

STATE OF NORTH CAROLINA STATE BOARD OF ELECTIONS Election Program Services	REQUEST FOR PROPOSAL NO. NCSBE- Legacy Application Conversion	
	Contract Name: SEIMS Modernization Phase II	
	Bid Opening Date: TBD	
Refer <u>ALL</u> inquiries regarding this RFP to: electionsrfp@ncauditor.gov	Issue Date: TBD	
	Commodity Code: 811117- Management Information Systems	
	Purchasing Agency: State Board of Elections	
	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.

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

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

Offer valid for one hundred twenty (120) days from date of offer opening.

ACCEPTANCE OF OFFER

If any or all parts of this offer are accepted, an authorized representative of Purchasing State Board of Elections 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 contract's 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).

<u>FOR PURCHASING AGENCY USE ONLY</u>	
Offer accepted and contract awarded this date	, as indicated on attached certification,
by	(Authorized representative of Purchasing State Board of Elections).

Table of Contents

1.0	ANTICIPATED Procurement Schedule	3
2.0	Purpose of RFP.....	3
2.1	Introduction.....	3
2.2	Agency Background.....	4
2.3	SUMMARY OF PROBLEM Statement.....	4
2.4	Contract Term.....	4
2.5	Effective Date	4
2.6	Contract Type	4
3.0	RFP requirements and Specifications	4
3.1	General requirements and Specifications	4
3.2	Security Specifications.....	5
3.3	Enterprise Specifications	5
3.3.1	ARCHITECTURE DIAGRAMS- Reserved	5
3.3.2	SOLUTION ROADMAP	5
3.3.3	IDENTITY AND ACCESS MANAGEMENT	6
3.3.4	INTEGRATION APPROACH- reserved.....	6
3.3.5	DISASTER RECOVERY AND BUSINESS CONTINUITY	6
3.3.6	DATA MIGRATION- Reserved	6
3.3.7	APPLICATION MANAGEMENT- Reserved.....	6
3.3.8	ACCESSIBILITY	6
3.4	Business and Technical Requirements.....	7
3.5	Business and Technical Specifications.....	8
3.5.1	Cybersecurity Summary.....	8
3.5.2	Solution Build Summary.....	8
3.5.3	Learning Management Summary	11
3.5.4	Imaging Software Summary	12
3.5.5	Support Summary	12
3.6	Application Specifications And Summaries.....	14
3.6.1	Geocode	14
3.6.2	Election Setup.....	14
3.6.3	VoterScan	15
3.6.4	VoterView.....	16
3.6.5	Report Manager	18
3.6.6	Election Reporting.....	19
3.6.7	SOSA System Manager	20
3.6.8	Provisional Voting	22
3.6.9	Petition Checking	23
3.6.10	BallotStyle	24
3.6.11	Board of Elections Reporting Tool (BERT).....	25
4.0	Cost of Vendor's Offer.....	25
4.1	Offer Costs	25
4.2	Payment Schedule.....	25
5.0	Evaluation	26
5.1	Source Selection.....	26
5.2	Evaluation Criteria	26

5.3	Best and Final Offers (BAFO).....	27
5.4	POSSESSION AND REVIEW	27
6.0	Vendor Information and Instructions	27
6.1	General Conditions of Offer	27
6.2	General Instructions for Vendor	28
6.3	Instructions for Offer Submission.....	30
7.0	Other Requirements and Special Terms	32
7.1	Vendor Utilization Of Workers Outside of U.S.	32
7.2	Financial Statements	32
7.3	Financial Resources Assessment, Quality Assurance, Performance and Reliability	33
7.4	Vendor's License or Support Agreements	33
7.5	Resellers.....	33
7.6	DISCLOSURE OF LITIGATION.....	34
7.7	CRIMINAL CONVICTION	34
7.8	Security and Background Checks.....	34
7.9	Assurances.....	35
7.10	Confidentiality of offers	35
7.11	Project Management	35
7.12	Meetings.....	35
7.13	Recycling and Source Reduction- Reserve	36
7.14	Special Terms and Conditions.....	36
7.15	AGENCY Terms and Conditions- Reserve	36
	Attachment A: Definitions.....	37
	Attachment B: Terms and Conditions	39
	Attachment C: Description of Offeror	55
	Attachment D: Cost Form	57
	Attachment E: Vendor Certification Form.....	59
	Attachment F: Location of Workers Utilized by Vendor - Disclosure Statement.....	60
	Attachment G: References.....	62
	Attachment H: Financial Review Form.....	63

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	12/11/2025 by 05:00 PM EST
Written Questions Deadline	Potential Vendors	12/18/2025 by 05:00 PM EST
Agency's Response to Written Questions/ RFP Addendum Issued	Agency	12/19/2025 by 05:00 PM EST
Offer Opening Deadline	Vendor(s)	01/05/2026 by 04:00 PM EST
Offer Evaluation	Agency	01/06/2026 - 01/13/2026
Selection of Finalists	Agency	01/14/2026
Oral Presentations and/or Product Demonstrations by Finalists	Selected Vendors	01/21/2026 – 01/27/2026
Negotiations with Finalists	Agency designees and selected Vendor(s)	01/28/2026 – 02/03/2026
Best and Final Offers Deadline from Finalists	Selected Vendors	02/05/2026
Contract Award	Agency	02/06/2026
Protest Deadline	Responding Vendors	15 days after award

2.0 PURPOSE OF RFP

2.1 INTRODUCTION

The State Board of Elections (SBE) maintains the Statewide Elections Information Management System (SEIMS). SEIMS, initially developed in 1998, is a central elections management system that coordinates statewide elections processes, voter registration, and reporting of election night and canvassed results. SEIMS is used by the SBE and the 100 County Boards of Elections (CBEs) of North Carolina to perform various election-related tasks and to facilitate the administration of elections in the state. The SEIMS Modernization Project is a phased approach to modernizing SEIMS applications and systems in a secure cloud-based environment. There are three (3) phases to this modernization effort: Phase I of the project is complete and involved a migration to the cloud. Phase II of this project is the legacy application conversion (current phase). Phase III of this project will be a database, application and reporting redesign.

The purpose of this RFP, and any resulting contract award, is to solicit offers for a Phase II of the SEIMS modernization project which is the conversion of the remaining legacy client applications to hosted web applications in the cloud.

2.2 AGENCY BACKGROUND

SBE is charged with the overall responsibility for administration of the elections process in North Carolina for the state's 100 county boards of elections. In addition, SBE is responsible for developing and implementing a statewide computerized voter registration system to facilitate voter registration and to provide a central database containing voter registration information for each county. The system shall serve as the single system for storing and managing the official list of registered voters in the state. The system shall serve as the official voter registration list for the conduct of all elections in the state.

2.3 SUMMARY OF PROBLEM STATEMENT

SEIMS is comprised of both modern web-based and legacy applications. There is a critical need to upgrade these legacy applications as they: are client-based programs, are written in unsupported and deprecated programming languages, pose security concerns, are not intuitive, are not scalable, are difficult to manage/update, are operating system specific, and are on the verge of malfunctioning due to various updates to operating and other system resources.

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 1 year and will expire upon the anniversary date of the effective date unless otherwise stated in the Notice of Award, unless terminated earlier. The State retains the option to extend the Agreement for two (2) 1-year renewal periods at its sole discretion.

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 or Agency 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 System must provide. If the offer can not 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 system or system 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.

3.1.3 SITE AND SYSTEM PREPARATION

Vendors shall provide the Purchasing State Agency complete site requirement specifications for the Deliverables, if any. These specifications shall ensure that the Deliverables to be installed or implemented shall operate properly and efficiently within the site and system environment. Any alterations or modification in site preparation, which are directly attributable to incomplete or erroneous specifications provided by the Vendor and which would involve additional expenses to the State, shall be made at the expense of the Vendor.

3.1.4 EQUIVALENT ITEMS- RESERVED

3.1.5 ENTERPRISE LICENSING- RESERVED

3.2 SECURITY SPECIFICATIONS

3.2.1 SOLUTIONS HOSTED ON STATE INFRASTRUCTURE

Vendors shall provide a completed Vendor Readiness Assessment Report State Hosted Solutions ("VRAR") at offer submission. This report is located at the following website:

<https://it.nc.gov/documents/vendor-readiness-assessment-report>

The SEIMS Modernization Phase II Legacy Application Conversion project will be required to receive and securely manage data that is classified as highly restricted. Refer to the North Carolina Statewide Data Classification and Handling policy for more information regarding this 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.

3.2.2 SOLUTIONS NOT HOSTED ON STATE INFRASTRUCTURE- RESERVED

3.3 ENTERPRISE SPECIFICATIONS

3.3.1 ARCHITECTURE DIAGRAMS- RESERVED

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:

- Vision for the solution
- High-level functionality expected for each solution release into production environment
- High-level timeline
- 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- RESERVED

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- RESERVED

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:

- W3C Web Accessibility Initiative - Web Content Accessibility Guidelines (WCAG) 2.1: <https://www.w3.org/TR/WCAG21/>
- Section 508: <https://www.section508.gov/>
- Voluntary Product Accessibility Template (VPAT®): <https://www.itic.org/policy/accessibility/vpat>

ENTERPRISE, SERVICES, AND STANDARDS

Vendors should 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.

3.4 BUSINESS AND TECHNICAL REQUIREMENTS

The requirements SBE is seeking are listed below. In the Response column, select Yes or No to convey your company's ability to meet each requirement.

3.4.1 BASE REQUIREMENTS

#	SUBCATEGORY	REQUIREMENT	Response
1	Ownership	SBE must retain ownership of the end product and full access to the source code, as it will be operated and maintained internally.	☐ Yes ☐ No
2	Application Functionality	The vendor must mimic the full/existing functionality of all existing applications in the modernized application and integrate with existing user management systems unless otherwise specified by SBE.	☐ Yes ☐ No
3	Application Deployment	The vendor must deliver completed applications of the developed solution in an iterative manner <u>in the order designated by SBE</u> over the lifecycle of the project and integrate legacy SEIMS functions with the delivered products throughout the lifecycle. The vendor must also use existing infrastructure for code repositories and CICD processes.	☐ Yes ☐ No
4	Authority	The vendor agrees that SBE will have final authority regarding decisions on, but not limited to, the following: 1. Project plan. 2. Design. 3. Roles and responsibilities of internal and vendor project teams. 4. Development processes/workflow. 5. Testing processes/workflow. 6. Approval and review processes/workflow. 7. Scope changes. Unless otherwise specified by the selected vendor in their offer and approved by SBE during contract negotiations and/or contract finalization.	☐ Yes ☐ No
5	Election Cycle Support	The vendor will warranty the product for two full year after deployment. If defects are found during the election cycle within the warranty period, the vendor must be responsive during the election cycle hours, which are typically: a. Early Voting Periods (2 weeks prior to an election) - 7am-8pm EST b. Election Days – 6am to midnight EST	☐ Yes ☐ No

3.5 BUSINESS AND TECHNICAL SPECIFICATIONS

3.5.1 Cybersecurity Summary

The Cybersecurity module ensures robust protection through multi-factor authentication, encryption of sensitive data, and secure session management. It includes comprehensive input validation to prevent common attacks like SQL injection and XSS. Continuous monitoring and logging of user activities help in early detection of potential threats. The module also integrates automated security scanning tools to identify and mitigate vulnerabilities promptly.

#	SUBCATEGORY	SPECIFICATIONS
1	User Audit Logging and Compliance	Describe how the applications will implement audit logging and monitoring of user activities for security, incident response and compliance purposes.
2	User Audit and Compliance	Describe how the applications will generate security reports to demonstrate compliance with relevant regulations.
3	Secure Session Management	Describe how the applications will use secure and HTTP Only flags for cookies to protect session data.
4	Data Protection	Describe how the applications will encrypt sensitive data both in transit (HTTPS/TLS) and at rest.
5	Input Validation	Describe how the applications will ensure all user inputs are sanitized to prevent injection attacks like SQL injection and Cross-site Scripting (XSS).
6	Input Validation	Describe how the applications will validate inputs to conform to expected formats, e.g. numeric fields should only accept numbers.
7	Compliance	Describe how the applications will follow OWASP Application Security Verification Standard (ASVS) for comprehensive security controls (Level 3 preferred).
8	Compliance	Describe how the applications will ensure compliance with relevant regulations; details to be provided by SBE as needed.

3.5.2 Solution Build Summary

The technical specifications outline the infrastructure, database, and development guidelines for the proposed solution along with the implementation methodology and technical experience of the vendor.

#	SUBCATEGORY	SPECIFICATIONS
1	Vendor Technical Experience	In your offer, please provide examples of past projects where your team successfully modernized client-based applications into (Include project scope, outcomes, and any performance improvements achieved.)
2	Vendor Technical Experience	In your offer, please provide contact information for clients who can speak about your experience
3	Vendor Technical Experience	Describe in your offer the company and/or development staff experience working with government entities and/or election agencies/vendors.

#	SUBCATEGORY	SPECIFICATIONS
4	General Technical	Include any licensed products in the proposed solution and include these costs in the Software License(s) and Support line on the cost form
5	General Technical	Describe how you will provide the complete application source code upon project completion.
6	General Technical	Describe how the vendor will work off high level specifications contained in this RFP and make minimal changes as needed throughout the development process without additional costs.
7	General Technical	Describe what current and legacy programming languages and cloud resources environments the vendor can utilize and has experience with
8	General Technical	Describe how the vendor will approach the integration of the new web-based applications into the existing architecture without affecting any other legacy or newly delivered applications
9	Architecture & Infrastructure (Development)	For the Tech Stack, describe how the applications are set up with a high-level architecture of a webapp front end and an API back end that connects to a database while using a codebase with long term support (LTS)
10	Architecture & Infrastructure (Development)	Describe how the authentication of all applications will be done using Azure Entra ID.
11	Architecture & Infrastructure (Development)	Describe how all infrastructure will be created and maintained using Infrastructure as Code for reproducible environments.
12	Architecture & Infrastructure (Development)	Describe in your offer how all infrastructure will have alerts set up to notify SBE staff about issues such as availability, performance, capacity, storage, high error rate, etc.
13	Architecture & Infrastructure (Development)	Describe in your offer how all production infrastructure will be set up to auto scale due to high usage and how applications will be written to support auto scale.
14	Architecture & Infrastructure (Development)	Describe in your offer how a retention policy will be implemented for any usage of file storage to meet the storage life term defined in the policy.
15	Application Layer (Development)	Describe in your offer how the code will be designed and developed with a clear separation of concerns between presentation, business logic, and data layers.
16	Application Layer (Development)	Describe in your offer how a full audit trail will be available and retained for all CRUD operations as defined in the retention policy.
17	Application Layer (Development)	Describe in your offer how logging will be implemented at a level that will log all errors and enough trace logs to notify the developer what steps the end user took leading up to the error.
18	Application Layer (Development)	Describe in your offer how logging will be implemented so that it is agnostic to any particular system.

#	SUBCATEGORY	SPECIFICATIONS
19	Application Layer (Development)	Describe in your offer how the code will be well documented with clarity and precision explaining what the code does and why decisions were made.
20	Application Layer (Development)	Describe in your offer how the application UI will be a responsive UI optimized primarily for desktop but also for mobile as needed.
21	Application Layer (Development)	Describe in your offer how the application UI will be accessibility compliant (WCAG 2.1 AA).
22	DevOps & CI/CD (Development)	Describe in your offer how the application will be structured and configured so that any authorized developer can obtain the source code from the designated repository and execute it successfully in Visual Studio within 5 minutes of initial checkout, without requiring undocumented manual configuration steps.
23	DevOps & CI/CD (Development)	Describe in your offer how all secrets/keys will be stored in secure cloud vault only and none will be visible in the repository.
24	DevOps & CI/CD (Development)	Describe in your offer how all application code will have an automated pipeline to build and deploy the application into every environment.
25	DevOps & CI/CD (Development)	Describe in your offer how all code checked into the main branch of the repository will go through a quality gate which requires at least a static analysis using a third-party software code review, automated unit/integration tests, and a person approved via code review.
26	Testing & Quality Gates (Development)	Describe in your offer how all applications will go through performance testing, and how the process will be done and results displayed to the SBE to prove the application can handle the number of users needed at any point in time.
27	Testing & Quality Gates (Development)	Describe in your offer how a library of sample calls can be created for each API Endpoint to assist with troubleshooting and maintenance of the endpoint.
28	Testing & Quality Gates (Development)	Describe in your offer how automated unit tests will be created and have at least 85% coverage on business logic.
29	Testing & Quality Gates (Development)	Describe in your offer how regression testing will be completed on a staging environment before deploying the first version of the application to production, and how the entire testing process will be repeated if code changes are needed after testing.
30	General Database	Describe in your offer how you will work with SBE staff to determine any required database changes
31	General Reporting	Describe in your offer how the solution will address reporting requirements of the applications
32	Database Technical	Describe in your offer how the solution will not include anything listed as deprecated [coding techniques, datatypes, features, etc.] cited in any version from SQL v2016 through SQL v2025.

#	SUBCATEGORY	SPECIFICATIONS
33	Database Technical	Describe in your offer how audits and logging for data access and changes will be included for current law-based retention periods and public records requests.
34	Database Technical	Describe in your offer how any dynamic SQL code will be approved by SBOE.
35	Database Technical	Describe in your offer how you will adhere to coding standards doc or obtain deviations granted by SBOE.
36	Change Management	Describe in your offer how you will integrate changes to the applications based on any critical need as defined by SBE that arises during the development of the application or provide support for those changes during the support term after the application is in production.

3.5.3 Learning Management Summary

This section outlines the vendor's responsibilities for developing comprehensive training materials and establishing a user-focused training environment in support of the software modernization project. It further defines how the SBE Learning Management team will collaborate and be engaged throughout the software development life cycle to ensure effective knowledge transfer and end-user readiness.

#	SUBCATEGORY	SPECIFICATIONS
1	Platform Features	Describe how the offered solution contains Pop up tools and help text.
2	Platform Features	Describe how the offered solution provides tool tips.
3	Training Content	Describe how you will provide hands-on live training for the agency stakeholders.
4	Content/Topics	Describe how you will provide functional diagrams that map out user action.
5	Delivery Methods	Describe how you will provide a training environment for agency staff.
6	Training Content	Describe how the vendor will provide training at least 2 months prior to each Production release (could align with the developer's training).
7	Delivery Methods	Describe how the vendor will provide a training environment for the respective county administrators and their associated permissions.
8	Training Content	Describe how the offered solution supplies User Guide/Help Files for each module.
9	Training Content	Describe how the offered solution contains a glossary for any non-existing terms.
10	Content/Topics	Describe how you will supply Technical Specifications for each module.

3.5.4 Imaging Software Summary

Libraries for processing and displaying data and images. These libraries would be required to modernize the applications with existing functionality

#	SUBCATEGORY	SPECIFICATIONS
1	Viewing Capabilities	Describe how the system will be able to load and view an image with basic controls such as zoom in/out, rotate, crop.
2	Image Capture and Processing	Describe how the system will be able to programmatically alter an image using, at minimum, any of the following methods: a) rotation b) de-skewing c) resize d) crop or clip as a new image e) annotation f) redaction g) barcode creation and reader h) create thumbnails of existing image i) set zoom level j) auto scroll the image to a set location
3	File Format Support	Describe how the system will be able to save images as well as convert to different image types as well as save as PDF.
4	Image Capture and Processing	Describe how the system will be able to save multiple images as one image type as well as a PDF.
5	File Format Support	Describe how the system will programmatically create excel files with multiple worksheets, data and formatting cells.
6	Image Capture and Processing	Describe how the system will programmatically be able to compress images.
7	Document Management	Describe how the system will be able to update a word document at runtime by applying dynamic values to preset fields.
8	Viewing Capabilities	Describe how the system will be able to view the word document with the dynamic values.
9	Document Management	Describe how the system will be able to print the word document with the dynamic values.
10	Viewing Capabilities	Describe how the system will be able to view a PDF with standard controls such as zoom and save.

3.5.5 Support Summary

This section defines the type of support SBE is seeking from the vendor. It identifies Service Level Agreements (SLA), Training, and Ongoing Maintenance. Because the goal is for SBE to own the code, these services may only be needed from the effective date of the contract through the first year after all the final deliverables are accepted and implemented.

#	SUBCATEGORY	SPECIFICATIONS
1	General Support	Describe in your offer the scope associated with your company's extended support agreement(s).
2	General Support	Describe in your offer the scope associated with your company's enhancement requests.
3	General Support	Describe your company's post-deployment support services.
4	General Support	Describe the company's process for managing scope.
5	General Support	Describe the company's risk mitigation plan.
6	General Support	Describe in your offer what, if any, change management processes will be included in the deployment of the project.
7	General Support	Please provide in your offer the Support Team Structure of your solution i.e. 1. Do you have Subject Matter Experts (SMEs) 2. Do you have Tiered Support? a. Tier 0 Support - Self Help such as chatbot, helpfiles b. Tier 1 Support - First point of contact c. Tier 2 Support - Technical d. Tier 3 Support – Coding e. Tier 4 Support – 3rd Party Vendor
8	General Support	Describe how you will provide support by email, chat, or phone.
9	SLA	Describe how you will provide the following Service Level Agreement (SLA) response times for support requests: a. Critical: 30 minutes b. High: 1 - 2 hours c. Medium: 4 hours d. Low: 1 week
11	Training	Describe how you will provide developer training at least two (2) months prior to Production release.
12	Training	Describe how you will provide training to State Board of Elections testers and IT at least three (3) weeks prior to Production release.
13	Ongoing Maintenance & Updates	Describe how you will provide a Staging environment for Testing and ongoing support.

3.6 Application Specifications And Summaries

3.6.1 Geocode

This module is used to facilitate compliance with the statutes under Chapter 163 Article 12A - Precinct Boundaries. The module manages street segments and their jurisdictional relationships. Using it, users can copy the active street-file database, called a Geocode; add, change, or remove street segments. Option 2 is the preferred method.

#	SPECIFICATIONS
1	Describe how you will meet all Geocode functionality listed below.
2	Describe any additional functionality you could optionally add to this Geocode application, if approved by SBE, that is not listed below – Optional

Section	Existing Functionality
Clone Management	Display list of Geocode Clones
	Allow users to create and delete clones
Street Segment	Manage street segments
	Split street segment records
	Merge street segment records
	Search and display street segments
Mass Change	Ability to mass change street segment by a jurisdiction or street.
	Ability to mass change through a conflict list
Clone History	Search and Display when clones were processed and list status/errors
Reports	3 reports for printing list of information. Formatted for both letter and legal paper.

3.6.2 Election Setup

Used to create and manage Contests, Candidates, and Referenda for any given election. It also provides a means to have some control over the format of ballots generated.

#	SPECIFICATIONS
1	Describe how you will meet all Election Setup functionality listed below.
2	Describe any additional functionality you could optionally add to this Election Setup application, if approved by SBE, that is not listed below. - Optional

Section	Existing Functionality
Contest Information	Manage contests for a given election
	Search/View contests
	Ability to search and assign jurisdiction values to contests

Section	Existing Functionality
Candidate Information	Ability to view candidates for contests
	Manage candidates for pre-populated election dates
	Search/View candidates
	Ability to view jurisdictions based on candidate address
	Ability to copy candidates from election to election or from contest to contest
	Ability to link candidates to voter registration
	Ability to link candidates to contests
Generate Reports and Forms	Ability to display and print various blank or prefilled county and state forms and reports (roughly 10 total)
Referendum Information	Manage referendum for a given election
	Search/View referendum
	Ability to search and assign jurisdiction values to referendum
	Ability to manage referendum choices
Contest Ordering Information	Ability to custom order referendum on ballot or accept default ordering
	Ability to custom order candidates on ballot or accept default ordering
	Ability to display default ordering rules
Application Security	Ability to assign existing role-based permissions
	Ability to adapt functionality for State user vs County user
Validation	Ability to follow built in validation within existing code and documented business rules
Admin functions	Publish State managed contests, candidates and referendum to county databases

3.6.3 VoterScan

The primary data entry application. The application allows the user to enter voter registration information received by County Boards of Elections from voters or from voter-supplied information that is electronically transferred from third party entities such as the Division of Motor Vehicles. Additionally, VoterScan allows the user the ability to capture and process absentee voter information.

#	SPECIFICATIONS
1	Describe how you will meet all VoterScan functionality listed below.
2	Describe any additional functionality you could optionally add to this VoterScan application, if approved by SBE, that is listed below. - Optional

Section	Existing Functionality
Application Security	Ability to assign existing role-based permissions.
Search Lists	Search and display Voter Registration applications across various processing queues, including Data Entry, Review, Incomplete, and Archive.
	Search and display Absentee Requests across various processing queues, including Data Entry, Review, Incomplete, and Archive.
Applications Data Entry	Allow users to input voter registration data from submitted application with or without images.
	Allow users to input absentee request data from submitted application with or without images.
Processing Applications Submitted with or without Images	Allow users to manage Voter Registration Applications with or without images.
	Allow users to manage Absentee Requests with or without images.
	Enables users to crop and capture signature segments from document images.
	Allow transfers of registration applications and absentee requests between counties.
	Ability to link registration application to an absentee request.
Batch Management	Ability to search and display scanned batch data and list of associated records linked to each batch. Includes ability to delete scanned batches from the system.
	Ability to assign and revoke ownership of batches to users based on operational needs.
	Ability to link/unlink scanned images to voter applications.
Process Statistics	Ability to view statistics related to application processing workflows.
Administrative Features	Ability to define and adjust the tabbing flow for input field on the data entry form.
	Ability to display and print various reports and letters pertaining to application processing.
	1 report for printing list of information
	4 reports for printing letters to distribute

3.6.4 VoterView

The primary voter registration database for each county. It provides access to: Voter information, Absentee voter information, Polling place information, Poll Worker information, Jurisdictional information.

#	SPECIFICATIONS
1	Describe how you will meet all VoterView functionality listed below.

#	SPECIFICATIONS
2	Describe any additional functionality you could optionally add to this VoterView application, if approved by SBE, that is not listed below. - Optional

Section	Existing Functionality
Application Security	Ability to assign existing role-based permissions.
Voter Registration List	Ability to search and display voters on the registration list
	Ability to manage general information for a given voter
	Ability to view Jurisdictions and Polling Place for a given voter
	Ability to view a log of registration changes for a given voter
	Ability to view a log of address changes for a given voter
	Ability to manage voter history for a given voter
	Ability to view mailings for verification for a given voter
	Ability to manage contacts for a given voter
	Ability to manage electronic documents associated to a given voter
Merge Voter Registrations	Ability to select two voters and have their records merged into one
UOCAVA and Medical Requests	Ability to manage UOCAVA and Medical absentee requests
Absentee	Ability to search and display absentee records
	Ability to manage absentee records
	Ability to view a log of all absentee correspondence for a given voter
	Ability to enter information and print absentee mailing labels and/or packets
	Ability to enter information and print absentee cure mailing labels and/or packets
Polling Place	Search and display list of polling places
	Ability to manage polling places
	Ability to manage contacts that are associated with a polling place
	Ability to enter responses on preset building requirements for a given polling place
	Ability to assign an election and fee for a given polling place
	Ability to assign poll workers to a given polling place
	Ability to enter responses on survey questions for a given polling place
	Ability to manage images of a given polling place
	Ability to view log of changes to a given polling place

Section	Existing Functionality
Poll Worker	Search and display list of poll workers
	Ability to manage poll workers
	Ability to manage assignments to an election for a given poll worker.
	Ability to view service history for a given poll worker.
	Ability to view changes to a given poll worker.
	Ability to manage training for a given poll worker.
Jurisdiction Search List	Search and display jurisdictions and street list.
Manage Lookup Tables	Ability to manage all the system lookup tables used in SEIMS.
Administrative processes	20 processes where user provides information and then an async process runs and user can check status of progress.
Reports	14 reports for printing list of information.
	8 reports which are formatted to print as labels or letters.

3.6.5 Report Manager

The Report Manager is used to view and export standard reports and forms related to various election processes. This application supports flexible reporting through dynamic queries, lets users configure columns and output formats, and provides export options.

#	SPECIFICATIONS
1	Describe how you will meet all Report Manager functionality listed below.
2	Describe any additional functionality you could optionally add to this Report Manager application, if approved by SBE, that is not listed below. - Optional

Section	Existing Functionality
Generate Custom Report Data	Ability to build criteria based on pre-selected fields and in some cases pre-selected values
	Ability to sort and/or group by pre-selected columns
	Ability to use preset criteria or override with custom criteria and save for next run of report
Report Data Results	Ability to save results to a file. User should be able to choose which columns to export.
	For all reports (except those that are export only) display in a formal report that can be printed.
Pollbook	Ability to print a pollbook list with barcodes

Section	Existing Functionality
	Ability to export all pollbook data needed for 3 rd party machines to a file
Report Layout	139 reports for printing preformatted list of information
	11 reports for printing mailing labels
	7 reports for exporting data only
	47 reports for printing statistical information

3.6.6 Election Reporting

The Election Reporting Summary is used to import and aggregate election results

#	SPECIFICATIONS
1	Describe how you will meet all Election Reporting functionality listed below.
2	Describe any additional functionality you could optionally add to this Election Reporting application, if approved by SBE, that is not listed below. - Optional

Section	Existing Functionality
Application Security	Ability to assign existing role-based permissions
	Ability to adapt functionality for State user vs County user.
Election Information List	Search and display various information about the election to define its status and how it is setup.
	allow the county user to choose the type of election equipment the county uses. Validation rules to determine if change allowed.
Report Group Mapping	allow the county user to map the report groups to a preset list of voting methods and identifiers.
Admin Precinct Mapping	allow the county user to map admin precincts to a voting method. Validation rules will enforce when this can be done.
Jurisdiction Mapping	allow state users to manage the process of mapping jurisdictions for jurisdictions that cross over in into one or more counties. It shall handle both county and state jurisdictions.
Import Results File	allow the county user to import election results from any approved equipment (currently 3 types). Also choose the business type of import (Election Day, Precinct Sort, Canvass Recount)
	Validation and auditing of the file should occur after import and display a detailed list of any found issues. Issues should be marked as warning or error.
	Display detailed information about each import including but not limited to file name, user, date, if successful etc.
Review Results	Search and display all imported results based on the process that was chosen at the time of import.
	Ability to group or filter results by PCT or Contest

Section	Existing Functionality
	Ability to approve the results to be posted on the external and/or internal website once various validation checks are approved.
Write In Candidates	Must be able to manage write in candidates.
	assign miscellaneous write-in votes to write in candidates.
	Choose the order the write-in candidates appear.
	Once a candidate is entered, it shall appear in all precincts in the county/state where that contest is present.
Results History	Search and view the history of when all major events happen in the application such as file imports, publishing, entering write-ins, updating any mapping data, etc.
	Ability to export all data that was imported per import file.
	Review previous imports of data in the same manner they can review the most recent imported data.
Finalize Results	Allow county and state users to mark each of the four processes as "Finalized". It must go through a series of validation checks to verify the user has completed all necessary steps.
Export Data	Allow the county user to export data in a format provided by 3rd party vendors for meta data needed such as but not limited to contests, candidates, etc. All files shall be compressed and delivered to the user as one file.
Reports	Must allow user to save all data from the canvass to an excel file.
	4 reports the county and state will use to print and distribute
	10 reports to print lists and/or statistics

3.6.7 SOSA System Manager

This module is used to manage Early Voting and Election Day items such as creating a file to use for the voting machines currently called SOSA or OVRD. This module also manages Early Voting and Election Day users, sites, machines, board meeting assignments, Voter import files, Voter reconciliation, the ballot cure process, reconciliation and election finalization.

#	SPECIFICATIONS
1	Describe how you will meet all SOSA System Manager functionality listed below.
2	Describe any additional functionality you could optionally add to this SOSA System Manager application, if approved by SBE, that is not listed below. - Optional

Section	Existing Functionality
Application Security	Ability to assign existing role-based permissions
Early Voting Sites	Manage early voting site information
	Assign early voting sites to an election

Section	Existing Functionality
Board Meeting Manager	Manage a list of all board meetings held by the county
	Manage all absentees that are approved in a given board meeting
New Election Setup Wizard	Perform validation checks to verify an election is ready for early voting
	Set default settings for SOSA/OVRD machines
	Create a data file that is used by a SOSA/OVRD machine to initialize data
Create Export Data File	Same as above but be able to run data file only on demand
Import Various Files	Import and process data file from SOSA and OVRD
	Import and process a “VRN/VBT” text file
	Import and process a “3 rd party” file
Search Lists	Search and display list of “conflicts” voters with more than one record for an election
	Search and display voter records that have been received from SOSA/OVRD
	Search and display a summary of each import from SOSA/OVRD
	Search and display when jobs were run
	Search and display all records from SOSA/OVRD that are “returned by mail”
	Search and display a list of machines setup for a given election
Post Election Audit List	Search and display post election audit records from SOSA.
	Allow users to choose records to either exclude or process from the audit.
Acknowledgement of Voting Options List	Search and display records marked as “acknow. of voting options”
	Allow user to mark records as deleted
	Allow user to manually enter records
Early Voting List	Search and display all early vote records
	Allow user to mark records as deleted
	Allow user to manage records (add/edit/delete)
Undeliverable SDR Resolution	Search and display records marked as undeliverable SDR.
	Allow user to go through a workflow of multiple steps to get to a resolution
SOSA/OVRD Form Management	Allow users to search and display a list of all forms in SOSA/OVRD and the fields on the forms
	Allow user to upload a new form to replace the default
	For each upload, go through an approval process workflow
	Allow user to download or remove existing form.
Returned Absentee Ballots	Allow users to enter absentee ballots return as well as remove records
	Search and display records scheduled for voter history

Section	Existing Functionality
Review Voter History List	Ability to manage records scheduled for voter history
	Ability to validate and mark records schedule for voter history as “finalized” to move them into voter history
	Search and display voter history records from previous elections
Application Audit	Provide ability to enter application numbers manually and audit against records that were electronically imported.
SOSA/OVRD User Management	Create and manage the users that are allowed to use SOSA/OVRD
	Grant/deny various permissions for SOSA/OVRD users
Reports	Provide reports (3) for statistics

3.6.8 Provisional Voting

Provides the functionality for the recording, research and management of provisional voting records for an election event. The application is the application used to record the disposition of a provisional vote.

#	SPECIFICATIONS
1	Describe how you will meet all Provisional Voting functionality listed below
2	Describe any additional functionality you could optionally add to this Provisional Voting application, if approved by SBE, that is not listed below. - Optional

Section	Existing Functionality
Application Security	Ability to assign existing role-based permissions
Provisional Search List	Search and display list of provisional voters
Provisional Voter	Ability to manage provisional voters
	Ability to link a provisional voter to a voter registration record
	Ability to mark a provisional voter with a status and reason following validation rules
Voter Registration Search List	Search and display list of voters
	Ability to start a new provisional voter based on information from an existing voter registration.
Geocode Search List	Search and display geocode and ballot style information based on the address/election provided
Finalize/Unfinalize Provisional Votes	Allow the user to “finalize” provisional votes for a given election so the records can move to the next process in SEIMS
	Allow the user to “unfinalize” provisional votes for a given election to make corrections
	System must verify all validation rules are met to either finalize or unfinalize

Section	Existing Functionality
Reports	6 reports that print lists of provisional voters based on criteria
	5 reports for provisional voter statistics
	3 reports the county will use to print and distribute

3.6.9 Petition Checking

The Petition Checking module allows users to maintain various petitions. The module provides a format for electronic storage and verification of information taken from conventional paper petition forms. The information, when properly entered into the system, displays in a format that matches exactly the information as displayed on the paper petition and the order in which that information is displayed on the paper petition.

#	SPECIFICATIONS
1	Describe how you will meet all Petition Checking functionality listed below.
2	Describe any additional functionality you could optionally add to this Petition Checking application, if approved by SBE, that is not listed below. - Optional

Section	Existing Functionality
Application Security	Ability to assign existing role-based permissions
Petition List	Search and display general petition information
	Manage general petition information
	Ability to change status of a petition and follow validation rules for the change
	Ability search and associate jurisdictions to a petition based on validation rules
Batch Management List	Ability to manage petition signers into batches for organization purposes
Petition Signers	Ability to manage petition signers
	Ability to search voter registration list and link a petition signer to the voter
	Ability to assign a petition signer to a given batch, page and line number
	Ability to manage petition pages including creating, removing and invalidating a page
	Ability to view detailed voter information about the petition signer including voter's signature image
	Ability to give a signer a status using validation rules
	Ability to provide statistics on the petition to show progress of the petition meeting the requirements needed to be valid
Geocode Search List	Search and display geocode and ballot style information based on the address/election provided

Section	Existing Functionality
Reports	Provide 7 reports to view records and statistics
	Provide 5 reports that serve as letters for the county to print and distribute

3.6.10 BallotStyle

The Ballot Style application uses information from a county's Geocode and Election Setup applications to determine and display all appropriate and unique combinations of voters, jurisdictions, and contests for a selected election, and thus enabling a county to assign the correct ballot style for each combination. In determining these combinations, the application evaluates the relationship between each jurisdiction and contest. When the election includes partisan primary contests, the application also considers the effects of voter age and party affiliation.

#	SPECIFICATIONS
1	Describe how you will meet all BallotStyle functionality listed below.
2	Describe any additional functionality you could optionally add to this BallotStyle application, if approved by SBE, that is not listed below. - Optional

Section	Existing Functionality
Application Security	Ability to assign existing role-based permissions
Generate Ballot Styles	Allow user to start an async process to create ballot styles for a given election
	User should be able to select various options when generating which affects how the styles are generated
	User should be able to go through a workflow of completing ballot styles such as lock/unlock, enable, delete and regenerate. Validation rules would be enforced through the workflow
Generation History List	View a list of the history of ballot style generation and changes to the ballot styles
Ballot Style List	Ballot Styles should be displayed to the user based on the election provided
	Ability to enter a name for each ballot style generated. Validation rules enforced for each entry.
	The ability to undo any entry and return to the previous saved values.
	The ability to view for a given ballot the contests and candidates that would appear on the ballot.
Link Ballot Style PDF	Ability to upload and PDF file and have it associated with a Ballot Style. The PDF represents the image of the ballot. The user may also remove as well.
	Ability to view the existing PDF associated with a ballot style.
Reports	1 report that prints list of Ballot Styles based on criteria.
	2 reports that print statistics of Ballot Styles based on criteria.

3.6.11 Board of Elections Reporting Tool (BERT)

Provides users the capability to easily gather, view and export voter registration and history data in a read-only environment that is updated nightly.

#	SPECIFICATIONS
1	Describe how you will meet all BERT functionality listed below.
2	Describe any additional functionality you could optionally add to this BERT application, if approved by SBE, that is not listed below. - Optional

Section	Existing Functionality
Generate Custom Report Data	Ability to generate custom data based user choosing 1 of 3 available datasets
	Ability to build criteria based on pre-selected fields and in some cases pre-selected values
	Ability to sort and/or group by pre-selected columns
	Ability to choose which columns to display in results
	Ability to view in text the entire criteria, group/sort and column list all together
Report Data Profiles	Ability to save a selection of criteria, sort/group and criteria as a “profile” which allows the report to be run in the future without re-choosing the values again
Report Data Results	Ability to save results to a file. Process should be async.
	Ability to view results in the application
	Ability to view results in a report listed below
Report Layout	3 reports for printing list of voters
	2 reports for printing address labels
	2 reports for printing statistics

4.0 COST OF VENDOR’S OFFER

4.1 OFFER COSTS

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

4.2 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.

5.0 EVALUATION

5.1 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) After the evaluation of the vendor proposals, the most qualified vendors may be asked to conduct an oral presentation or product demonstration to SBE between the specified time in Section 1.0 ANTICIPATED Procurement Schedule. The presentation or demonstration may be conducted virtually or at the SBE office. The presentation or demonstration should not exceed four (4) hours and should provide insight to the vendor's ability to meet the requirements outlined in the 3.4 Business and Technical Requirement section of this RFP.
- d) 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.
- e) 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.

5.2 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.

- 1) How well the Vendor's offer conforms with the specifications
- 2) How each Vendor's offer compares with other Vendors' offers
- 3) Total Cost of Ownership
- 4) Vendor Schedule / Timeline for completing work
- 5) Strength of references relevant or material to technology area(s) or Specifications and Vendor Past Performance in working with government entities and/or election agencies (The Vendor may be disqualified from any evaluation or award if the Vendor or any key personnel proposed, has previously failed to perform satisfactorily during the performance of any contract with the State, or violated rules or statutes applicable to public bidding in the State.)
- 6) Risks associated with Vendor's offer which include Vendor errata and exceptions

5.3 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.

5.4 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.

6.0 VENDOR INFORMATION AND INSTRUCTIONS

6.1 GENERAL CONDITIONS OF OFFER

6.1.1 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.

6.1.2 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.

6.1.3 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.

6.1.4 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.

6.1.5 E-PROCUREMENT- RESERVE

6.1.6 ELECTRONIC VENDOR PORTAL (EVP)- RESERVE

6.1.7 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

6.2 GENERAL INSTRUCTIONS FOR VENDOR

6.2.1 SITE VISIT OR PRE-OFFER CONFERENCE- RESERVE

6.2.2 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 and submitted as directed on Office of the State Auditor's website. 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 Wednesday, December 19, 2025 at 5:00 pm Eastern Time.

They must be submitted to the contact person listed on Page One of this Solicitation and submitted as directed on the Office of the State Auditor's website. Please enter "Questions Solicitation XXXX" as the subject for the message.

REFERENCE	VENDOR QUESTION
RFP Section, Page Number	

6.2.3 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 Office of the State Auditor's website. 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 Office of the State Auditor's website for all Addenda that may be issued prior to the offer opening date.

6.2.4 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.

6.2.5 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.

6.2.6 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.

6.2.7 MODIFICATIONS TO OFFER

An offer may not be unilaterally modified by the Vendor.

6.2.8 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.

6.2.9 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:

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

6.2.10 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

6.3 VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM - ReservedINSTRUCTIONS FOR OFFER SUBMISSION

6.3.1 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.

6.3.2 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:
 - Attachments A and B
 - Completed Description of Vendor Submitting Offer Form (Attachment C)
 - Completed Cost Form of Vendor's Offer (Attachment D)
 - Completed and Signed Vendor Certification Form (Attachment E)
 - Completed Location of Workers Utilized by Vendor Form (Attachment F)
 - Completed References (Attachment G)
 - Completed Financial Statements (Attachment H)
- b) Vendor Response to Specifications and Requirements
- c) Architecture Diagrams (if existing solution)
- d) Detailed Project Timeline- The timeline must outline a phased rollout for the functionality described in Section 3.6 Application Specifications and Summaries of this RFP. The timeline should include time needed to incorporate your company's approach to cybersecurity, technical expertise, imaging, learning management, and support, as described in section 3.5 Business and Technical Specification, for each for the functionalities. See Section 3.6 Application Specification and Summaries of this RFP for more information.
 - a. Geocode
 - b. Election Setup
 - c. VoterScan
 - d. VoterView
 - e. Report Manager
 - f. Election Reporting
 - g. SOSA System Manager
 - h. Provisional Voting
 - i. Petition Checking
 - j. BallotStyle
 - k. Board of Elections Reporting Tool
- e) Errata and Exceptions if any
- f) Vendor's License and Maintenance Agreements, if any
- g) 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.

6.3.3 OFFER SUBMITTAL

Due Date: Monday, January 5, 2026
Time: 02:00 PM Eastern Time

IMPORTANT NOTE: It is the Vendor's sole responsibility to upload their offer as directed on the Office of the State Auditor's website 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 3:00pm Eastern Time on the day of opening and then opened, for furnishing and delivering the commodity as described herein. Offers must be submitted as directed on the Office of the State Auditor's website 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** as directed on the Office of the State Auditor's website.
- b) The Office of the State Auditor's website document name is: SEIMS Modernization Phase II- NCSBE- Legacy Application Conversion
- 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 Attachment B, Section 2, Paragraph #17), then the vendor must provide one (1) signed, original electronic offer and one (1) redacted electronic copy.

7.0 OTHER REQUIREMENTS AND SPECIAL TERMS

7.1 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.

7.2 FINANCIAL STATEMENTS

The Vendor shall provide evidence of financial stability by returning with its offer 1) completed Financial Review Form (Attachment I), 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.

7.3 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.

7.4 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 State 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.

7.5 RESELLERS

If the Offer is made by a Reseller that purchased the offered items for resale or license to the Agency, or offered based upon an agreement between the Offeror and a third party, and that the proprietary and intellectual property rights associated with the items are owned by parties other than the Reseller ("Third Parties"). The Agency further acknowledges that except for the payment to the Reseller for the Third Party items, all of its rights and obligations with respect thereto flow from and to the Third Parties. The Reseller shall provide the Agency with copies of all documentation and warranties for the Third Party items which are provided to the Reseller. The Reseller shall assign all applicable third party warranties for Deliverables to the Agency. The State reserves all rights to utilize existing agreements with such Third

Parties or to negotiate agreements with such Third Parties as the State deems necessary or proper to achieve the intent of this RFP.

7.6 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 State 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.

7.7 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.

7.8 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.

7.9 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.

7.10 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.

7.11 PROJECT MANAGEMENT

All project management and coordination on behalf of the Agency shall be through a single point of contact designated 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. All work performed pursuant to the Agreement shall be coordinated between the Agency Project Manager and the Vendor Project Manager.

7.12 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.

7.13 RECYCLING AND SOURCE REDUCTION- RESERVE

7.14 SPECIAL TERMS AND CONDITIONS

Paragraph #9 in Section 1 of the State Terms and Conditions is supplemented as follows: The Agency reserves the right to perform post-delivery and post-training acceptance testing for a period beginning at installation and lasting three months. The Agency also reserves the right to have an independent Vendor conduct testing pertaining to the functions, auditability, and related matters. At any time before the end of the test and assurance period the Agency may require any or all of the following:

- i) Have the Vendor modify the installed software to eliminate the deficiency to the Agency's satisfaction.
- ii) Have the Vendor re-install a new copy of the software product(s).
- iii) Extend the acceptance testing period for a period of ____ 10 ____ days to allow time for Vendor to remedy the problems.
- iv) Remove the application software, cancel this Agreement, and recover payments extended from Agency funds.

Paragraph #16 in Section 1 of the State Terms and Conditions is supplemented as follows: the Vendor shall provide a Certificate of Insurance naming the (select one: State or Agency) as an additional insured, with the certificate complying with all required coverages and delivered to the (select one: State or 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 (select one: State or Agency) immediately of any material change in insurance coverage, including, but not limited to changes in limits, coverage, or status of the policy.

7.15 AGENCY TERMS AND CONDITIONS- RESERVE

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) **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.
- 3) **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.
- 4) **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).
- 5) **Open Market Contract:** A contract for the purchase of goods or Services not covered by a term, technical, or convenience contract.
- 6) **Reasonable, Necessary or Proper:** as used herein shall be interpreted solely by the State of North Carolina.
- 7) **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.
- 8) **Security Breach:** As defined in N.C.G.S. §75-61.
- 9) **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.

10) Vendor: Company, firm, corporation, partnership, individual, etc., submitting an offer in response to a solicitation.

ATTACHMENT B: STATE 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 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. 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:**
- a) The State shall have the obligation to notify Vendor, in writing ten calendar days following provision, performance (under a provided milestone or otherwise as agreed) or delivery of any Services or other Deliverables described in the Agreement that are not acceptable.
 - b) Acceptance testing is required for all Vendor supplied software and software or platform services unless provided otherwise in the solicitation documents or a Statement of Work. The State may define such processes and procedures as may be necessary or proper, in its opinion and discretion, to ensure compliance with the State's specifications, and Vendor's Product Warranties and technical representations. The State shall have the obligation to notify Vendor, in writing and within thirty (30) days following installation of any software deliverable if it is not acceptable.
 - c) Acceptance of Services or other Deliverables including software or platform services may be controlled by an amendment hereto, or additional terms as agreed by the Parties consistent with IT Project management under GS §143B-1340.
 - d) The notice of non-acceptance shall specify in reasonable detail the reason(s) a Service or given Deliverable is unacceptable. Acceptance by the State shall not be unreasonably withheld; but may be conditioned or delayed as required for installation and/or testing of Deliverables. Final acceptance is expressly conditioned upon completion of any applicable inspection and testing procedures. Should a Service or Deliverable fail to meet any specifications or acceptance criteria, the State may exercise any and all rights hereunder. Services or Deliverables discovered to be defective or failing to conform to the specifications may be rejected upon initial inspection or at any later time if the defects or errors contained in the Services or Deliverables or non-compliance with the specifications were not reasonably ascertainable upon initial inspection. If the Vendor fails to promptly cure or correct the defect or replace or re-perform the Services or Deliverables, the State reserves the right to cancel the Purchase Order, contract with a different Vendor, and to invoice the original Vendor for any differential in price over the original Contract price.

- 10) PAYMENT TERMS:** Monthly Payment terms are Net 30 days after receipt of correct invoice (with completed timesheets for Vendor personnel) and acceptance of one or more of the Deliverables, under milestones or otherwise as may be provided in Paragraph 9 (Acceptance), or elsewhere in this solicitation, unless a period of more than thirty (30) 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 thirty (30) 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 three (3) 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), and any implementing regulations in the Code of Federal Regulations and any future regulations imposed upon the NC State Board of Elections 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 State Terms and Conditions is not completed successfully, the State may request substitute Software, cancel the portion of the Contract that relates to the unaccepted Software, 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.

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: 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.
 - 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) 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.

39) 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 State 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.

41) 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 Information Technology Goods and Services

- 1) SOFTWARE LICENSE FOR HARDWARE, EMBEDDED SOFTWARE AND FIRMWARE:** Deliverables comprising goods, equipment or products (hardware) may contain software for internal operation, or as embedded software or firmware that is generally not sold or licensed as a severable software product. Software may be provided on separate media, such as a CD-ROM or other media, or may be included within the hardware at or prior to delivery. Such software is proprietary, copyrighted, and may also contain valuable trade secrets and may be protected by patents. Vendor grants the State a license to use the Code (or any replacement provided) on, or in conjunction with, only the Deliverables purchased, or with any system identified in the solicitation documents. The State shall have a worldwide, nonexclusive, non-sublicensable license to use such software and/or documentation for its internal use. The State may make and install copies of the software to support the authorized level of use. Provided, however that if the hardware is inoperable, the software may be copied for temporary use on other hardware. The State shall promptly affix to any such copy the same proprietary and copyright notices affixed to the original. The State may make one copy of the software for archival, back-up or disaster recovery purposes. The

license set forth in this Paragraph shall terminate immediately upon the State's discontinuance of the use of all equipment on which the software is installed. The software may be transferred to another party only with the transfer of the hardware. If the hardware is transferred, the State shall i) destroy all software copies made by the State, ii) deliver the original or any replacement copies of the software to the transferee, and iii) notify the transferee that title and ownership of the software and the applicable patent, trademark, copyright, and other intellectual property rights shall remain with Vendor, or Vendor's licensors. The State shall not disassemble, decompile, reverse engineer, modify, or prepare derivative works of the embedded software, unless permitted under the solicitation documents.

2) LICENSE GRANT FOR APPLICATION SOFTWARE, (COTS): This paragraph recites the scope of license granted, if not superseded by a mutually agreed and separate licensing agreement, as follows:

- a) Vendor grants to the State, its Agencies and lawful customers a non-exclusive, non-transferable and non-sublicensable license to use, in object code format, Vendor's software identified in the solicitation documents, Vendor's Statement of Work (SOW), or an Exhibit thereto executed by the parties ("Software"), subject to the restrictions set forth therein, such as the authorized computer system, the data source type(s), the number of target instance(s) and the installation site. Use of the Software shall be limited to the data processing and computing needs of the State, its Agencies and lawful customers. This license shall be perpetual or for the term of the contract (pick one, delete the other), unless terminated as provided herein. The State agrees not to distribute, sell, sublicense or otherwise transfer copies of the Software or any portion thereof. For purposes of this Agreement, a State Entity shall be defined as any department or agency of the State of North Carolina, which is controlled by or under common control of the State or who is a lawful customer of the State pursuant to Article 3D of Chapter 147 of the General Statutes.
- b) Vendor shall provide all encryption or identification codes or authorizations that are necessary or proper for the operation of the licensed Software.
- c) The State shall have the right to copy the Software, in whole or in part, for use in conducting benchmark or acceptance tests, for business recovery and disaster recovery testing or operations, for archival or emergency purposes, for back up purposes, for use in preparing derivative works if allowed by the solicitation documents or statements of work, or to replace a worn copy.
- d) The State may modify non-personal Software in machine-readable form for its internal use in merging the same with other software program material. Any action hereunder shall be subject to uses described in this paragraph, the restrictions imposed by Paragraph 3), and applicable terms in the solicitation documents or statements of work.

3) WARRANTY TERMS: Notwithstanding anything in the Agreement or Exhibit hereto to the contrary, Vendor shall assign warranties for any Deliverable supplied by a third party to the State.

- a) a) Vendor warrants that any Software or Deliverable will operate substantially in conformity with prevailing specifications as defined by the current standard documentation (except for minor defects or errors which are not material to the State) for a period of ninety (90) days from the date of acceptance ("Warranty Period"), unless otherwise specified in the Solicitation Documents. If the Software does not perform in accordance with such specifications during the Warranty Period, Vendor will use reasonable efforts to correct any deficiencies in the Software so that it will perform in accordance with or substantially in accordance with such specifications.
- b) Vendor warrants to the best of its knowledge that:
 - i) The licensed Software and associated materials do not infringe any intellectual property rights of any third party;
 - ii) There are no actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party;
 - iii) The licensed Software and associated materials do not contain any surreptitious programming codes, viruses, Trojan Horses, "back doors" or other means to facilitate or allow unauthorized access to the State's information systems.
 - iv) The licensed Software and associated materials do not contain any timer, counter, lock or similar device (other than security features specifically approved by Customer in the Specifications) that inhibits or in any way limits the Software's ability to operate.

- c) UNLESS MODIFIED BY AMENDMENT OR THE SOLICITATION DOCUMENTS, THE WARRANTIES IN THIS PARAGRAPH ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, OR WHETHER ARISING BY COURSE OF DEALING OR PERFORMANCE, CUSTOM, USAGE IN THE TRADE OR PROFESSION OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND NO OTHER REPRESENTATIONS OR WARRANTIES HAVE FORMED THE BASIS OF THE BARGAIN HEREUNDER.

4) RESTRICTIONS: State's use of the Software is restricted as follows:

- a) The license granted herein is granted to the State and to any political subdivision or other entity permitted or authorized to procure Information Technology through the Agency. If the License Grant and License Fees are based upon the number of Users, the number of Users may be increased at any time, subject to the restrictions on the maximum number of Users specified in the solicitation documents.
- b) No right is granted hereunder to use the Software to perform Services for commercial third parties (so-called "service bureau" uses). Services provided to other State Departments, Agencies or political subdivisions of the State is permitted.
- c) The State may not copy, distribute, reproduce, use, lease, rent or allow access to the Software except as explicitly permitted under this Agreement, and State will not modify, adapt, translate, prepare derivative works (unless allowed by the solicitation documents or statements of work,) decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Software or any internal data files generated by the Software.
- d) State shall not remove, obscure or alter Vendor's copyright notice, trademarks, or other proprietary rights notices affixed to or contained within the Software.

5) SUPPORT OR MAINTENANCE SERVICES: This paragraph recites the scope of maintenance Services due under the license granted, if not superseded by a separate licensing and maintenance agreement or as may be stated in the solicitation documents. Subject to payment of a Support Service or Maintenance Fee stated in the solicitation documents for the first year and all subsequent years, if requested by the State, Vendor agrees to provide the following support Services ("Support Services") for the current version and one previous version of the Software commencing upon delivery of the Software:

- a) **Error Correction:** If the error conditions reported by the State pursuant to the General Terms and Conditions are not corrected in a timely manner, the State may request a replacement copy of the licensed Software from Vendor. In such event, Vendor shall then deliver a replacement copy, together with corrections and updates, of the licensed Software within 24 hours of the State's request at no added expense to the State.
- b) **Other Agreement:** This Paragraph 5 may be superseded by written mutual agreement provided that: Support and maintenance Services shall be fully described in such a separate agreement annexed hereto and incorporated herein
- c) **Temporary Extension of License:** If any licensed Software or CPU/computing system on which the Software is installed fails to operate or malfunctions, the term of the license granted shall be temporarily extended to another CPU selected by the State and continue until the earlier of:
 - i) Return of the inoperative CPU to full operation, or
 - ii) Termination of the license.
- d) **Encryption Code:** Vendor shall provide any temporary encryption code or authorization necessary or proper for operation of the licensed Software under the foregoing temporary license. The State will provide notice by expedient means, whether by telephone, e-mail or facsimile of any failure under this paragraph. On receipt of such notice, Vendor shall issue any temporary encryption code or authorization to the State within twenty-four (24) hours; unless otherwise agreed.
- e) **Updates:** Vendor shall provide to the State, at no additional charge, all new releases and bug fixes (collectively referred to as "Updates") for any Software Deliverable developed or published by Vendor and made generally available to its other customers at no additional charge. All such Updates shall be a part of the Program and Documentation and, as such, be governed by the provisions of the Agreement.

- f) **Telephone Assistance:** Vendor shall provide the State with telephone access to technical support engineers for assistance in the proper installation and use of the Software, and to report and resolve Software problems, during normal business hours, 8:00 AM - 5:00 PM Eastern Time, Monday-Friday. Vendor shall respond to the telephone requests for Program maintenance service, within four (4) hours or eight (8) hours or next business day, etc. *(edit this time to what you want your response time to be)*, for calls made at any time
- 6) **STATE PROPERTY AND INTANGIBLES RIGHTS:** The parties acknowledge and agree that the State shall own all right, title and interest in and to the copyright in any and all software, technical information, specifications, drawings, records, documentation, data and other work products first originated and prepared by the Vendor for delivery to the State (the "Deliverables"). To the extent that any Vendor Technology is contained in any of the Deliverables, 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 Deliverables for the State's internal business purposes. 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 to non-confidential Deliverables first originated and prepared by the Vendor for delivery 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"). (Reserve if not needed)

- 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

- ☐ Public
- ☐ Partnership
- ☐ Subsidiary
- ☐ 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 1st 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

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:

ATTACHMENT D: COST FORM

This tables serves as a summary of the costs addressed in Section 4.1 – Offer Costs.

Vendors must fill in the table(s) below and provide on a separate sheet a detailed itemization of all costs in accordance with Section 4.1.

Travel expenses must be included where appropriate in accordance with paragraph 12) Travel Expenses in Attachment B. Also, shipping fees cannot be a standalone cost line item per the State Terms and Conditions. Shipping is to be FOB Destination. See Clause 27 of Attachment B for further details.

Understanding that this may be a multi-year project, enter the cost of each module in the contract year during which the functionality is expected to be deployed. For deployments beyond year 3, please provide the cumulative estimates in the Cumulative Remaining Costs column.

ITEM	DESCRIPTION	COST							
		YEAR 1		YEAR 2		YEAR 3		Cumulative Remaining Costs	
1	Software License(s)								
2	Implementation by deliverable. This must include costs related to your company's approach to cybersecurity, technical expertise, imaging, learning management, and support (as described in section 3.5 Business and Technical Specification) and the development of the related design for each deliverable. See Section 3.6 Application Specification and Summaries of this RFP for more information.	Required Functionality	Optional Functionality	Required Functionality	Optional Functionality	Required Functionality	Optional Functionality	Required Functionality	Optional Functionality
	Geocode – 3.6.1								
	Election Setup – 3.6.2								
	VoterScan – 3.6.3								
	VoterView – 3.6.4								
	Report Manager – 3.6.5								
	Election Reporting – 3.6.6								
	SOSA System Manager – 3.6.7								
	Provisional Voting – 3.6.8								
	Petition Checking – 3.6.9								
	Ballot Styles – 3.6.10								
	Board of Elections Reporting Tool – 3.6.11								
3	Technical Support								
4	Other Solution Costs: must be defined in detail								
5	OPTIONAL services or functionalities – may or may not be purchased by the State Optional Value Added Services or Functionalities not critical to the Solution's performance and not included in the table above. These costs must be itemized in detail.								
	Offer Cost by Year								
	Total Offer 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 - DISCLOSURE STATEMENT

In accordance with the Statewide Information Security Manual (SISM), the State restricts the location of information systems that receive, process, store, or transmit State and Federal data to the United States which includes the following areas: US States, US Territories, US Embassies, and US Military installations (stateside or overseas). This restriction applies to the Vendor and to any subcontractors engaged to provide Services under this Agreement or with access to State Data. The Vendor must ensure that its subcontractor agreements contain the same restrictions and will be responsible for monitoring and enforcing subcontractor compliance at all times.

Pursuant to N.C.G.S. §143B-1361(b), the Vendor must complete and return this Disclosure Statement Attachment F with its solicitation response. The Vendor may attach additional pages to its response if needed. The State of North Carolina will evaluate Disclosure Statement Attachments for additional risks, costs, and other factors associated with its service prior to making an award for any such Vendor's offer. The Vendor must provide the following information in its bid response:

- a. The location of work performed under a state contract by the Vendor, any subcontractors, employees, or other persons performing the contract and whether any of this work will be performed outside the United States.

Click here to enter text.

- b. The corporate structure and location of corporate employees and activities of the Vendor, its affiliates or any other subcontractors.

Click here to enter text.

- c. Vendor agrees to provide notice of the relocation of the Vendor, employees of the Vendor, subcontractors of the Vendor, or other persons performing Services under a state contract outside of the United States in the event such relocation occurs during the contract term.

Click here to enter text.

- d. Vendor agrees that any Vendor or subcontractor providing call or contact center Services to the State of North Carolina shall disclose to inbound callers the location from which the call or contact center Services are being provided.

Click here to enter text.

- e. Will any work under this contract be performed outside the United States?

☐

YES

☐

NO

The use of resources or workers located outside the United States is a critical security exception that must be escalated to the State Chief Information Officer for review pursuant to N.C.G.S. §143B-1376(c) and §143B-1320(c). These critical security exceptions are approved only in rare and extenuating circumstances. Vendor should account for this when preparing its response.

ATTACHMENT G: REFERENCES

The Vendor shall provide three (3) references of customers utilizing the proposed solution fully implemented in a setting similar to this solicitation's scope of work. References within like North Carolina communities / industries are encouraged.

The Vendor should have implemented the respective proposed service within the last three (3) years. Customer references whose business processes and data needs are similar to those performed by the Agency needing this solution in terms of functionality, complexity, and transaction volume are encouraged.

For each reference, the Vendor shall provide the following information:

- a. Customer name.
- b. Customer address.
- c. Current telephone number of a customer employee most familiar with the offered solution implementation.
- d. Customer email address
- e. Time period over which each offered solution implementation was completed.
- f. Brief summary of the offered solution implementation.
- g. List of offered solution products installed and operational.
- h. Number of vendor or technical staff supporting, maintaining and managing the offered solution
- i. Number of end users supported by the offered solution.
- j. Number of sites supported by the offered solution.

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
BALANCE SHEET DATA			
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)			
INCOME STATEMENT DATA			
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			
STATEMENT OF CASH FLOWS			
a. Cash Flow provided by Operating Activities			
b. Capital Expenditures (property, plant, equipment)			