely monitor all construction timelines and provide the State with weekly briefings.
- 3.11.15** Vendor to describe how they ensure that DCR's general contractors record and file all necessary liens and titles.
- 3.11.16** Vendor to describe how they ensure that DCR's general contractors complete title registration with the North Carolina Department of Motor Vehicles for newly installed manufactured housing units and title retirement for manufactured housing units demolished as part of the program.
- 3.11.17** Vendor to describe how they use inspections to direct construction activity or identify unsafe/unreasonable working conditions that require immediate attention.
- 3.11.18** Vendor to describe how the inspections should adequately justify DCR issuing payment to the general contractor.
- 3.11.19** Vendor to describe how the final Inspections include a Certificate of Occupancy when required and demonstrate adequate work performed by the general contractor.
- 3.11.20** Vendor to describe how they establish processes to manage and hold general contractors accountable for home warranty claims.
- 3.11.21** Vendor to describe how DCR's general contractors provide completed homes with a 2 year warranty.
- 3.11.22** Vendor to describe how they ensure that general contractors appropriately respond and service warranty calls in accordance with the approved policies and procedures.
- 3.11.23** Vendor to describe how they maintain all construction records documenting compliance from start up to file close-out.

### **3.12 CLOSEOUT**

- 3.12.1** Vendor to describe how they will generate and execute an application close out checklist for every file no later than the completion of the home warranty period.
- 3.12.2** Vendor to describe how they will comply with the State's right to monitor and audit. The State or its designee has the right to monitor and audit all aspects of the recovery program, including but not limited to all aspects of intake, eligibility, contracting, sub-contracting, materials purchases, equipment purchases, labor or employment costs, and the purchase of ancillary services. The State has the right to request all documents in connection with this right to audit.
- 3.12.3** Vendor to describe in their offer how they support all program monitoring and federal audit requests.

- 3.12.4** Vendor to describe how they provide final grant close out procedures and a plan for the Vendor and DCR to exchange all necessary grant, construction, case management and other programmatic files whether paper or electronic copies.
- 3.12.5** Vendor to describe how detailed information on disallowed costs will be handled and addressed during the course of this contract.
- 3.12.6** Vendor to describe in their offer the responsibilities and process for reimbursing DCR for any disallowed cost, including but not limited to intake, eligibility, duplication of benefits, or construction.
- 3.12.7** The Vendor to describe how it will make available its program records for a period of 8 years following program close out.

**3.13 TECHNOLOGY**

DCR intends to hire a disaster recovery expert that understands the type of technology needed to successfully administer a complex and evolving housing recovery program. DCR will not define every required function of the system. The following specifications are minimal viable system standards that represent best practices for disaster recovery technology solutions.

- 3.13.1** Vendor to describe in their offer how they identify and employ a Technology Manager responsible for delivering the vendor’s technology solution.
- 3.13.2** Vendor to describe their system of choice for the minimum specifications detailed in the matrices below.
- 3.13.3** Vendor to describe any additional functionality needed to successfully implement the program, as well as describe how the Vendor/solution takes responsibility to build and maintain the system as needed for the program’s success.
- 3.13.4** Describe how the Vendor maintains sole responsibility for developing and deploying the necessary technology required to implement the housing recovery program(s) defined in the Action Plan and this solicitation.
- 3.13.5** Describe how the Vendor supplies and maintains a secure web-based technology to support program intake, eligibility, award and construction management.
- 3.13.6** Describe how Vendor will deliver their applicant interface system to the State for testing and review related to compliance matters, pursuant to Paragraph 9) of the DIT Terms and Conditions, at least ten (10) days before intake begins.

<b>1. TECHNICAL SPECIFICATIONS (DESCRIBE HOW THE VENDOR’S SOLUTION CONFORMS TO THESE SPECIFICATIONS)</b>	
TC-1	Be modular, scalable and has business resiliency to accommodate all users.
TC-2	Provide data exchange that conforms to non-proprietary and industry standard exchange format.
TC-3	Develop a secure interface to deposit and retrieve data between your solution and DCR’s System of Record.
TC-4	Work with State and System of Record development teams to determine the data and communications requirements for required interfaces.
TC-5	Provide all necessary software licenses to support your team, applicants, DCR staff or its vendors, internal and external monitors/auditors, HUD and other necessary parties required to support the housing program’s success.
TC-6	Provide DCR near real-time reporting on critical program outcomes and program financial obligations.

- 3.13.7** Describe how the Vendor’s solution routinely (at least daily) uploads current data and documents to DCR’s system of record.
- 3.13.8** Describe how the Vendor’s solution includes the entire technology cost of maintaining the system throughout the HUD required record retention period.

## 2. AVAILABILITY

AVA-1	<p>Describe service availability and how system errors or anomalies are reported to the State. The State prefers but does not require the following:</p> <table border="1" data-bbox="358 401 1474 1203"> <thead> <tr> <th data-bbox="358 401 509 516">Priority</th> <th data-bbox="509 401 724 516">Response Target</th> <th data-bbox="724 401 992 516">Resolution Target</th> <th data-bbox="992 401 1474 516">Nature of Resolution</th> </tr> </thead> <tbody> <tr> <td data-bbox="358 516 509 684">Critical</td> <td data-bbox="509 516 724 684">One (1) hour</td> <td data-bbox="724 516 992 684">Four (4) hours or less</td> <td data-bbox="992 516 1474 684">Workaround and product patch is provided; fix incorporated into future release</td> </tr> <tr> <td data-bbox="358 684 509 852">High</td> <td data-bbox="509 684 724 852">Two (2) hours</td> <td data-bbox="724 684 992 852">Eight (8) hours or less</td> <td data-bbox="992 684 1474 852">Workaround and product patch is provided; fix incorporated into future release</td> </tr> <tr> <td data-bbox="358 852 509 1073">Medium</td> <td data-bbox="509 852 724 1073">Upon Request</td> <td data-bbox="724 852 992 1073">Twenty-four (24) hours or less</td> <td data-bbox="992 852 1474 1073">Answer to inquiry(ies) and workaround provided; fix incorporated into future release</td> </tr> <tr> <td data-bbox="358 1073 509 1203">Low</td> <td data-bbox="509 1073 724 1203">Upon Request</td> <td data-bbox="724 1073 992 1203">Three (3) Business Days</td> <td data-bbox="992 1073 1474 1203">Answer to inquiry(ies) and/or workaround or fix is provided</td> </tr> </tbody> </table>	Priority	Response Target	Resolution Target	Nature of Resolution	Critical	One (1) hour	Four (4) hours or less	Workaround and product patch is provided; fix incorporated into future release	High	Two (2) hours	Eight (8) hours or less	Workaround and product patch is provided; fix incorporated into future release	Medium	Upon Request	Twenty-four (24) hours or less	Answer to inquiry(ies) and workaround provided; fix incorporated into future release	Low	Upon Request	Three (3) Business Days	Answer to inquiry(ies) and/or workaround or fix is provided
Priority	Response Target	Resolution Target	Nature of Resolution																		
Critical	One (1) hour	Four (4) hours or less	Workaround and product patch is provided; fix incorporated into future release																		
High	Two (2) hours	Eight (8) hours or less	Workaround and product patch is provided; fix incorporated into future release																		
Medium	Upon Request	Twenty-four (24) hours or less	Answer to inquiry(ies) and workaround provided; fix incorporated into future release																		
Low	Upon Request	Three (3) Business Days	Answer to inquiry(ies) and/or workaround or fix is provided																		
UI-4	<p>Describe how your solution's accessibility to users with disabilities (including low/no-vision users), adhere to best practices established by the Web Accessibility Initiative (such as consistent use of the "title" tag on every webpage and using descriptive alternative text for any image that conveys information), and enable form fields to be accessible and usable by screen reading devices.</p>																				
UI-5	<p>Describe your solution's ability to perform rapid configurability for evolving program requirements and workflows.</p>																				

3. CORE FUNCTIONS	
COR-1	Describe how your solution facilitates application intake of both in-person and online applications from applicants. Applicants must be able to upload data, forms and signatures to their application throughout the program lifecycle.
COR-2	Describe how your solution facilitates applicant participation with a convenient online or app-based application portal.
COR-3	Describe how your solution validates damage property and mailing addresses at the point of data entry.
COR-4	Describe how your solution minimizes duplicative applications and establish processes to unify records.
COR-5	Describe how your solution creates unique case files for applications. Each case file can comprise multiple form submittals, document uploads, and data fields. One applicant may own multiple properties, resulting in multiple applications and therefore multiple distinct case files.
COR-6	Describe how your solution allows the upload and storage of images to the System and associate uploads with the appropriate application.
COR-7	Describe how your solution utilizes third party data (FEMA, SBA, Insurance and others) to validate applicants, assistance received, and Duplication of Benefits.
COR-8	Describe how your solution establishes statuses for each application. Statuses should meaningfully and accurately reflect an application's progress through your process.
COR-9	Describe how your solution notifies applicants when an application status changes.
COR-10	Describe how your solution allows authorized internal (DCR and/or its vendors) users to manually enter and update data in files, including the following: <ul style="list-style-type: none"> <li>a. Review or approve status changes, if necessary.</li> <li>b. Notate audit or monitoring comments in the application.</li> <li>c. Notes regarding calls or discussions with applicants or others related to the application.</li> </ul>
COR-11	Describe how your solution supports application intake and review, eligibility review, ownership verification, inspections including damage, scoping, environmental, lead-based paint, and boundary/elevation surveys, award, duplication of benefits, housing counseling coordination, third-party program referral, closing, contractor management, construction management and application closeout.
COR-12	Describe how your solution validates multiple sets of eligibility criteria within one application.
COR-13	Describe how your solution searches the System for records based on a variety of criteria entered, including: <ul style="list-style-type: none"> <li>a. File Number</li> </ul>

	<p>b. Property Address</p> <p>c. Applicant Name</p>
COR-14	Describe how your solution houses templates for forms and correspondence. DCR must be able to update letterhead, correspondence, and forms as required by the program.
COR-15	Describe how your solution provides interactive online form submittal, including digital signatures, document uploads, and image uploads.
COR-16	Describe how your solution generates electronic and printed correspondence to applicants, including but not limited to first class mail, certified mail, text and emails and associate correspondence with the appropriate application.
COR-17	Describe how your solution enables authorized users to view, update, and resend correspondence for an application.
COR-18	Describe how your solution manages, tracks and ages process workflows, including notifications and/or correspondence appropriate to the process.
COR-19	Describe how your solution gathers data elements from a variety of forms, recognizing the different types of forms.
COR-20	Describe how your solution provides an application dashboard to allow applicants to check the status of their own application.
COR-21	Describe how your solution provides a dashboard for DCR users to view all information submitted and the status of each file.
COR-22	Describe how your solution manages separate but related process flows related to an application and facilitate visibility and communication between separate teams to ensure programmatic coordination and compliance with federal regulation and state policies and procedures governing different programs.
COR-23	Describe how your solution tracks special circumstances (for example, tracking title issues that need time to cure) with applications to ensure eligibility questions are resolved prior to award.

<b>4. ADMINISTRATIVE FUNCTIONS</b>	
ADM-1	Describe how your solution manages internal and external user access to the proposed Solution.
ADM-2	Describe how your solution allows user access based on user role criteria - including the permissions for each role.
ADM-3	Describe all modules and components of the proposed system.
ADM-4	Describe how your solution provides "Best Practice" guidelines for system administration, backups and disaster recovery.

<b>5. REPORTING</b>	
RPT-2	Describe how your solution generates pre-configured and ad hoc reports.
RPT-3	Describe how your solution enables DCR and its Vendors to access and generate pre-configured and ad-hoc reports.

<b>6. AUDITING</b>	
AUD-1	Describe your solutions ability to provide auditable logs on all system edits, deletes, and additions, including: <ul style="list-style-type: none"> <li>a. Date and time an event occurs</li> <li>b. Objects affected</li> <li>c. Identity and role of the actor performing the activity. If an identity can be assigned multiple roles, or multiple roles can authorize the same activity, this would mean the role used to authorize the activity in this case</li> <li>d. Outcome (success or failure) of the activity</li> <li>e. Audit history of a record (original data retained)</li> </ul>
AUD-2	Provide logging capabilities including system events for purposes of monitoring, maintenance, and notification of system failures and/or performance issues.

<b>7. DATA MANAGEMENT (DESCRIBE HOW THE VENDOR'S SOLUTION CONFORMS TO THESE SPECIFICATIONS)</b>	
DAT-1	Back up and maintain data related to any CDBG-DR Grant. CDBG-DR Grants must be retained for a minimum of eight years from closeout of the particular grant between DCR and HUD.
DAT-2	Migrate data at least daily from your Solution to DCR's System of Record to provide current and historical transactions.
DAT-3	Handle data import, export, and file transfer utility processes.
DAT-5	Acknowledge and agree that DCR will own all data that is related to the services provided.
DAT-6	Provide data to DCR upon termination of the Agreement. See Transition Out Specification ID (TR-2 ) <ul style="list-style-type: none"> <li>a. Data access and migration</li> </ul>

<b>8. TRANSITION</b>	
TR-1	Vendor to describe in their offer tasks and activities in their Vendor Launch Timeline schedule to ensure a successful technology launch.

TR-2	<p>Vendor to describe how they develop a Transition-Out Plan that includes a schedule of tasks and activities to ensure successful transition out. The State will review, approve and provide oversight of the transition. The development of the Transition-Out Plan will be delivered after program launch within the first year of the contract. The Transition-Out schedule to include the following considerations as deemed necessary by the State:</p> <ul style="list-style-type: none"> <li>a. Data access and migration</li> <li>b. Hardware</li> <li>c. Software</li> <li>d. Infrastructure</li> <li>e. Security</li> <li>f. Architecture</li> <li>g. Network</li> <li>h. Firewall</li> <li>i. Performance</li> <li>j. Training Documentation</li> <li>k. Support Documentation (System Administration, Operations Model, DevOps, etc.)</li> <li>l. Telecommunications</li> <li>m. Reporting</li> <li>n. RACI</li> </ul>
------	---

<b>9. TRAINING</b>	
TRA-1	Describe in your offer training of all aspects of the offered solution to include help desk, administrative, and user training as required to ensure programmatic success. Training may include DCR employees and its vendors.
TRA-2	Describe how the solution ensures online training, training materials, and user manuals for internal and external users are frequently updated.

<b>10. SUPPORT (DESCRIBE HOW THE VENDOR'S SOLUTION CONFORMS TO THESE SPECIFICATIONS)</b>	
SUP-1	Provide technical support to applicants that mimics the office hours of the intake centers.
SUP-2	Provide technical support to DCR and its vendors from 8:00 – 17:00 EST Monday – Friday.
SUP-3	Identify, report, track, and correct and resolve software defects and problems.

## **4.0 CONTRACT ADMINISTRATION**

### **4.1 PERFORMANCE**

The Contract Administrator for the State will conduct quarterly performance reviews of performance under the contract. The format and content of the quarterly review will be shared with the Vendor Project Manager. The quarterly performance reviews will assess the onsite staff and Vendor's compliance with the contract and the individual performance of the onsite contract staff as needed. The performance reviews may include requirements of the Vendor to take corrective action related to onsite staff performance.

## 5.0 COST OF VENDOR'S OFFER

### 5.1 OFFER COST

The Vendor must list, itemize, and describe any applicable offer costs in **ATTACHMENT D: COST FORM**.

### 5.2 PAYMENT SCHEDULE

The Vendor shall propose its itemized payment schedule based on the content of its offer. All payments must be based upon acceptance of one or more Deliverables. See Payment Schedule table below.

### PAYMENT SCHEDULE

Vendor payment will be based on milestone completions. After award and establishing an agreed upon Vendor contract value, DCR will calculate the remaining funds available for construction activities. The Vendor contract value and the total funds available for construction activities will determine the payments for each milestone completed. The Vendor contract value shall be reduced by any reductions assessed pursuant to the below table. Both Vendor and the State agree the measure of damages that will result from project delays is difficult to ascertain given the large and complex nature of the Services.

Milestone	Payment as a % of Vendor Contract Value	Deliverable	Reductions
Program Launched	3.00%	Program Policies and Procedures Approved by DCR; Outreach Plan Approved by DCR; Outreach activities conducted according to Outreach Plan; Program Intake web portal published within 45 days of contract execution; Program Intake initiated within 45 days of contract execution;	Milestone payment will be reduced by \$10,000 per business day of delay beyond 45 days, unless extension is approved by DCR.
Intake Complete	3.00%	Vendor collected a sufficient number of priority applications (estimated at 10,000 unique applications) to expend the grant funds. Intake is completed in less than 180 days after contract execution.	Milestone payment will be reduced proportionately for collecting less than 10,000 unique priority applications (Ex. 9,000 applications collected would yield a payment of 90% of the milestone amount); however, payment will not be increased for additional applications beyond 10,000
Eligibility Complete	2.00%	Vendor rendered an eligibility decision for all applicants within 60 days of Intake completion; Vendor assigned a priority to all applications in accordance with DCR's prioritization	
5% of Construction funds expended	4.00%	5% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.	
10% of Construction funds expended	4.00%	10% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.	
15% of Construction funds expended	4.00%	15% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.	
20% of Construction funds expended	4.00%	20% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.	
25% of Construction funds expended	4.00%	25% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.	
30% of Construction funds expended	4.00%	30% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.	



35% of Construction funds expended	4.00%	35% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.
40% of Construction funds expended	4.00%	40% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.
45% of Construction funds expended	4.00%	45% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.
50% of Construction funds expended	4.00%	50% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.
55% of Construction funds expended	4.00%	55% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.
60% of Construction funds expended	4.00%	60% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.
65% of Construction funds expended	4.00%	65% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.
70% of Construction funds expended	4.00%	70% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.
75% of Construction funds expended	4.00%	75% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.
80% of Construction funds expended	4.00%	80% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.
85% of Construction funds expended	4.00%	85% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.
90% of Construction funds expended	4.00%	90% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.
95% of Construction funds expended	4.00%	95% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.
100% of Construction funds expended	6.00%	100% of construction funds are expended on eligible construction activities and owed or paid to DCR's general contractors.
Program Closed Out	10.00%	Vendor has completed the DCR approved closeout checklist for every application; All program funds are expended and paid; any monitoring or audit findings are remedied and settled.

## 6.0 EVALUATION

### 6.1 SOURCE SELECTION

A trade-off/ranking method of source selection will be utilized in this procurement to allow the State to award this RFP to the Vendor providing the Best Value and recognizing that Best Value may result in award other than the lowest price or highest technically qualified offer. By using this method, the overall ranking may be adjusted up or down when considered with or traded-off against other non-price factors.

- a) Evaluation Process Explanation. State Agency employees will review all offers. All offers will be initially classified as being responsive or non-responsive. If an offer is found non-responsive, it will not be considered further. All responsive offers will be evaluated based on stated evaluation criteria. Any references in an answer to another location in the RFP materials or Offer shall have specific page numbers and sections stated in the reference.
- b) To be eligible for consideration, Vendor's offer must substantially conform to the intent of all specifications. Compliance with the intent of all specifications will be determined by the State. Offers that do not meet the full intent of all specifications listed in this RFP may be deemed

deficient. Further, a serious deficiency in the offer to any one (1) factor may be grounds for rejection regardless of overall score.

- c) The evaluation committee may request clarifications, an interview with or presentation from any or all Vendors as allowed by 9 NCAC 06B.0307. However, the State may refuse to accept, in full or partially, the response to a clarification request given by any Vendor. Vendors are cautioned that the evaluators are not required to request clarifications; therefore, all offers should be complete and reflect the most favorable terms. Vendors should be prepared to send qualified personnel to Raleigh, North Carolina, to discuss technical and contractual aspects of the offer.
- d) Vendors are advised that the State is not obligated to ask for, or accept after the closing date for receipt of offer, data that is essential for a complete and thorough evaluation of the offer.

**6.2 EVALUATION CRITERIA**

Evaluation shall include best value, as the term is defined in N.C.G.S. § 143-135.9(a)(1), compliance with information technology project management policies as defined by N.C.G.S. §143B-1340, compliance with information technology security standards and policies, substantial conformity with the specifications, and other conditions set forth in the solicitation. The following Evaluation Criteria are listed in Order of Importance.

Evaluation Criteria	Maximum Points
Firm Qualifications	60
Technical Approach	55
Price	40
Key Leader Qualifications	30
Teaming Partner Qualifications	15
TOTAL	200

**6.3 BEST AND FINAL OFFERS (BAFO)**

The State may establish a competitive range based upon evaluations of offers, and request BAFOs from the Vendor(s) within this range; e.g. “Finalist Vendor(s)”. If negotiations or subsequent offers are solicited, the Vendor(s) shall provide BAFO(s) in response. Failure to deliver a BAFO when requested shall disqualify the non-responsive Vendor from further consideration. The State will evaluate BAFO(s), oral presentations, and product demonstrations as part of the Vendors’ respective offers to determine the final rankings.

**6.4 POSSESSION AND REVIEW**

During the evaluation period and prior to award, possession of the bids and accompanying information is limited to personnel of the issuing agency, and to the committee responsible for participating in the evaluation. Vendors who attempt to gain this privileged information, or to influence the evaluation process (i.e. assist in evaluation) will be in violation of purchasing rules and their offer will not be further evaluated or considered.

After award of contract the complete bid file will be available to any interested persons with the exception of trade secrets, test information or similar proprietary information as provided by statute and rule. Any proprietary or confidential information, which conforms to exclusions from public records as provided by N.C.G.S. §132-1.2 must be clearly marked as such in the offer when submitted.

## **7.0 VENDOR INFORMATION AND INSTRUCTIONS**

### **7.1 GENERAL CONDITIONS OF OFFER**

#### **7.1.1 VENDOR RESPONSIBILITY**

It shall be the Vendor's responsibility to read this entire document, review all enclosures and attachments, and comply with all specifications, requirements and the State's intent as specified herein. If a Vendor discovers an inconsistency, error or omission in this solicitation, the Vendor should request a clarification from the State's contact person.

The Vendor will be responsible for investigating and recommending the most effective and efficient solution. Consideration shall be given to the stability of the proposed configuration and the future direction of technology, confirming to the best of its ability that the recommended approach is not short lived. Several approaches may exist for hardware configurations, other products and any software. The Vendor must provide a justification for their proposed hardware, product and software solution(s) along with costs thereof. Vendors are encouraged to present explanations of benefits and merits of their proposed solutions together with any accompanying Services, maintenance, warranties, value added Services or other criteria identified herein.

#### **7.1.2 RIGHTS RESERVED**

While the State has every intention to award a contract as a result of this RFP, issuance of the RFP in no way constitutes a commitment by the State of North Carolina, or the procuring Agency, to award a contract. Upon determining that any of the following would be in its best interests, the State may:

- a) waive any formality;
- b) amend the solicitation;
- c) cancel or terminate this RFP;
- d) reject any or all offers received in response to this RFP;
- e) waive any undesirable, inconsequential, or inconsistent provisions of this RFP;
- f) if the response to this solicitation demonstrate a lack of competition, negotiate directly with one or more Vendors;
- g) not award, or if awarded, terminate any contract if the State determines adequate State funds are not available; or
- h) if all offers are found non-responsive, determine whether Waiver of Competition criteria may be satisfied, and if so, negotiate with one or more known sources of supply.

#### **7.1.3 SOLICITATION AMENDMENTS OR REVISIONS**

Any and all amendments or revisions to this document shall be made by written addendum from the Agency Procurement Office. If either a unit price or extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.

#### **7.1.4 ORAL EXPLANATIONS**

The State will not be bound by oral explanations or instructions given at any time during the bidding process or after award. Vendor contact regarding this RFP with anyone other than the State's contact person may be grounds for rejection of said Vendor's offer. Agency contact regarding this RFP with any Vendor may be grounds for cancellation of this RFP.

#### **7.1.5 E-PROCUREMENT**

This is an E-Procurement solicitation. See ATTACHMENT B, paragraph #38 of the attached North Carolina Department of Information Technology Terms and Conditions (DIT Terms and Conditions).

The Terms and Conditions made part of this solicitation contain language necessary for the implementation of North Carolina's statewide E-Procurement initiative. It is the Vendor's responsibility to read these terms and conditions carefully and to consider them in preparing the offer. By signature, the Vendor acknowledges acceptance of all terms and conditions including those related to E-Procurement.

- a) General information on the E-Procurement service can be found at <http://eprocurement.nc.gov/>
- b) Within two days after notification of award of a contract, the Vendor must register in NC E-Procurement @ Your Service at the following website: <http://eprocurement.nc.gov/Vendor.html>
- c) As of the RFP submittal date, the Vendor must be current on all E-Procurement fees. If the Vendor is not current on all E-Procurement fees, the State may disqualify the Vendor from participation in this RFP.

### 7.1.6 ELECTRONIC VENDOR PORTAL (EVP)

The State has implemented the electronic Vendor Portal (eVP) that allow the public to retrieve award notices and information on the Internet at <https://evp.nc.gov>. <https://www.ips.state.nc.us/ips/> Results may be found by searching by Solicitation Number or agency name. This information may not be available for several weeks dependent upon the complexity of the acquisition and the length of time to complete the evaluation process.

### 7.1.7 PROTEST PROCEDURES

Protests of awards exceeding \$25,000 in value must be submitted to the issuing Agency at the address given on the first page of this document. Protests must be received in the purchasing agency's office within fifteen (15) calendar days from the date of this RFP award and provide specific reasons and any supporting documentation for the protest. **All protests are governed by Title 9, Department of Information Technology (formerly Office of Information Technology Services), Subchapter 06B Sections .1101 - .1121.**

## 7.2 GENERAL INSTRUCTIONS FOR VENDOR

### 7.2.1 PRE-OFFER CONFERENCE

**Urged and Cautioned** Pre-Offer Conference

Date: **Thursday, March 27, 2025**

Time: **10:00 AM** Eastern Time

Contact Number: [Join the meeting now](#) **CLICK THIS LINK to Join the TEAMS Meeting**

**Meeting ID:** 212 821 563 208

**Passcode:** W23u5yd6

**Dial in by phone**

[+1 984-204-1487,,923715647#](tel:+19842041487923715647) United States, Raleigh

[Find a local number](#)

Phone conference ID: 923 715 647#

**Join on a video conferencing device**

Tenant key: [ncgov@m.webex.com](mailto:ncgov@m.webex.com)

Video ID: 119 802 977 6

**Instructions:** Vendor representatives are **URGED** and **CAUTIONED** to attend the meeting and apprise themselves of the conditions and requirements which will affect the performance of the work called for by this Request for Proposal. A non-mandatory meeting is scheduled for 10:00 am Eastern

Time via Teams and call-in phone number. Submission of a proposal shall constitute sufficient evidence of this compliance and no allowance will be made for unreported conditions which a prudent Vendor would recognize as affecting the performance of the work called for in this proposal.

Vendor is cautioned that any information released to attendees during the pre-offer conference, other than that involving the physical aspects of the facility referenced above, and which conflicts with, supersedes, or adds to requirements in this Request for Proposal, must be confirmed by written addendum before it can be a part of their offer.

### 7.2.2 QUESTIONS CONCERNING THE RFP

All inquiries regarding the solicitation specifications or requirements are to be addressed to the contact person listed on Page One of this solicitation via the **Ariba Sourcing Tool's message board**. Vendor contact regarding this Solicitation with anyone other than the contact person listed on Page One of this Solicitation may be grounds for rejection of said Vendor's offer.

Written questions concerning this Solicitation will be received until **March 31, 2025 at 2:00 pm** Eastern Time.

They must be submitted to the contact person listed on Page One of this Solicitation via the Ariba Sourcing Tool's message board. Please enter "Questions Solicitation RFP# 1498190011" as the subject for the message.

REFERENCE	VENDOR QUESTION
RFP Section, Page Number	

### 7.2.3 ADDENDUM TO RFP

If a pre-offer conference is held or written questions are received prior to the submission date, an **addendum** comprising questions submitted and responses to such questions, or any additional terms deemed necessary by the State shall become an Addendum to this RFP and provided **via the State's Ariba Sourcing Tool**. Vendors' questions posed orally at any pre-offer conference must be reduced to writing by the Vendor and provided to the Purchasing Officer as directed by said Officer. Oral answers are not binding on the State.

Critical updated information may be included in these Addenda. It is important that all Vendors bidding on this RFP periodically check the State's Sourcing Tool for all Addenda that may be issued prior to the offer opening date.

### 7.2.4 COSTS RELATED TO OFFER SUBMISSION

Costs for developing and delivering responses to this RFP and any subsequent presentations of the offer as requested by the State are entirely the responsibility of the Vendor. The State is not liable for any expense incurred by the Vendors in the preparation and presentation of their offers.

All materials submitted in response to this RFP become the property of the State and are to be appended to any formal documentation, which would further define or expand any contractual relationship between the State and the Vendor resulting from this RFP process.

### 7.2.5 VENDOR ERRATA AND EXCEPTIONS

Any errata or exceptions to the State's requirements and specifications may be presented on a separate page labeled "Exceptions to Requirements and Specifications". Include references to the corresponding requirements and specifications of the Solicitation. Any deviations shall be explained in detail. **The Vendor shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable. Offers of alternative or non-equivalent goods or services may be rejected if not found substantially conforming; and if offered, must be supported by**

**independent documentary verification that the offer substantially conforms to the specified goods or services specification.** If a vendor materially deviates from RFP requirements or specifications, its offer may be determined to be non-responsive by the State.

Offers conditioned upon acceptance of Vendor Errata or Exceptions may be determined to be non-responsive by the State.

#### **7.2.6 ALTERNATE OFFERS**

The Vendor may submit alternate offers for various levels of service(s) or products meeting specifications. Alternate offers must specifically identify the RFP specifications and advantage(s) addressed by the alternate offer. Any alternate offers must be clearly marked with the legend as shown herein. Each offer must be for a specific set of Services or products and offer at specific pricing. If a Vendor chooses to respond with various service or product offerings, each must be an offer with a different price and a separate RFP offer. Vendors may also provide multiple offers for software or systems coupled with support and maintenance options, provided, however, all offers must satisfy the specifications.

Alternate offers must be submitted in a separate document and clearly marked "Alternate Offer for 'name of Vendor'" and numbered sequentially with the first offer if separate offers are submitted.

#### **7.2.7 MODIFICATIONS TO OFFER**

An offer may not be unilaterally modified by the Vendor.

#### **7.2.8 BASIS FOR REJECTION**

Pursuant to 9 NCAC 06B.0401, the State reserves the right to reject any and all offers, in whole or in part; by deeming the offer unsatisfactory as to quality or quantity, delivery, price or service offered; non-compliance with the specifications or intent of this solicitation; lack of competitiveness; error(s) in specifications or indications that revision would be advantageous to the State; cancellation or other changes in the intended project, or other determination that the proposed specification is no longer needed; limitation or lack of available funds; circumstances that prevent determination of the best offer; or any other determination that rejection would be in the best interest of the State.

#### **7.2.9 NON-RESPONSIVE OFFERS**

Vendor offers will be deemed non-responsive by the State and will be rejected without further consideration or evaluation if statements such as the following are included:

- a) "This offer does not constitute a binding offer",
- b) "This offer will be valid only if this offer is selected as a finalist or in the competitive range",
- c) "The Vendor does not commit or bind itself to any terms and conditions by this submission",
- d) "This document and all associated documents are non-binding and shall be used for discussion purposes only",
- e) "This offer will not be binding on either party until incorporated in a definitive agreement signed by authorized representatives of both parties", or
- f) A statement of similar intent

#### **7.2.10 VENDOR REGISTRATION WITH THE SECRETARY OF STATE**

Vendors do not have to be registered with the NC Secretary of State to submit an offer; however, in order to receive an award/contract with the State, they must be registered. Registration can be completed at the following website: [https://www.sosnc.gov/Guides/launching\\_a\\_business](https://www.sosnc.gov/Guides/launching_a_business)

#### **7.2.11 VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM**

The NC electronic Vendor Portal (eVP) allows Vendors to electronically register with the State to receive electronic notification of current procurement opportunities for goods and Services available at the following website: <https://evp.nc.gov>.

This RFP is available electronically on the electronic Vendor Portal (eVP) at the following website: <https://evp.nc.gov>.

## 7.3 INSTRUCTIONS FOR OFFER SUBMISSION

### 7.3.1 GENERAL INSTRUCTIONS FOR OFFER

Vendors are strongly encouraged to adhere to the following general instructions in order to bring clarity and order to the offer and subsequent evaluation process:

- a) **Organize** the offer in the **exact order** in which the specifications are presented **in** the **RFP**. The Execution page of this RFP must be placed at the front of the Proposal. Each page should be numbered. The offer should contain a table of contents, which cross-references the RFP specification and the specific page of the response in the Vendor's offer.
- b) Provide complete and comprehensive responses with a corresponding emphasis on being concise and clear. Elaborate offers in the form of brochures or other presentations beyond that necessary to present a complete and effective offer are not desired.
- c) Clearly state your understanding of the problem(s) presented by this RFP including your proposed solution's ability to meet the specifications, including capabilities, features, and limitations, as described herein, and provide a cost offer.
- d) Supply all relevant and material information relating to the Vendor's organization, personnel, and experience that substantiates its qualifications and capabilities to perform the Services and/or provide the goods described in this RFP. If relevant and material information is not provided, the offer may be rejected from consideration and evaluation.
- e) Furnish all information requested; and if response spaces are provided in this document, the Vendor shall furnish said information in the spaces provided. Further, if required elsewhere in this RFP, each Vendor must submit with its offer sketches, descriptive literature and/or complete specifications covering the products offered. References to literature submitted with a previous offer will not satisfy this provision. Proposals that do not comply with these instructions may be rejected.
- f) Any offer that does not adhere to these instructions may be deemed non-responsive and rejected on that basis.
- g) **Only information that is received in response to this RFP will be evaluated.** Reference to information previously submitted or Internet Website Addresses (URLs) will not suffice as a response to this solicitation.

### 7.3.2 OFFER ORGANIZATION

Within each section of its offer, Vendor should **address** the items **in the order in which** they **appear in** this **RFP**. Forms, attachments or exhibits, if any provided in the RFP, must be completed and included in the appropriate section of the offer. All discussion of offered costs, rates, or expenses must be presented in Section 4.0. Cost of Vendor's Offer.

The offer should be organized and indexed in the following format and should contain, at a minimum, all listed items below.

- a) Signed Execution Page AND all pages of this solicitation document in ONE (1) **PDF**. This includes:
  - i) Attachments A and B
  - ii) Completed Description of Vendor Submitting Offer Form (Attachment C)
  - iii) Completed Cost Form of Vendor's Offer (Attachment D)
  - iv) Completed and Signed Vendor Certification Form (Attachment E)

- v) Completed Location of Workers Utilized by Vendor Form (Attachment F)
  - vi) Completed References (Attachment G)
  - vii) Completed Financial Statements (Attachment H)
  - viii) Completed Firm Qualifications (Attachment I)
  - ix) Completed Team Qualifications (Attachment J)
  - x) Completed Key Leader Qualifications (Attachment K)
  - xi) Completed Historically Underutilized Business (Attachment L)
- b) Vendor Response to Specifications and Requirements
  - c) Security Vendor Readiness Assessment Report (VRAR)
  - d) Architecture Diagrams
  - e) Detailed Project Timeline
  - f) Errata and Exceptions if any
  - g) Vendor's License and Maintenance Agreements if any
  - h) Vendor may attach other supporting materials that it feels may improve the quality of its response. These materials should be included as items in a separate appendix.

### 7.3.3 OFFER SUBMITTAL

Due Date: April 14, 2025  
 Time: 2:00 pm Eastern Time

**Microsoft Teams** [Need help?](#)  
[Join the meeting now](#)  
 Meeting ID: 251 897 449 577  
 Passcode: Mx6Ee3GT

**Dial in by phone**  
[+1 984-204-1487,,688143693#](#) United States, Raleigh  
[Find a local number](#)  
 Phone conference ID: 688 143 693#

**IMPORTANT NOTE:** It is the Vendor's sole responsibility to upload their offer to the Ariba Sourcing Module by the specified time and date of opening. Vendor shall bear the risk for late electronic submission due to unintended or unanticipated delay, including but not limited to internet issues, network issues, local power outages, or application issues. Vendor must include all the pages of this solicitation in their response.

**Sealed offers**, subject to the conditions made a part hereof, will be received until **2:00 pm** Eastern Time on the day of opening and then opened, for furnishing and delivering the commodity as described herein. Offers must be **submitted via** the **Ariba Sourcing Module** with the Execution page signed and dated by an official authorized to bind the Vendor's firm. Failure to return a signed offer shall result in disqualification.



**Attempts to submit a proposal via facsimile (FAX) machine, telephone, email, email attachments, or in any hardcopy format in response to this Bid SHALL NOT be accepted and will automatically be deemed Non-Responsive.**

- a) Submit **one (1) signed, original electronic offer** through the Ariba Sourcing Module.
- b) The Ariba Sourcing Module document number is: Doc1498190011
- c) All File names should start with the Vendor name first, in order to easily determine all the files to be included as part of the vendor's response. For example, files should be named as follows: Vendor Name-your file name.
- d) File contents **SHALL NOT** be password protected, the file formats must be in .PDF, .JPEG, .DOC or .XLS format, and shall be capable of being copied to other sources. Inability by the State to open the Vendor's files may result in the Vendor's offer(s) being rejected as Non-Responsive.
- e) **If** the vendor's proposal contains any **confidential information** (as defined in the DIT Terms and Conditions, Section 2, Paragraph #17), then the vendor **must provide** one **(1)** signed, original electronic offer (**UNREDACTED**) and one **(1)** **redacted** electronic copy.

For Vendor training on how to use the Ariba Sourcing Tool to view solicitations, submit questions, develop responses, upload documents, and submit offers to the State, Vendors should go to the following site: <https://eprocurement.nc.gov/training/vendor-training>

Questions or issues related to using the Ariba Sourcing Tool itself can be directed to the North Carolina eProcurement Help Desk at 888-211-7440, Option 2. Help Desk representatives are available Monday through Friday from 7:30 AM EST to 5:00 PM EST

## **8.0 OTHER REQUIREMENTS AND SPECIAL TERMS**

### **8.1 VENDOR UTILIZATION OF WORKERS OUTSIDE OF U.S.**

In accordance with N.C.G.S. §143B-1361(b), the Vendor must detail the manner in which it intends to utilize resources or workers in the RFP response. The State of North Carolina will evaluate the additional risks, costs, and other factors associated with such utilization prior to making an award for any such Vendor's offer.

**Complete ATTACHMENT F** - Location of Workers Utilized by Vendor and submit with your offer.

### **8.2 FINANCIAL STATEMENTS**

The Vendor shall provide evidence of financial stability by returning with its offer 1) completed Financial Review Form (Attachment H), and 2) copies of Financial Statements as further described hereinbelow. As used herein, Financial Statements shall exclude tax returns and compiled statements.

- a) For a publicly traded company, Financial Statements for the past three (3) fiscal years, including at a minimum, income statements, balance sheets, and statement of changes in financial position or cash flows. If three (3) years of financial statements are not available, this information shall be provided to the fullest extent possible, but not less than one year. If less than 3 years, the Vendor must explain the reason why they are not available.
- b) For a privately held company, when certified audited financial statements are not prepared: a written statement from the company's certified public accountant stating the financial condition, debt-to-asset ratio for the past three (3) years and any pending actions that may affect the company's financial condition.
- c) The State may, in its sole discretion, accept evidence of financial stability other than Financial Statements for the purpose of evaluating Vendors' responses to this RFP. The State reserves the right to determine whether the substitute information meets the requirements for Financial Information

sufficiently to allow the State to evaluate the sufficiency of financial resources and the ability of the business to sustain performance of this RFP award. Scope Statements issued may require the submission of Financial Statements and specify the number of years to be provided, the information to be provided, and the most recent date required.

### **8.3 FINANCIAL RESOURCES ASSESSMENT, QUALITY ASSURANCE, PERFORMANCE AND RELIABILITY**

- a) Contract Performance Security. The State reserves the right to require performance guaranties pursuant to N.C.G.S. §143B-1340(f) and 09 NCAC 06B.1207 from the Vendor without expense to the State.
- b) Project Assurance, Performance and Reliability Evaluation – Pursuant to N.C.G.S. §143B-1340, the State CIO may require quality assurance reviews of Projects as necessary.

### **8.4 VENDOR'S LICENSE OR SUPPORT AGREEMENTS**

Vendor should present its license or support agreements for review and evaluation. Terms offered for licensing and support of Vendors' proprietary assets will be considered.

The terms and conditions of the Vendor's standard services, license, maintenance or other agreement(s) applicable to Services, Software and other Products acquired under this RFP may apply to the extent such terms and conditions do not materially change the terms and conditions of this RFP. In the event of any conflict between the terms and conditions of this RFP and the Vendor's standard agreement(s), the terms and conditions of this RFP relating to audit and records, jurisdiction, choice of law, the State's electronic procurement application of law or administrative rules, the remedy for intellectual property infringement and the exclusive remedies and limitation of liability in the DIT Terms and Conditions herein shall apply in all cases and supersede any provisions contained in the Vendor's relevant standard agreement or any other agreement. The State shall not be obligated under any standard license and/or maintenance or other Vendor agreement(s) to indemnify or hold harmless the Vendor, its licensors, successors or assigns, nor arbitrate any dispute, nor pay late fees, penalties, legal fees or other similar costs.

### **8.5 RESELLERS-RESERVED**

### **8.6 DISCLOSURE OF LITIGATION**

The Vendor's failure to fully and timely comply with the terms of this section, including providing reasonable assurances satisfactory to the State, may constitute a material breach of the Agreement.

- a) The Vendor shall notify the State in its offer, if it, or any of its subcontractors, or their officers, directors, or key personnel who may provide Services under any contract awarded pursuant to this solicitation, have ever been convicted of a felony, or any crime involving moral turpitude, including, but not limited to fraud, misappropriation or deception. The Vendor shall promptly notify the State of any criminal litigation, investigations or proceeding involving the Vendor or any subcontractor, or any of the foregoing entities' then current officers or directors during the term of the Agreement or any Scope Statement awarded to the Vendor.
- b) The Vendor shall notify the State in its offer, and promptly thereafter as otherwise applicable, of any civil litigation, arbitration, proceeding, or judgments against it or its subcontractors during the three (3) years preceding its offer, or which may occur during the term of any awarded to the Vendor pursuant to this solicitation, that involve (1) Services or related goods similar to those provided pursuant to any contract and that involve a claim that may affect the viability or financial stability of the Vendor, or (2) a claim or written allegation of fraud by the Vendor or any subcontractor hereunder, arising out of their business activities, or (3) a claim or written allegation that the Vendor or any subcontractor hereunder violated any federal, state or local statute, regulation or ordinance. Multiple lawsuits and or judgments against the Vendor or subcontractor shall be disclosed to the State to the extent they affect the financial solvency and integrity of the Vendor or subcontractor.

- c) All notices under subsection A and B herein shall be provided in writing to the State within thirty (30) calendar days after the Vendor learns about any such criminal or civil matters; unless such matters are governed by the DIT Terms and Conditions annexed to the solicitation. Details of settlements which are prevented from disclosure by the terms of the settlement shall be annotated as such. Vendor may rely on good faith certifications of its subcontractors addressing the foregoing, which certifications shall be available for inspection at the option of the State.

## **8.7 CRIMINAL CONVICTION**

In the event the Vendor, an officer of the Vendor, or an owner of a 25% or greater share of the Vendor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or subcontract; or convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of North Carolina employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects upon the Vendor's business integrity and such vendor shall be prohibited from entering into a contract for goods or Services with any department, institution or agency of the State.

## **8.8 SECURITY AND BACKGROUND CHECKS**

The Agency reserves the right to conduct a security background check or otherwise approve any employee or agent provided by the Vendor, and to refuse access to or require replacement of any such personnel for cause, including, but not limited to, technical or training qualifications, quality of work or change in security status or non-compliance with the Agency's security or other similar requirements.

All State and Vendor personnel that have access to data restricted by the State Security Manual and Policies must have a security background check performed. The Vendors are responsible for performing all background checks of their workforce and subcontractors. The State reserves the right to check for non-compliance.

## **8.9 ASSURANCES**

In the event that criminal or civil investigation, litigation, arbitration or other proceedings disclosed to the State pursuant to this Section, or of which the State otherwise becomes aware, during the term of the Agreement, causes the State to be reasonably concerned about:

- a) the ability of the Vendor or its subcontractor to continue to perform the Agreement in accordance with its terms and conditions, or
- b) whether the Vendor or its subcontractor in performing Services is engaged in conduct which is similar in nature to conduct alleged in such investigation, litigation, arbitration or other proceedings, which conduct would constitute a breach of the Agreement or violation of law, regulation or public policy, then the Vendor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that: the Vendor or its subcontractors hereunder will be able to continue to perform the Agreement in accordance with its terms and conditions, and the Vendor or its subcontractors will not engage in conduct in performing Services under the Agreement which is similar in nature to the conduct alleged in any such litigation, arbitration or other proceedings.

## **8.10 CONFIDENTIALITY OF OFFERS**

All offers and any other RFP responses shall be made public as required by the NC Public Records Act and GS 143B-1350. Vendors may mark portions of offers as confidential or proprietary, after determining that such information is excepted from the NC Public Records Act, provided that such marking is clear and unambiguous and preferably at the top and bottom of each page containing confidential information. Standard restrictive legends appearing on every page of an offer are not sufficient and shall not be binding upon the State.

Certain State information is not public under the NC Public Records Act and other laws. Any such information which the State designates as confidential and makes available to the Vendor in order to respond to the RFP or carry out the Agreement, or which becomes available to the Vendor in carrying out the Agreement, shall be protected by the Vendor from unauthorized use and disclosure. The Vendor shall not be required under the provisions of this section to keep confidential, (1) information generally available to the public, (2) information released by the State generally, or to the Vendor without restriction, (3) information independently developed or acquired by the Vendor or its personnel without reliance in any way on otherwise protected information of the State. Notwithstanding the foregoing restrictions, the Vendor and its personnel may use and disclose any information which it is otherwise required by law to disclose, but in each case only after the State has been so notified, and has had the opportunity, if possible, to obtain reasonable protection for such information in connection with such disclosure.

## **8.11 PROJECT MANAGEMENT**

All project management and coordination on behalf of the Agency shall be designated through a single point of contact as the Agency Project Manager. The Vendor shall designate a Vendor Project Manager who will provide a single point of contact for management and coordination of the Vendor's work. This includes related issues and issues concerning performance, progress review, scheduling, and service.

All work performed pursuant to the Agreement shall be coordinated between the Agency Project Manager and the Vendor Project Manager. The services of the Project Manager should not be invoiced. The Project Manager will be a representative of the Vendor authorized to make decisions on its behalf.

## **8.12 MEETINGS**

The Vendor is required to meet with Agency personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of the Agreement. Meetings will occur as problems arise and will be coordinated by Agency. The Vendor will be given reasonable and sufficient notice of meeting dates, times, and locations. Face to face meetings are desired. However, at the Vendor's option and expense, a conference call meeting may be substituted.

## **8.13 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 goods purchased. However, no sacrifice in quality of packaging will be acceptable. The Vendor remains responsible for providing packaging that will protect the commodity and contain it for its intended use. Vendors are strongly urged to bring to the attention of the purchasers at the NCDIT Statewide IT Procurement Office those products or packaging they offer which have recycled content and that are recyclable.

## **8.14 SPECIAL TERMS AND CONDITIONS**

Paragraph #16 in Section 1 of the DIT Terms and Conditions is supplemented as follows: the Vendor shall provide a Certificate of Insurance naming the Agency as an additional insured, with the certificate complying with all required coverages and delivered to the Agency not later than ten (10) days following the date of the Notice of Award issued pursuant to this RFP. The Vendor must notify the Agency immediately of any material change in insurance coverage, including, but not limited to changes in limits, coverage, or status of the policy.

The State reserves the right to approve and/or disapprove all content on the website created for the Vendor's solution. For details, please see [commerce.nc.gov/recovery](https://commerce.nc.gov/recovery).

## 8.15 FEDERAL FUNDS PROVISIONS

Where federal funds are utilized in connection with this procurement, and to the extent applicable and absent stricter or controlling State provisions, the following federal provisions apply consistent with Uniform Guidance in 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, and its Appendix II and Federal law. Relevant federal authorities may modify or require additional provisions depending on the scope and context of the Contract. Failure or unwillingness of the Vendor to continually meet any of these requirements, as applicable, may result in Contract termination.

1. No governmental non-competes. Vendor shall not impose or enforce any non-competition agreement upon the employees included in Vendor's bid that would prevent those employees from accepting any offer of employment from the State of North Carolina outside of the first Term of the Contract. By executing this Contract, the Vendor affirms this condition. This affirmation is a material condition for the State's award of any work under this Contract.
2. Program Monitoring. Vendor agrees to assist and cooperate with the Federal grantor or funding agency and the relevant Purchasing Agency or their duly designated representatives in the monitoring or auditing of the project or projects to which this Contract relates, and to provide in form and manner approved by the Purchasing Agency such monitoring reports, progress reports, and the like as may be required and to provide such reports at the times specified.
3. Accessibility – The projects to which this Contract relates will be subject to accessibility requirements under Section 504 of the Rehabilitation Act of 1973.
4. Davis-Bacon - The projects to which this Contract relates will be subject to Davis-Bacon wage and record-keeping requirements.
5. Lead Based Paint - HUD's lead based paint regulations at 24 CFR Part 35 will apply.
6. Drug Free Workplace - Vendor hereby certifies that it shall provide a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988, as amended, and with 24 C.F.R. Part 21.
7. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).

Compliance with the Contract Work Hours and Safety Standards Act.

- 1) Overtime requirements. No Vendor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- 2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in 29 C.F.R. §5.5(b)(1) the Vendor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Vendor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in 29 C.F.R. §5.5(b)(1), in the sum of \$33 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in 29 C.F.R. §5.5(b)(1).
- 3) Withholding for unpaid wages and liquidated damages. The Purchasing Agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Vendor or subcontractor under any such contract or any other Federal contract with the same

prime Vendor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Vendor, such sums as may be determined to be necessary to satisfy any liabilities of such Vendor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in 29 C.F.R. §5.5(b)(2).

- 4) Subcontracts. The Vendor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of 29 C.F.R. §5.5 and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Vendor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in 29 C.F.R. §5.5(b)(2) through (4).

## 8. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT.

### Clean Air Act

- 1) The Vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- 2) The Vendor agrees to report each violation to the Purchasing Agency and understands and agrees that the Purchasing Agency will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- 3) The Vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

## 9. Federal Water Pollution Control Act

- 1) The Vendor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- 2) The Vendor agrees to report each violation to the Purchasing Agency and understands and agrees that the Purchasing Agency will, in turn, report each violation as required to assure notification to the federal agency providing funds hereunder, and the appropriate Environmental Protection Agency Regional Office.
- 3) The Vendor agrees that these requirements will be included in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

## 10. Debarment and Suspension.

- 1) This Contract, if federal funding is used, is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Vendor is required to verify that none of the Vendor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- 2) The Vendor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- 3) This certification is a material representation of fact relied upon by a federal agency providing federal funds herein and the Purchasing Agency. If it is later determined that the Vendor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to federal agency providing federal funds herein and the Purchasing Agency, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- 4) The Vendor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of the Contract resulting from a relevant solicitation herein. The Vendor further agrees to include a provision requiring such

compliance in its lower tier covered transactions.

11. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) (as Amended).

To the extent applicable, Vendors that apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal Contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Required Certification. If applicable, Vendors must sign and submit to the Purchasing Agency the certification. See the latest version of "Certification for Contracts, Grants, Loans, and Cooperative Agreements" found at <https://ncadmin.nc.gov/documents/vendor-forms>.

12. Procurement of Recovered Materials.

- 1) Unless specified otherwise in the Contract, in the performance of this Contract, the Vendor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
  - i) Competitively within a timeframe providing for compliance with the Contract performance schedule;
  - ii) Meeting Contract performance requirements; or
  - iii) At a reasonable price.
- 2) Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement Guidelines web site:<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>. The Vendor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

13. Access to Records. In addition to the Department of Information Technology Terms & Conditions section entitled "ACCESS TO PERSONS AND RECORDS" included in this Contract, the following access to records requirements apply to this Contract:

- 1) The Vendor agrees to provide the Purchasing Agency, the Administrator of the federal agency providing funds hereunder, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Vendor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- 2) The Vendor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- 3) The Vendor agrees to provide the Administrator of the federal agency providing funds hereunder or his authorized representative access to construction or other work sites pertaining to the work being completed under the Contract.
- 4) In compliance with the Disaster Recovery Act of 2018, the Purchasing Agency and the Vendor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the Administrator of the federal agency providing funds hereunder or the Comptroller General of the United States.

14. Modifications to Contract. Modifications to the Contract are governed by the Department of Information Technology Terms & Conditions section entitled "AMENDMENT," except as approval and signature by any federal official may also be required.

15. Records Retention. All records required to be kept on the project shall be maintained for at least eight (8) years after final payments and until all other pending matters under the grant for this project have been closed. However, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the eight (8) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the eight (8) year period, whichever is later.
16. Energy Efficiency. All participants in the projects funded hereby shall recognize mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (PL 94-163).
17. Program Fraud and False or Fraudulent Statements or Related Acts. Vendor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the Contract.
18. No Obligation by Federal Government. The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Vendor, or any other party pertaining to any matter resulting from the Contract.
19. Compliance with Federal Law, Regulations, and Executive Orders. This is an acknowledgement that federal financial assistance will be used to fund all or a portion of the Contract. The Vendor will comply with all applicable Federal law, regulations, executive orders, the policies of the federal agency(ies) providing funding, procedures, and directives.
20. Federal Seals, Logos, and Flags. In addition to the prohibitions of the Department of Information Technology Terms & Conditions section below entitled "ADVERTISING/PRESS RELEASE," the Vendor shall not use the seal(s), logos, crests, or reproductions of flags of a federal agency providing funding herein, or likenesses of federal agency officials without specific pre-approval of the relevant federal agency.
21. System for Awards Management. Vendor shall be responsible to ensure that it has checked the federal System for Awards Management (SAM) <https://www.sam.gov/SAM> and the State Debarred Vendors Listing, <http://www.pandc.nc.gov/actions.asp> to verify that Contractors or sub-Recipients have not been suspended or debarred from doing business with federal or State government.
22. Section 3 Clause. Vendor will comply with the following clauses from 24 CFR 135.38:

The Contractor shall comply with the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u, and implementing its regulations at 24 CFR Part 75, as expressed below:

- 1) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992 (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- 2) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
- 3) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under



this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- 4) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.
- 5) The contractor will certify that any vacant employment positions, including training positions that are filled (1) after the contractor is selected by before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.
- 6) Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- 7) With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

## ATTACHMENT A: DEFINITIONS

- 1) **24x7:** A statement of availability of systems, communications, and/or supporting resources every hour (24) of each day (7 days weekly) throughout every year for periods specified herein. Where reasonable downtime is accepted, it will be stated herein. Otherwise, 24x7 implies NO loss of availability of systems, communications, and/or supporting resources.
- 2) **Action Plan:** the State's Community Development Block Grant-Disaster Recovery (also referred to as the CDBG-DR) Funding Action Plan in Response to Hurricane Helene impacted Counties in Western North Carolina.
- 3) **BAFO:** Best and Final Offer, submitted by a Vendor to alter its initial offer, made in response to a request by the issuing agency.
- 4) **CDBG-DR:** Community Development Block Grant for Disaster Recovery grant.
- 5) **Contract Lead:** The Procurement Contracting Officer listed in the RFP.
- 6) **Contract Administrator:** The Division of Community Revitalization program administrator.
- 7) **Cybersecurity Incident (GS 143B-1320):** An occurrence that:
  - a. Actually or imminently jeopardizes, without lawful authority, the integrity, confidentiality, or availability of information or an information system; or
  - b. Constitutes a violation or imminent threat of violation of law, security policies, privacy policies, security procedures, or acceptable use policies.
- 8) **DCR:** The North Carolina Department of Commerce, Division of Community Revitalization
- 9) **Deliverables:** Deliverables, as used herein, shall comprise all Hardware, Vendor Services, professional Services, Software and provided modifications to any Software, and incidental materials, including any goods, Software or Services access license, data, reports and documentation provided or created during the performance or provision of Services hereunder. Deliverables include "Work Product" and means any expression of Licensor's findings, analyses, conclusions, opinions, recommendations, ideas, techniques, know-how, designs, programs, enhancements, and other technical information; but not source and object code or software.
- 10) **DRRA:** Disaster Risk Reduction Areas
- 11) **DRGR:** Disaster Recovery Grant Reporting System
- 12) **ePROCUREMENT SERVICE(S):** The program, system, and associated Services through which the State conducts electronic procurement.
- 13) **Goods:** Includes intangibles such as computer software; provided, however that this definition does not modify the definition of "goods" in the context of N.C.G.S. §25-2-105 (UCC definition of goods).
- 14) **HMGP:** Hazard Mitigation Grant Program
- 15) **HUD:** U.S. Department of Housing and Urban Development
- 16) **LTRG:** Long Term Recovery Groups
- 17) **NCDIT or DIT:** The NC Department of Information Technology.
- 18) **Open Market Contract:** A contract for the purchase of goods or Services not covered by a term, technical, or convenience contract.
- 19) **Principal Place of Business:** The principal place from which the overall trade or business of the Vendor is directed or managed.
- 20) **Qualified Proposal:** A responsive proposal submitted by a responsible Vendor.

- 21) Reasonable, Necessary or Proper:** as used herein shall be interpreted solely by the State of North Carolina.
- 22) Request for Proposal (RFP):** The RFP is a formal, written solicitation document typically used for seeking competition and obtaining offers for more complex services or a combination of goods and services. The RFP is used when the value is over \$10,000. This document contains specifications of the RFP, instructions to bidders and the standard IT Terms and Conditions for Goods and Related Services. User should add Supplemental Terms and Conditions for Software and Services, when applicable.
- 23) Security Breach:** As defined in N.C.G.S. §75-61.
- 24) Services or Service Deliverables:** The tasks and duties undertaken by the Vendor to fulfill the requirements and specifications of this solicitation.
- 25) Significant Security Incident (GS 143B-1320):** A cybersecurity incident that is likely to result in demonstrable harm to the State's security interests, economy, critical infrastructure, or to the public confidence, civil liberties, or public health and safety of the residents of North Carolina. A significant cybersecurity incident is determined by the following factors:
- a. Incidents that meet thresholds identified by the Department jointly with the Department of Public Safety that involve information:
    - i. That is not releasable to the public and that is restricted or highly restricted according to Statewide Data Classification and Handling Policy; or
    - ii. That involves the exfiltration, modification, deletion, or unauthorized access, or lack of availability to information or systems within certain parameters to include (i) a specific threshold of number of records or users affected as defined in G.S. 75-65 or (ii) any additional data types with required security controls.
  - b. Incidents that involve information that is not recoverable or cannot be recovered within defined time lines required to meet operational commitments defined jointly by the State agency and the Department or can be recovered only through additional measures and has a high or medium functional impact to the mission of an agency.
- 26) SOP:** Standard Operating Procedures
- 27) SOR:** System of Record
- 28) State:** The State of North Carolina, including any of its sub-units recognized under North Carolina law.
- 29) State Agency:** Any of the more than 400 sub-units within the executive branch of the State, including its departments, boards, commissions, institutions of higher education and other institutions.
- 30) TRA:** Temporary Relocation Assistance
- 31) URA:** Uniform Relocation Act
- 32) Vendor:** Company, firm, corporation, partnership, individual, etc., submitting an offer in response to a solicitation.
- 33) VOAD:** Volunteer Organizations Active in the Disasters

# ATTACHMENT B: DEPARTMENT OF INFORMATION TECHNOLOGY TERMS AND CONDITIONS

## Section 1. General Terms and Conditions Applicable to All Purchases

1) **DEFINITIONS:** As used herein;

Agreement means the contract awarded pursuant to this RFP.

Deliverable/Product Warranties shall mean and include the warranties provided for products or deliverables licensed to the State in Section 2, Paragraph 2 of these Terms and Conditions unless superseded by a Vendor's Warranties pursuant to Vendor's License or Support Agreements.

Purchasing State Agency or Agency shall mean the Agency purchasing the goods or Services.

Services shall mean the duties and obligations undertaken by the Vendor under, and to fulfill, the specifications, requirements, terms and conditions of the Agreement.

State shall mean the State of North Carolina, the Department of Information Technology (DIT), or the Purchasing State Agency in its capacity as the Contracting Agency, as appropriate.

2) **STANDARDS:** Any Deliverables shall meet all applicable State and federal requirements, such as State or Federal Regulation, and NC State Chief Information Officer's (CIO) policy or regulation. Vendor will provide and maintain a quality assurance system or program that includes any Deliverables and will tender or provide to the State only those Deliverables that have been inspected and found to conform to the RFP specifications. All Deliverables are subject to operation, certification, testing and inspection, and any accessibility specifications.

3) **WARRANTIES:** Unless otherwise expressly provided, any goods Deliverables provided by the Vendor shall be warranted for a period of 90 days after acceptance.

4) **SUBCONTRACTING:** The Vendor may subcontract the performance of required Services with Resources under the Agreement only with the prior written consent of the State contracting authority. Vendor shall provide the State with complete copies of any agreements made by and between Vendor and all subcontractors. The selected Vendor remains solely responsible for the performance of its subcontractors. Subcontractors, if any, shall adhere to the same standards required of the selected Vendor and the Agreement. Any contracts made by the Vendor with a subcontractor shall include an affirmative statement that the State is an intended third party beneficiary of the Agreement; that the subcontractor has no agreement with the State; and that the State shall be indemnified by the Vendor for any claim presented by the subcontractor. Notwithstanding any other term herein, Vendor shall timely exercise its contractual remedies against any non-performing subcontractor and, when appropriate, substitute another subcontractor.

5) **TRAVEL EXPENSES:** All travel expenses should be included in the Vendor's proposed costs. Separately stated travel expenses will not be reimbursed. In the event that the Vendor, upon specific request in writing by the State, is deemed eligible to be reimbursed for travel expenses arising under the performance of the Agreement, reimbursement will be at the out-of-state rates set forth in N.C.G.S. §138-6; as amended from time to time. Vendor agrees to use the lowest available airfare not requiring a weekend stay and to use the lowest available rate for rental vehicles. All Vendor incurred travel expenses shall be billed on a monthly basis, shall be supported by receipt and shall be paid by the State within thirty (30) days after invoice approval. Travel expenses exceeding the foregoing rates shall not be paid by the State. The State will reimburse travel allowances only for days on which the Vendor is required to be in North Carolina performing Services under the Agreement.

6) **GOVERNMENTAL RESTRICTIONS:** In the event any restrictions are imposed by governmental requirements that necessitate alteration of the material, quality, workmanship, or performance of the Deliverables offered prior to delivery thereof, the Vendor shall provide written notification of the necessary alteration(s) to the Agency Contract Administrator. The State reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Agreement. The State may advise Vendor of any restrictions or changes in specifications required by North Carolina legislation,

rule or regulatory authority that require compliance by the State. In such event, Vendor shall use its best efforts to comply with the required restrictions or changes. If compliance cannot be achieved by the date specified by the State, the State may terminate the Agreement and compensate Vendor for sums then due under the Agreement.

- 7) **PROHIBITION AGAINST CONTINGENT FEES AND GRATUITIES:** Vendor warrants that it has not paid, and agrees not to pay, any bonus, commission, fee, or gratuity to any employee or official of the State for the purpose of obtaining any Contract or award issued by the State. Vendor further warrants that no commission or other payment has been or will be received from or paid to any third party contingent on the award of any Contract by the State, except as shall have been expressly communicated to the State Purchasing Agent in writing prior to acceptance of the Agreement or award in question. Each individual signing below warrants that he or she is duly authorized by their respective Party to sign the Agreement and bind the Party to the terms and conditions of this RFP. Vendor and their authorized signatory further warrant that no officer or employee of the State has any direct or indirect financial or personal beneficial interest, in the subject matter of the Agreement; obligation or Contract for future award of compensation as an inducement or consideration for making the Agreement. Subsequent discovery by the State of non-compliance with these provisions shall constitute sufficient cause for immediate termination of all outstanding contracts. Violations of this provision may result in debarment of the Vendor(s) as permitted by 9 NCAC 06B.1206, or other provision of law.
- 8) **AVAILABILITY OF FUNDS:** Any and all payments to Vendor are expressly contingent upon and subject to the appropriation, allocation and availability of funds to the Agency for the purposes set forth in the Agreement. If the Agreement or any Purchase Order issued hereunder is funded in whole or in part by federal funds, the Agency's performance and payment shall be subject to and contingent upon the continuing availability of said federal funds for the purposes of the Agreement or Purchase Order. If the term of the Agreement extends into fiscal years subsequent to that in which it is approved, such continuation of the Agreement is expressly contingent upon the appropriation, allocation and availability of funds by the N.C. Legislature for the purposes set forth in this RFP. If funds to effect payment are not available, the Agency will provide written notification to Vendor. If the Agreement is terminated under this paragraph, Vendor agrees to take back any affected Deliverables and software not yet delivered under the Agreement, terminate any Services supplied to the Agency under the Agreement, and relieve the Agency of any further obligation thereof. The State shall remit payment for Deliverables and Services accepted prior to the date of the aforesaid notice in conformance with the payment terms.
- 9) **ACCEPTANCE PROCESS:**
- The Agency reserves the right to perform post-delivery review and feedback of the applicant intake system. The Agency also reserves the right to have an independent Vendor conduct testing pertaining to the functions, auditability, security and related matters. At any time before the end of the test and assurance period the Agency may require any or all of the actions provided in Paragraph 19 d) of these Terms and Conditions.
- 10) **PAYMENT TERMS:** Monthly Payment terms are Net 60 days after receipt of correct invoice (with completed timesheets for Vendor personnel) under milestones, or elsewhere in this solicitation, unless a period of more than sixty (60) days is required by the Agency. The Purchasing State Agency is responsible for all payments under the Agreement. No additional charges to the Agency will be permitted based upon, or arising from, the Agency's use of a Business Procurement Card. The State may exercise any and all rights of Set Off as permitted in Chapter 105A-1 *et. seq.* of the N.C. General Statutes and applicable Administrative Rules. Upon Vendor's written request of not less than sixty (60) days and approval by the State or Agency, the Agency may:
- a) Forward the Vendor's payment check(s) directly to any person or entity designated by the Vendor, or
  - b) Include any person or entity designated in writing by Vendor as a joint payee on the Vendor's payment check(s), however
  - c) In no event shall such approval and action obligate the State to anyone other than the Vendor and the Vendor shall remain responsible for fulfillment of all Contract obligations.

- 11) **EQUAL EMPLOYMENT OPPORTUNITY**: Vendor shall comply with all Federal and State requirements concerning fair employment and employment of the disabled, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or physical disability.
- 12) **ADVERTISING/PRESS RELEASE**: The Vendor absolutely shall not publicly disseminate any information concerning the Agreement without prior written approval from the State or its Agent. For the purpose of this provision of the Agreement, the Agent is the Purchasing Agency Contract Administrator unless otherwise named in the solicitation documents.
- 13) **LATE DELIVERY**: Vendor shall advise the Agency contact person or office immediately upon determining that any Deliverable will not, or may not, be delivered or performed at the time or place specified. Together with such notice, Vendor shall state the projected delivery time and date. In the event the delay projected by Vendor is unsatisfactory, the Agency shall so advise Vendor and may proceed to procure the particular substitute Services or other Deliverables.
- 14) **ACCESS TO PERSONS AND RECORDS**: Pursuant to N.C.G.S. §147-64.7, the Agency, the State Auditor, appropriate federal officials, and their respective authorized employees or agents are authorized to examine all books, records, and accounts of the Vendor insofar as they relate to transactions with any department, board, officer, commission, institution, or other agency of the State of North Carolina pursuant to the performance of the Agreement or to costs charged to the Agreement. The Vendor shall retain any such books, records, and accounts for a minimum of eight (8) years after the completion of the Agreement. Additional audit or reporting requirements may be required by any Agency, if in the Agency's opinion, such requirement is imposed by federal or state law or regulation. The Joint Legislative Commission on Governmental Operations and the legislative employees whose primary responsibility is to provide professional or administrative services to the Commission may audit the records of the Vendor during and after the term of this Agreement to verify accounts and data affecting fees or performance in accordance with Chapter 120, Article 13.
- 15) **ASSIGNMENT**: Vendor may not assign the Agreement or its obligations hereunder except as permitted by 09 NCAC 06B.1003 and this Paragraph. Vendor shall provide reasonable notice of not less than thirty (30) days prior to any consolidation, acquisition, or merger. Any assignee shall affirm the Agreement attorning and agreeing to the terms and conditions agreed, and that Vendor shall affirm that the assignee is fully capable of performing all obligations of Vendor under the Agreement. An assignment may be made, if at all, in writing by the Vendor, Assignee and the State setting forth the foregoing obligation of Vendor and Assignee.
- 16) **INSURANCE COVERAGE**: During the term of the Agreement, the Vendor 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 Agreement. As a minimum, the Vendor shall provide and maintain the following coverage and limits:
- a) **Worker's Compensation** - The Vendor 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 \$100,000.00, covering all of Vendor's employees who are engaged in any work under the Agreement. If any work is sublet, the Vendor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under the Agreement; and
  - b) **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$2,000,000.00 Combined Single Limit (Defense cost shall be in excess of the limit of liability); and
  - c) **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the Agreement. The minimum combined single limit shall be \$500,000.00 bodily injury and property damage; \$500,000.00 uninsured/under insured motorist; and \$5,000.00 medical payment; and
  - d) Providing and maintaining adequate insurance coverage described herein is a material obligation of the Vendor and is of the essence of the Agreement. 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 Vendor 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 the Agreement. The limits of coverage under each insurance policy maintained by the Vendor shall not be interpreted as limiting the Vendor's liability and obligations under the Agreement.

**17) DISPUTE RESOLUTION:** The parties agree that it is in their mutual interest to resolve disputes informally. A claim by the Vendor shall be submitted in writing to the Agency Contract Administrator for decision. A claim by the State shall be submitted in writing to the Vendor's Contract Administrator for decision. The Parties shall negotiate in good faith and use all reasonable efforts to resolve such dispute(s). During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under the Agreement. If a dispute cannot be resolved between the Parties within thirty (30) days after delivery of notice, either Party may elect to exercise any other remedies available under the Agreement, or at law. This term shall not constitute an agreement by either party to mediate or arbitrate any dispute.

**18) CONFIDENTIALITY:** In accordance with N.C.G.S. §§ 143B-1350(e) and 143B-1375, and 09 NCAC 06B.0103 and 06B.1001, the State may maintain the confidentiality of certain types of information described in N.C.G.S. §132-1 *et seq.* Such information may include trade secrets defined by N.C.G.S. §66-152 and other information exempted from the Public Records Act pursuant to N.C.G.S. §132-1.2. Vendor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by marking the top and bottom of pages containing confidential information with a legend in boldface type "**CONFIDENTIAL**". By so marking any page, the Vendor warrants that it has formed a good faith opinion, having received such necessary or proper review by counsel and other knowledgeable advisors that the portions marked confidential meet the requirements of the Rules and Statutes set forth above. ***However, under no circumstances shall price information be designated as confidential.*** The State may serve as custodian of Vendor's confidential information and not as an arbiter of claims against Vendor's assertion of confidentiality. If an action is brought pursuant to N.C.G.S. §132-9 to compel the State to disclose information marked confidential, the Vendor agrees that it will intervene in the action through its counsel and participate in defending the State, including any public official(s) or public employee(s). The Vendor agrees that it shall hold the State and any official(s) and individual(s) harmless from any and all damages, costs, and attorneys' fees awarded against the State in the action. The State agrees to promptly notify the Vendor in writing of any action seeking to compel the disclosure of Vendor's confidential information. The State shall have the right, at its option and expense, to participate in the defense of the action through its counsel. The State shall have no liability to Vendor with respect to the disclosure of Vendor's confidential information ordered by a court of competent jurisdiction pursuant to N.C.G.S. §132-9 or other applicable law.

a) Care of Information: Vendor agrees to use commercial best efforts to safeguard and protect any data, documents, files, and other materials received from the State or the Agency during performance of any contractual obligation from loss, destruction or erasure. Vendor agrees to abide by all facilities and security requirements and policies of the agency where work is to be performed. Any Vendor personnel shall abide by such facilities and security requirements and shall agree to be bound by the terms and conditions of the Agreement.

b) Vendor warrants that all its employees and any approved third party Vendors or subcontractors are subject to a non-disclosure and confidentiality agreement enforceable in North Carolina. Vendor will, upon request of the State, verify and produce true copies of any such agreements. Production of such agreements by Vendor may be made subject to applicable confidentiality, non-disclosure or privacy laws; provided that Vendor produces satisfactory evidence supporting exclusion of such agreements from disclosure under the N.C. Public Records laws in N.C.G.S. §132-1 *et seq.* The State may, in its sole discretion, provide a non-disclosure and confidentiality agreement satisfactory to the State for Vendor's execution. The State may exercise its rights under this subparagraph as necessary or proper, in its discretion, to comply with applicable security regulations or statutes including, but not limited to 26 USC 6103 and IRS Publication 1075, (Tax Information Security Guidelines for Federal,

State, and Local Agencies), HIPAA, 42 USC 1320(d) (Health Insurance Portability and Accountability Act), any implementing regulations in the Code of Federal Regulations, and any future regulations imposed upon the Department of Information Technology or the N.C. Department of Revenue pursuant to future statutory or regulatory requirements.

- c) Nondisclosure: Vendor agrees and specifically warrants that it, its officers, directors, principals and employees, and any subcontractors, shall hold all information received during performance of the Agreement in the strictest confidence and shall not disclose the same to any third party without the express written approval of the State.
- d) The Vendor shall protect the confidentiality of all information, data, instruments, studies, reports, records and other materials provided to it by the Agency or maintained or created in accordance with this Agreement. No such information, data, instruments, studies, reports, records and other materials in the possession of Vendor shall be disclosed in any form without the prior written consent of the State Agency. The Vendor will have written policies governing access to and duplication and dissemination of all such information, data, instruments, studies, reports, records and other materials.
- e) All project materials, including software, data, and documentation created during the performance or provision of Services hereunder that are not licensed to the State or are not proprietary to the Vendor are the property of the State of North Carolina and must be kept confidential or returned to the State, or destroyed. Proprietary Vendor materials shall be identified to the State by Vendor prior to use or provision of Services hereunder and shall remain the property of the Vendor. Derivative works of any Vendor proprietary materials prepared or created during the performance of provision of Services hereunder shall be subject to a perpetual, royalty free, nonexclusive license to the State.

**19) DEFAULT:** In the event Services or other Deliverable furnished or performed by the Vendor during performance of any Contract term fail to conform to any material requirement(s) of the Contract specifications, notice of the failure is provided by the State and if the failure is not cured within ten (10) days, or Vendor fails to meet the requirements of Paragraph 9) herein, the State may cancel the contract. Default may be cause for debarment as provided in 09 NCAC 06B.1206. The rights and remedies of the State provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

- a) If Vendor fails to deliver or provide correct Services or other Deliverables within the time required by the Agreement, the State shall provide written notice of said failure to Vendor, and by such notice require performance assurance measures pursuant to N.C.G.S. 143B-1340(f). Vendor is responsible for the delays resulting from its failure to deliver or provide services or other Deliverables.
- b) Should the State fail to perform any of its obligations upon which Vendor's performance is conditioned, Vendor shall not be in default for any delay, cost increase or other consequences resulting from the State's failure. Vendor will use reasonable efforts to mitigate delays, costs or expenses arising from assumptions in the Vendor's offer documents that prove erroneous or are otherwise invalid. Any deadline that is affected by any such failure in assumptions or performance by the State shall be extended by an amount of time reasonably necessary to compensate for the effect of such failure.
- c) Vendor shall provide a plan to cure any delay or default if requested by the State. The plan shall state the nature of the delay or default, the time required for cure, any mitigating factors causing or tending to cause the delay or default, and such other information as the Vendor may deem necessary or proper to provide.
- d) If the prescribed acceptance testing stated in the Solicitation Documents or performed pursuant to Paragraph 9) of the DIT Terms and Conditions is not completed successfully, the State may request substitute or modified Software, cancel the portion of the Contract that relates to the unaccepted Software, extend the period of testing for a period designed by the State to allow time for Vendor to remedy the problems, or continue the acceptance testing with or without the assistance of Vendor. These options shall remain in effect until such time as the testing is successful or the expiration of any time specified for completion of the testing. If the testing is not completed after exercise of any of the State's options, the State may cancel any portion of the contract related to the failed Software and take action to procure substitute software. If the failed software (or the substituted software) is



an integral and critical part of the proper completion of the work for which the Deliverables identified in the solicitation documents or statement of work were acquired, the State may terminate the entire contract and recover payments extended from Agency funds.

**20) WAIVER OF DEFAULT:** Waiver by either party of any default or breach by the other Party shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be a modification or novation of the terms of the Agreement, unless so stated in writing and signed by authorized representatives of the Agency and the Vendor, and made as an amendment to the Agreement pursuant to Paragraph 40) herein below.

**21) TERMINATION:** Any notice or termination made under the Agreement shall be transmitted via US Mail, Certified Return Receipt Requested. The period of notice for termination shall begin on the day the return receipt is signed and dated.

- a) The parties may mutually terminate the Agreement by written agreement at any time.
- b) The State may terminate the Agreement, in whole or in part, pursuant to Paragraph 19), or pursuant to the Special Terms and Conditions in the Solicitation Documents, if any, or for any of the following:

i) Termination for Cause:

(1) In the event any goods, software, or service furnished by the Vendor during performance of any Contract term fails to conform to any material requirement of the Contract, and the failure is not cured within the specified time after providing written notice thereof to Vendor, the State may cancel and procure the articles or Services from other sources; holding Vendor liable for any excess costs occasioned thereby, subject only to the limitations provided in Paragraphs 22) and 23) herein. The rights and remedies of the State provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract. Vendor shall not be relieved of liability to the State for damages sustained by the State arising from Vendor's breach of the Agreement; and the State may, in its discretion, withhold any payment due as a setoff until such time as the damages are finally determined or as agreed by the parties. Voluntary or involuntary Bankruptcy or receivership by Vendor shall be cause for termination.

(2) In the event fraud, misappropriation or deception is committed by Vendor or any of Vendor's contractors or employees in relation to the goods or services furnished during performance of any Contract term, but not including any fraud committed by individual applicants unless Vendor or its contractors or employees knowingly aided, facilitated or in any way assisted such fraud (knowledge for these purposes includes deliberate ignorance of the truth or falsity of the information, or reckless disregard of the truth or falsity of the information), the State may immediately cancel and procure the articles or Services from other sources; holding Vendor liable for any excess costs occasioned thereby, subject only to the limitations provided in Paragraphs 22) and 23) herein. The rights and remedies of the State provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract. Vendor shall not be relieved of liability to the State for damages sustained by the State arising from Vendor's breach of the Agreement; and the State may, in its discretion, withhold any payment due as a setoff until such time as the damages are finally determined or as agreed by the parties.

ii) Termination For Convenience Without Cause: The State may terminate service and indefinite quantity contracts, in whole or in part by giving thirty (30) days prior notice in writing to the Vendor. Vendor shall be entitled to sums due as compensation for Deliverables provided and Services performed in conformance with the Contract. In the event the Contract is terminated for the convenience of the State the Agency will pay for all work performed and products delivered in conformance with the Contract up to the date of termination.

iii) Consistent failure to participate in problem resolution meetings, two (2) consecutive missed or rescheduled meetings, or failure to make a good faith effort to resolve problems, may result in termination of the Agreement.

**22) LIMITATION OF VENDOR'S LIABILITY:**

- a) Where Deliverables are under the State's exclusive management and control, the Vendor shall not be liable for direct damages caused by the State's failure to fulfill any State responsibilities of assuring the

proper use, management and supervision of the Deliverables and programs, audit controls, operating methods, office procedures, or for establishing all proper checkpoints necessary for the State's intended use of the Deliverables. Vendor shall not be responsible for any damages that arise from (i) misuse or modification of Vendor's Software by or on behalf of the State, (ii) the State's failure to use corrections or enhancements made available by Vendor, (iii) the quality or integrity of data from other automated or manual systems with which the Vendor's Software interfaces, (iv) errors in or changes to third party software or hardware implemented by the State or a third party (including the vendors of such software or hardware) that is not a subcontractor of Vendor or that is not supported by the Deliverables, or (vi) the operation or use of the Vendor's Software not in accordance with the operating procedures developed for the Vendor's Software or otherwise in a manner not contemplated by this Agreement.

- b) The Vendor's liability for damages to the State arising under the contract shall be limited to two (2) times the value of the Contract.
- c) The foregoing limitation of liability shall not apply to claims covered by other specific provisions including but not limited to Service Level Agreement or Deliverable/Product Warranties pursuant to Section II, 2) of these Terms and Conditions, or to claims for injury to persons or damage to tangible personal property, gross negligence or willful or wanton conduct. This limitation of liability does not apply to contributions among joint tortfeasors under N.C.G.S. 1B-1 *et seq.*, the receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on the Agreement. For avoidance of doubt, the Parties agree that the Service Level Agreement and Deliverable/Product Warranty Terms in the Contract are intended to provide the sole and exclusive remedies available to the State under the Contract for the Vendor's failure to comply with the requirements stated therein.

**23) VENDOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:**

- a) The Vendor shall be liable for damages arising out of personal injuries and/or damage to real or tangible personal property of the State, employees of the State, persons designated by the State for training, or person(s) other than agents or employees of the Vendor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Vendor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the Vendor.
- b) The Vendor agrees to indemnify, defend and hold the Agency and the State and its Officers, employees, agents and assigns harmless from any liability relating to personal injury or injury to real or personal property of any kind, accruing or resulting to any other person, firm or corporation furnishing or supplying work, Services, materials or supplies in connection with the performance of the Agreement, whether tangible or intangible, arising out of the ordinary negligence, wilful or wanton negligence, or intentional acts of the Vendor, its officers, employees, agents, assigns or subcontractors.
- c) Vendor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by the Vendor.

**24) TIME IS OF THE ESSENCE:** Time is of the essence in the performance of the Agreement.

**25) DATE AND TIME WARRANTY:** The Vendor warrants that any Deliverable, whether Services, hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interface therein which performs, modifies or affects any date and/or time data recognition function, calculation, or sequencing, will still enable the modified function to perform accurate date/time data and leap year calculations. This warranty shall survive termination or expiration of the Contract.

**26) INDEPENDENT CONTRACTORS:** Vendor and its employees, officers and executives, and subcontractors, if any, shall be independent Vendors and not employees or agents of the State. The Agreement shall not operate as a joint venture, partnership, trust, agency or any other similar business relationship.

**27) TRANSPORTATION:** Transportation of any tangible Deliverables shall be FOB Destination; unless otherwise specified in the solicitation document or purchase order. Freight, handling, hazardous material charges, and distribution and installation charges shall be included in the total price of each item. Any

additional charges shall not be honored for payment unless authorized in writing by the Purchasing State Agency. In cases where parties, other than the Vendor ship materials against this order, the shipper must be instructed to show the purchase order number on all packages and shipping manifests to ensure proper identification and payment of invoices. A complete packing list must accompany each shipment.

- 28) NOTICES:** Any notices required under the Agreement should be delivered to the Contract Administrator for each party. Unless otherwise specified in the Solicitation Documents, any notices shall be delivered in writing by U.S. Mail, Commercial Courier or by hand.
- 29) TITLES AND HEADINGS:** Titles and Headings in the Agreement are used for convenience only and do not define, limit or proscribe the language of terms identified by such Titles and Headings.
- 30) AMENDMENT:** The Agreement may not be amended orally or by performance. Any amendment must be made in written form and signed by duly authorized representatives of the State and Vendor in conformance with Paragraph 36) herein.
- 31) TAXES:** The State of North Carolina is exempt from Federal excise taxes and no payment will be made for any personal property taxes levied on the Vendor or for any taxes levied on employee wages. Agencies of the State may have additional exemptions or exclusions for federal or state taxes. Evidence of such additional exemptions or exclusions may be provided to Vendor by Agencies, as applicable, during the term of the Agreement. Applicable State or local sales taxes shall be invoiced as a separate item.
- 32) GOVERNING LAWS, JURISDICTION, AND VENUE:**
- a) The Agreement is made under and shall be governed and construed in accordance with the laws of the State of North Carolina and applicable Administrative Rules. The place of the Agreement or purchase order, its situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in Contract or in tort, relating to its validity, construction, interpretation and enforcement shall be determined. Vendor agrees and submits, solely for matters relating to the Agreement, to the jurisdiction of the courts of the State of North Carolina, and stipulates that Wake County shall be the proper venue for all matters.
  - b) Except to the extent the provisions of the Contract are clearly inconsistent therewith, the applicable provisions of the Uniform Commercial Code as modified and adopted in North Carolina shall govern the Agreement. To the extent the Contract entails both the supply of "goods" and "Services," such shall be deemed "goods" within the meaning of the Uniform Commercial Code, except when deeming such Services as "goods" would result in a clearly unreasonable interpretation.
- 33) FORCE MAJEURE:** 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 as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.
- 34) COMPLIANCE WITH LAWS:** The Vendor 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.
- 35) SEVERABILITY:** In the event that a court of competent jurisdiction holds that a provision or requirement of the Agreement violates any applicable law, each such provision or requirement shall be enforced only to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of the Agreement shall remain in full force and effect. All promises, requirement, terms, conditions, provisions, representations, guarantees and warranties contained herein shall survive the expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable federal or State statute, including statutes of repose or limitation.
- 36) CHANGES:** The Agreement and subsequent purchase order(s) is awarded subject to the provision of the specified Services and the shipment or provision of other Deliverables as specified herein. Any changes made to the Agreement or purchase order proposed by the Vendor are hereby rejected unless accepted in writing by the Agency or State Award Authority. The State shall not be responsible for Services or other Deliverables delivered without a purchase order from the Agency or State Award Authority.

**37) FEDERAL INTELLECTUAL PROPERTY BANKRUPTCY PROTECTION ACT:** The Parties agree that the Agency shall be entitled to all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365(n), and any amendments thereto.

**38) 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 Services. The State's third party agent shall serve as the Supplier Manager for this E-Procurement Services. The Vendor shall register for the Statewide E-Procurement Services within two (2) business days of notification of award in order to receive an electronic purchase order resulting from award of the Agreement.

- a) **The successful Vendor(s) shall pay a transaction fee of 1.75% (.0175) on the total dollar amount of GOODS (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. The 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 Vendor for the Services rendered by the Supplier Manager under the Agreement. Vendor 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 Vendor. Transaction fees are non-refundable when an item is rejected and returned, or declined, due to the Vendor's failure to perform or comply with specifications or requirements of the contract.
- b) Vendor, 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 Vendor 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 Vendor shall have waived its right to later dispute the accuracy and completeness of the invoice. Payment of the transaction fee by the Vendor 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, Vendor 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 Vendor. If payment of the transaction fee invoice 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 Vendor in writing (including electronic documents), supporting documentation from the E-Procurement Service that accounts for the amount of the invoice.
- c) 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 Services. Subsequently, the Supplier Manager will send those orders to the appropriate Vendor on State Contract. The State or State approved user, not the Supplier Manager, shall be responsible for the solicitation, offers received, evaluation of offers received, award of Contract, and the payment for goods delivered.
- d) Vendor agrees at all times to maintain the confidentiality of its user name and password for the Statewide E-Procurement Services. If a Vendor is a corporation, partnership or other legal entity, then the Vendor may authorize its employees to use its password. Vendor shall be responsible for all activity and all charges for such employees. Vendor 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 Vendor's account, Vendor shall immediately change its password and notify the Supplier Manager of the security breach by e-mail. Vendor shall cooperate with the state and the Supplier Manager to mitigate and correct any security breach.

**39) PATENT, COPYRIGHT, AND TRADE SECRET PROTECTION:**

- a) Vendor has created, acquired or otherwise has rights in, and may, in connection with the performance of Services for the State, employ, provide, create, acquire or otherwise obtain rights

in various concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates and general purpose consulting and software tools, utilities and routines (collectively, the "Vendor technology"). To the extent that any Vendor technology is contained in any of the Services or Deliverables including any derivative works, the Vendor hereby grants the State a royalty-free, fully paid, worldwide, perpetual, non-exclusive license to use such Vendor technology in connection with the Services or Deliverables for the State's purposes.

- b) Vendor shall not acquire any right, title and interest in and to the copyrights for goods, any and all software, technical information, specifications, drawings, records, documentation, data or derivative works thereof, or other work products provided by the State to Vendor. The State hereby grants Vendor a royalty-free, fully paid, worldwide, perpetual, non-exclusive license for Vendor's internal use to non-confidential deliverables first originated and prepared by the Vendor for delivery to the State.
- c) The Vendor, at its own expense, shall defend any action brought against the State to the extent that such action is based upon a claim that the Services or other Deliverables supplied by the Vendor, or the operation of such pursuant to a current version of vendor-supplied software, infringes a patent, or copyright or violates a trade secret in the United States. The Vendor shall pay those costs and damages finally awarded against the State in any such action; damages shall be limited as provided in N.C.G.S. 143B-1350(h1). Such defense and payment shall be conditioned on the following:
  - i. That the Vendor shall be notified within a reasonable time in writing by the State of any such claim; and,
  - ii. That the Vendor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that the State shall have the option to participate in such action at its own expense.
- d) Should any Services or other Deliverables supplied by Vendor, or the operation thereof become, or in the Vendor's opinion are likely to become, the subject of a claim of infringement of a patent, copyright, or a trade secret in the United States, the State shall permit the Vendor, at its option and expense, either to procure for the State the right to continue using the Services or Deliverables, or to replace or modify the same to become non-infringing and continue to meet procurement specifications in all material respects. If neither of these options can reasonably be taken, or if the use of such Services or Deliverables by the State shall be prevented by injunction, the Vendor agrees to take back any goods/hardware or software, and refund any sums the State has paid Vendor less any reasonable amount for use or damage and make every reasonable effort to assist the state in procuring substitute Services or Deliverables. If, in the sole opinion of the State, the return of such infringing Services or Deliverables makes the retention of other Services or Deliverables acquired from the Vendor under the agreement impractical, the State shall then have the option of terminating the contract, or applicable portions thereof, without penalty or termination charge. The Vendor agrees to take back Services or Deliverables and refund any sums the State has paid Vendor less any reasonable amount for use or damage.
- e) Vendor will not be required to defend or indemnify the State if any claim by a third party against the State for infringement or misappropriation (i) results from the State's alteration of any Vendor-branded Service or Deliverable, or (ii) results from the continued use of the good(s) or services and other Services or Deliverables after receiving notice they infringe a trade secret of a third party.
- f) Nothing stated herein, however, shall affect Vendor's ownership in or rights to its preexisting intellectual property and proprietary rights.

**40) UNANTICIPATED TASKS** In the event that additional work must be performed that was wholly unanticipated, and that is not specified in the Agreement, but which in the opinion of both parties is necessary to the successful accomplishment of the contracted scope of work, the procedures outlined in this article will be followed. For each item of unanticipated work, the Vendor shall prepare a work authorization in accordance with the State's practices and procedures.

- a) It is understood and agreed by both parties that all of the terms and conditions of the Agreement shall remain in force with the inclusion of any work authorization. A work authorization shall not constitute a contract separate from the Agreement, nor in any manner amend or supersede any of the other terms or provisions of the Agreement or any amendment hereto.
- b) Each work authorization shall comprise a detailed statement of the purpose, objective, or goals to be undertaken by the Vendor, the job classification or approximate skill level or sets of the personnel required, an identification of all significant material then known to be developed by the Vendor's personnel as a Deliverable, an identification of all significant materials to be delivered by the State to the Vendor's personnel, an estimated time schedule for the provision of the Services by the Vendor, completion criteria for the work to be performed, the name or identification of Vendor's personnel to be assigned, the Vendor's estimated work hours required to accomplish the purpose, objective or goals, the Vendor's billing rates and units billed, and the Vendor's total estimated cost of the work authorization.
- c) All work authorizations must be submitted for review and approval by the procurement office that approved the original Contract and procurement. This submission and approval must be completed prior to execution of any work authorization documentation or performance thereunder. All work authorizations must be written and signed by the Vendor and the State prior to beginning work.
- d) The State has the right to require the Vendor to stop or suspend performance under the "Stop Work" provision of the North Carolina Department of Information Technology Terms and Conditions.
- e) The Vendor shall not expend Personnel resources at any cost to the State in excess of the estimated work hours unless this procedure is followed: If, during performance of the work, the Vendor determines that a work authorization to be performed under the Agreement cannot be accomplished within the estimated work hours, the Vendor will be required to complete the work authorization in full. Upon receipt of such notification, the State may:
  - a. Authorize the Vendor to expend the estimated additional work hours or service in excess of the original estimate necessary to accomplish the work authorization, or
  - b. Terminate the work authorization, or
  - c. Alter the scope of the work authorization in order to define tasks that can be accomplished within the remaining estimated work hours.
  - d. The State will notify the Vendor in writing of its election within seven (7) calendar days after receipt of the Vendor's notification. If notice of the election is given to proceed, the Vendor may expend the estimated additional work hours or Services.

**41) STOP WORK ORDER** The State may issue a written Stop Work Order to Vendor for cause at any time requiring Vendor to suspend or stop all, or any part, of the performance due under the Agreement for a period up to ninety (90) days after the Stop Work Order is delivered to the Vendor. The ninety (90) day period may be extended for any further period for which the parties may agree.

- a) The Stop Work Order shall be specifically identified as such and shall indicate that it is issued under this term. Upon receipt of the Stop Work Order, the Vendor shall immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the Stop Work Order during the period of work suspension or stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to Vendor, or within any extension of that period to which the parties agree, the State shall either:
  - i) Cancel the Stop Work Order, or

- ii) Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of the Agreement.
- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the Vendor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the Agreement price, or both, and the Agreement shall be modified, in writing, accordingly, if:
  - i) The Stop Work Order results in an increase in the time required for, or in the Vendor's cost properly allocable to the performance of any part of the Agreement, and
  - ii) The Vendor asserts its right to an equitable adjustment within thirty (30) days after the end of the period of work stoppage; provided that if the State decides the facts justify the action, the State may receive and act upon an offer submitted at any time before final payment under the Agreement.
- c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for Convenience of the State, the State shall allow reasonable direct costs resulting from the Stop Work Order in arriving at the termination settlement.
- d) The State shall not be liable to the Vendor for loss of profits because of a Stop Work Order issued under this term.

**42) TRANSITION ASSISTANCE** If the Agreement is not renewed at the end of the term, or is canceled prior to its expiration, for any reason, the Vendor must provide for up to six (6) months after the expiration or cancellation of the Agreement, all reasonable transition assistance requested by the State, to allow for the expired or canceled portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of the Agreement, (notwithstanding this expiration or cancellation) except for those Contract terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Vendor for any resources utilized in performing such transition assistance at the most current rates provided by the Agreement for Contract performance. If the State cancels the Agreement for cause, then the State will be entitled to off set the cost of paying the Vendor for the additional resources the Vendor utilized in providing transition assistance with any damages the State may have otherwise accrued as a result of said cancellation.

## **Section 2: Terms and Conditions Applicable to Vendor Hosted Solutions**

### **1) DEFINITIONS:**

- a) "Data" includes and means information, formulae, algorithms, or other content that the State, the State's employees, agents and end users upload, create or modify using the Services pursuant to this Agreement. Data also includes user identification information and metadata which may contain Data or from which the State's Data may be ascertainable.
- b) "Support" includes provision of ongoing updates and maintenance for the Vendor online software applications, and as may be specified herein, consulting, training and other support Services as provided by the Vendor for SaaS tenants receiving similar SaaS Services.

### **2) ACCESS AND USE OF SAAS SERVICES:**

- a) The Vendor grants the State a personal non-transferable and non-exclusive right to use and access, all Services and other functionalities or services provided, furnished or accessible under this Agreement. The State may utilize the Services as agreed herein and in accordance with any mutually agreed Acceptable Use Policy. The State is authorized to access State Data and any Vendor-provided data as specified herein and to transmit revisions, updates, deletions, enhancements, or modifications to the State Data. This shall include the right of the State to, and access to, Support without the Vendor requiring a separate maintenance or support agreement. Subject to an agreed limitation on the number of users, the State may use the Services with any computer, computer system, server, or desktop workstation

owned or utilized by the State or other authorized users. User access to the Services shall be routinely provided by the Vendor and may be subject to a more specific Service Level Agreement (SLA) agreed to in writing by the parties. The State shall notify the Vendor of any unauthorized use of any password or account, or any other known or suspected breach of security access. The State also agrees to refrain from taking any steps, such as reverse engineering, reverse assembly or reverse compilation to derive a source code equivalent to the Services or any portion thereof. Use of the Services to perform services for commercial third parties (so-called “service bureau” uses) is not permitted, but the State may utilize the Services to perform its governmental functions. If the Services fees are based upon the number of Users and/or hosted instances, the number of Users/hosted instances available may be adjusted at any time (subject to the restrictions on the maximum number of Users specified in the Furnish and Deliver Table herein above) by mutual agreement and State Procurement approval. All Services and information designated as “confidential” or “proprietary” shall be kept in confidence except as may be required by the North Carolina Public Records Act: N.C.G.S. § 132-1, *et. seq.*

- b) The State’s access license for the Services and its associated services neither transfers, vests, nor infers any title or other ownership right in any intellectual property rights of the Vendor or any third party, nor does this license transfer, vest, or infer any title or other ownership right in any source code associated with the Services unless otherwise agreed to by the parties. The provisions of this paragraph will not be construed as a sale of any ownership rights in the Services. Any Services or technical and business information owned by Vendor or its suppliers or licensors made accessible or furnished to the State shall be and remain the property of the Vendor or such other party, respectively. Vendor has a limited, non-exclusive license to access and use the State Data as provided to Vendor, but solely for performing its obligations under this Agreement and in confidence as provided herein.
- c) The Vendor or its suppliers shall at minimum, and except as otherwise agreed, provide telephone assistance to the State for all Services procured hereunder during the State’s normal business hours (unless different hours are specified herein). The Vendor warrants that its Support and customer service and assistance will be performed in accordance with generally accepted industry standards. The State has the right to receive the benefit of upgrades, updates, maintenance releases or other enhancements or modifications made generally available to the Vendor’s SaaS tenants for similar Services. The Vendor’s right to a new use agreement for new version releases of the Services shall not be abridged by the foregoing. The Vendor may, at no additional charge, modify the Services to improve operation and reliability or to meet legal requirements.
- d) The Vendor will provide to the State the same Services for updating, maintaining and continuing optimal performance for the Services as provided to other similarly situated users or tenants of the Services, but minimally as provided for and specified herein. Unless otherwise agreed in writing, Support will also be provided for any other (e.g., third party) software provided by the Vendor in connection with the Vendor’s solution herein. The technical and professional activities required for establishing, managing, and maintaining the Services environment are the responsibilities of the Vendor. Any training specified herein will be provided by the Vendor to certain State users for the fees or costs as set forth herein or in an SLA.
- e) Services provided pursuant to this Solicitation may, in some circumstances, be accompanied by a user clickwrap agreement. The term clickwrap agreement refers to an agreement that requires the end user to manifest his or her assent to terms and conditions by clicking an “ok” or “agree” button on a dialog box or pop-up window as part of the process of access to the Services. All terms and conditions of any clickwrap agreement provided with any Services solicited herein shall have no force and effect and shall be non-binding on the State, its employees, agents, and other authorized users of the Services.
- f) The Vendor may utilize partners and/or subcontractors to assist in the provision of the Services, so long as the State Data is not removed from the United States unless the terms of storage of the State Data are clearly disclosed, the security provisions referenced herein can still be complied with, and such removal is done with the prior express written permission of the State. The Vendor shall identify all of its strategic business partners related to Services provided under this contract including, but not limited to, all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the Vendor, who will be involved in any application development and/or operations.



- g) The Vendor warrants that all Services will be performed with professional care and skill, in a workmanlike manner and in accordance with the Services documentation and this Agreement.
- h) An SLA or other agreed writing shall contain provisions for scalability of Services and any variation in fees or costs as a result of any such scaling.
- i) Professional services provided by the Vendor at the request by the State in writing in addition to agreed Services shall be at the then-existing Vendor hourly rates when provided, unless otherwise agreed in writing by the parties.

3) **WARRANTY OF NON-INFRINGEMENT:**

- a) The Vendor warrants to the best of its knowledge that:
  - i) The Services do not infringe any intellectual property rights of any third party; and
  - ii) There are no actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party.

4) **ACCESS AVAILABILITY; REMEDIES:**

- a) The Vendor warrants that the Services will be in good working order, and operating in conformance with Vendor's standard specifications and functions as well as any other specifications agreed to by the parties in writing, and shall remain accessible 24/7, with the exception of scheduled outages for maintenance and of other service level provisions agreed in writing, e.g., in an SLA. The Vendor does not warrant that the operation of the Services will be completely uninterrupted or error free, or that the Services functions will meet all the State's requirements unless developed as Customized Services.
- b) The State shall notify the Vendor if the Services are not in good working order or inaccessible during the term of the Agreement. The Vendor shall, at its option, either repair, replace or reperform any Services reported or discovered as not being in good working order and accessible during the applicable contract term without cost to the State. If the Services' monthly availability averages less than 99.9% (excluding agreed-upon maintenance downtime), the State shall be entitled to receive automatic credits as indicated immediately below, or the State may use other contractual remedies such as recovery of damages, as set forth herein in writing, e.g., in Specifications, Special Terms or in an SLA, and as such other contractual damages are limited by N.C.G.S. § 143B-1350(h1) and the Limitation of Liability paragraph below. If not otherwise provided, the automatic remedies for non-availability of the Subscription Services during a month are:
  1. A 10% service credit applied against future fees if Vendor does not reach 99.9% availability.
  2. A 25% service credit applied against future fees if Vendor does not reach 99% availability.
  3. A 50% service credit applied against future fees or eligibility for early termination of the Agreement if Vendor does not reach 95% availability.

If, however, Services meet the 99.9% service availability level for a month but are not available for a consecutive 120 minutes during that month, the Vendor shall grant to the State a credit of a pro-rated one-day of the monthly subscription Services fee against future Services charges. Such credit(s) shall be applied to the bill immediately following the month in which the Vendor failed to meet the performance requirements or other service levels, and the credit will continue to be deducted from the monthly invoice for each prior month that Vendor fails to meet the support response times for the remainder of the duration of the Agreement. If Services monthly availability averages less than 99.9% (excluding agreed-upon maintenance downtime), for three (3) or more months in a rolling twelve-month period, the State may also terminate the contract for material breach in accordance with the Default provisions hereinbelow.

- c) Support Services. If the Vendor fails to meet Support Service response times as set forth herein or in an SLA for a period of three (3) consecutive months, a 10% service credit will be deducted from the invoice in the month immediately following the third month, and the 10% service credit will continue to be deducted from the monthly invoice for each month that the Vendor fails to meet the support response times for the remainder of the duration of the Agreement.

5) **EXCLUSIONS:**

- a) Except as stated above in Paragraphs 3 and 4, Vendor and its parent, subsidiaries and affiliates, subcontractors and suppliers make no warranties, express or implied, as to the Services.
- b) The warranties provided in Paragraphs 3 and 4 above do not cover repair for damages, malfunctions or service failures substantially caused by:

- i) Actions of non-Vendor personnel;
  - ii) Failure to follow Vendor's written instructions relating to the Services provided to the State; or
  - iii) Force Majeure conditions set forth hereinbelow.
  - iv) The State's sole misuse of, or its own inability to use, the Services.
- 6) **PERFORMANCE REVIEW AND ACCOUNTABILITY:** N.C.G.S. § 143B-1340(f) and 09 NCAC 06B.1207 require provisions for performance review and accountability in State IT contracts. For this procurement, these shall include the holding a retainage of ten percent (10%) of the contract value and withholding the final payment contingent on final acceptance by the State as provided in 09 NCAC 06B.1207(3) and (4), unless waived or otherwise agreed, in writing. The Services herein will be provided consistent with and under these Services performance review and accountability guarantees.
- 7) **LIMITATION OF LIABILITY: Limitation of Vendor's Contract Damages Liability:** Reserved.
- 8) **VENDOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:** Reserved.
- 9) **MODIFICATION OF SERVICES:** If Vendor modifies or replaces the Services provided to the State and other tenants, and if the State has paid all applicable Subscription Fees, the State shall be entitled to receive, at no additional charge, access to a newer version of the Services that supports substantially the same functionality as the then accessible version of the Services. Newer versions of the Services containing substantially increased functionality may be made available to the State for an additional subscription fee. In the event of either of such modifications, the then accessible version of the Services shall remain fully available to the State until the newer version is provided to the State and accepted. If a modification materially affects the functionality of the Services as used by the State, the State, at its sole option, may defer such modification.
- 10) **TRANSITION PERIOD:**
- a) For ninety (90) days or, if longer, the period specified in the Vendor's Transition-Out Plan or similar proposal (TR-2 of Section 3.14 of the RFP), either prior to the expiration date of this Agreement, or upon notice of termination of this Agreement, the Vendor shall assist the State, in extracting and/or transitioning all Data in the format determined by the State ("Transition Period").
  - b) The Transition Period may be modified in an SLA or as agreed upon in writing by the parties in a contract amendment.
  - c) During the Transition Period, Services access shall continue to be made available to the State without alteration.
  - d) The Vendor agrees to compensate the State for damages or losses the State incurs as a result of Vendor's failure to comply with this Transition Period section in accordance with the Limitation of Liability provisions above.
  - e) Upon termination, and unless otherwise stated in an SLA, and after providing the State Data to the State as indicated above in this section with acknowledged receipt by the State in writing, the Vendor shall permanently destroy or render inaccessible any portion of the State Data in the Vendor's and/or subcontractor's possession or control following the completion and expiration of all obligations in this section. Within thirty (30) days, the Vendor shall issue a written statement to the State confirming the destruction or inaccessibility of the State's Data.
  - f) The State at its option, may purchase additional Transition Services as may be agreed upon in a supplemental agreement.
- 11) **TRANSPORTATION:** Transportation charges for any Deliverable sent to the State other than electronically or by download shall be FOB Destination unless delivered by internet or file-transfer as agreed by the State, or otherwise specified in the solicitation document or purchase order.
- 12) **TRAVEL EXPENSES - RESERVED**
- 13) **PROHIBITION AGAINST CONTINGENT FEES AND GRATUITIES - RESERVED**
- 14) **AVAILABILITY OF FUNDS - RESERVED**
- 15) **PAYMENT TERMS (Applicable to SaaS):**
- a) Payment may be made by the State in advance of or in anticipation of subscription Services to be actually performed under the Agreement or upon proper invoice for other Services rendered. Payment terms are Net 30 days after receipt of correct invoice. Initial payments are to be made after final acceptance of the Services. Payments are subject to any retainage requirements herein. The Purchasing State Agency is

responsible for all payments under the Agreement. Subscription fees for term years after the initial year shall be as quoted under State options herein but shall not increase more than five percent (5%) over the prior term, except as the parties may have agreed to an alternate formula to determine such increases in writing. No additional charges to the State will be permitted based upon, or arising from, the State's use of a Business Procurement Card. The State may exercise any and all rights of Set Off as permitted in Chapter 105A-1 *et seq.* of the N.C. General Statutes and applicable Administrative Rules.

- b) Upon the Vendor's written request of not less than thirty (30) days and approval by the State, the State may:
  - i) Forward the Vendor's payment check(s) directly to any person or entity designated by the Vendor or
  - ii) Include any person or entity designated in writing by Vendor as a joint payee on the Vendor's payment check(s), however,
  - iii) In no event shall such approval and action obligate the State to anyone other than the Vendor and the Vendor shall remain responsible for fulfillment of all Agreement obligations.
- c) For any third party software licensed by the Vendor or its subcontractors for use by the State, a copy of the software license including terms acceptable to the State, an assignment acceptable to the State, and documentation of license fees paid by the Vendor must be provided to the State before any related license fees or costs may be billed to the State.
- d) An undisputed invoice is an invoice for which the State and/or the Purchasing State Agency has not disputed in writing within thirty (30) days from the invoice date, unless the agency requests more time for review of the invoice. Upon the Vendor's receipt of a disputed invoice notice, the Vendor will work to correct the applicable invoice error, provided that such dispute notice shall not relieve the State or the applicable Purchasing State Agency from its payment obligations for the undisputed items on the invoice or for any disputed items that are ultimately corrected. The Purchasing State Agency is not required to pay the Vendor for any Software or Services provided without a written purchase order from the appropriate Purchasing State Agency. In addition, all such Services provided must meet all terms, conditions, and specifications of this Agreement and purchase order and be accepted as satisfactory by the Purchasing State Agency before payment will be issued.
- e) The Purchasing State Agency shall release any amounts held as retainages for Services completed within a reasonable period after the end of the period(s) or term(s) for which the retainage was withheld. Payment retainage shall apply to all invoiced items, excepting only such items as the Vendor obtains from Third Parties and for which costs are chargeable to the State by agreement of the Parties. The Purchasing State Agency, in its sole discretion, may release retainages withheld from any invoice upon acceptance of the Services identified or associated with such invoices.

16) **ACCEPTANCE CRITERIA - RESEVERED**

17) **CONFIDENTIALITY - RESERVED**

18) **SECURITY OF STATE DATA**

- a) All materials, including software, Data, information and documentation provided by the State to the Vendor (State Data) during the performance or provision of Services hereunder are the property of the State of North Carolina and must be kept secure and returned to the State. The Vendor will protect State Data in its hands from unauthorized disclosure, loss, damage, destruction by natural event, or other eventuality. Proprietary Vendor materials shall be identified to the State by the Vendor prior to use or provision of Services hereunder and shall remain the property of the Vendor. Derivative works of any Vendor proprietary materials prepared or created during the performance of provision of Services hereunder shall be provided to the State as part of the Services. The Vendor shall not access State User accounts, or State Data, except (i) during data center operations; (ii) in response to service or technical issues; (iii) as required by the express terms of this contract; or (iv) at the State's written request. The Vendor shall protect the confidentiality of all information, Data, instruments, studies, reports, records and other materials provided to it by the State or maintained or created in accordance with this Agreement. No such information, Data, instruments, studies, reports, records and other materials in the possession of Vendor shall be disclosed in any form without the prior written agreement with the State. The Vendor will have written policies governing access to and duplication and dissemination of all such information, Data, instruments, studies, reports, records and other materials.

- b) The Vendor shall not store or transfer non-public State data outside of the United States. This includes backup data and Disaster Recovery locations. The Service Provider will permit its personnel and contractors to access State of North Carolina data remotely only as required to provide technical support.
- c) Protection of personal privacy and sensitive data. The Vendor acknowledges its responsibility for securing any restricted or highly restricted data, as defined by the Statewide Data Classification and Handling Policy (<https://it.nc.gov/document/statewide-data-classification-and-handling-policy>) that is collected by the State and stored in any Vendor site or other Vendor housing systems including, but not limited to, computer systems, networks, servers, or databases, maintained by Vendor or its agents or subcontractors in connection with the provision of the Services. The Vendor warrants, at its sole cost and expense, that it shall implement processes and maintain the security of data classified as restricted or highly restricted; provide reasonable care and efforts to detect fraudulent activity involving the data; and promptly notify the State of any breaches of security within twenty-four (24) hours of confirmation as required by N.C.G.S. § 143B-1379.
- d) The Vendor will provide and maintain secure backup of the State Data. The Vendor shall implement and maintain secure passwords for its online system providing the Services, as well as all appropriate administrative, physical, technical and procedural safeguards at all times during the term of this Agreement to secure such Data from Data Breach, protect the Data and the Services from loss, corruption, unauthorized disclosure, and the introduction of viruses, disabling devices, malware and other forms of malicious or inadvertent acts that can disrupt the State's access to its Data and the Services. The Vendor will allow periodic back-up of State Data by the State to the State's infrastructure as the State requires or as may be provided by law.
- e) The Vendor shall certify to the State:
  - i) The sufficiency of its security standards, tools, technologies and procedures in providing Services under this Agreement;
  - ii) That the system used to provide the Subscription Services under this Contract has and will maintain a valid third party security certification not to exceed one (1) year and is consistent with the data classification level and a security controls appropriate for low or moderate information system(s) per the National Institute of Standards and Technology NIST 800-53 revision 4. The State reserves the right to independently evaluate, audit, and verify such requirements.
  - iii) That the Services will comply with the following:
    - (1) Any DIT security policy regarding Cloud Computing, and the DIT Statewide Information Security Policy Manual; to include encryption requirements as defined below:
      - (a) The Vendor shall encrypt all non-public data in transit regardless of the transit mechanism.
      - (b) For engagements where the Vendor stores sensitive personally identifiable or otherwise confidential information, this data shall be encrypted at rest. Examples are social security number, date of birth, driver's license number, financial data, federal/state tax information, and hashed passwords. The Vendor's encryption shall be consistent with validated cryptography standards as specified in National Institute of Standards and Technology FIPS140-2, Security Requirements. The key location and other key management details will be discussed and negotiated by both parties. When the Service Provider cannot offer encryption at rest, it must maintain, for the duration of the contract, cyber security liability insurance coverage for any loss resulting from a data breach. Additionally, where encryption of data at rest is not possible, the Vendor must describe existing security measures that provide a similar level of protection;
    - (2) Privacy provisions of the Federal Privacy Act of 1974;
    - (3) The North Carolina Identity Theft Protection Act, N.C.G.S. Chapter 75, Article 2A (e.g., N.C.G.S. § 75-65 and -66);
    - (4) The North Carolina Public Records Act, N.C.G.S. Chapter 132;
    - (5) Applicable Federal, State and industry standards and guidelines including, but not limited to, relevant security provisions of the Payment Card Industry (PCI) Data Security Standard (PCIDSS) including the PCIDSS Cloud Computing Guidelines, Criminal Justice Information, The Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and

Accountability Act (HIPAA); and

(6) Any requirements implemented by the State under N.C.G.S. §§ 143B-1376 and -1377.

(7) Any requirements implemented by the State under N.C.G.S. §§ 20-309.2(d).

- f) Security Breach. "Security Breach" under the NC Identity Theft Protection Act (N.C.G.S. § 75-60ff) means (1) any circumstance pursuant to which applicable Law requires notification of such breach to be given to affected parties or other activity in response to such circumstance (e.g., N.C.G.S. § 75-65); or (2) any actual, attempted, suspected, threatened, or reasonably foreseeable circumstance that compromises, or could reasonably be expected to compromise, either Physical Security or Systems Security (as such terms are defined below) in a fashion that either does or could reasonably be expected to permit unauthorized Processing (as defined below), use, disclosure or acquisition of or access to any the State Data or state confidential information. "Physical Security" means physical security at any site or other location housing systems maintained by Vendor or its agents or subcontractors in connection with the Services. "Systems Security" means security of computer, electronic or telecommunications systems of any variety (including data bases, hardware, software, storage, switching and interconnection devices and mechanisms), and networks of which such systems are a part or communicate with, used directly or indirectly by Vendor or its agents or subcontractors in connection with the Services. "Processing" means any operation or set of operations performed upon the State Data or State confidential information, whether by automatic means, such as creating, collecting, procuring, obtaining, accessing, recording, organizing, storing, adapting, altering, retrieving, consulting, using, disclosing or destroying.
- g) Breach Notification. In the event the Vendor becomes aware of any Security Breach due to Vendor acts or omissions other than in accordance with the terms of the Agreement, the Vendor shall, at its own expense, (1) immediately notify the State's Agreement Administrator of such Security Breach and perform a root cause analysis thereon; (2) investigate such Security Breach; (3) provide a remediation plan, acceptable to the State, to address the Security Breach and prevent any further incidents; (4) conduct a forensic investigation to determine what systems, data and information have been affected by such event; and (5) cooperate with the State, and any law enforcement or regulatory officials, credit reporting companies, and credit card associations investigating such Security Breach. The State shall make the final decision on notifying the State's persons, entities, employees, service providers and/or the public of such Security Breach, and the implementation of the remediation plan. If a notification to a customer is required under any Law or pursuant to any of the State's privacy or security policies, then notifications to all persons and entities who are affected by the same event (as reasonably determined by the State) shall be considered legally required.
- h) Notification Related Costs. The Vendor shall reimburse the State for all Notification Related Costs incurred by the State arising out of or in connection with any such Security Breach due to Vendor acts or omissions other than in accordance with the terms of the Agreement resulting in a requirement for legally required notifications. "Notification Related Costs" shall include the State's internal and external costs associated with addressing and responding to the Security Breach including, but not limited to, (1) preparation and mailing or other transmission of legally required notifications; (2) preparation and mailing or other transmission of such other communications to customers, agents or others as the State deems reasonably appropriate; (3) establishment of a call center or other communications procedures in response to such Security Breach (e.g., customer service FAQs, talking points and training); (4) public relations and other similar crisis management services; (5) legal and accounting fees and expenses associated with the State's investigation of and response to such event; and (6) costs for credit reporting services that are associated with legally required notifications or are advisable, in the State's opinion, under the circumstances. If the Vendor becomes aware of any Security Breach which is not due to Vendor acts or omissions other than in accordance with the terms of the Agreement, the Vendor shall immediately notify the State of such Security Breach, and the parties shall reasonably cooperate regarding which of the foregoing or other activities may be appropriate under the circumstances, including any applicable Charges for the same.
- i) The Vendor shall allow the State reasonable access to Services security logs, latency statistics, and other related Services security data that affect this Agreement and the State's Data, at no cost to the State.

- j) In the course of normal operations, it may become necessary for the Vendor to copy or move Data to another storage destination on its online system, and delete the Data found in the original location. In any such event, the Vendor shall preserve and maintain the content and integrity of the Data, except by prior written notice to, and prior written approval by, the State.
- k) Remote access to Data from outside the continental United States including, without limitation, remote access to Data by authorized Services support staff in identified support centers, is prohibited unless approved in advance by the State Chief Information Officer or the Using Agency.
- l) In the event of temporary loss of access to Services, the Vendor shall promptly restore continuity of Services, restore Data in accordance with this Agreement and as may be set forth in an SLA, restore accessibility of Data and the Services to meet the performance requirements stated herein or in an SLA. As a result, Service Level remedies will become available to the State as provided herein, in the SLA or other agreed and relevant documents. Failure to promptly remedy any such temporary loss of access may result in the State exercising its options for assessing damages under this Agreement.
- m) In the event of disaster or catastrophic failure that results in significant State Data loss or extended loss of access to Data or Services, the Vendor shall notify the State by the fastest means available and in writing, with additional notification provided to the State Chief Information Officer or designee of the contracting agency. Vendor shall provide such notification within twenty-four (24) hours after Vendor reasonably believes there has been such a disaster or catastrophic failure. In the notification, Vendor shall inform the State of:
  - (1) The scale and quantity of the State Data loss;
  - (2) What Vendor has done or will do to recover the State Data from backups and mitigate any deleterious effect of the State Data and Services loss; and
  - (3) What corrective action Vendor has taken or will take to prevent future State Data and Services loss.
  - (4) If Vendor fails to respond immediately and remedy the failure, the State may exercise its options for assessing damages or other remedies under this Agreement.

The Vendor shall investigate the disaster or catastrophic failure and shall share the report of the investigation with the State. The State and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. The Vendor shall cooperate fully with the State, its agents and law enforcement.
- n) In the event of termination of this contract, cessation of business by the Vendor or other event preventing the Vendor from continuing to provide the Services, the Vendor shall not withhold the State Data or any other State confidential information or refuse, for any reason, to promptly return to the State the State Data and any other State confidential information (including copies thereof) if requested to do so on such media as reasonably requested by the State, even if the State is then or is alleged to be in breach of the Agreement. As a part of the Vendor's obligation to provide the State Data pursuant to this Paragraph 18) n), the Vendor will also provide the State any data maps, documentation, software, or other materials necessary, including, without limitation, handwritten notes, materials, working papers or documentation, for the State to use, translate, interpret, extract and convert the State Data.
- o) Secure Data Disposal. When requested by the State, the Vendor shall destroy all requested data in all of its forms (e.g., disk, CD/DVD, backup tape, and paper). Data shall be permanently deleted and shall not be recoverable, in accordance with National Institute of Standards and Technology (NIST) approved methods, and certificates of destruction shall be provided to the State.

### **Section 3: Terms and Conditions Applicable to Personnel and Personal Services**

- 1) **VENDOR'S REPRESENTATION:** Vendor warrants that qualified personnel will provide Services in a professional manner. "Professional manner" means that the personnel performing the Services will possess the skill and competence consistent with the prevailing business standards in the information technology industry. Vendor agrees that it will not enter any agreement with a third party that might abridge any rights of the State under the Agreement. Vendor will serve as the prime Vendor under the Agreement. Should the State approve any subcontractor(s), the Vendor shall be legally responsible for

the performance and payment of the subcontractor(s). Names of any third party Vendors or subcontractors of Vendor may appear for purposes of convenience in Contract documents; and shall not limit Vendor's obligations hereunder. Such third party subcontractors, if approved, may serve as subcontractors to Vendor. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractor(s).

- a) Intellectual Property. Vendor represents that it has the right to provide the Services and other Deliverables without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party. Vendor also represents that its Services and other Deliverables are not the subject of any actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party.
  - b) Inherent Services. If any Services or other Deliverables, functions, or responsibilities not specifically described in the Agreement are required for Vendor's proper performance, provision and delivery of the Services and other Deliverables pursuant to the Agreement, or are an inherent part of or necessary sub-task included within the Services, they will be deemed to be implied by and included within the scope of the Contract to the same extent and in the same manner as if specifically described in the Contract.
  - c) Vendor warrants that it has the financial capacity to perform and to continue to perform its obligations under the Contract; that Vendor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Vendor that could materially adversely affect performance of the Agreement; and that entering into the Agreement is not prohibited by any Contract, or order by any court of competent jurisdiction.
- 2) **SERVICES PROVIDED BY VENDOR:** Vendor shall provide the State with implementation Services as specified in a Statement of Work ("SOW") executed by the parties. This Agreement in combination with each SOW individually comprises a separate and independent contractual obligation from any other SOW. A breach by Vendor under one SOW will not be considered a breach under any other SOW. The Services intended hereunder are related to the State's implementation and/or use of one or more Software Deliverables licensed hereunder or in a separate software license agreement between the parties ("License Agreement").
- 3) **PERSONNEL:** Vendor shall not substitute key personnel assigned to the performance of the Agreement without prior written approval by the Agency Contract Administrator. The individuals designated as key personnel for purposes of the Agreement are those specified in the Vendor's offer. Any desired substitution shall be noticed to the Agency's Contract Administrator in writing accompanied by the names and references of Vendor's recommended substitute personnel. The Agency will approve or disapprove the requested substitution in a timely manner. The Agency may, in its sole discretion, terminate the Services of any person providing Services under the Agreement. Upon such termination, the Agency may request acceptable substitute personnel or terminate the Contract Services provided by such personnel.
- a) Unless otherwise expressly provided in the Contract, Vendor will furnish all of its own necessary management, supervision, labor, facilities, furniture, computer and telecommunications equipment, software, supplies and materials necessary for the Vendor to provide and deliver the Services and other Deliverables.
  - b) Vendor personnel shall perform their duties on the premises of the State, during the State's regular work days and normal work hours, except as may be specifically agreed otherwise, established in the specification, or statement of work.
  - c) The Agreement shall not prevent Vendor or any of its personnel supplied under the Agreement from performing similar Services elsewhere or restrict Vendor from using the personnel provided to the State, provided that:
    - i) Such use does not conflict with the terms, specifications or any amendments to the Agreement, or
    - ii) Such use does not conflict with any procurement law, regulation or policy, or
    - iii) Such use does not conflict with any non-disclosure agreement, or term thereof, by and between the State and Vendor or Vendor's personnel.

- d) Unless otherwise provided by the Agency, the Vendor shall furnish all necessary personnel, Services, and otherwise perform all acts, duties and responsibilities necessary or incidental to the accomplishment of the tasks specified in the Agreement. The Vendor shall be legally and financially responsible for its personnel including, but not limited to, any deductions for social security and other withholding taxes required by state or federal law. The Vendor shall be solely responsible for acquiring any equipment, furniture, and office space not furnished by the State necessary for the Vendor to comply with the Agreement. The Vendor personnel shall comply with any applicable State facilities or other security rules and regulations.
- 4) **PERSONAL SERVICES:** The State shall have and retain the right to obtain personal Services of any individuals providing Services under the Agreement. This right may be exercised at the State's discretion in the event of any transfer of the person providing personal Services, termination, default, merger, acquisition, bankruptcy or receivership of the Vendor to ensure continuity of Services provided under the Agreement. Provided, however, that the Agency shall not retain or solicit any Vendor employee for purposes other than completion of personal Services due as all or part of any performance due under the Agreement.
- a) Vendor personnel shall perform any duties on the premises of the State during the State's regular work days and normal work hours, except as may be specifically agreed otherwise, established in the specification, or statement of work.
  - b) The State has and reserves the right to disapprove the continuing assignment of Vendor personnel provided by Vendor under the Agreement. If this right is exercised and the Vendor is not able to replace the disapproved personnel as required by the State, the parties agree to employ best commercial efforts to informally resolve such failure equitably by adjustment of other duties, set-off, or modification to other terms that may be affected by Vendor's failure.
  - c) Vendor will make every reasonable effort consistent with prevailing business practices to honor the specific requests of the State regarding assignment of Vendor's employees. Vendor reserves the sole right to determine the assignment of its employees. If one of Vendor's employees is unable to perform due to illness, resignation, or other factors beyond Vendor's control, Vendor will provide suitable personnel at no additional cost to the State.
  - d) The Agreement shall not prevent Vendor or any of its personnel supplied under the Agreement from performing similar Services elsewhere or restrict Vendor from using the personnel provided to the State, provided that:
    - i) Such use does not conflict with the terms, specifications or any amendments to the Agreement, or
    - ii) Such use does not conflict with any procurement law, regulation or policy, or
    - iii) Such use does not conflict with any non-disclosure agreement, or term thereof, by and between the State and Vendor or Vendor's personnel



## ATTACHMENT C: DESCRIPTION OF OFFEROR

Provide the information about the offeror.

Offeror's full name:	
Offeror's address:	
Offeror's telephone number:	
Ownership	<input type="checkbox"/> Public <input type="checkbox"/> Partnership <input type="checkbox"/> Subsidiary <input type="checkbox"/> Other (specify)
Date established:	
If incorporated, State of incorporation.	
North Carolina Secretary of State Registration Number, if currently registered	
Number of full-time employees on January 1 <sup>st</sup> for the last three years or for the duration that the Vendor has been in business, whichever is less.	
Offeror's Contact for Clarification of offer: Contact's name: Title: Email address and Telephone Number:	
Offeror's Contact for Negotiation of offer: Contact's name: Title: Email address and Telephone Number:	
If Contract is Awarded, Offeror's Contact for Contractual Issues: Contact's name: Title: Email address and Telephone Number:	
If Contract is Awarded, Offeror's Contact for Technical Issues: Contact's name: Title: Email address and Telephone Number:	

## ATTACHMENT D: COST FORM

**Download and complete the Excel Spreadsheet located in the Sourcing Tool and submit the Excel form in Ariba.**

**Below is the Price Table that appears in Excel.**

### COST OF VENDOR'S OFFER

Offeror may provide a detailed explanation of its costs to provide the services requested.

### COST COMPONENTS OF INITIAL CONTRACT TERM

Item	Task/Deliverable as defined in this Solicitation	Year 1 Cost	Year 2 Cost	Year 3 Cost
1	General Program Management			
2	Outreach Services			
3	Intake and Eligibility			
4	Damage Assessment and Environmental Review			
5	Duplication of Benefits, Award Calculation and Closing			
6	Construction Management			
7	Closeout			
8	Technology			

**TOTAL INITIAL TERM COST (YEARS 1-3): \$ \_\_\_\_\_**

**OPTIONAL RENEWALS – MAY OR MAY NOT BE PURCHASED BY THE STATE**

Item	Task/Deliverable as defined in this Solicitation	Optional Year 4 Cost	Optional Year 5 Cost	Optional Year 6 Cost
1	General Program Management			
2	Outreach Services			
3	Intake and Eligibility			
4	Damage Assessment and Environmental Review			
5	Duplication of Benefits, Award Calculation and Closing			
6	Construction Management			
7	Closeout			
8	Technology			

**TOTAL OPTIONAL YEARS 4, 5, and 6 COST: \$ \_\_\_\_\_**

# ATTACHMENT E: VENDOR CERTIFICATION FORM

## 1) ELIGIBLE VENDOR

The Vendor certifies that in accordance with N.C.G.S. §143-59.1(b), Vendor is not an ineligible vendor as set forth in N.C.G.S. §143-59.1 (a).

The Vendor acknowledges that, to the extent the awarded contract involves the creation, research, investigation or generation of a future RFP or other solicitation; the Vendor will be precluded from bidding on the subsequent RFP or other solicitation and from serving as a subcontractor to an awarded vendor.

The State reserves the right to disqualify any bidder if the State determines that the bidder has used its position (whether as an incumbent Vendor, or as a subcontractor hired to assist with the RFP development, or as a Vendor offering free assistance) to gain a competitive advantage on the RFP or other solicitation.

## 2) CONFLICT OF INTEREST

Applicable standards may include: N.C.G.S. §§143B-1352 and 143B-1353, 14-234, and 133-32. The Vendor shall not knowingly employ, during the period of the Agreement, nor in the preparation of any response to this solicitation, any personnel who are, or have been, employed by a Vendor also in the employ of the State and who are providing Services involving, or similar to, the scope and nature of this solicitation or the resulting contract.

## 3) E-VERIFY

Pursuant to N.C.G.S. § 143B-1350(k), the State shall not enter into a contract unless the awarded Vendor and each of its subcontractors comply with the E-Verify requirements of N.C.G.S. Chapter 64, Article 2. Vendors are directed to review the foregoing laws. Vendors claiming exceptions or exclusions under Chapter 64 must identify the legal basis for such claims and certify compliance with federal law regarding registration of aliens including 8 USC 1373 and 8 USC 1324a. Any awarded Vendor must submit a certification of compliance with E-Verify to the awarding agency, and on a periodic basis thereafter as may be required by the State.

## 4) CERTIFICATE TO TRANSACT BUSINESS IN NORTH CAROLINA

As a condition of contract award, awarded Vendor shall have registered its business with the North Carolina Secretary of State and shall maintain such registration throughout the term of the Contract.

**Signature:** \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

## ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR

In accordance with N.C.G.S. §143B-1361(b), Vendor must identify how it intends to utilize resources or workers located outside the U.S., and the countries or cities where such are located. The State will evaluate additional risks, costs, and other factors associated with the Vendor's utilization of resources or workers prior to making an award for any such Vendor's offer. The Vendor shall provide the following:

- a) The location of work to be performed by the Vendor's employees, subcontractors, or other persons, and whether any work will be performed outside the United States. The Vendor shall provide notice of any changes in such work locations if the changes result in performing work outside of the United States.
- b) Any Vendor or subcontractor providing support or maintenance Services for software, call or contact center Services shall disclose the location from which the call or contact center Services are being provided upon request.

**Will Vendor perform any work outside of the United States?**

YES  NO

If yes, Vendor MUST list what countries the employees are working and in what capacity are they accessing State Data. Specifically, the State must know if the employees are: Developer, Architect, Help Desk support, and/or Technical Support, etc.

## ATTACHMENT G: REFERENCES – RESERVED (SEE ATTACHMENTS I-K)

### ATTACHMENT H: FINANCIAL REVIEW FORM

Vendor shall review the Financial Review Form, provide responses in the gray-shaded boxes, and submit the completed Form as an Excel file with its offer. Vendor shall not add or delete rows or columns in the Form, or change the order of the rows or column in the file.

1. Vendor Name:
2. Company structure for tax purposes (C Corp, S Corp, LLC, LLP, etc.):
3. Have you been in business for more than three years?  Yes  No
4. Have you filed for bankruptcy in the past three years?  Yes  No
5. In the past three years, has your auditor issued any notification letters addressing significant issues? If yes, please explain and provide a copy of the notification letters.  Yes  No
6. Are the financial figures below based on audited financial statements?  Yes  No
7. Start Date of financial statements:  
End Date of financial statements:
8. Provide a link to annual reports with financial statements and management discussion for the past three complete fiscal years:
9. Provide the following information for the past three complete fiscal years:

	Latest complete fiscal year minus two years	Latest complete fiscal year minus one year	Latest complete fiscal year
<b>BALANCE SHEET DATA</b>			
a. Cash and Temporary Investments			
b. Accounts Receivable (beginning of year)			
c. Accounts Receivable (end of year)			
d. Average Account Receivable for the Year (calculated)			
e. Inventory (beginning of year)			
f. Inventory (end of year)			
g. Average Inventory for the Year (calculated)			
h. Current Assets			
i. Current Liabilities			
j. Total Liabilities			
k. Total Stockholders' Equity (beginning of year)			
l. Total Stockholders' Equity (end of year)			
m. Average Stockholders' Equity during the year (calculated)			
<b>INCOME STATEMENT DATA</b>			
a. Net Sales			
b. Cost of Goods Sold (COGS)			
c. Gross Profit (Net Sales minus COGS) (calculated)			
d. Interest Expense for the Year			
e. Net Income after Tax			
f. Earnings for the Year before Interest & Income Tax Expense			
<b>STATEMENT OF CASH FLOWS</b>			
a. Cash Flow provided by Operating Activities			
b. Capital Expenditures (property, plant, equipment)			

## ATTACHMENT I: FIRM QUALIFICATIONS

The vendor shall provide details for up to three (3) examples of CDBG-DR Housing Engagements delivered by the proposed entity. Client points of contact must be current state employees with adequate understanding of the services delivered. Vendors must provide at least one minimally qualified program example to be deemed responsive.

<b>Example 1 of CDBG-DR Housing Engagements</b>	
<b>Client Name:</b>	<b>Prime or Subcontractor?</b>
<b>Program:</b>	<b>Contract Value (excluding construction activity costs):</b>
<b>Client Point of Contact:</b>	
<b>Point of Contact Information:</b>	<b>Email:</b> <b>Phone Number:</b>
<b>Brief Description of Services Rendered:</b>	
<p>Did the services provided include CDBG-DR single family housing implementation? (Y/N)</p> <p>Did services include intake, eligibility, award and construction management technology? (Y/N)</p> <p>Did the proposing entity launch the program? (Y/N)</p> <p>Did the proposing entity closeout the program? (Y/N)</p>	



<b>Example 2 of CDBG-DR Housing Engagements</b>	
<b>Client Name:</b>	<b>Prime or Subcontractor?</b>
<b>Program:</b>	<b>Contract Value (excluding construction activity costs):</b>
<b>Client Point of Contact:</b>	
<b>Point of Contact Information:</b>	<b>Email:</b>
	<b>Phone Number:</b>
<b>Brief Description of Services Rendered:</b>	
<b>Did the services provided include CDBG-DR single family housing implementation? (Y/N)</b>	
<b>Did services include intake, eligibility, award and construction management technology? (Y/N)</b>	
<b>Did the proposing entity launch the program? (Y/N)</b>	
<b>Did the proposing entity closeout the program? (Y/N)</b>	

<b>Example 3 of CDBG-DR Housing Engagements</b>	
<b>Client Name:</b>	<b>Prime or Subcontractor?</b>
<b>Program:</b>	<b>Contract Value (excluding construction activity costs):</b>
<b>Client Point of Contact:</b>	
<b>Point of Contact Information:</b>	<b>Email:</b>
	<b>Phone Number:</b>
<b>Brief Description of Services Rendered:</b>	
<b>Did the services provided include CDBG-DR single family housing implementation? (Y/N)</b>	
<b>Did services include intake, eligibility, award and construction management technology? (Y/N)</b>	
<b>Did the proposing entity launch the program? (Y/N)</b>	
<b>Did the proposing entity closeout the program? (Y/N)</b>	

## ATTACHMENT J: TEAM QUALIFICATIONS

Vendor shall provide all proposed teaming partner qualifications. Please complete items 1, 2, and 3 below.

1. **Briefly describe relevant team partner experience implementing CDBG-DR single family housing programs.**

2. **Briefly describe the team's experience providing similar scopes of work in Appalachian regions like western North Carolina.**

3. **Briefly describe the team's experience coordinating with VOADs, LTRGs, and other non-profits to accomplish housing recovery outcomes.**

## ATTACHMENT K: KEY LEADER QUALIFICATIONS

Vendor shall complete the Key Leader Qualifications for each of the three (3) positions listed below.

Program Director
1. Key Leader Role: Program Director
2. Key Leader Name:
3. How many years has the Key Leader worked on CDBG-DR single family housing engagements?
4. Will the Key Leader be based in North Carolina for the duration of the program or until released by DCR? <input type="checkbox"/> Yes <input type="checkbox"/> No
5. List the CDBG-DR Single Family Housing engagements worked and briefly describe the Key Leader's roles and responsibilities for each:

<b>Construction Manager</b>
<b>1. Key Leader Role: Construction Manager</b>
<b>2. Key Leader Name:</b>
<b>3. How many years of experience managing scattered site CDBG-DR residential construction does the Key Leader have?</b>
<b>4. Will the Key Leader be based in North Carolina for the duration of the program or until released by DCR?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>5. List the CDBG-DR Single Family Housing engagements worked and briefly describe the Key Leader's roles and responsibilities for each:</b>

<b>Technology Manager</b>
<b>1. Key Leader Role: Technology Manager</b>
<b>2. Key Leader Name:</b>
<b>3. How many years of experience deploying CDBG-DR housing technology does the Key Leader have?</b>
<b>4. Will the Key Leader be based in North Carolina for the duration of the program or until released by DCR?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>5. List the CDBG-DR Single Family Housing engagements worked and briefly describe the Key Leader's roles and responsibilities for each:</b>

## ATTACHMENT L: HISTORICALLY UNDERUTILIZED BUSINESSES

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

Pursuant to N.C.G.S. §§ 143B-1361(a), 143-48 and 143-128.4, 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. This includes utilizing subcontractors to perform the required functions in this RFP. Contact the North Carolina Office of historically Underutilized Businesses at 919-807-2330 with questions concerning NC HUB certification. <http://ncadmin.nc.gov/businesses/hub>

Respond to the questions below.

1. Is Vendor a Historically Underutilized Business?  Yes  No
2. Is Vendor Certified with North Carolina as a Historically Underutilized Business?  Yes  No

If so, state HUB classification: