

STATE OF NORTH CAROLINA Department of Environment and Natural Resources Division of Marine Fisheries	REQUEST FOR PROPOSAL NO. 16-006095
	Bids will be publicly opened: January 30, 2015 at 2:00 PM at 217 West Jones Street, Raleigh, NC 27603
	Contract Type: Open Market Solicitation
Refer <u>ALL</u> Inquiries to: Wanda Andrews Telephone No. 919-707-8538	Date Issued: December 18, 2014 Commodity Number: 920-39 Commodity: Processing System Services
E-Mail: wanda.andrews@ncdenr.gov	Using Agency Name: NC DENR DMF
(See page 2 for delivery instructions)	Agency Requisition No. RQ18177138

OFFER AND ACCEPTANCE: This solicitation advertises the State's needs for the services and/or goods described herein. The State seeks proposals comprising competitive bids offering to sell the services and/or goods described in this solicitation. All proposals and responses received shall be treated as offers to contract. The State's acceptance of any proposal must be demonstrated by execution of the acceptance found below, and any subsequent Request for Best and Final Offer, if issued. Acceptance shall create a contract having an order of precedence among terms as follows: Special terms and conditions specific to this Request For Proposal (RFP), Specifications of the solicitation documents, except as amended, the North Carolina Information Technology Procurement Office General Terms and Conditions for Goods and Related Services, the North Carolina Office of Information Technology Supplemental Terms and Conditions for Software and Services, if any, Best and Final Offers, if any and the awarded Vendor's proposal.

EXECUTION: In compliance with this Request for Proposal, and subject to all the conditions herein, the undersigned offers and agrees to furnish any or all services or goods upon which prices are bid, at the price(s) offered herein, within the time specified herein. By executing this bid, I certify that this bid is submitted competitively and without collusion.

Failure to execute/sign bid prior to submittal shall render bid invalid. Late bids are not acceptable.

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

Offer valid for **ninety (90) days** from date of bid opening unless otherwise stated here: _____ days

ACCEPTANCE OF BID: If any or all parts of this bid are accepted, an authorized representative of NC DENR shall affix their signature hereto and this document and the provisions of the special terms and conditions specific to this RFP, the specifications, and the State's General Terms and Conditions shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful Vendor(s).

FOR NC DENR USE ONLY

Offer accepted and contract awarded this ____ day of _____, 20__, as indicated on attached certification,

by _____ (Authorized representative of NCDENR).

DELIVERY INSTRUCTIONS: Vendor must deliver one (1) **signed original** and three (3) **copies** of the Proposal to Issuing Agency in a sealed package with Company Name and RFP Number clearly marked on the front. **Vendor must return all the pages of this solicitation in their response.** Vendor must also submit two (2) **signed, executed electronic copy** of its proposal on USB Flash Drive or read-only CD/DVD(s). The files should not be password-protected and should be capable of being copied to other media.

Address envelope and insert bid number as shown below. **Please note that the US Postal Service does not deliver any mail (US Postal Express, Certified, Priority, Overnight, etc.) on a set delivery schedule to this Office. It is the responsibility of the Vendor to have the bid in this Office by the specified time and date of opening.**

DELIVER TO:

BID NUMBER: 16-006095

Department of Environment and Natural Resources

Attn: Wanda Andrews

217 West Jones Street, Suite 5422M

Raleigh, NC 27603-1605

Sealed bids, subject to the conditions made a part hereof, will be received at: NC Department of Environment and Natural Resources, 217 W. Jones Street, Suite 5422M, Raleigh, NC 27603-1605 until 2:00pm Eastern Standard Time on the day of opening and then opened, for furnishing and delivering the services as described herein. Proposals for this RFP must be submitted in a sealed package with the Execution of Proposal signed and dated by an official authorized to bind the Vendor's firm. Failure to return a signed execution of proposal shall result in disqualification. All proposals must comply with Section VI, Proposal Content and Organization.

Proposals will not be accepted by electronic means. This RFP is available electronically at <https://www.ips.state.nc.us/ips/>. All inquiries regarding the RFP requirements are to be addressed to the contact person listed on Page One.

DIGITAL IMAGING: The State will digitize the Vendor's response if not received electronically, and any awarded contract together with associated contract documents. This electronic copy shall be a preservation record, and serve as the official record of this solicitation with the same force and effect as the original written documents comprising such record. Any printout or other output readable by sight shown to reflect such record accurately is an "original."

Written questions concerning this RFP will be received until **January 9, 2015 at 1:00 pm Eastern Standard Time**. They must be sent via e-mail to: wanda.andrews@ncdenr.gov. Please insert **"Questions ITS-16-006095"** as the subject for the email. The questions are to be submitted in the following format:

Citation	Vendor Question	The State's Response
Bid Section, Page Number		

The State will prepare responses to all written questions submitted, and post an addendum to the Interactive Purchasing System (IPS) <https://www.ips.state.nc.us/ips/>. Oral answers are not binding on the State.

Vendor contact regarding this RFP with anyone other than Wanda Andrews may be grounds for rejection of said Vendor's offer.

The following links are provided containing additional information regarding NCDMF and its mission:

<http://portal.ncdenr.org/web/mf/home>

Addendum to RFP: If a pre-bid 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 will be posted to the Interactive Purchasing System (IPS), <https://www.ips.state.nc.us/ips/>, and shall become an Addendum to this RFP.

Vendors' questions posed orally at any pre-bid conference must be reduced to writing by the Vendor and provided to the Purchasing Officer as directed by said Officer.

Critical updated information may be included in these Addenda. It is important that all Vendors bidding on this proposal periodically check the State website for any and all Addenda that may be issued prior to the bid opening date.

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 requirements 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 requirement 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.

NOTICE TO VENDORS: The State may, but will not be required to evaluate or consider any additional terms and conditions submitted with a Bidder's response. This applies to any language appearing in or attached to the document as part of the Bidder's response. By execution and delivery of this Invitation for Bids and response(s), the Bidder agrees that any

additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect unless such are specifically accepted by the State.

LATE PROPOSALS: Regardless of cause, late proposals will not be accepted and will automatically be disqualified from further consideration. It shall be the Vendor's sole risk to ensure delivery at the designated office by the designated time. Late proposals will not be opened and may be returned to the Vendor at the expense of the Vendor or destroyed if requested.

VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM: Vendor Link NC allows Vendors to electronically register with the State to receive electronic notification of current procurement opportunities for goods and services available on the Interactive Purchasing System at the following web site: <https://www.ips.state.nc.us/ips>

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I. Introduction

The following links are provided containing additional information regarding NCDMF and its mission:

<http://portal.ncdenr.org/web/mf/home>

Commercial Fishing License Application, Information and Instructions – this does not include all licenses and permit applications, but provides an example on the types of data captured and provided by the customer. It includes a few permits and the shellfish lease application.

<http://portal.ncdenr.org/web/mf/commercial-fishing-license-information>

Trip Ticket Program – provides an overview of the Trip Ticket program

<http://portal.ncdenr.org/web/mf/46>

The Purpose of this RFP and any resulting contract awards is to solicit proposals for the implementation of Business Process Management Suite (BPMS) architecture to modernize and replace the North Carolina Division of Marine Fisheries (NCDMF) Fisheries Information Network (FIN) application.

FIN is a software application (FIN client) that supports the core functions of the NCDMF mission of sustaining marine and estuarine fisheries and habitats for the benefit and health of the people of North Carolina. FIN provides for the sale of new licenses, issuing permits, managing commercial fishing landings data (trip tickets), managing lease and franchise data, recording violation data, incorporating license data issued by the Wildlife Resource Commission, and tracking submerged lands claims. FIN is a modular program written in Microsoft Visual Basic 5.0 with a SQL Server 2008 backend. All FIN module functionality revolves around the participant module. The participant module contains identification and demographic information (including contact and address information) for businesses and individuals that interact with NCDMF. The participant information is the foundation to facilitate the following NCDMF core functions with the public:

- Commercial and for-hire fishing license sales at five (5) locations throughout eastern North Carolina
- Commercial, recreational and for-hire permit issuance
 - Issuable permits
 - Reviewable permits
 - Compliance tracking
- Shellfish lease and franchise
 - Issuance
 - Production reporting

- Fish dealer reporting
 - Compliance tracking
 - Trip ticket management
 - Submittal tracking
 - Trip ticket data entry (commercial fishing landings)
 - Electronic trip ticket data importing
 - Quota monitoring and logbook reporting
 - Data export processes
- Marine patrol violation tracking
 - Citations, warnings, notice of violations, civil penalties
 - Court hearing tracking
 - Suspensions and revocations
- Incorporation of recreational commercial gear license sales from the Wildlife Resource Commission
- Submerged lands
 - Claim resolution tracking for ownership of submerged land parcels

Vendors must offer a BPMS solution for replacement of the FIN application. The Vendor must interface with existing data (existing SQL server 2008 server and schema) and plan for maintaining the integrity/accuracy of the data.

The preferred strategy is to develop the new system to replace the old system as one deployment event to production. However, depending on the final project schedule time to complete execution and build for the entire system, a strategy may be developed to deploy incrementally according to phases prioritized by Marine Fisheries.

The current system uses an n-tier application design, and adhered to the State Architecture that was in effect at the time (1999).

Legacy FIN System and need for replacement:

The existing legacy FIN system can no longer be supported on existing technology. FIN went live on July 1, 1999. This system had a projected lifespan of seven (7) years.

In 2006, implementation of the legacy FIN System on Windows 2003 Servers resulted in a failure of the business objects on the server-side of the system. This problem was corrected only due to expertise with C++ and voluntary assistance of developers via Microsoft forums. In 2010, it was necessary to enhance workstations using Windows 7 with support for XP Mode to run the FIN client without error. Additional restrictions to printer connections were required. As the FIN Client under Windows 7 is used more widely, more issues are being discovered that did not occur in previous desktop operating systems.

- The primary driver for FIN upgrade to BPMS architecture is:
 - Windows XP mainstream support ended on April 14, 2009
 - Windows XP extended support ended on April 08, 2014
 - Visual Basic 5 is no longer supported
 - MQSeries V5.2 is no longer supported
- The current FIN system is operating on antiquated, unsupported technology
- Updates to the FIN system are required due to regulatory updates. The development software for the system is no longer supported by the vendor. Each recompile of the FIN system with any type of enhancement incurs a huge risk of failure.
- The problem exists because the system has not been updated since its inception and implementation and has been operational long past its expected life span.
- Impacts on the NCDMF:
 - Lack of ability to respond to requests for enhancements in a timely fashion.
 - Lack of functionality as technology continues to move beyond the system.
 - Lack of support due to age of system and technology.
 - Potential loss of revenue, inability to perform core NCDMF functions if the system fails.
- Due to the age of the system and the substantial risk of catastrophic failure this system needs to be upgraded as soon as possible.

FIN General Information:

- The system went live July 1st, 1999 and had a seven (7) year life expectancy.
- Listed as a mission critical system for purposes of disaster recovery
- Support is Monday through Friday from 8am to 5pm for all functional areas except Marine Patrol which uses the system 24 hours X 7 days a week

- Eighteen (18) types of fishing licenses, twenty six (26) types of fishery permits and three (3) types of shellfish leases
- Seventy four thousand three hundred sixty eight (74,368) fishery violations (fishery citations (misdemeanors and felonies), warnings, license/permit suspensions and license/permit revocations, civil penalties, notice of violations)
- Four hundred eighty five thousand six hundred thirty four (485,634) product holding records (licenses, leases, and permits)
- Eleven million eight hundred ten thousand three hundred eighty (11,810,380) Trip ticket (ticket detail) records
- SQL Server Database size 8.5GB
- NCDMF has six (6) geographic locations with usage as shown below (# users):

Location	# users
NCDMF Headquarters – Morehead City	59
Central District Office – Morehead City	5
Wilmington	5
Manteo	5
Washington	8
Elizabeth City	2

Additional Information:

- Products issued that initiate interactions with NCDMF for the duration of the product:
 - Fish dealer license – Initial trip ticket training, monthly submittals, requests from NCDMF for supplies (FIN label generation), warning letters for deviating from procedures (FIN generated Microsoft Word merge)
 - Licenses authorizing fishermen to sell catch to fish dealers – must provide fish dealers with trip information to be recorded on trip tickets
 - Standard Commercial Fishing License (SCFL)
 - Retired Standard Commercial Fishing License (RSCFL)
 - NC resident shellfish
 - Land or sell
 - Tournament
 - Quota monitoring permits – Daily landing reports required during season
 - Striped bass dealer
 - Flounder dealer
 - River herring dealer
 - Black sea bass north of Cape Hatteras dealer

- Spiney dog fish dealer
- Permits monitoring activity
 - Estuarine gill net permit coordinator accesses database to obtain contacts to arrange NCDMF Observers trips
 - Reviewable permits that require interactions before and after issuance – FIN tracks application and process history
 - Pound net permits – application, review, public comment, officer inspection of the site. After issuance compliance activities – annual officer site location verification (FIN process history)
 - Scientific and educational collection permit – application, review. After issuance – update collectors as needed.
 - Coastal recreational exemption permit
- Violations
 - Warnings, citations, notice of violations – court hearings disposition results tracked in FIN
 - Suspensions / revocations
 - FIN tracks process – Notification (FIN-generated notification letters), penalty start date (officer confiscation of products), penalty end date, return of products
 - FIN participant screen generates alerts (yellow/red icon) for license clerks. The application provides the ability to view details of the alert to determine severity (all products or notice of violation for specific permit) and evaluate how to proceed.
- FIN License Renewal Mail Program (LRMP). Another process that occurs once per year in March is the license renewal mail program process. Staff uses a separate application to perform this task.
 - Purpose is to send renewals to participants that have renewed by mail in the previous year. All other participants up for renewal are sent a post card indicating they can receive their renewal by mail upon request. There is no obligation to renew by mail.
 - This is a very small application separate from the FIN client but using the same technology as the client
 - LRMP application is only used by a small group of license clerks at the NCDMF headquarters office
 - Output is proof of purchase for products (only ones issued by license clerks) up for renewal, along with a summary sheet of costs
 - Products are printed by staff so output is ready to mail
 - Clerks use the LRMP to select a range of participants to print to control print volume for any given print job

- License supervisors assign groups of participants to different clerks to process entire list and mail
- Mailing Labels use same list but printed separately using crystal reports
- Approximately two thousand (2,000) of ten thousand (10,000) participants renew licenses and permits by mail

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.

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

Section II. Bidding Information

A. Instructions to Vendors

Additional acronyms, definitions and abbreviations may be included in the text of the RFP.

- 1) Proposals submitted electronically, or via facsimile (FAX) machine will not be accepted.
- 2) EXECUTION: Failure to sign under EXECUTION section will render proposal invalid.
- 3) TIME FOR CONSIDERATION: Unless otherwise indicated on the first page of this document, Vendor's offer must be valid for ninety (90) days from the date of proposal opening
- 4) FAILURE TO MEET PROPOSAL REQUIREMENTS: While it is not anticipated that the awarded Vendor will fail to meet the proposal requirements, if such should occur, the right is reserved to further evaluate the responses to this RFP and then to recommend an award to the next Vendor response that represents the best interest of the State.
- 5) PROMPT PAYMENT DISCOUNTS: Vendors are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it will not be considered in the award of the contract except as a factor to aid in resolving cases of identical prices.
- 6) MISCELLANEOUS: Masculine pronouns shall be read to include feminine pronouns and the singular of any word or phrase shall be read to include the plural and vice versa.
- 7) VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM: Vendor Link NC allows Vendors to electronically register with the State to receive electronic notification of current procurement opportunities for goods and services available on the Interactive Purchasing System at the following web site:
<https://www.ips.state.nc.us/IPS/Vendor/Vndrmess.asp>
- 8) ORGANIZATION: Vendors are directed to carefully review Section VII, herein, General Terms and Conditions, and fully comply with the content and organizational requirements therein. If a Vendor has objections to specific terms and conditions, the Vendor should specifically identify the objection as provided in RFP Section VI, item 4, Errata and Exceptions.

- 9) **E-PROCUREMENT:** **This is an e-procurement solicitation.** See Section VII, paragraphs #47 and 48 of the attached Information Technology Terms and Conditions for Goods and Related Services. The Terms and Conditions made part of this solicitation contain language necessary for the implementation of North Carolina's statewide e-procurement initiative. It is the Vendor's responsibility to read these terms and conditions carefully and to consider them in preparing the offer. By signature, the Vendor acknowledges acceptance of all terms and conditions including those related to e-procurement.
- a. General information on the e-procurement service can be found at <http://eprourement.nc.gov/>
 - b. Within two (2) days after notification of award of a contract, vendor must register in NC E-Procurement @ Your Service at the following web site: <http://eprourement.nc.gov/Vendor.html>
 - c. As of the RFP submittal date, the Vendor must be current on all e-Procurement fees. If the Vendor is not current on all e-Procurement fees, the State may disqualify the Vendor from participation in this RFP.
- 10) **E-VERIFY:** Pursuant to N.C.G.S. 147-33.95(g), 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. 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.

B. General Conditions for Proposals

- 1) **Definitions, Acronyms and Abbreviations.** Generally, see 9 NCAC 06A.0102 for definitions. The following are additional defined terms:
- a) **The State:** Is the State of North Carolina, and its Agencies.
 - b) **ITS:** Office of Information Technology Services.
 - c) **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).
 - d) **Vendor:** Company, firm, corporation, partnership, individual, etc., submitting a response to a solicitation.
 - e) **Open Market Contract:** A contract for the purchase of goods or services not covered by a term, technical, or convenience contract.
 - f) **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.
 - g) **Reasonable, Necessary or Proper:** as used herein shall be interpreted solely by the State of North Carolina.
 - h) **RFP:** Request for Proposal
 - i) **FIN:** Fisheries Information Network
 - j) **BPM:** A discipline involving any combination of modeling, automation, execution, control, measurement and optimization of business activity flows, in support of enterprise goals, spanning systems, employees, customers and partners within and beyond the enterprise boundaries.
 - k) **PMS and iBPMS:** Business Process Management Suite. A business process management suite (BPMS) is a tool for designing, implementing and improving an activity or set of

activities that will accomplish a specific organizational goal. BPMS software provides continuous improvement for business processes by providing process discovery and modeling tools, business rules engines, workflow engines, simulation and testing tools. Business process professionals, business analysts, developers and IT workers can all utilize a BPMS to effectively improve organizational productivity, efficiency, and effectiveness. Recently, the market has seen the emergence of intelligent BPM suites (iBPMSs), which support sophisticated business operations such as real-time analytics, complex event processing (CEP) and business activity monitoring (BAM). iBPMSs also typically include enhanced mobile, social and collaborative capabilities.

Business process management suites (BPMSs) are the leading application infrastructures to support BPM projects and programs. A BPMS supports the entire process improvement life cycle — from process discovery, definition and design to implementation, monitoring and analysis, and through ongoing optimization. Its model-driven approach enables business and IT professionals to work together more collaboratively throughout the life cycle than is possible with other approaches to solution delivery.

- l) **NCDMF:** North Carolina Division of Marine Fisheries
- 2) **Read and Review.** It shall be the Vendor's responsibility to read this entire document, review all enclosures and attachments, and comply with all 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 listed on the front page of the solicitation. Questions and clarifications must be submitted in writing and may be submitted by personal delivery, letter, fax or e-mail within the time period identified hereinabove.
- 3) **Vendor Responsibility.** The Vendor(s) will be responsible for investigating and recommending the most effective and efficient technical configuration. Consideration shall be given to the stability of the proposed configuration and the future direction of technology, confirming to the best of their ability that the recommended approach is not short lived. Several approaches may exist for hardware configurations, other products and any software. The Vendor(s) 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.
- 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 Agency contact or procurement officer named on Page 2 above 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.
- 5) **Insufficiency of References to Other Data.** **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) **Conflict of Interest.** Applicable standards may include: N.C.G.S. §§ 147-33.100, 14-234, 133-32. The Vendor shall not knowingly employ, during the period of this contract, 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.

- 7) 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 **one** (1) year, and will expire upon the anniversary date of the effective date unless otherwise stated in the Notice of Award, or unless terminated earlier. The State retains the option to extend this contract for **two** (2) additional **one** (1) year periods at its sole discretion.
- 8) Effective Date. This solicitation, including any Exhibits, or any resulting contract or amendment shall not become effective nor bind the State until the appropriate State purchasing authority/official or Agency official has signed the document(s), contract or amendment; the effective award date has been completed on the document(s), by the State purchasing official, and that date has arrived or passed. The State shall not be responsible for reimbursing Vendor for goods provided nor services rendered prior to the appropriate signatures and the arrival of the effective date of the Contract. No contract shall be binding on the State until an encumbrance of funds has been made for payment of the sums due under the contract.
- 9) Recycling and Source Reduction. It is the policy of this State to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective. We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of goods purchased. However, no sacrifice in quality of packaging will be acceptable. The Vendor remains responsible for providing packaging that will protect the commodity and contain it for its intended use. Vendors are strongly urged to bring to the attention of the purchasers at the Statewide IT Procurement Office those products or packaging they offer which have recycled content and that are recyclable.
- 10) Historically Underutilized Businesses. Pursuant to General Statute 143-48, 143-128.4 and Executive Order #13, 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. Additional information may be found at: <http://www.doa.nc.gov/hub/>
- 11) Clarifications/Interpretations. Any and all amendments or revisions to this document shall be made by written addendum from the IT Procurement Office. Vendors may call the purchasing agent listed on the first page of this document to obtain a verbal status of contract award. If either a unit price or extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.
- 12) 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 proposals received in response to this document;

- e) waive any undesirable, inconsequential, or inconsistent provisions of this document, which would not have significant impact on any proposal;
- f) if the response to this solicitation demonstrate a lack of competition, negotiate directly with one (1) 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 responses are deficient, determine whether Wavier of Competition criteria may be satisfied, and if so, negotiate with one or more Vendors.

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

Alternate bids must be clearly marked
“Alternate Bid for ‘name of Vendor’”

and numbered sequentially with the first bid if separate proposals are submitted.

This legend must be in bold type of not less than 14-point type on the face of the bid, and on the text of the alternative proposal.

14) Co-Vendors. Vendors may submit offers as partnerships or other business entities. Such partners or other “co-Vendors”, if any, shall disclose their relationship fully to the State. The State shall not be obligated to contract with more than one Vendor. Any requirements for references, financial statements or similar reference materials shall mean **all** such partners or co-Vendors.

15) Submitting a Proposal. Each Vendor submitting a proposal warrants and represents that:

- a) The proposal is based upon an understanding of the specifications and requirements described in this RFP.
- b) Costs for developing and delivering responses to this RFP and any subsequent presentations of the proposal 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 proposals.

16) 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 Vendor resulting from this RFP process.

17) A proposal may not be unilaterally modified by the Vendor for a **ninety (90)** -day period following the delivery of the proposal, or of any best and final offer.

18) Non-Responsive Bids: Vendor bid responses 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 bid does not constitute a binding offer”,

- “This bid 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 bid 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.

C. Evaluation Process

- 1) "Best Value" procurement methods are authorized by N.C.G.S. §143-135.9. The award decision is made based on multiple factors, including: total cost of ownership, meaning the cost of acquiring, operating, maintaining, and supporting a product or service over its projected lifetime; the evaluated technical merit of the Vendor's proposal; the Vendor's past performance; and the evaluated probability of performing the requirements stated in the solicitation on time, with high quality, and in a manner that accomplishes the stated business objectives and maintains industry standards compliance. The intent of "Best Value" Information Technology procurement is to enable Vendors to offer and the Agency to select the most appropriate solution to meet the business objectives defined in the solicitation and to keep all parties focused on the desired outcome of a procurement.
- 2) Source selection. A trade-off/ranking method of source selection will be utilized in this procurement to allow the State to award the contract 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.
 - i. 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 proposal.
 - ii. Evaluation Process Explanation. State Agency employees will review all proposals. All proposals will be initially classified as being responsive or non-responsive. If a proposal is found non-responsive, it will not be considered further. All responsive proposals will be evaluated based on stated evaluation criteria. Any references in an answer to another location in the RFP materials or Proposal shall have specific page numbers and sections stated in the reference.
 - iii. To be eligible for consideration, a Vendor must meet the intent of all requirements. Compliance with the intent of all requirements will be determined by the State. Responses that do not meet the full intent of all requirements listed in this RFP may be deemed deficient. Further, a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

- iv. Vendors are advised that the State is not obligated to ask for, or accept after the closing date for receipt of proposal, data that is essential for a complete and thorough evaluation of the proposal.
- 3) **Best and Final Offers (BAFO)**. If negotiations or subsequent offers are solicited, the Vendors shall provide BAFOs in response. Failure to deliver a BAFO when requested shall disqualify the non-responsive Vendor from further consideration. The State may establish a competitive range based upon evaluations of proposals, and request BAFOs from the Vendors within this range; e.g. "Finalist Vendors". The State will evaluate BAFOs and add any additional weight to the Vendors' respective proposal. Additional weight awarded from oral presentations and product demonstrations during negotiations, if any, will be added to the previously assigned weights to attain their final ranking.
- 4) **Evaluation Method**.

The evaluation criteria listed below will be used to evaluate proposals for the purpose of ranking them in relative position based on how fully each proposal meets the objectives defined in the solicitation. The State reserves the right to adjust evaluation results based upon structured demonstrations, if any, provided by Vendors comprising the competitive range. Solutions that meet desired functionality/specification may receive a higher ranking.

Although technical factors are of paramount consideration in the award of the contract, cost/price is also important to the overall contract award decision. All evaluation factors other than cost or price, when combined, are significantly more important than cost or price. In any case, the State reserves the right to make award(s) to that vendor whose proposal provides the best overall value to the State.

Vendors are advised that award will be made to that Vendor whose proposal provides the combination of features that offers the best or greatest overall value to the State. The State is more concerned with obtaining performance capability superiority rather than lowest overall cost. **However**, the State will not make an award at a significantly higher overall cost to the State to achieve only slightly superior performance. The State may use information that is publically available for the evaluation of the Vendor's proposal. Information may be from sources such as Gartner, Forrester, or similar leading industry analyst reports.

The evaluation will be based on the demonstrated capabilities of the prospective Vendors in relation to the needs of the project as set forth in the RFP. The merits of each proposal will be evaluated carefully. Each proposal must document the feasibility of successful implementation of requirements of the RFP. Vendors must submit information sufficient to evaluate their proposals based on the detailed criteria contained in the RFP and will be evaluated based on priority based factors shown below.

Relative Order of Importance	Evaluation Criteria
1	Technical Merit of Proposed Solution
2	Vendor Experience and References
3	Cost

- i. **Overall Technical Merit of proposed solution, including but not limited to:**
- a. **Vendor presentation and demonstration** – Presentation of the solution followed by a demonstration of functionality of Vendor's solution with respect to the State's business and technical objectives and RFP specifications.
 - b. **Quality Assurance** – Testing of web applications process and methodology; types and length of testing; defect tracking process; avoidance of security vulnerabilities; Quality Assurance Plan from the Vendor to ensure quality of product, process and project. What plan and/or activities will the Vendor employ that are necessary to provide adequate confidence that the product and/or service will meet the given requirements.
 - c. **Architectural merit of proposed solution** - Consistency and compatibility of the proposed solution with the State's business and technical objectives and RFP specifications. Adherence to State technical and security architecture requirements.
 - i. **Architecture** – This sub-factor will be used to evaluate the Vendor's adaptable, open, robust and scalable technical framework.
(<http://www.ncsta.gov>)
 - ii. **Information Security** – This sub-factor will be used to evaluate the Vendor's approach to managing roles and permissions and protecting application and data integrity.
(<https://www.scio.nc.gov/mission/itPoliciesStandards.aspx>)
 - iii. **Minimal coding required** – This sub-factor will be used to evaluate the Vendor's ability to show that minimal coding will be required to produce core functionality desired.
 - d. **Data Management** – This factor will be used to evaluate the Vendor's approach to interfacing with existing data (existing SQL server 2008 server and schema) and the plan for maintaining the integrity/accuracy of the data
 - i. **Integrity/accuracy** – This sub-factor will be used to evaluate Vendor's ability to maintain accurate and non-corrupted data.
 - ii. **Data integration** – This sub-factor will be used to evaluate the Vendor's plan for facilitating the integration of existing records into the new BPMS and FIN system.
 - iii. **Interfaces** – The sub-factor will be used to evaluate the Vendor's ability to interface with Fish Dealer Trip Tickets submission via FTP, mainframe, data exports to .csv format files and other custom inputs/outputs.
 - e. **Support and Maintenance** – Technical and end user support. Maintenance planning, business continuity and on-going training. This includes on-going support for previous versions of product.
 - f. **Project Management Methodology** – Project Management approach, user adoption, training. Vendor's approach to planning, executing and controlling the

implementation of the project. The Vendor will be evaluated on its risk management plan, quality plan, milestones, resourcing and general approach to project management. The Vendor will be evaluated on use of PMBOK® standards (available at www.pmi.org).

- i. **Solution implementation** - This sub-factor will be used to evaluate the Vendor's methodology and plan for the entire project, including schedule, milestones, resourcing, etc. The total scheduled time from Vendor start to product acceptance will be assessed in this section. This sub-factor will also assess the Vendor's ability to implement the desired solution using Agile methodologies and practices. This sub-factor will also assess Vendors' proposed implementation and transition plan from development all the way to production.
 - ii. **User adoption** – This sub-factor will be used to evaluate the Vendor's approach to providing a successful user adoption strategy which will facilitate the rapid adoption of the new BPMS and FIN replacement system.
 - iii. **Training** – This sub-factor will be used to evaluate the Vendor's approach to training multiple users with various roles and permissions, as well as system administrators with both training services and documentation. Describe the training venue and methodologies (train the trainer, etc.). The State prefers on-site training at Marine Fisheries Headquarters, Morehead City, NC.
- ii. **Vendor experience and references** – Vendor experience in providing solutions similar to those required by the RFP in the public sector; strength of references of customers with projects similar in size and scope to the that required by this RFP. Past performance, key personnel and financial stability.
- a. **Key Personnel** – This sub-factor includes quality of key personnel with demonstrated expertise in the defined areas. Vendors must provide brief biographical narratives and professional qualifications of key professionals proposed for this project. Key personnel include the Vendor's principal dedicated account manager and dedicated training manager for the State project and their direct reports.
 - b. **Past Performance** – This sub-factor will include corporate stability and proven ability to deliver quality projects of similar scope and complexity on time and within budget.
 - i. The Past Performance Factor evaluation will assess the relevance and breadth of the Vendor's experience and the quality of the Vendor's past performance including performance of subcontractors utilized. The State is seeking to determine whether the Vendor and proposed subcontractor have experience that will enhance technical capability to perform and whether the Vendor consistently delivers quality services in a timely and

cost effective manner. In evaluating past performance, NCDMF will only take into consideration the relevant experience and past performance assessments from the Vendor's customers.

- ii. References – Vendor must provide three (3) names of clients/customers for whom it has developed BPM projects with comparable size, scope and complexity within the public sector. References will be used to evaluate the vendor in this area. Vendor must provide past performance information and corresponding contact information (name, phone number, email address) in the following matrix.

Comparable Client	Services and Solutions provided	Point-of-Contact and Contact Info (who works on the solution day-to-day)
Name of Company: Description of company: Number of active BPMS users:	Brief description of services and solutions provided.	Name: Work Address: E-Mail Address: Phone Number:

- iii. Past performance will be evaluated based on the information provided. NCDMF may contact comparable clients of finalist Vendors to further verify scope, complexity and success of project. In the event a bidder's reference is non-responsive, the Vendor may be notified to follow-up with the reference and/or provide an alternative reference.
- iv. Vendor reviews will be evaluated from professional 3rd party sources such as Gartner, Forrester, etc. assessing BPMS or iBPMS vendors. The State prefers an industry recognized BPMS vendor.
- c. Financial stability of the Vendor must be demonstrated as requested in Section IV.7.
- iii. **Cost** - Total cost to the State for acquiring, operating, maintaining and supporting the solution over its projected lifetime.

5) Presentation/Demo: At the state's discretion a presentation/demonstration may be used to evaluate and verify all of the factors and sub-factors in the evaluation criteria. The presentation and demo will follow a predetermined agenda, which will be sent to all finalists in the competition. One of the factors in the demonstration will be showing how the proposed BPMS

solution supports the State of North Carolina BPMS needs. The NCDMF goal is to send the detailed agenda out five (5) business days in advance of the presentation/demonstration.

6) Site Visits: NCDMF reserves the right to conduct potential Vendor site visits prior to the award and will give the Vendor no less than forty eight (48) hours' notice of an impending site visit.

7) Vendors may be disqualified from any evaluation or award if Vendor or any key personnel proposed, has previously failed to perform satisfactorily during the performance of any contract with the State, or has violated rules or statutes applicable to public bidding in the State.

8) The Procurement Manager will make every effort to adhere to the following schedule:

Action	Responsibility	Date
Issue of RFP	Wanda Andrews	12/18/2014
Deadline To Submit Questions	Potential Vendors	01/09/2015
Response to Written Questions/RFP Addenda	Department of Marine Fisheries	01/16/2015
Submission of Proposal	Vendor(s)	01/30/2015
Proposal Evaluation	Evaluation Committee	02/02/2015
Selection of Finalists	Evaluation Committee	00/00/00
Oral Presentation and/or Product Demonstrations by Finalists (optional)	Vendors	00/00/00
Negotiations (optional)	Evaluation Committee designees and selected Vendor(s)	
Best and Final Offers from Finalists (optional)	Vendors	00/00/00
Site Visit (optional)	Evaluation Committee	00/00/00
Contract Award	Statewide IT Procurement Office	4/1/2015
Protest Deadline	Vendors	15 days after award

9) Award of Contract. Qualified proposals will be evaluated and acceptance may be made in accordance with Adjectival evaluation. The responsible Vendor whose proposal is most advantageous to the State, taking into consideration the evaluation factors herein, will be recommended for contract award. Unless otherwise specified by the State or the Vendor, the State reserves the right to accept any item or group of items on a multi-item proposal.

10) The State has implemented links to the Interactive Purchasing System (IPS) that allow the public to retrieve proposal award information electronically from our Internet web site: <https://www.ips.state.nc.us/ips/>. Click on the IPS BIDS icon, click on Search for BID, enter the Agency prefix-proposal number RFP 16-006095 and then search. This information may not be available for several weeks dependent upon the complexity of the acquisition and the length of time to complete the evaluation process.

11) 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 this office within fifteen (15) calendar days from the date of the contract award and provide specific reasons and any supporting documentation for the protest. All protests will be governed by Title 9, Office of Information Technology Services, Subchapter 06B Sections .1102 - .1121.

Section III. Technical Specifications

1) Technical Requirements/Specifications:

Technical Requirements/Specifications means, as used herein, a specification that documents the requirements of a system or system component. It typically includes functional requirements, performance requirements, interface requirements, design requirements, development standards, maintenance standards, or similar terms. (See Requirement Specifications below)

i. Any deviation from specifications indicated herein must be clearly identified as an exception and listed on a separate page labeled "Exceptions to Specification"; otherwise, it will be considered that items offered are in strict compliance with these specifications, and Vendor will be held responsible if the items are not. 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 equivalent goods may be rejected; and if offered, must be supported by independent documentary verification of equivalence to the specified goods.

2) Enterprise Licensing: In offering the best value to the State, Vendors are encouraged to leverage the State's existing resources and license agreements. The agreements may be viewed at: <http://www.its.nc.gov/serviceCatalog/licenseAgreements.aspx>

3) Equivalent Items: Whenever a material, article or piece of equipment is identified in the specification(s) by reference to a manufacturer's or Vendor's name, trade name, catalog

number or similar identifier, it is intended to establish a standard, unless otherwise specifically stated as a brand specific requirement (no substitute items will be allowed). Any material, article or piece of equipment of other manufacturers or Vendors shall perform to the standard of the item named. Equivalent bids must be accompanied by sufficient descriptive literature and/or specifications to provide for detailed comparison. Samples of items, if required, shall be furnished at no expense to the State and if not destroyed in the evaluation process, may be returned to the Vendor at the Vendor's expense.

4) All bids shall include specifications and technical literature sufficient to allow the State to determine that the equipment meets all requirements. This technical literature will be the primary source for bid evaluation. If a requirement is not addressed in the technical literature it must be supported by additional documentation and included with the bid. Bid responses without sufficient technical documentation may be rejected.

5) Requirements

Please be advised that requirements must be met for your proposal to be evaluated. If you answer NO, indicating you cannot meet a requirement; your proposal will not be considered or evaluated for this bid.

Provide the necessary response and/or documentation to demonstrate your ability to meet each requirement.

#	Category	Required Specifications	Vendor must describe how the specification shall be met
1	Overall	The Vendor must have a Business Process Management Suite (BPMS) product that will be used to design, develop, test and deploy the FIN replacement solution and provide the technology to enable NCDMF BPM. If the Vendor submitting the proposal is not the product owner, provide the company name of the BPMS product you will use to provide the solution proposed.	
2	Database	The proposed solution will integrate with the existing FIN SQL 2008 SQL server database without requiring schema changes or data migration except as reviewed and approved by NCDMF IT.	

#	Category	Required Specifications	Vendor must describe how the specification shall be met
3	Identity Management	NCID: The proposed solution must externalize identity management and will be required to utilize the North Carolina Identity Service (NCID) for the identity management and authentication related functions performed by this application. NCID is the State's enterprise identity management (IDM) service. It is operated by the North Carolina Office of Information Technology Services. Access to NCID will be accomplished through the use of the DENR Common Authentication Service (CAS) web application.	
4	Architectural Standards	The proposed solution must meet State architectural standards. Enterprise Architecture Standards: The North Carolina Statewide Technical Architecture is located at the following website: (http://www.ncsta.gov). This provides a series of domain documents describing objectives, principles and best practices for the development, implementation, and integration of business systems. Agencies and Vendors should refer to these Architecture documents when implementing and maintaining enterprise applications and/or infrastructure.	

6) Specifications

Vendors must indicate whether they can meet the specification items listed below (yes or no) and for those areas where the Vendor answers yes, provide a response that documents how their solution will meet or exceed the specification. Where specific information is requested, provide requested information in your response.

The State prefers a response format where the Vendor states the specification referencing the Area, #, Category, Specification, and indicates whether they can meet the specification (Yes or No) and where the Vendor indicates Yes then provide a narrative response that explains how the overall proposed solution will meet or exceed the specification. Continue to the next specification and repeat.

a. Project Management Methodology and Plan Specifications

#	Category	Specification	Vendor must describe how the specification shall be met
1	Project Management Approach	Vendor must provide project management planning and execution based on industry best practices and the Project Management Institute (PMI) for the term of the contract.	
2	Project Management Approach	Vendor must provide a project plan per PMI best practices for the BPMS project in response to this RFP, and include major milestones, activities and resources.	
3	User Adoption	Vendor must provide business process consulting, coaching and mentoring services and strategies to aid in user adoption of the solution.	
4	Training NCDMF user	Vendor must develop a detailed training plan (time, dates and duration) for implementation targeting approximately 50 end-users to be conducted in Morehead City, NC. NCDMF will use a "train the trainer" approach.	

#	Category	Specification	Vendor must describe how the specification shall be met
5	Training NCDMF Developers	Vendor must develop a detailed training plan for NCDMF developers to be productive members of the development team at FIN build start. To be productive, personnel must receive adequate training in the BPM architecture and product to begin modeling processes within the tool and create functional code each iteration. The expectation is that NCDMF Developers will gradually expand their role and will be performing the majority of the development by project end thus ensuring knowledge transfer and proficiency. Please explain your strategy for ensuring this occurs.	
6	Training System Administrators	Vendor must provide timely training information and training for any BPM system or version upgrades.	
7	Training Agile	Vendor must develop a detailed plan for the NCDMF development staff to transition to agile development methodology. Vendor must provide support and coaching to ensure team success during the FIN development process. Please discuss your approach.	
8	Training	Vendor must develop, supply and deliver all training materials for approximately fifty (50) users in various roles prior to system Go Live.	

b. Corporate Quality/Experience Specifications

#	Category	Specifications	Vendor must describe how the specification shall be met
1	Corporate Quality	Provide physical address of the following: a) Call center(s)/Help Desk(s) b) Corporate Headquarters	
2	Corporate Quality	Vendor must be prepared to provide a demonstration of proposed solution and a brief corporate presentation, based on a detailed agenda to be provided by NCDMF. The presentation should contain an overview of IT technical functionality, user interface functionality, and the strategy for technical implementation of the system.	
3	Key Personnel	Vendor must provide resumes of potential key personnel expected to support the BPMS project and FIN implementation.	
4	Corporate Quality	Vendor must provide the State of North Carolina with three (3) comparable references from existing customers from a public entity with a minimum of one hundred (100) active BPMS users.	
5	Past Performance	Vendor must provide evidence, past performance and references (for primary Vendor, proposed subcontractors and proposed partners) to verify corporate quality and suitability to perform the scope of work under this RFP.	
6	Quality	The Vendor will utilize quality processes and activities necessary to provide adequate confidence that the product and/or service will meet the given requirements. Explain quality processes and activities.	

c. Support and Maintenance Specifications

#	Category	Specifications	Vendor must describe how the specification shall be met
1	Support and Maintenance	Vendor must have existing customer support forums.	
2	Support and Maintenance	Vendor must provide periodic or as requested Technical communication to NCDMF related to system performance and system availability.	
3	Support and Maintenance	Vendor must describe procedures for updating the underlying platform and how release notes are shared.	
4	Support and Maintenance	As a BPMS provider, Vendor must provide the plan for providing simultaneous upgrades to all customers.	
5	Support and Maintenance	Vendor must have processes for how client input is collected, evaluated, prioritized and incorporated into updated versions of the solution.	
6	Support and Maintenance	Vendor must describe and continue to exercise a comprehensive Business Continuity / Disaster Recovery plan to ensure that NC data can be recovered quickly and completely in the event of a business interruption. Must meet the following Recovery Point Objective – 12 to 24 hours and the following Recovery Time objective – 24 to 72 hours.	
7	Support and Maintenance	Vendor must provide an Escalation Plan for medium and high risk issues that are unresolved in the agreed upon timeframe. Risk ranking will be defined at the start of the project. Describe your process for managing issues throughout the project lifecycle.	
8	Support and Maintenance	The Vendor must provide a report that includes metrics of all issues within a specific timeframe, how many issues currently open, resolved, how soon were they were resolved, and were they escalated.	

#	Category	Specifications	Vendor must describe how the specification shall be met
9	Support and Maintenance	Vendor must participate in a bi-weekly Vendor / NCDMF meeting to discuss current issues & updates or as requested for the duration of the contract. Meetings may be by teleconference.	
10	Support and Maintenance	Vendor must provide technical support to the solution including help desk services and online help features. Please describe your support structure.	
11	Support and Maintenance	The BPMS solution must support presentation of content and function to a variety of client devices including but not limited to – smartphone, tablet, laptop, and workstation.	
12	Support and Maintenance	Vendor must provide 24 x 7 call center support for administrator users.	
13	Support and Maintenance	The system must allow for testing business rules and system functionality that trigger on dates in the future or the past. Describe how your system handles these scenarios.	

d. Technical Approach Specifications

#	Category	Specifications	Vendor must describe how the specification shall be met
1	Architecture	<p>Vendor must provide cost breakdown and totals for two (2) architectural options:</p> <ol style="list-style-type: none"> 1) Cloud based 2) Solution installed in its entirety on servers located at a state facility. Since the Vendor cannot provide hardware or hosting costs for the internal organization, it is expected that the vendor provide detailed server specifications needed to host their solution if deployed on-site on virtual servers. Provide similar requirements for any other hardware, software or infrastructure that would be required to host your solution on-site. The State will then determine overall costs based on internal hardware and hosting costs. Vendor must identify and describe all differences, restrictions or limitations of its proposed solution with respect to operation, licensing, support, certification, warranties, and any other details that may impact its proposed solution, when hosted in a virtualized environment 	
2	Quality Assurance and Testing	<p>Vendor must cooperate with NCDMF's use of the State's Software Quality Assurance testing service for load testing and functional testing of specific critical services. See http://www.its.nc.gov/serviceCatalog/sqa/default.aspx for details. Vendor may propose alternative equivalent testing services known to be compatible with Vendor's systems as an optional cost line item. If proposed, any such services must be available to the State at the quoted costs for the duration of the software maintenance period</p>	
3	Architecture	Vendor must provide a BPMS solution with a single common code base for all customers.	

#	Category	Specifications	Vendor must describe how the specification shall be met
4	Architecture	Vendor must describe how they handle backward compatibility with previous versions of their product	
5	Architecture	The State desires the flexibility to host Vendor's proposed solution in a virtualized environment, should it determine that virtualized hosting for such solution would be more economical or efficient. The State currently utilizes server virtualization technologies including VMware, Solaris and SystemZ. Vendor must state whether its solution operates in a virtualized environment. .	
6	Architecture	The State desires the flexibility to host the Vendor's solution in the "cloud". Any "cloud" solution must include a proposal to synchronize transactions against NCDMF Data with the official database of record, currently operating on SQL Server 2008 (to be upgraded to SQL Server 2012) on state-owned equipment, or integrate the state-owned data server as the system's database server. The State is also open to other configurations which would meet State security and architecture guidelines based on the Vendor's experience. Vendor must identify and describe all differences, restrictions or limitations of its proposed solution with respect to operation, licensing, support, certification, warranties, and any other details that may impact its proposed solution, when hosted in a cloud based environment. Please explain how you would approach connectivity and performance with such a configuration.	
7	Architecture	Vendor must provide system security that adheres to the Statewide information security manual https://www.scio.nc.gov/mission/itPoliciesStandards.aspx	

#	Category	Specifications	Vendor must describe how the specification shall be met
8	Architecture	Vendor must provide the proposed end-user infrastructure requirements necessary for service delivery for supported desktop and mobile systems, including but not limited to minimal device specifications, required software, and minimal network capability.	
9	Architecture	The solution must be ADA/Section 508 compliant and compatible with screen readers such as JAWS software for the visually impaired.	
10	Architecture	The solution must have available performance metrics that measure the end-user performance experience, and how they are recorded and reported by the system	
11	Architecture	Planned maintenance must not occur during the critical operational window of Monday through Friday, 7am to 7pm	
12	Architecture	The solution must be scalable to support current and future usage. It is the intention of the State to potentially utilize the solution at the Department level (DENR) and at the State level. Please describe your approach/plan to keep the solution scalable.	
13	Architecture	The Vendor must specify the maximum number of users that the solution can support in proposed architecture.	
14	Architecture	The Vendor must agree to NOT charge the State for the deployment of unused or unnecessary features or services.	
15	Information Security	The solution must be secure and protect confidential information as per Statewide Information Security Manual https://www.scio.nc.gov/mission/itPoliciesStandards.aspx . Vendor must describe how data is securely captured, stored, and accessed in a restricted fashion. Please provide the physical location of data centers where our applications might reside in a cloud based solution.	

#	Category	Specifications	Vendor must describe how the specification shall be met
16	Information Security	Per the security manual Vendor must host NC applications in a high security environment.	
17	Information Security	When accessing the site using a web browser, technologies must be in place to protect information to ensure the data is safe, secure, and available only to authorized users of the system.	
18	Information Security	The solution must allow administrators direct control over activating, deactivating/archiving and reactivating user's accounts.	
19	Information Security	The solution must use functional role-based authorization to control levels of access to information.	
20	Information Security	The solution must allow access to reports as determined by user's role.	
21	Information Security	The solution must integrate with the DENR CAS (Common Authentication Service) for secure authentication using NCID	
22	Information Security	The solution must authorize users to specific roles or system functions.	

e. Functionality/User Experience Specifications

#	Category	Specifications	Vendor must describe how the specification shall be met
1	User Experience	The Vendor must demonstrate ease of use through descriptive screen shots in the proposal.	
2	User Experience	The Vendor must provide a dedicated toll free number for Call center support.	

#	Category	Specifications	Vendor must describe how the specification shall be met
3	Tracking and Reporting	Vendor must provide reporting capabilities. In addition to standard reports, specialized capabilities must include pre-designed reports for printing proof of purchase and license receipts using custom stock selected from printers with multiple trays, label printing, and merge with MS Office document templates.	
4	Tracking and Reporting	Solution must allow extraction of raw data from the system for in-house analysis and reporting adhering to State Security Guidelines. Strategy must include a solution for extracting large volumes of data on demand as presently available to NCDMF analysts. Analysis tools used include SAS, Excel, "R" and Crystal Reports.	
5	Tracking and Reporting	Reports must be viewable prior to printing as currently implemented in the existing system.	
6	Tracking and Reporting	Vendor must recreate existing reports in FIN with current technology solutions that adhere to State Security Guidelines. Existing Crystal Reports and stored procedures will be made available to evaluate for re-use. Describe approach.	
7	Tracking and Reporting	Vendor must describe the proposed system auditing and related capabilities.	

f. Specification Functionality

Vendors must indicate whether they can meet the specifications. If a Vendor answers yes, provide a response that documents how the solution will meet or exceed the specification. Where specific information is requested, provide requested information in your response.

Please indicate whether the specification's functionality is an included core component of your BPMS software architecture when initially installed. If the specification's functionality is available through the installation of an additional integrated software component/module/application please provide a detailed description of how this additional component integrates with your core BPMS software.

The State prefers a response format where the Vendor states the specification referencing the Area, #, Category, Specification, and indicates whether they can meet the specification (Yes or No) and where the Vendor indicates Yes then provide a narrative response that documents how the proposed solution will meet or exceed the specification. Indicate

whether the specification item is a core component of your BPMS software architecture when installed. Continue to the next specification and repeat.

#	Category	Specification Functionality	Is functionality available out of the box?	Vendor must describe how the functionality shall be met
1	Reporting	Reports must allow for user variable input to generate ad hoc and structured reports		
2	All	There must be a minimum of three (3) environments: Development/Testing, Quality Assurance and Production		
3	All	All operations that change data must be atomic. The data must never be visible to users in a partially-altered state, nor may an update that fails in part alter the data		
4	All	Performance requirements: Scalable to five hundred (500) concurrent users		
5	Performance	Transactions during double key entry must complete within .1 second 90% of the time		
6	Performance	Transactions during sales must complete within .5 second 90% of the time.		
7	All	The system must maintain audit trails of all transactions		
8	WRC ALVIN Search	Search and View data in the ALVIN reporting server		

#	Category	Specification Functionality	Is functionality available out of the box?	Vendor must describe how the functionality shall be met
9	Participant	Requirements for the Participant module must include the functions of View, Modify, Search, and Add new, and Inactivate existing Participants. There are also a set of Participant reports required, and there is a visual warning on the main Participant screen that informs the clerk if a user has an active product Suspension and/or Revocation in place; a button allows a report of the Suspension and/or Revocation details to be generated.		
10	Participant	The system must provide the following Reports: NCDMF Participant		
11	License	The system must provide license management functions to include New, View, Modify, Renew, Replace, Print without Fee, Process History, Modify Status, Assign, Transfer, Move, Reports and Admin (Run Closeout Reports)		
12	License	The system must provide Reports: Product Mail Renewal License Receipts (special media) Proof of Purchase Terminal Closeout Report Historical Closeout Report		

#	Category	Specification Functionality	Is functionality available out of the box?	Vendor must describe how the functionality shall be met
13	License Product List	<p><u>The system must provide license management for the following</u></p> <p><u>Active Licenses</u></p> <ol style="list-style-type: none"> 1. Blocks of ten (10) Day Coastal Recreational Fishing Licenses 2. Commercial Fishing Vessel Registration 3. Fish Dealer License 4. License to Land Flounder from Atlantic Ocean 5. Blanket For-Hire Captain's Coastal Recreational Fishing License 6. Land or Sell License 7. Ocean Pier License 8. Spotter Plane License 9. Retired Standard Commercial Fishing License 10. Standard Commercial Fishing License 11. Application for SCFL 12. NC Resident Shellfish License without SCFL 13. Recreational Fishing Tournament License 14. Blanket For-Hire Vessel Coastal Recreational Fishing License 15. Non-Blanket For-Hire Vessel License 16. Recreational Commercial Gear License (View Only) 		
14	Future Licenses	None identified at present		

#	Category	Specification Functionality	Is functionality available out of the box?	Vendor must describe how the functionality shall be met
15	Inactive licenses	<p><u>The system must provide for Inactive Licenses management</u> (View / Edit required)</p> <ol style="list-style-type: none"> 1) For Hire Blanket Coastal Recreational License 2) Ocean Fishing Pier Blanket Coastal Recreational Fishing License 3) Endorsement to Sell License 4) Individual Shellfish License 5) Vessel License 6) Vessel Crab 7) Individual Shellfish Only 8) Blue Crab License 9) Menhaden License for Non-Resident without SCFL 10) Atlantic Ocean American Shad Dealer Permit 		
16	WRC Data Transmission to FIN	<p>The system must provide for Recreational Commercial Gear License data import and processing data from WRC ALVIN data transmission</p> <ol style="list-style-type: none"> 1) Automated import and processing 2) Interface to process unassigned data 		
17	Permit	<p>The system must provide for permit management functions including New, View, Modify, Renew, Replace, Print without Fee, Process History, Modify Status, Transfer, Move, Reports</p>		

#	Category	Specification Functionality	Is functionality available out of the box?	Vendor must describe how the functionality shall be met
18	Permit	The system must produce the following permit Reports: Product Mail Renewal, Permit Receipts, Permit Renewal Report, Pound Net Permit by Marine Patrol Officer, Pound Net Permit Overview Report, Pound Net Location Report, Mechanical Permit Overview Report and Overdue Permit Applications		

#	Category	Specification Functionality	Is functionality available out of the box?	Vendor must describe how the functionality shall be met
19	Permit Products List	<p><u>The system must provide permit management for Issuable Permits</u> (No review process)</p> <ol style="list-style-type: none"> 1) Atlantic Ocean Striped Bass Commercial Gear Permit 2) Blue Crab Shedding Permit 3) Spiny Dogfish Dealer Permit 4) Atlantic Ocean Flounder Dealer Permit 5) Horseshoe Crab Biomedical Use Permit 6) Monkfish Large Mesh Gill Net Permit 7) Black Sea Bass North of Cape Hatteras Dealer Permit 8) ASMA River Herring Dealer Permit 9) Striped Bass Dealer Permit 10) Permit to Waive the Requirement to Use TEDs in Atlantic Ocean 11) Permit to Transplant Oysters from Seed Management Areas 		

#	Category	Specification Functionality	Is functionality available out of the box?	Vendor must describe how the functionality shall be met
20	Permit Product List (Continued)	<p><u>The system must provide for permit management of Reviewable Permits</u> (all reviewable permits require submission of an application, and a review process resulting in approve/deny)</p> <ol style="list-style-type: none"> 1. Aquaculture Collection Permit 2. Aquaculture Operation Permit 3. Coastal Recreational Fishing License Exemption Permit 4. Permit to Introduce or Transfer Marine and Estuarine Organisms into the Coastal Waters of the State of North Carolina 5. Permit for Use Mechanical Gear for Harvesting Oysters and Clams on Shellfish Lease and Franchises 6. Pound Net Permit 7. Mechanical Harvest of Rangia Clams Permit 8. Scientific or Educational Collection Permit 9. Permit to Transplant Oysters from Seed Management Areas 10. Under Dock Oyster Culture Permit 		
21	Permit Future	<p><u>Issuable Permit Projects to be completed 2014/2015</u></p> <ol style="list-style-type: none"> 1. Gill Net Permit (Aug/2014) 2. Certified Shellfish Dealer Permit (2015) 3. Certified Cooked Crustacea Dealer Permit (2015) 		

#	Category	Specification Functionality	Is functionality available out of the box?	Vendor must describe how the functionality shall be met
22	Inactive permits	<u>The system must provide for management of Inactive Permits</u> (View / Edit required) 1. For-Hire Fishing Permit 2. Pamlico Sound Gill Net Restricted Area Permit 3. Permit for Use Mechanical Gear for Harvesting Clams on Shellfish Lease and Franchises 4. Atlantic Ocean American Shad Dealer Permit		
23	License / Issuable Permit	The system must provide for the permit reports License and Issuable Permit Mail Renewal Printing Process – cover letter, renewal product application pages, summary page, information pages		
24	Lease – Franchise	The system must provide for lease management functions including New, View, Modify, Lease Sharing, Franchise Sharing, Renew, Replace, Print without Fee, Process History, Production Reporting, Modify Status, Transfer, Move, Reports		
25	Lease – Franchise	The system must provide the following lease Reports: Product Utilization Report, Product Report Utilization Report by County, Lease/Franchise Holders Reporting 25 Bushels, Lease/Franchise Holders Reporting 100 Bushels, Seed Planted Report, Lease/Franchise Renewal Report, Lease/Franchise Holding Report		

#	Category	Specification Functionality	Is functionality available out of the box?	Vendor must describe how the functionality shall be met
26	Lease – Franchise Product Listing	<p><u>The system must provide for lease management of Reviewable Lease / Franchise</u> (all leases require submission of an application, and a review process resulting in approve/deny)</p> <ol style="list-style-type: none"> 1. Shellfish Lease - Shellfish Bottom 2. Shellfish Lease - Water Column 3. Shellfish Lease - Research Demonstration 4. Shellfish Franchise 		
27	Memo	The system must provide the ability to manage notes functions including New and Move; important memos need to be displayed at the top of the list		
28	Trip Ticket	The system must provide trip ticket functionality including Modify Ticket, Verify Ticket, New, Search, Upload, Import, Admin, Reports		
29	Trip Ticket	Application must provide double-key entry capability for Trip Ticket entry as defined by NCDMF		
30	Trip Ticket	Application must provide for rapid key entry entirely from the numeric keypad.		
31	Trip Ticket	The system must provide the following Reports: Dealer, Submittals, License and Vessel, Letters, Errors and Warnings, Labels and Mail Merge, Tickets		

#	Category	Specification Functionality	Is functionality available out of the box?	Vendor must describe how the functionality shall be met
32	Trip Ticket Price Sheet	The system must have trip ticket price sheet functionality including Search, New, Verify, Modify, Delete, Export		
33	Violation	The system must provide the functionality for New Warning, New Citation, Search Warning, Search Citation, Issue Suspension, Enter & search (Notice of Violations) NOVs and civil penalties and enter, modify and delete permit and license suspensions & revocations and Issue Revocation, Search Suspension, Search Revocation, Reimbursement and Reports (Upon the issuance of suspensions or revocations a cover letter should be generated in Word)		
34	Violation	The system must provide the following violation Reports: Certified Arrest Record by Participant (opens in Microsoft Word)		
35	Marine Patrol	The system must produce the Telecommunications Participant Report		
36	Submerged Lands	The system must provide submerged lands management functions of Search, New, Modify and Void		
37	Employee	The system must provide functionality for employee management including New and Search and the ability to assign prosecution numbers to Marine Patrol Officers		

#	Category	Specification Functionality	Is functionality available out of the box?	Vendor must describe how the functionality shall be met
38	Admin	The system must provide administrative functions to manage Users and Security		
39	Settings	The system must allow for Viewing Settings: Navigation Bar, Tool Bar and Status Bar. Setting Alert Frequency (in hz) and Duration (milliseconds). Setting Validation Frequency (in hz) and Duration (milliseconds).		
40	Inputs to system	<p>The system must provide for the following inputs to the system</p> <ul style="list-style-type: none"> • Direct entry from internal staff • Automated / scheduled import of Trip Ticket data transmission files from Fish Dealers from FTP site • Input from WRC Alvin system (RCGL data) 		

#	Category	Specification Functionality	Is functionality available out of the box?	Vendor must describe how the functionality shall be met
41	System Outputs	<p>The system must provide for the following system output</p> <ol style="list-style-type: none"> 1. General printing 2. Special media printing for decals, licenses, proof of purchase 3. Special media printing for hard plastic card licenses 4. CSV output (Product Holding table) to Mainframe 5. Crystal reports 6. Datasets to Excel and SAS for analysis 7. Cash drawer closeout reports 8. Proof of Purchase 9. License, Permit and Lease/Franchise printouts 10. Trip Ticket data uploaded to mainframe 11. Output to Microsoft Word (Word merge) (V2010 and V2013 and eventually Office 365), allow edit in Word and print (view before printing) 12. Ad Hoc reporting with user entered variables 13. Developed reports with user entered variables 		

#	Category	Specification Functionality	Is functionality available out of the box?	Vendor must describe how the functionality shall be met
42	Fin Code Admin Utility	<p>The system must provide administrative functions to manage the following</p> <ol style="list-style-type: none"> 1. Gear code 2. Water body code 3. Species code 4. Water body – species association 5. Water body – gear association 6. Gear-species association 		
43	FIN Code Admin Reports	<p>The system must provide the following reports</p> <ol style="list-style-type: none"> 1. Gear code list 2. Species NCDMF code only 3. Species group code only 4. Trip ticket species code 5. Water body code (Trip Ticket) 6. Water body code 7. Gear <-> Species assoc by gear 8. Gear <-> Species assoc by species 9. Gear <-> Water Body Assoc By Gear 10. Gear <-> Water Body Assoc By Water Body 11. Water Body <-> Species Assoc By Species 12. Water Body <-> Species Assoc By Water Body 		
44	Violation code maintenance	<p>The system must provide violation code maintenance functionality for</p> <ul style="list-style-type: none"> • Violation code • Property seized item code 		

#	Category	Specification Functionality	Is functionality available out of the box?	Vendor must describe how the functionality shall be met
45	Violation code maintenance reports	The system must produce the following violation reports <ul style="list-style-type: none"> • Violation code • Property seized item code 		
46	Product Transactions	The solution must handle multiple year types: calendar, fiscal and birthday		
47	Product Transactions	The system must be capable of selling products for multiple product years in the same transaction		
48	Product Transactions	The system must be able to assess different fees for the same product, depending upon product year or time period.		
49	Product Transactions	The solution must maintain a history of all products for a participant.		
50	Product Transaction	The system must be able to issue multiple products in single financial transaction		
51	Product Transaction	Voided products must be properly accounted for on close-out reports		
52	Product Transaction	The system must be capable of receiving payment by cash or check		

g. BPMS Functionality

#	Category	Functionality	Is functionality available out of the box?	Vendor must describe how the specification shall be met
1	Process Design	The system must have a common graphical user interface – including drag/drop and other productivity boosts – for all elements of the process: workflows, rules, UI, and data management.		
2	Process Design	There must be built-in forms management, including tabbed and flow-driven forms for complex data entry.		
3	Process Design	Users who do not understand programming languages must be able to design and implement processes.		
4	Process Design	Process designs must automatically generate executable application		
5	Process Design	There must be separation between development, user test and production environments.		
6	Process Design	Process designs can be modified on the fly without breaking process or data models.		

#	Category	Functionality	Is functionality available out of the box?	Vendor must describe how the specification shall be met
7	Process Design	Process models must include the ability to model nested processes, asynchronous processes, and split-joint workflow. There must be the ability to allow multiple people to work on a task, and to re-use previously defined processes as parts of another process.		
8	Process Design	Process Model business data objects must accurately model the data used by complex processes and interfaces, and must correctly support interactions with system interfaces and reports.		
9	Process Automation & workflow	The system must handle human-centric, system-centric, and document-centric workflows, and any combination of the three (3).		
10	Process Automation & workflow	The solution must expose processes as browser-based forms and other internet applications and components.		
11	Process Automation & workflow (Case Management)	There must be comprehensive case management including case tracking		
12	Process Automation & workflow (Case Management)	There must be comprehensive case management including case collaboration		

#	Category	Functionality	Is functionality available out of the box?	Vendor must describe how the specification shall be met
13	Process Automation & workflow (Case Management)	There must be comprehensive case management including case policy management		
14	Process Automation & workflow (Case Management)	There must be comprehensive case management including case folders and attachments		
15	Process Automation & workflow (Case Management)	There must be comprehensive case management including current and historical case audit		
16	Process Automation & workflow	There must be straight-through and exception-based processing, with features permitting minimal human intervention (once-and-done workflows)		
17	Process Automation & workflow	Solution must have Quality-of-Service (QoS) controls including escalation		
18	Process Automation & workflow	Solution must have Quality-of-Service (QoS) controls including skills-based dynamic routing		
19	Process Automation & workflow	Solution must have Quality-of-Service (QoS) controls including management over site and control		
20	Process Automation & workflow	There must be event-based processing functionality, including operation as a service with no independent User Interface		

#	Category	Functionality	Is functionality available out of the box?	Vendor must describe how the specification shall be met
21	Process Automation & workflow	There must be cooperation and incorporation of email and other desktop applications for notifications and document handling (i.e. Outlook and Microsoft Office 2010, 2013 and eventually Office 365)		
22	Process Automation & workflow	There must be document management, including the ability to access related work objects in workflow steps		
23	Enterprise Business Rules Management	There must be rules support process controls, calculations, data collection, policy overrides, and researched decisions as well as routing, validation, and simple decisions		
24	Enterprise Business Rules Management	The system must allow for trained NCDMF users to easily define and modify rules with little or no assistance from IT, including changes to inputs and results		
25	Enterprise Business Rules Management	There must be a common shared repository for rules and process, allowing consistent controls, changes, queries, and deployment		

#	Category	Functionality	Is functionality available out of the box?	Vendor must describe how the specification shall be met
26	Project and Application Management	Tools to capture requirements, tie requirements to developed elements, and monitor progress must be included in the solution		
27	Project and Application Management	There must be process simulation, analysis, test, trace, and debug tools for continuous process improvement		
28	Project and Application Management	Solution must have the ability to design and build unit tests		
29	Project and Application Management	Solution must have the ability to design and build regression tests		
30	Project and Application Management	Solution must have the ability to automatically run test suites		
31	Project and Application Management	Solution must have the ability to assist in identifying and correcting deviations from expected results		
32	Project and Application Management	The BPMS must support saving multiple versions of processes, and selection of any version for deployment (not just the latest one) in order to support testing and evaluation of variations on processes		
33	Project and Application Management	It must be possible to Incrementally change, test, and deploy processes, rules, and interfaces without impacting production availability.		

#	Category	Functionality	Is functionality available out of the box?	Vendor must describe how the specification shall be met
34	Project and Application Management	Ability to auto-generate system documentation – business rules, workflow processes, data element mapping to screens must be present in solution		
35	Process Intelligence, Monitoring & Reporting	There must be ability to monitor and alert the operators of events and activities in real time		
36	Process Intelligence, Monitoring & Reporting	Must have process monitoring, analysis and reporting functionality		
37	Process Intelligence, Monitoring & Reporting	Interactive and extensible reports, with permissions and views managed by system must be included		
38	Process Intelligence, Monitoring & Reporting	Must allow for maintenance of current and historical information on processes, work objects, applications		
39	Enterprise Integration	The system must have predefined models and/or wizards to interoperate with in-house and external systems including mainframe and other back office systems.		

#	Category	Functionality	Is functionality available out of the box?	Vendor must describe how the specification shall be met
40	Enterprise Integration	Must have transactional and operational capabilities – including rollback and compensation, availability and failover, and performance and QoS – to support a complete fulfilment backbone. Compensation is concerned with undoing steps that were already successfully completed, because their results and possibly side effects are no longer desired and need to be reversed.		
41	Enterprise Integration	Must have a well-defined, published application programming interface (API).		
42	Enterprise Integration	Must provide extensive functionality out of the box to minimize the need to develop code or use APIs		
43	Security	Must have role based security and identity management handling access controls, role-based permissions, and organization entitlements		
44	Security	Must provide for data security and privacy to meet internal and regulatory requirements		
45	System Architecture	Solution must have a service-orientated architecture		

#	Category	Functionality	Is functionality available out of the box?	Vendor must describe how the specification shall be met
46	System Architecture	Must have support for Web Services and other appropriate standards		
47	System Architecture	Must have support for Microsoft SQL server database 2008 and above		
48	System Architecture	The solution will integrate with the existing FIN SQL 2008 SQL server database without requiring schema changes or data migration except as reviewed and approved by NCDMF IT. Explain in technical terms how this will occur, and the roles/responsibilities of Vendor and NCDMF IT		
49	System Architecture	Must provide for SQL server 2008 being upgraded to SQL server 2012		
50	System Architecture	Must provide powerful object persistence services to keep everything in sync		
51	System Architecture	Must be an easy to use service-oriented business application development environment		
52	System Architecture	Must have end-to-end business process management for automation and exception handling		
53	System Architecture	The presentation services must provide contextually-aware User Interface and correspondence		

#	Category	Functionality	Is functionality available out of the box?	Vendor must describe how the specification shall be met
54	System Architecture	There must be unified business rules, case management, security, integration and management portals to process complex work without missed handoffs and botched translations		
55	System Architecture	There must be an enterprise repository that supports multiple asset types, with assets organized in multiple dimensions to foster real agility, change and re-use		
56	Security	Solution must maintain a permanent record of who updated each work item and when		
57	Security	Sensitive outgoing emails must be routed to a role before they are sent out. The second role can accept or reject (but not modify) the message.		
58	Security	Names and values of query parameters must not be visible nor accessible in browser URLs and hyperlinks		
59	Security	The Vendor must implement encryption for individual property values or for the objects of a specific class.		

#	Category	Functionality	Is functionality available out of the box?	Vendor must describe how the specification shall be met
60	Security	Solution must provide a search mechanism to help identify rules introduced to application that are potentially vulnerable to various attack vulnerabilities (SQL injection, etc.)		
61	Security	The solution must validate all free-form inputs including emails and uploaded files to assure that they are compatible with the intended purpose and do not include malicious code. When found malicious code must be isolated and reported, but not permitted to be interpreted or executed by the system. Use of third-party "virus check" programs or other validation services is permissible with agency approval of such services.		
62	Architecture	Must adhere to current industry standards related to BPMS. What industry standards do you follow (such as The Open Group Ontology Technical Standard V2.0, BPMN Business Process Modelling V2.0, OSCL, TOGAF, Business Process Framework eTom, etc.)?		
63	Architecture	The code generated by the BPMS solution must be non-proprietary		
64	Architecture	NCDMF must own all generated code		

#	Category	Functionality	Is functionality available out of the box?	Vendor must describe how the specification shall be met
65	Architecture	BPMS solution will not require special computer programming language skills to maintain, modify, and add new functionality to the core business functions		
66	Architecture	The solution must be capable of being spread across multiple physical or virtual machines such that the presentation capabilities can be separated from the business rules processing and both may be separated from data storage. The system must support the horizontal scaling with load balancers of the presentation and business rule processing environments		
67	Architecture	The solution must be capable of operation when the database and presentation layers are separated from the business processing layer by a properly-configured network firewall, and the system is separated from the client by a properly configured network firewall.		

#	Category	Functionality	Is functionality available out of the box?	Vendor must describe how the specification shall be met
68	BPM	The awarded Vendor shall develop business process flowcharts to represent key NCDMF processes, aligned with the FIN solution. These flowcharts can be standalone documentation or part of the BPMS solution if those capabilities are present in the proposed solution		

7) BPMS Functionality **DESIRED**

Vendors must indicate whether they can meet the desired functionality items listed below (yes or no) and for those areas where the Vendor answers yes, provide a response that documents how their proposed solution will meet or exceed the desired functionality. If no response is provided it will be assumed that the vendor cannot meet the desired functionality listed.

The State prefers a response format where the Vendor states the desired BPMS functionality bullet, indicates whether they can meet the functionality (Yes or No) and where the Vendor indicates Yes then provide a narrative response that documents how the proposed solution will meet the desired functionality. Continue to the next bullet and repeat.

The State desires a solution which includes:

- **Process Orchestration Engine** — This coordinates the interactions of all types of actors (people, devices and computer systems) for structured and unstructured flows, and also supports case management and dynamic processes — for example, by having a rule-driven workflow that can include predetermined process snippets, but also supporting ad hoc (unplanned or unstructured) process flows, and responses to both human- and system-initiated events. It manages short-term and long-running processes; logs changes to the state of the coordinated resources; adjusts priorities and the order of execution of process instances; terminates, updates or suspends in-flight processes; and schedules future work (processes and activities).
- **Graphical Model-Driven Composition Environment** — This provides authoring/development tools and runtime support for heterogeneous composite applications. Process flow (and, optionally, rules) must be explicit objects in the models. This supports user interface (UI) composition for building portlets, portal pages, and rich-client and mobile UIs. This covers process model validation, such as domain checks, completion checks and warnings on inconsistent patterns.
- **Content Handling** — This capability natively manages or integrates with other enterprise content management (ECM) tools to manage documents and (optionally) other types of content (such as graphical images, audio or video). It creates, reads, routes and updates content managed by third-party content repositories.
- **Human Interactions** — This supports personalized workbenches for participants (based on role, preferences, access rights and so on), and provides interactive access to tasks, content and other resources. User experience can be tailored to organization unit, role, skills and/or the individual. There is Web and multichannel support with forms, portlets and rich UIs, leveraging personalization. There is native or HTML5-based support for one or more mobile devices, collaboration capabilities to help people exchange data, and ideas about a process in a flexible, user-controlled manner.
- **Process Intelligence and Business Activity Monitoring (BAM)** — This provides active analytics via process intelligence and BAM to facilitate all of the following:
 - Continuous intelligence (including monitoring, alerting and maintaining context awareness).
 - Monitoring metrics related to processes (interactions and resources) coordinated by the tool's orchestration engine.
 - Interactive monitoring dashboards, detecting threats, opportunities and other anomalies, which raise alerts for at-risk process instances and activities.
 - Automatic trigger responses to threat and opportunity situations through messages, service calls or other interfaces.
 - Ability to log process and/or other events into a process performance warehouse/audit trail or event log.

- Data intelligence BAM, including adapters to capture events from *outside* of the iBPMS process orchestration engine. In addition, continuous analytics are also required to display key performance indicators (KPIs) and other metrics on business dashboards, and also to send alerts and trigger responses.
- On-demand analytic capabilities (that is, services that run on request to help a person, application or device make an informed decision), as well as offline tools to simulate processes, and improve process design and how the process is executed.
- **Business Rule Processing** — Software-based reasoning that infers logical consequences from a set of facts or axioms. It manages and executes rules that represent business policies. At a minimum, it must support forward chaining/deductive reasoning.
- **Connectivity** — There is support for HTTP, REST, SOAP, WSDL, and ODBC or JDBC, and usually the ability to connect to mainstream commercial off-the-shelf (COTS) applications.
- **Management and Administration** — This includes:
 - **Configuration and Management** — This includes configuring, deploying and administering the iBPMS platform and application artifacts, as well as version control in conjunction with the registry/repository, and security by application, user, role, group, department and function.
 - **Management and Monitoring** — This includes the capability to start, stop and manage the performance of processes and their associated components, as well as logging and managing audit trails.
- **Registry/Repository** — This stores and manages process-related runtime and design time metadata and artifacts. There are reporting and query (browse and search) capabilities, as well as version control (often working in conjunction with administrative tools). A holistic information model covers all essential aspects of the process but is also extensible. There are security controls on the registry/repository.

8) OPTIONAL Specifications

Please indicate whether the proposed solution can meet the optional specifications listed below (yes or no) and for those areas where the Vendor answers yes, provide a response that documents how these optional specifications will be met.

The State prefers a response format where the Vendor states the functionality referencing the Area, #, Category, specification, and indicates whether they can meet the (Yes or No) and where the Vendor indicates Yes, provide a narrative response that documents how the proposed solution will meet or exceed the specification. Continue to the next specification and repeat.

#	Category	Desired Specification	Vendor must describe how the specification shall be met
1	Trip Tickets	Web Internet interface so Fish Dealers can submit trip tickets via the web over the Internet. There are approximately eight hundred (800) fish dealers throughout the state.	
2	Web Interface	Allow NCDMF staff to remotely access solution via smart phone, tablet, laptop, etc. via the Internet	
3	BPMS	NCDMF prefers the BPMS solution to deploy a single user interface that adapts its presentation and function to a variety of client devices including but not limited to – smartphone, tablet, laptop, and workstation.	
4	Security	Data Center physical security measures such as biometric access controls, around-the-clock on-site security personnel, and video surveillance and monitoring—as well as industry-leading policies and practices, including on-site and off-site tape storage— should be in place to help assure data accessibility and disaster recovery and application security.	
5	All	All data insert, update, and delete operations should be performed using optimistic concurrency control.	
6	Availability	NCDMF prefers a solution that has 99.9% availability excluding planned maintenance.	
7	Database of Record	The State prefers the database of record reside on state infrastructure.	

9) Scope of Work

To accomplish the project objectives, NCDMF prefers a Vendor who currently has an existing BPMS (Business Process Management Suite) solution that meets the general intent of the NCDMF requirements, with some configuration to be expected

As part of the scope of work, the awarded Vendor will be required to do the following:

- a. Develop and refine a detailed project plan that is consistent with the State of North Carolina project life cycle (http://www.scio.state.nc.us/documents/docs_PortfolioManagmentInitiative/NC_PPM_Workflow.pdf) and with the NCDMF project methodology and best practices which are also consistent with industry best practices for project management, as set forth by the Project Management Institute (PMI). The Vendor must use the following project phase names in the Vendor plan, to maintain consistency with the State of NC and NCDMF

phase names: Planning & Design, Execution & Build, Implementation, and Closeout. (Please note that there is flexibility in the sequencing and naming of specific tasks.)

b. Work with the NCDMF team and extended stakeholders to refine the business processes and requirements of the State's centralized BPMS system, and document these processes and requirements. The Vendor may choose to use its staff or a third party partner to deliver these services. It is anticipated that the refining of the business processes and requirements will continue beyond the installation of the tool, as this continuation will leverage the inherent capabilities of the tool to address and respond to the additional business processes and requirements.

c. Configure and deploy the BPMS solution, per the agreed upon requirements and design documentation.

d. Provide training and knowledge transfer throughout engagement to foster user adoption of the BPMS solution and ensure that NCDMF is fully able to utilize the new capabilities. The NCDMF development team will be an integral member of the overall development team. It is NCDMF intent that the NCDMF development team will be performing the majority of the maintenance and development of the FIN system by project end to ensure knowledge transfer and lay the groundwork for the staff to maintain the system and develop new solutions using the BPM technology and rapid application development in future projects.

e. Implement the system using Agile Scrum methodology to ensure rapid deployment of the new FIN system. Ensure appropriate training and coaching throughout the development effort to ensure a successful transition to agile application development.

f. Upon receipt of notice of termination of this Agreement, the Vendor shall make reasonable best efforts to assure a smooth transition to a new Vendor, if any, by timely providing accurate records and materials to the new Vendor or, upon request, to the State, and by making personnel available to answer questions that arise, and otherwise cooperating with the NCDMF's reasonable requests. Transition services must not exceed ten thousand dollars (\$10,000).

g. Designate a Project Manager with strong communications skills, excellent project planning and execution experience, and proven skills in leading project teams to a successful solution implementation. The Vendor Project Manager will work directly with the NCDMF Core Project Team. The full Vendor team shall include personnel with skills in process and requirements facilitation and documentation; thorough knowledge of the BPMS solution from both a functionality and technical architecture standpoint; and skills to perform effective training and mentoring.

h. Provide a high-level project schedule consistent with the topics in the example shown below. An example of a timeline is shown below to provide an estimated timeline for the

BPMS project. Vendors should not feel constrained by this conceptual schedule and are encouraged to bring their own experience and insight into a proposed project plan for the BPMS project. Please also understand that these dates are subject to change until mutually agreed upon. It is expected that many of these tasks will be completed using an Agile Scrum methodology (not a “waterfall” approach).

1) Vendor begins work	Month 1
2) Refine business processes and requirements	Month 1
3) Refine project plan	Month 1
4) Create BPMS environments	Month 2
5) Configuration per State of NC requirements	Months 2 - 3
6) FIN build using Agile methodology	Months 3 - 6
7) Training	Month 7
8) Production roll-out	Month 8

i. Be available on site as needed through the completion of the BPMS project. DMF HQ in Morehead City, NC will provide adequate working space and systems when on site work is required. On site working days and hours will be defined during the planning stage with the vendor. The State does not expect the work described in this RFP to be conducted sequentially. Concurrent work on the appropriate activities and deliverables is expected where the opportunity exists to do so.

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

10) Deliverables

At a minimum, the awarded Vendor shall be responsible for developing the following project Deliverables, with acceptance of each Deliverable being the responsibility of the BPMS Project Manager and BPMS Vendor Project Manager. In developing these Deliverables, the Vendor team shall collaborate very closely with the NCDMF Core Project Team. The Vendor shall work with NCDMF to develop acceptance criteria during the Planning and Design Phase.

a. The awarded Vendor shall develop a detailed project management plan to include a detailed project schedule for implementation of the process and tool solutions. The project management plan shall include plans and procedures for risk management, quality management, change management, systems and user acceptance testing, and

resource management. (Reference should be PMI-based best practices for project management.)

b. The awarded Vendor shall develop a communications management plan that describes roles and how communication will occur within the project team and with project stakeholders. (Reference should be PMI-based best practices for project management.)

c. The awarded Vendor shall develop updated and refined requirements based on early project requirements sessions.

d. The awarded Vendor shall develop business process flowcharts to represent key NCDMF processes, aligned with the FIN solution. These flowcharts can be standalone documentation or part of the BPMS solution if those capabilities are present in the proposed solution.

e. The awarded Vendor shall develop a Technical Architecture and System Design document for the FIN replacement solution.

<http://www.ncsta.gov/systemDesignTemplate/default.aspx>

f. The awarded Vendor shall develop a training plan tailored to the State of North Carolina implementation. Training shall occur in Morehead City, NC for approximately fifty (50) users. NCDMF will utilize a “train the trainer” approach.

g. The awarded Vendor shall develop an operations and maintenance plan for ongoing support, to include procedures for customer support, ongoing system backups and NCDMF continuity/disaster recovery procedures.

h. The awarded Vendor shall provide documentation for the administrators of the BPMS solution which shall include the ability to customize features and reports within the tool.

i. The objectives for the BPMS project are to:

- Implement a BPMS solution that provides the best value to the State of North Carolina.
- Manage the implementation of the BPMS architecture in a way that mitigates risk, optimizes limited resources, and respects the available budget.
- Train developers and key personnel in Agile Scrum methodology and BPM tool use and architecture.
- Replace the legacy FIN application with a BPMS solution that has 95% of the functionality of legacy FIN. The goal is to retire legacy FIN after the new system has been accepted.
- Train key NCDMF personnel in the newly developed system.

- Deploy the new system using an agreed upon Implementation Plan that provides for transition of product from development to operational use and maintenance.
- Provide documentation that is concise, legible, traceable and accurate and easy for NCDMF staff to maintain after user acceptance:
 - System Technical Documentation and System User's Manual

Section IV. Cost Proposal

The Vendor must list and describe any applicable costs for the proposed solution, which may include the following:

1. Costs must include professional services to support the full planning and implementation of the solution, to include business process and requirements work, and training.

Total cost: This project requires a total not-to-exceed bid amount.

The Vendor must separate out onetime costs from recurring costs. The Vendor must list and describe any applicable proposal costs which may include the following:

- a) Software License fees or costs
- b) Base system software
- c) Customization required or proposed addressing specification
- d) Additional modules required or proposed addressing specifications
- e) 3rd party software, if any, required for the operation of the system
- f) Technical and user documentation
- g) Installation/integration/transition costs
- h) Training including training materials
- i) Maintenance costs, to include, per year
- j) New functionality/Future Enhancement
 - a. Web interface for Fish Dealers to submit Trip Tickets over the Internet
 - b. Full access to solution by NCDMF staff via phone, tablet, laptop and other devices via Internet or smart phone
- k) Cloud hosting recurring costs vs on-site hosting costs. The Vendor is not expected to know the hosting and hardware costs for internal on-site hosting. The Vendor should provide detailed server requirements to host their proposed solution on-site on virtual servers. Please provide any additional hardware, software or infrastructure requirements that you determine would be required if we were to host your solution on-site. The State will determine internal hardware and hosting costs to calculate total costs for comparison to a cloud based solution.
- l) Technical support/customer service, per year
- m) Other costs (describe)
- n) Unlimited phone technical support for the technical staff
- o) The cost for customization shall be detailed on an attached sheet of paper by item and cost for each base system modification.

- p) The consulting and other value added service hourly rates or costs shall be listed separately by type of service. Travel and lodging expenses, if any must be thoroughly described; and are limited by the State's General Terms and conditions for Goods and Services.

2. Vendors who propose an Alternative cost response must submit a separate document labeled "ALTERNATIVE COST RESPONSE".

Section V. Other Requirements and Special Terms

VENDOR DOCUMENTS: The terms and conditions of Vendor's standard license and/or maintenance agreement(s) applicable to Software and other Products acquired under this Agreement may apply to the extent such terms or conditions do not materially change the terms or conditions of this Agreement. In the event of any conflict between the terms or conditions of this Agreement and the Vendor's standard agreement(s), the terms or conditions of this Agreement relating to audit and records, jurisdiction, choice of law, the remedy for intellectual property infringement and the exclusive remedies and limitation of liability in Section VII herein shall apply in all cases and supersede any provisions contained in Vendor's Software licensing agreement or any other agreement. In no case shall the State be obligated under any standard license and/or maintenance agreement(s) or any other agreement to indemnify or hold harmless the Vendor, its licensors, successors or assigns.

VENDOR LICENSE AGREEMENTS(S): The terms and conditions of Vendor's License and/or maintenance agreement(s) regarding the scope of any license grant, pricing by seat, user or otherwise, standard maintenance (patches, security issues, updates, etc.) applicable to Software and Software services 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 agreement(s), the terms and conditions of this RFP relating to audit and records, jurisdiction, venue, choice of law, the remedy for intellectual property infringement and the exclusive remedies and limitation of liability herein shall apply in all cases and supersede any provisions contained in Vendor's agreement(s) or any other agreement. The State shall not be obligated under any Vendor agreement(s) to indemnify or hold harmless the Vendor, its licensors, successors or assigns or subcontractors; nor arbitrate any dispute; nor pay late fees, legal fees or other similar costs. The State objects to and shall not be required to evaluate or consider any additional terms and conditions submitted with a Bidder's response. This applies to any language appearing in the Bidder's response, or incorporated therein by reference.

VENDOR UTILIZATION OF WORKERS OUTSIDE U.S.: In accordance with N.C. G.S. § 147-33.97, the Vendor must detail in the bid response, the manner in which it intends to utilize resources or workers. 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 proposal. The Vendor shall provide the following for any proposal or actual utilization or contract performance:

- 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
- b) The corporate structure and location of corporate employees and activities of the Vendors, its affiliates or any other subcontractors
- c) 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
- d) 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

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

YES _____

NO _____

Where will services be performed: _____

RETAINAGE: NCDMF will retain ten percent (10%) of the cost of system implementation for up to six (6) months after full system implementation has been achieved. Release of retainage shall occur only when the System is operating at full functionality in a live environment and NCDMF provides written acceptance of the System. NCDMF may, in its sole discretion, release all or any portion of the retainage in advance of full System acceptance based upon Quality Assurance reviews, risk assessment and Vendor's performance. Additionally:

- a) Invoices for partial delivery of any Deliverables, or for the number of work hours expended without acceptance of the associated Deliverables, may be submitted no more frequently than monthly, shall reflect all work performed, and shall be subject to a Retainage of ten (10%) percent of the unit costs therefore.
- b) Invoicing for work performed of a continuing nature and for an identified Deliverable shall reflect the pro-rata completion of the work associated with the Deliverable reduced by any amount previously invoiced and paid and further reduced by a Retainage of ten (10%) percent of the unit costs therefore.
- c) Invoicing for unanticipated work, as described herein, shall not exceed ten (10%) of the total costs identified by the Contract, and shall be submitted in conformance with (b) above.
- d) Upon completion of a work authorization, task, or Deliverable, and acceptance by the State, Vendor shall submit an invoice for the full charges applicable reduced by the amount previously invoiced and paid.

e) Notwithstanding any other term herein, progress payments shall not exceed ninety (90%) percent of the Contract amount prior to the satisfactory completion of the Contract and acceptance of the Deliverables by the State.

The Vendor must designate key personnel to NCDMF with contact information before execution of the contract. The NCDMF Project Manager is entitled to approve/reject any changes in Vendor's key personnel. The Vendor must give NCDMF at least thirty (30) days' advance notice of any change in key personnel. While the NCDMF Project Manager will not unreasonably withhold approval, the NCDMF Project Manager may terminate the contract for default if it rejects a contractor-proposed change in key personnel and the contractor fails to designate an acceptable alternative within thirty (30) days of the NCDMF Project Manager's rejection.

SECURITY BREACH: "Security Breach" means (1) any circumstance pursuant to which applicable Law (as defined in Section VII, 45) (Compliance with Laws) requires notification of such breach to be given to affected parties or other activity in response to such circumstance; or (2) any actual, attempted, suspected, threatened, or reasonably foreseeable circumstance that compromises, or could reasonably be expected to compromise, either Physical Security or Systems Security (as such terms are defined below) in a fashion that either does or could reasonably be expected to permit unauthorized Processing (as defined below), use, disclosure or acquisition of or access to any the State Data or state confidential information. "Physical Security" means physical security at any site or other location housing systems maintained by Vendor or its agents or subcontractors in connection with the Services. "Systems Security" means security of computer, electronic or telecommunications systems of any variety (including data bases, hardware, software, storage, switching and interconnection devices and mechanisms), and networks of which such systems are a part or communicate with, used directly or indirectly by Vendor or its agents or subcontractors in connection with the Services. "Processing" means any operation or set of operations performed upon the State Data or State confidential information, whether or not by automatic means, such as creating, collecting, procuring, obtaining, accessing, recording, organizing, storing, adapting, altering, retrieving, consulting, using, disclosing or destroying.

i) Breach Notification. In the event Vendor becomes aware of any Security Breach due to Vendor acts or omissions other than in accordance with the terms of the Contract, Vendor shall, at its own expense, (1) immediately notify the State's Contract Administrator of such Security Breach and perform a root cause analysis thereon, (2) investigate such Security Breach, (3) provide a remediation plan, acceptable to the State, to address the Security Breach and prevent any further incidents, (4) conduct a forensic investigation to determine what systems, data and information have been affected by such event; and (5) cooperate with the State, and any law enforcement or regulatory officials, credit reporting companies, and credit card associations investigating such Security Breach. The State shall make the final decision on notifying the State's persons, entities, employees, service providers and/or the general public of such Security Breach, and the implementation of the remediation plan. If a notification to a customer is required under any Law

or pursuant to any of the State's privacy or security policies, then notifications to all persons and entities who are affected by the same event (as reasonably determined by the State) shall be considered legally required.

Notification Related Costs. Vendor shall reimburse the State for all Notification Related Costs incurred by the State arising out of or in connection with any such Security Breach due to Vendor acts or omissions other than in accordance with the terms of the Contract resulting in a requirement for legally required notifications. "Notification Related Costs" shall include the State's internal and external costs associated with addressing and responding to the Security Breach, including but not limited to: (1) preparation and mailing or other transmission of legally required notifications; (2) preparation and mailing or other transmission of such other communications to customers, agents or others as the State deems reasonably appropriate; (3) establishment of a call center or other communications procedures in response to such Security Breach (e.g., customer service FAQs, talking points and training); (4) public relations and other similar crisis management services; (5) legal and accounting fees and expenses associated with the State's investigation of and response to such event; and (6) costs for credit reporting services that are associated with legally required notifications or are advisable, in the State's opinion, under the circumstances. In the event that Vendor becomes aware of any Security Breach which is not due to Vendor acts or omissions other than in accordance with the terms of the Contract, Vendor shall immediately notify the State of such Security Breach, and the parties shall reasonably cooperate regarding which of the foregoing or other activities may be appropriate under the circumstances, including any applicable Charges for the same.

Section VI. Proposal Content and Organization

- 1) This section should contain all relevant and material information relating to the Vendor's organization, personnel, and experience that would substantiate its qualifications and capabilities to perform the services and/or provide the goods described in this RFP. If any relevant and material information is not provided, the offer may be rejected from consideration and evaluation. Proposals will be considered and evaluated based upon the Vendor's full completion and response to the following, and any additional requirements herein, or stated in a separate Exhibit.
- 2) Information and Descriptive Literature. Vendor must 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 proposal, each Vendor must submit with their proposal sketches, descriptive literature and/or complete specifications covering the products offered. References to literature submitted with a previous proposal will not satisfy this provision. Proposals that do not comply with these requirements may be rejected.
- 3) Proposal Content. Demonstrate compliance with all mandatory conditions, requirements and terms of performance.
 - a) Vendor should state its understanding of the problem(s) presented by this RFP.
 - i) Response to mandatory technical requirements and desired technical requirements
 - ii) Cost proposal

- b) Detailed description of Vendor's firm should include all of the following:
 - i) Full name, address, and telephone number of the organization;
 - ii) Date established;
 - iii) Background of firm;
 - iv) Ownership (public company, partnership, subsidiary, etc.);
 - v) If incorporated, state of incorporation must be included.
 - vi) Number of full-time employees on January 1st for the last three years or for the duration that the Vendor's firm has been in business, whichever is less.
- 4) Any errata or exceptions must be stated on a separate page, labeled "Errata and/or Exceptions" with references to the corresponding terms or provisions of the Solicitation.
- 5) Proposal Format. The proposals should be organized in the exact order in which the requirements and/or desirable performance criteria 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 proposal should contain a table of contents, which cross-references the RFP requirement and the specific page of the response in the Vendor's proposal. All proposals should be typewritten on standard 8 ½ x 11 paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within a binder with tabs delineating each section.
- 6) Vendors are strongly encouraged to adhere to the following general instructions in order to bring clarity and order to the proposal and subsequent evaluation process:
 - a) Elaborate proposals in the form of brochures or other presentations beyond that necessary to present a complete and effective proposal are not desired.
 - b) The response should be complete and comprehensive with a corresponding emphasis on being concise and clear.
- 7) Proposal Organization: The proposal should be organized and indexed in the following format and should contain, at a minimum, all listed items in the sequence indicated.
 - a) Letter of Transmittal - Each proposal must be accompanied by a letter of transmittal that provides the following information:
 - i) Identify the submitting organization;
 - ii) Identify the name, title, telephone and fax number, along with an e-mail address of the person authorized by the organization to contractually obligate the organization;
 - iii) Identify the name, title, telephone and fax number, along with an e-mail address of the person authorized to negotiate the contract on behalf of the organization;
 - iv) Identify the names, titles, telephone and fax number, along with an e-mail address of the person to be contacted for clarification;
 - v) Acknowledge receipt of any and all amendments to this RFP.
 - b) Table of Contents
 - c) (See outline below)

TECHNICAL PROPOSAL AND COST PROPOSAL

Section 1: Executive Summary

The Vendor must provide a high-level executive summary consistent with other sections of proposal.

Section 2: System Functionality

The Vendor must describe how the solution meets every requirement listed in the Requirement Specifications document (See Section III). Vendor specification responses should be in the same order as the specifications that are presented in Section III. Vendors are not restricted to the space provided in the tables in Section III. Vendor must provide in their bid proposal a description of key functionality within the system, including screen shots and other information, as appropriate to demonstrate completeness of the solution, ease of use and system administration.

Section 3: Project Management Methodology and Plan

The Vendor must provide in their bid proposal a description of the Vendor's [and any key partners/subcontractors] project management planning and execution credentials, capabilities and approach, as used for similar projects. Also, include an initial, high-level plan that includes milestones/schedule, risk and scope management, resource management, quality management and general project management approach. Proposal should also convey Vendor's ability to be consistent with the State of NC and NCDMF project model and life cycle, and meeting standard project reporting practices. The Vendor must provide their approach for:

- A. Solution implementation
- B. User adoption
- C. Training
- D. Agile/Lean installation/implementation

Section 4: Data Management

The Vendor must describe their approach to interfacing with existing FIN SQL 2008 Database schema. Vendor must also describe how the solution can connect to external data sources such as mainframe, .csv format outputs including COTS (Commercial Off-the-shelf) software (e.g., Microsoft Office, Outlook, PC SAS).

Section 5: Technical Approach

The Vendor must provide in their bid proposal a description of technical approach, addressing architecture and security sub-factors below and referencing the appropriate requirements:

- Openness
- Security including NCID integration
- Scalability
- Adherence to NC State architectural requirements. Vendor will provide a completed Technical Architecture System Design form.
 - <http://www.ncsta.gov/systemDesignTemplate/default.aspx>

Section 6: Support and Maintenance

The Vendor must provide in their bid proposal a description of their approach for Support and Maintenance by addressing the sub-factors below and referencing the appropriate requirements. Vendors must also include a description of Vendor's Service Level Agreement.

- Technical support
- End User support
- Maintenance plan
- Business continuity
- Ongoing training

Section 7: Corporate Quality/Experience

Vendor must provide in their bid proposal a description of corporate stability, past performance, key personnel [brief bios], and domain expertise. This information is also required for any subcontractors and/or consulting partners. References will be evaluated under this section.

Financial Statement. Vendor must provide a Comprehensive Report from Dun & Bradstreet stating the financial condition and credit rating of the company.

Other evidence of financial stability may be submitted as follows. As used herein, Financial Information shall exclude tax returns and compiled statements.

- i) 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, Vendor must explain the reason why they are not available.
- ii) 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.

Section 8: Other Supporting Material Including Technical System Documentation

Section 9: Training and Other Materials.

Vendor must include Samples

- Within each section of their proposal, Vendors should address the items in the order in which they appear in this RFP. Forms, if any provided in the RFP, must be completed and included in the appropriate section of the proposal. All discussion of proposed costs, rates, or expenses must be described clearly in the cost response.
- Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.
- Vendors may attach other materials that they feel may improve the quality of their responses. However, these materials should be included as items in a separate appendix.

Section 10: Cost Proposal

a) Cost Proposal (See RFP Section IV). Vendor must complete the Cost Proposal.

b) Conflict of Interest:

- i. Vendor must provide a statement that no assistance in preparing the response was received from any current or former employee of the State of North Carolina whose duties relate (d) to this RFP, unless such assistance was provided by the state employee in his or her official public capacity and that neither such employee nor any member of his or her immediate family has any financial interest in the outcome of this RFP;
- ii. State if the Vendor or any employee of the Vendor is related by blood or marriage to an Agency employee or resides with an Agency employee. If there are such relationships, list the names and relationships of said parties. Include the position and responsibilities within the Vendor's organization of such Vendor employees; and
- iii. State the employing State Agency, individual's title at that State Agency, and termination date.

c) Copy of Vendor's License and Maintenance Agreements. The State reserves the right to require edits to conform these agreements to the terms and conditions of this solicitation

Section VII. North Carolina Information Technology Procurement Office General Terms and Conditions for Goods and Related Services

Definitions: As used herein;

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

State shall mean the State of North Carolina, the Office of Information Technology Services as an Agency or in its capacity as the Award Authority.

1) **Standards:** Manufactured items and/or fabricated assemblies comprising Deliverables shall meet all requirements of the Occupational Safety and Health Act (OSHA), and State and federal requirements relating to clean air and water pollution, if applicable. Vendor will provide and maintain a quality assurance system or program that includes any Deliverables and will tender to the State only those Deliverables that have been inspected and found to conform to the requirements of this Contract. All manufactured items and/or fabricated assemblies comprising Deliverables are subject to operation, certification or inspection, and accessibility requirements as required by:

- State or Federal Regulation,
- The Chief Information Officer's (CIO) policy or regulation, or
- Acceptance with appropriate standards of operations or uses of said Deliverables as may be shown by identification markings or other means of the appropriate certifying standards organization.

- a) **Site 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 shall operate properly and efficiently within the site environment. The Vendor shall advise the State of any site requirements for any Deliverables required by the State's specifications. 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.
- b) **Goods Return:** Deliverables and any other goods or materials furnished by the Vendor to fulfill technical requirements shall be in good working order and be maintained in good working order by Vendor for the duration of the Contract; unless otherwise provided in a separate maintenance agreement or in the Solicitation Documents. Deliverables failing to meet the State's technical requirements shall be considered non-conforming goods and subject to return to the Vendor for replacement at the State's option, and at the Vendor's expense. The State is responsible for the return costs related to the termination of a Contract, including deinstallation, and freight to destinations within the Continental United States; except in the case of default by the Vendor or delivery of non-conforming goods by Vendor. Shipping or freight charges, if any, paid by the State for non-conforming goods will be reimbursed to the State.
- c) **Specifications:** 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 only material 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 products, goods or Deliverables. Alternate or substitute 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.

2) Warranties: The Vendor warrants to the State that all items furnished will be new (unless otherwise requested in this bid), of good material and workmanship, and agrees to replace any items which fail to comply with the specifications by reason of defective material or workmanship under normal use, free of State's negligence or accident for a minimum of 90 days from date of acceptance. Such replacement shall include transportation costs free of any charge to the State. This statement is not intended to limit any additional coverage, which may normally be associated with a product. Vendor shall assign all applicable third party warranties for Deliverables to the Purchasing State Agency.

3) Personnel: Vendor shall not substitute key personnel assigned to the performance of this Contract without prior written approval by the Agency Contract Administrator. Any desired substitution shall be noticed to the Agency's Contract Administrator 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 this Contract. Upon such termination, the Agency may request acceptable substitute personnel or terminate the contract services provided by such personnel.

a) 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.

b) This contract shall not prevent Vendor or any of its personnel supplied under this Contract 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 this Contract, 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.

c) **Qualified Personnel:** Each party shall provide sufficient, qualified, knowledgeable personnel capable of: (i) performing obligations set forth in this Agreement and each SOW; (ii) making timely decisions necessary to move the Services forward; (iii) participating in the project and assisting Vendor in rendering the Services; and (iv) facilitating development, testing and implementation of Vendor software, if applicable. Vendor warrants that qualified personnel will perform the services in a professional manner. As used in this Paragraph, "professional manner" means that the personnel performing the services will be of a skill and competence consistent with prevailing norms of company providers in the information technology industry.

4) Subcontracting: The Vendor may subcontract the performance of required services with other Vendors or third parties, or change subcontractors, only with the prior written consent of the 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. 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 contract; 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) 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 this Contract. Vendor will serve as the prime Vendor under this Contract. 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. 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 has the right to provide the Services and Deliverables without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party. Vendor represents that its Services and 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) 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.

c) Inherent Services. If any Services, Deliverables, functions, or responsibilities not specifically described in this Contract are required for Vendor's proper performance, provision and delivery of the Service and Deliverables pursuant to this Contract, or are an inherent part of or necessary sub-task included within the Service, 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. 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 Deliverables.

d) Vendor warrants that it has the financial capacity to perform and to continue 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 this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

e) Warranty as to Equipment; Hardware. Vendor warrants that the equipment and hardware that it provides pursuant to this Contract shall be free from defects in materials, in good working order and be maintained in good working order.

6) Software License: This paragraph recites the scope of license granted, if not superseded by a separate licensing agreement as follows:

- a) Vendor grants to the State, its Agencies and lawful customers a non-exclusive, non-transferable and non-sub licensable 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 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.
- e) Subject only to the rights granted to State hereunder, Vendor retains all right, title and interest in and to the Software and all copies of the Software, including without limitation all modifications, enhancements, upgrades and new versions with respect to any of the foregoing, all patent rights, copyrights and trade secret rights embodying any of the foregoing, and all know-how, concepts, inventions and ideas related to the foregoing. State shall provide Vendor with access to State's facilities, at reasonable times and upon reasonable notice, to verify State's compliance with the terms of this Agreement.

7) Maintenance/Support Services: *Unless otherwise provided in the State's solicitation document, or in an attachment hereto*, for the first year and all subsequent Contract years, Vendor agrees to provide the following services for the current version and one previous version of any Software provided with the Deliverables, commencing upon installation of the Deliverables or delivery of the Software:

- a) **Error Correction.** Upon notice by State of a problem with the Software (which problem can be verified), Vendor shall use reasonable efforts to correct or provide a working solution for the problem. The State shall comply with all reasonable instructions or requests of Vendor in attempts to correct an error or defect in the Program. Vendor and the State shall act promptly and in a reasonably timely manner in communicating error or problem logs, other related information, proposed solutions or workarounds, and any action as may be necessary or proper to obtain or affect maintenance services under this Paragraph.
- b) Vendor shall notify the State of any material errors or defects in the Deliverables known, or made known to Vendor from any source during the Contract term that could cause the production of inaccurate or otherwise materially incorrect, results. Vendor shall initiate actions as may be commercially necessary or proper to effect corrections of any such errors or defects.

c) Updates. Vendor shall provide to the State, at no additional charge, all new releases and bug fixes (collectively referred to as "Changes") 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 this Contract.

d) 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 Standard Time, Monday-Friday**. Vendor shall respond to the telephone requests for Program maintenance service, within four hours, for calls made at any time.

8) 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 may be eligible to be reimbursed for travel expenses arising under the performance of this Contract, reimbursement will be at the out-of-state rates set forth in GS §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 this Contract.

9) 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 Contract. 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 this Contract and compensate Vendor for sums due under the Contract.

10) 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 Contract or award in question. Each individual signing below warrants that he or she is duly authorized by their respective Party to sign this Contract and bind the Party to the terms and conditions of this Contract. 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 this Contract; obligation or contract for future award of compensation as an inducement or consideration for making this Contract. 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.1207, or other provision of law.

11) 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 this Contract. If this Contract 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 Contract or Purchase Order. If the term of this Contract extends into fiscal years, subsequent to that in which it is approved, such continuation of the Contract is expressly contingent upon the appropriation, allocation and availability of funds by the N.C. Legislature for the purposes set forth in the Contract. If funds to effect payment are not available, the Agency will provide written notification to Vendor. If the Contract is terminated under this paragraph, Vendor agrees to take back any affected Deliverables and software not yet delivered under this Contract, terminate any services supplied to the Agency under this Contract, 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.

12) Payment Terms: Payment terms are Net 30 days after receipt of correct invoice or acceptance of the Deliverables, whichever is later; 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 Contract. 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 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.

13) Acceptance Criteria: Acceptance testing is required for all Vendor supplied software 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 technical representations. Acceptance of software or services may be controlled by amendment hereto, or additional terms as agreed by the parties. In the event acceptance of Deliverables is not described in additional Contract documents, the State shall have the obligation to notify Vendor, in writing ten calendar days following installation of any Deliverable described in the Contract if it is not acceptable. The notice shall specify in reasonable detail the reason(s) a 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 all applicable inspection and testing procedures. Should the Deliverables fail to meet any specifications or acceptance criteria the State may exercise any and all rights hereunder, including such rights provided by the Uniform Commercial Code as adopted in North Carolina. 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 contained in the Deliverables or non-compliance with the specifications was not reasonably ascertainable upon initial inspection. If the Vendor fails to promptly cure the defect or replace the 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. When Deliverables are rejected, the Vendor must remove the rejected Deliverables from the premises of the State Agency within seven (7) calendar days of notification, unless otherwise agreed

by the State Agency. Rejected items may be regarded as abandoned if not removed by Vendor as provided herein.

14) 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.

15) Inspection at Vendor's Site: The State reserves the right to inspect, during Vendor's regular business hours at a reasonable time, upon notice of not less than two (2) weeks, and at its own expense, the prospective Deliverables comprising equipment or other tangible goods, or the plant or other physical facilities of a prospective Vendor prior to Contract award, and during the Contract term as necessary or proper to ensure conformance with the specifications/requirements and their adequacy and suitability for the proper and effective performance of the Contract.

16) Advertising/Press Release: The Vendor absolutely shall not publicly disseminate any information concerning the Contract without prior written approval from the State or its Agent. For the purpose of this provision of the Contract, the Agent is the Purchasing Agency Contract Administrator unless otherwise named in the solicitation documents.

17) Confidentiality: In accordance with 9 NCAC 06B.0103, 06B.0207 and 06B.1001 and to promote maximum competition in the State competitive bidding process, the State may maintain the confidentiality of certain types of information described in N.C. Gen. Stat. §132-1 et. seq. Such information may include trade secrets defined by N.C. Gen. Stat. §66-152 and other information exempted from the Public Records Act pursuant to N.C. Gen. Stat. §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. Gen. Stat. §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. Gen. Stat. §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.

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 NCGS §132-1 et seq. The State may, in its sole discretion, provide a non-disclosure and confidentiality agreement satisfactory to the State for Vendor's execution. The State may exercise its rights under this subparagraph as necessary or proper, in its discretion, to comply with applicable security regulations or statutes including, but not limited to 26 USC 6103 and IRS Publication 1075, (Tax Information Security Guidelines for Federal, State, and Local Agencies), HIPAA, 42 USC 1320(d) (Health Insurance Portability and Accountability Act), any implementing regulations in the Code of Federal Regulations, and any future regulations imposed upon the Office of Information Technology Services 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 this Contract in the strictest confidence and shall not disclose the same to any third party without the express written approval of the State.

18) Deliverables: Deliverables, as used herein, shall comprise all project materials, including goods, software licenses, data, and documentation created during the performance or provision of services hereunder. Deliverables are the property of the State of North Carolina. 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.

a) Proprietary Vendor materials licensed to the State shall be identified to the State by Vendor prior to use or provision of services hereunder and shall remain the property of the Vendor. Embedded software or firmware shall not be a severable Deliverable. All Software source and object code is the property of Licensor and is licensed nonexclusively to the State, at no additional license fee, pursuant to the terms of the software license contained herein, and in the Supplemental Terms and Conditions for Software and Services or the License Agreement if incorporated in the Solicitation Documents.

b) 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. 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.

19) Late Delivery, Back Order: Vendor shall advise the Agency contact person or office immediately upon determining that any Deliverable will not, or may not, be delivered 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 substitute Deliverables or services.

20) 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 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 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 Deliverables supplied by the Vendor, or the operation of such Deliverables 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. 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 software 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 goods/hardware or software, or to replace or modify the same to become noninfringing 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 goods/hardware or software by the State shall be prevented by injunction, the Vendor agrees to take back such 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 Deliverables. If, in the sole opinion of the State, the return of such infringing Deliverables makes the retention of other items of Deliverables acquired from the Vendor under this Contract 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 such 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 product or Deliverable, or (ii) results from the continued use of the good(s) or Services and 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.

21) Access to Persons and Records: Pursuant to N.C. General Statute 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 this Contract or to costs charged to this Contract. The Vendor shall retain any such books, records, and accounts for a minimum of three (3) years after the completion of this Contract. 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.

22) Assignment: Vendor may not assign this Contract 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 this Contract attorning to the terms and conditions agreed, and that Vendor shall affirm that the assignee is fully capable of performing all obligations of Vendor under this Contract. 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.

23) Insurance Coverage: During the term of the Contract, 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 Contract. 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 Contract. 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 Contract ; 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 Contract. 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 this Contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The 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 this Contract. 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 Contract.

24) 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 this Contract. 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 this Contract, or at law. This term shall not constitute an agreement by either party to mediate or arbitrate any dispute.

25) Default: In the event any Deliverable furnished by the Vendor during performance of any Contract term fails to conform to any material requirement 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 13) herein, 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 28 and 30) and the obligation to informally resolve disputes as provided in Paragraph 24) of these Terms and Conditions. Default may be cause for debarment as provided in 09 NCAC 06B.1206. The State reserves the right to require performance guaranties pursuant to 09 NCAC 06B.1207 from the Vendor without expense to the State. 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 Deliverables within the time required by this Contract, the State may provide written notice of said failure to Vendor, and by such notice require payment of a penalty.
- 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 due to the State's failure. Vendor will use reasonable efforts to mitigate delays, costs or expenses arising from assumptions in the Vendor's bid 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 default if requested by the State. The plan shall state the nature of the default, the time required for cure, any mitigating factors causing or tending to cause the default, and such other information as the Vendor may deem necessary or proper to provide.
- d) Vendor shall not be responsible for any alleged breach of the foregoing Paragraph 25) that is attributable to (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.

26) 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 this Contract, unless so stated in writing and signed by authorized representatives of the Agency and the Vendor, and made as an amendment to this Contract pursuant to Paragraph 40) herein below.

27) Termination: Any notice or termination made under this Contract 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 this Contract by written agreement at any time.
- b) The State may terminate this Contract, in whole or in part, pursuant to Paragraph 25), 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 28 and 30) 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 this Contract; 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.

28) 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.
- b) The Vendor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, shall be limited to two times the value of the Contract.
- c) The foregoing limitation of liability shall not apply to the payment of costs and damage awards referred to in the Paragraph entitled "Patent, Copyright, and Trade Secret Protection", to claims covered by other specific provisions calling for liquidated damages or specifying a different limit of liability, or to claims for injury to persons or damage to property caused by Vendor's negligence or willful or wanton conduct. This limitation of liability does not apply to the receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on this Contract.

29) Limitation of Liability for Software Deliverables:

- a) The Vendor's liability for damages to the State for failure of software deliverables, and regardless of the form of action, excepting such tort claims arising under the State's Tort Claims Act, shall not exceed two times the value of the contract.
- b) With the exceptions of intellectual property rights and infringement actions, the state's constitutional rights as a sovereign, and penalties imposed upon the state by any federal entity or expenditures of public funds required or resulting from an operational failure of the deliverable(s) or services provided hereunder, but notwithstanding any other term to the contrary contained in this contract, neither party nor their respective affiliates shall, under any circumstances, be liable to the other party or its affiliates (i) for any claim based upon any third party claim, (ii) for any consequential, incidental or indirect damages of any nature whatsoever, including, without limitation, lost profits, lost savings or other economic consequential damages, whether resulting from delays, loss of data, interruption of service or otherwise, even if a party or its affiliates have

been advised of the possibility of such damages, or (iii) for any punitive or exemplary damages of any nature whatsoever.

30) 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 this contract, whether tangible or intangible, arising out of the ordinary negligence, willful or wanton negligence, or intentional acts of the Vendor, its officers, employees, agents, assigns or subcontractors, in the performance of this Contract.
- 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, or for damage to alterations or attachments that may result from the normal operation and maintenance of the Vendor's goods.

31) General Indemnity: The Vendor shall hold and save the State, its officers, agents and employees, harmless from liability of any kind, including all claims and losses, with the exception of consequential damages, accruing or resulting to any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Contract. The foregoing indemnification and defense by the Vendor shall be conditioned upon the following:

- a) The Agency shall give Vendor written notice within thirty (30) days after it has actual knowledge of any such claim(s) or action(s) filed; and
- b) The Vendor shall have the sole control of the defense of any such claim(s) or action(s) filed and of all negotiations relating to settlement or compromise thereof, provided, however, that the Agency or State shall have the option to participate at their own expense in the defense of such claim(s) or action(s) filed.

32) Changes: This Contract and subsequent purchase order(s) is awarded subject to shipment of quantities, qualities, and prices indicated by the order or Contract, and all conditions and instructions of the Contract or proposal on which it is based. Any changes made to this Contract 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 Deliverables or services delivered without a purchase order from the Agency or State Award Authority.

33) 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 this Contract 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 this Contract.
- 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 Contract price, or both, and the Contract 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 this Contract, 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 a proposal submitted at any time before final payment under this Contract.
- a. 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.
- b. The State shall not be liable to the Vendor for loss of profits because of a Stop Work Order issued under this term.

34) Price Adjustments for Term Contracts: Reserved.

35) Time is of the Essence. Time is of the essence in the performance of this Contract.

36) Date and Time Warranty: The Vendor warrants that any Deliverable, whether hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interface therein which performs any date and/or time data recognition function, calculation, or sequencing, will provide accurate date/time data and leap year calculations. This warranty shall survive termination or expiration of the Contract.

37) 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. This Contract shall not operate as a joint venture, partnership, trust, agency or any other business relationship.

38) Transportation: Transportation of 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.

39) Notices: Any notices required under this Contract 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.

40) Titles and Headings: Titles and Headings in this Contract are used for convenience only and do not define, limit or proscribe the language of terms identified by such Titles and Headings.

41) Amendment: This Contract 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 32) herein.

42) 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 this Contract. Applicable State or local sales taxes shall be invoiced as a separate item.

43) Governing Laws, Jurisdiction, and Venue:

a) This Contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina. The place of this Contract 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 this Contract, 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 this Contract. 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.

44) 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.

45) 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. In providing Services and Deliverables, and without limiting or modifying in any respect the Vendor's obligations, Vendor shall comply, and shall cause each of its employees and subcontractors to comply at all times, with State policies that are of general application to State contractors or that Vendor has otherwise agreed to, comply with, including, without limitation, the Statewide Information Security Manual and ITS Security Standards and Policies.

46) Severability: In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract 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 this Contract 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.

47) 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.

48) Electronic Procurement (Applies to all contracts that include E-Procurement and are identified as such in the body of the solicitation document): Purchasing shall be conducted through the Statewide E-Procurement Service. The State's third party agent shall serve as the Supplier Manager for this E-Procurement Service. The Vendor shall register for the Statewide E-Procurement Service within two (2) business days of notification of award in order to receive an electronic purchase order resulting from award of this contract.

- a) **The successful Vendor(s) shall pay a transaction fee of 1.75% (.0175) on the total dollar amount (excluding sales taxes) of each purchase order issued through the Statewide E-Procurement Service.** This applies to all purchase orders, regardless of the quantity or dollar amount of the purchase order. The transaction fee shall neither be charged to nor paid by the State, or by any State approved users of the contract. The transaction fee shall not be stated or included as a separate item in the proposed contract or invoice. There are no additional fees or charges to the Vendor for the services rendered by the Supplier Manager under this contract. Vendor will receive a credit for transaction fees they paid for the purchase of any item(s) if an item(s) is returned through no fault of the Vendor. Transaction fees are non-refundable when an item is rejected and returned, or declined, due to the Vendor's failure to perform or comply with specifications or requirements of the contract.
- b) Vendor, or its authorized Reseller, as applicable, will be invoiced monthly for the State's transaction fee by the Supplier Manager. The transaction fee shall be based on purchase orders issued for the prior month. Unless Supplier Manager receives written notice from the Vendor identifying with specificity any errors in an invoice within thirty (30) days of the receipt of invoice, such invoice shall be deemed to be correct and Vendor shall have waived its right to later dispute the accuracy and completeness of the invoice. Payment of the transaction fee by the Vendor is due to the account designated by the State within thirty (30) days after receipt of the correct invoice for the transaction fee, which includes payment of all portions of an invoice not in dispute. Within thirty (30) days of the receipt of invoice, Vendor may request in writing an extension of the invoice payment due date for that portion of the transaction fee invoice for which payment of the related goods by the governmental purchasing entity has not been received by the Vendor. If payment of the transaction fee invoice is not received by the State within this payment period, it shall be considered a material breach of contract. The Supplier Manager shall provide, whenever reasonably requested by the Vendor in writing (including electronic documents), supporting documentation from the E-Procurement Service that accounts for the amount of the invoice.
- c) The Supplier Manager will capture the order from the State approved user, including the shipping and payment information, and submit the order in accordance with the E-Procurement Service. Subsequently, the Supplier Manager will send those orders to the appropriate Vendor on State Contract. The State or State approved user, not the Supplier Manager, shall be responsible for the solicitation, bids received, evaluation of bids received, award of contract, and the payment for goods delivered.
- d) Vendor agrees at all times to maintain the confidentiality of its user name and password for the Statewide E-Procurement Services. If a Vendor is a corporation, partnership or other legal entity, then the Vendor may authorize its employees to use its password. Vendor shall be responsible for all activity and all charges for such employees. Vendor agrees not to permit a third party to use the Statewide E-Procurement Services through its account. If there is a breach of security through the Vendor's account, Vendor shall immediately change its password and notify the Supplier Manager of the security breach by e-mail. Vendor shall cooperate with the state and the Supplier Manager to mitigate and correct any security breach.

49) Electronic Procurement (Applies only to Statewide Term Contracts): Reserved