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EXECUTIVE DIRECTOR

Protest Dismissal

Matter of: Transact Campus, Inc.

File No.: 2022-213A

Date: August 26, 2022

Contracting Entity: State Fiscal Accountability Authority, Division of Procurement Services

Solicitation No.: 5400022908

Description: State Term Contract – One Card Identification Systems

DIGEST

Protest of award dismissed where protest rendered moot as a result of cancellation of the award.

AUTHORITY

Per S.C. Code Ann. § 11-35-4210, the Chief Procurement Officer (CPO) conducted an administrative review of a protest filed by Transact Campus, Inc. (Transact).

BACKGROUND

The following are facts relevant to this determination:

- On February 22, 2022, DPS published a solicitation for proposals to provide One Card Identification Systems.
- By March 15, 2022, the deadline for receipt of proposals, DPS received four proposals.
- On June 17, 2022, DPS issued a notice of Intent to Award a contract to Atrium Campus, LLC (Atrium). [Exhibit E]
- On June 23, 2022, Transact filed a notice of intent to protest. [Exhibit F]
- On July 1, 2022, Transact perfected its protest.
- On August 26, 2022, the CPO cancelled the intended award of a contract to Atrium.

Transact's protest brought to light issues with the solicitation and award that were not expressly raised in Transact's protest. As a result of those issues, the CPO cancelled the intended award to Atrium per S.C. Code Regulation 19-445.2085C for the following factors:

- (1) Inadequate or ambiguous specifications were cited in the invitation;
- (2) Specifications have been revised;
- ***
- (7) Administrative error of the purchasing agency discovered prior to performance,
or
- (8) For other reasons, cancellation is clearly in the best interest of the State.

A copy of the CPO's cancellation of the intended award is attached as Exhibit 1.¹ As a result, Transact's protest is moot.

DECISION

For the foregoing reason, Transact's protest is dismissed

A handwritten signature in blue ink, reading "John St. C. White", is positioned above a horizontal line.

John St. C. White, PE
Chief Procurement Officer

Columbia, South Carolina

¹ Transact's Protest and other relevant documents are attached as Exhibits to Exhibit 1.

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised May 2020)

The South Carolina Procurement Code, in Section 11-35-4210, subsection 6, states:

(6) Finality of Decision. A decision pursuant to subsection (4) is final and conclusive, unless fraudulent or unless a person adversely affected by the decision requests a further administrative review by the Procurement Review Panel pursuant to Section 11-35-4410(1) within ten days of posting of the decision in accordance with subsection (5). The request for review must be directed to the appropriate chief procurement officer, who shall forward the request to the panel or to the Procurement Review Panel, and must be in writing, setting forth the reasons for disagreement with the decision of the appropriate chief procurement officer. The person also may request a hearing before the Procurement Review Panel. The appropriate chief procurement officer and an affected governmental body shall have the opportunity to participate fully in a later review or appeal, administrative or judicial.

Copies of the Panel's decisions and other additional information regarding the protest process is available on the internet at the following web site: <http://procurement.sc.gov>

FILING FEE: Pursuant to Proviso 111.1 of the 2020 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410...Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of financial hardship, the party shall submit a completed Request for Filing Fee Waiver form at the same time the request for review is filed. *[The Request for Filing Fee Waiver form is attached to this Decision.]* If the filing fee is not waived, the party must pay the filing fee within fifteen days of the date of receipt of the order denying waiver of the filing fee. Requests for administrative review will not be accepted unless accompanied by the filing fee or a completed Request for Filing Fee Waiver form at the time of filing." PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, business entities organized and registered as corporations, limited liability companies, and limited partnerships must be represented by a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003); and *Protest of PC&C Enterprises, LLC*, Case No. 2012-1 (Proc. Rev. Panel April 2, 2012). However, individuals and those operating as an individual doing business under a trade name may proceed without counsel, if desired.

**South Carolina Procurement Review Panel
Request for Filing Fee Waiver
1105 Pendleton Street, Suite 209, Columbia, SC 29201**

Name of Requestor

Address

City

State

Zip

Business Phone

1. What is your/your company's monthly income? _____

2. What are your/your company's monthly expenses? _____

3. List any other circumstances which you think affect your/your company's ability to pay the filing fee:

To the best of my knowledge, the information above is true and accurate. I have made no attempt to misrepresent my/my company's financial condition. I hereby request that the filing fee for requesting administrative review be waived.

Sworn to before me this

_____ day of _____, 20_____

Notary Public of South Carolina

Requestor/Appellant

My Commission expires: _____

For official use only: _____ Fee Waived _____ Waiver Denied

Chairman or Vice Chairman, SC Procurement Review Panel

This _____ day of _____, 20_____
Columbia, South Carolina

NOTE: If your filing fee request is denied, you will be expected to pay the filing fee within fifteen (15) days of the date of receipt of the order denying the waiver.

HENRY MCMASTER, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

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CHAIRMAN, HOUSE WAYS AND MEANS COMMITTEE

GRANT GILLESPIE
EXECUTIVE DIRECTOR

Written Determination

Matter of: Atrium Campus LLC

File No.: 2022-213B

Date: August 26, 2022

Contracting Entity: State Fiscal Accountability Authority, Division of Procurement Services

Solicitation No.: 5400022908

Description: State Term Contract – One Card Identification Systems

AUTHORITY

The Chief Procurement Officer (CPO) conducted an administrative review per S.C. Code Ann. § 11-35-1520(7) and Regulation 19-445.2085. This determination is based on the evidence and applicable law and precedents.

BACKGROUND

The following are facts relevant to this determination:

- On February 22, 2022, DPS published a solicitation for proposals to provide One Card Identification Systems. [Exhibit A]
- The solicitation provided for award to up to five offerors provided their proposal ranking score was within 15% of the highest ranked proposal. [Id. at Section VI]
- By March 15, 2022, the deadline for receipt of proposals, DPS received four proposals. [Exhibit B]

- On April 26 & 27, 2022, the selection committee (committee) evaluated proposals and ranked the proposal submitted by Atrium Campus LLC (Atrium) as the most advantageous to the State. [Exhibit C]
- None of the other three proposals ranking score was within 15% of Atrium's. [Id]
- On June 17, 2022, DPS issued a notice of Intent to Award a contract to Atrium. [Exhibit D]
- On June 23, 2022, Transact filed a notice of intent to protest. [Exhibit E]
- On July 1, 2022, Transact perfected its protest. [Exhibit F]

Transact's protest brought to light issues with the solicitation and award that were not expressly raised in Transact's protest.

DISCUSSION

This solicitation was a solutions-based solicitation. However, Part III of the solicitation contained a list of 199 "solution requirements." This list fails to segregate mandatory requirements from non-mandatory requirements and uses the word "should" throughout, making it hard to distinguish the two. However, there are both types of requirements in solicitation.

Some of the requirements use clearly mandatory language. An example of this is requirement Number 3, which states "No credit card information is to traverse or be stored in any device on UGU's network."

Some of the requirements are stated in terms of "should," raising the question of whether they are mandatory or not. The word "should" can be construed as stating a mandatory requirement or not depending on the context. *Appeal of CollegeSource, Inc.*, Case No. 2008-4. The requirements sometimes use the word "should" in a context that is clearly mandatory. For example, Requirement Number 25 states:

The ID system software **should** be able to support, at a minimum, **the following mandatory reporting capabilities** which will be provided by the Contractor at UGU's request.
[Emphasis supplied]

Sometimes, the use of should in a mandatory form is implied by the subject matter. For example, Requirement Number 38.3 states “The application should not allow access to other student account information (balances, usage data, etc.).” Under no circumstances would the State want students to have access to another student’s account information, and this requirement is clearly a mandatory rather than a nice-to-have feature.

Despite this mix of mandatory and non-mandatory requirements, some of which are not so clear as to which they are, DPS treated all “requirements” as non-mandatory. Indeed, Part IV(A) of the solicitation contains the following instructions to offerors:

For each of the items outlined in Section III indicate one of the following options: “Meets,” “Can Meet,” or “Does Not Meet” followed by the appropriate explanation as described in a-c below.

- a. For each of the items you indicate “Meets,” describe how the proposed solution will meet in detail.
- b. For each of the items you indicate “Can Meet,” describe why it doesn’t currently meet, under what circumstances it can be met, and what it would take to make the proposed solution meet.
- c. For each of the items you indicate “Does Not Meet,” briefly explain why the proposed solution does not meet.

This instruction, without more, suggest that offerors were not required to meet any of the requirements to be responsive to the solicitation. However, as discussed above, this is not the case.

A review of the record reveals that Atrium was nonresponsive to at least one mandatory requirement. Requirement Number 23.3 states:

The system administration software should be able to control access to the designated software programs, functions, workstations, printers, privileges and privilege accounts. Specifically, **it is required that** the system security codes are able to:

23.3. allow operators to select individual workstation timeout values

In its proposal, Atrium responded to this requirement with the following:

MEETS. Client Admins **cannot currently** configure individual timeout values (there is a global setting for all Admin browser sessions); however, Atrium is willing to discuss this as an **enhancement**.
[emphasis supplied]

Despite the use of the word MEETS at the beginning of its response. Atrium's narrative response is clear that it does not meet this requirement. Nor does Atrium offer that it will make an enhancement to meet this requirement. Instead, Atrium states it is "willing to discuss" this requirement" as an enhancement." Atrium's failure to commit to make this "enhancement" renders Atrium's bid nonresponsive.

The intent is not to single out Atrium. Transact and the other two offerors were nonresponsive as well. It was administrative error to evaluate and rank nonresponsive proposals. *See* S.C. Code § 11-35-1530(7).

During the administrative review of Transact's protest, another area of ambiguity emerged. Requirement Number 6 is a mandatory requirement which states:

"Applications supported by the solution **will use the same single**, central database, the **same** software, and the **same** card reader family."
[emphasis supplied]

In its proposal, Atrium responded to this requirement by stating:

MEETS. Atrium uses a unified, secure, cloud-hosted database to store ALL cardholder and system data.

Atrium did not address the requirement that the solution use "the same software, and the same card reader family." Two other offerors provided similar answers focusing on the requirement for the "same single, central database." Only Transact addressed all three, and Transact's response to the latter two seems to be nonresponsive. At a limited hearing where the selection panel members were questioned, none of the three could address what the requirement that the solution use "the same software, and the same card reader family" actually required and testified that they evaluated this factor based solely on whether the vendor had "same single, central database." It was clear that in

at least this one case, the evaluators did not understand the entirety of the requirement they were evaluating.

In addition to revising the specifications to make clear which requirements are mandatory and clear up other ambiguities, the Procurement Manager has determined that there is a need to reach out to the vendor community to better understand the market and modify the solicitation based on that input. The first contract DPS let for one-card systems was in 2010. The current solicitation requirements have changed little from that first solicitation and do not reflect the advances in technology in the subsequent 12 years.


DETERMINATION

Regulation 19-445.2085(C) provides:

After an award or notification of intent to award, whichever is earlier, has been issued but before performance has begun, the award or contract may be canceled and either re-awarded or a new solicitation issued or the existing solicitation canceled, if the Chief Procurement Officer determines in writing that:

- (1) Inadequate or ambiguous specifications were cited in the invitation;
 - (2) Specifications have been revised;
- ***
- (7) Administrative error of the purchasing agency discovered prior to performance, or
 - (8) For other reasons, cancellation is clearly in the best interest of the State.

For the foregoing reasons, the CPO hereby cancels the award of a contract to ICS and the matter is remanded to DPS with instructions to proceed in accordance with the Consolidated Procurement Code.



John St. C. White
Chief Procurement Officer

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Written Determinations Appeal Notice (Revised May 2020)

The South Carolina Procurement Code, in Section 11-35-4410, subsection (1)(b), states:

(1) Creation. There is hereby created the South Carolina Procurement Review Panel which shall be charged with the responsibility to review and determine de novo:
(b) requests for review of other *written determinations*, decisions, *policies*, and *procedures* arising from or concerning the procurement of supplies, services, information technology, or construction procured in accordance with the provisions of this code and the ensuing regulations; except that a matter which could have been brought before the chief procurement officers in a timely and appropriate manner pursuant to Sections 11-35-4210, 11-35-4220, or 11-35-4230, but was not, must not be the subject of review under this paragraph. Requests for review pursuant to this paragraph must be submitted to the Procurement Review Panel in writing, setting forth the grounds, within fifteen days of the date of the written determinations, decisions, policies, and procedures.

(Emphasis added.) See generally *Protest of Three Rivers Solid Waste Authority by Chambers Development Co., Inc.*, Case Nos. 1996-4 & 1996-5, *Protest of Charleston County School District*, Case No. 1985-5, *Charleston County School Dist. v. Leatherman*, 295 S.C. 264, 368 S.E.2d 76 (Ct.App.1988).

Copies of the Panel's decisions and other additional information regarding the protest process is available on the internet at the following web site: <http://procurement.sc.gov>

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**South Carolina Procurement Review Panel
Request for Filing Fee Waiver
1105 Pendleton Street, Suite 209, Columbia, SC 29201**

Name of Requestor

Address

City

State

Zip

Business Phone

1. What is your/your company's monthly income? _____

2. What are your/your company's monthly expenses? _____

3. List any other circumstances which you think affect your/your company's ability to pay the filing fee:

To the best of my knowledge, the information above is true and accurate. I have made no attempt to misrepresent my/my company's financial condition. I hereby request that the filing fee for requesting administrative review be waived.

Sworn to before me this

_____ day of _____, 20_____

Notary Public of South Carolina

Requestor/Appellant

My Commission expires: _____


For official use only: _____ Fee Waived _____ Waiver Denied

Chairman or Vice Chairman, SC Procurement Review Panel

This _____ day of _____, 20_____
Columbia, South Carolina

NOTE: If your filing fee request is denied, you will be expected to pay the filing fee within fifteen (15) days of the date of receipt of the order denying the waiver.

Exhibit A

	State of South Carolina Request for Proposal	Solicitation:	5400022908
		Date Issued:	02/22/2022
		Procurement Officer:	Kristen Hutto
		Phone:	(803) 737-7685
		Email Address:	khutto@mmo.sc.gov
Mailing Address:		SFAA, Div. of Procurement Services, ITMO 1201 Main Street, Suite 600 Columbia SC 29201	

DESCRIPTION: **STC One Card Identification Systems**

USING GOVERNMENTAL UNIT: **Statewide Term Contract**

SUBMIT YOUR OFFER ONLINE AT THE FOLLOWING URL: <http://www.procurement.sc.gov>

SUBMIT OFFER BY (Opening Date/Time): **03/15/2022 11:00 AM** (See "Deadline for Submission of Offer" provision)

QUESTIONS MUST BE RECEIVED BY: **02/23/2022 5:00 PM** (See "Questions from Offerors" provision)

NUMBER OF COPIES TO BE SUBMITTED: **ONLINE SUBMISSION** (See "Online Bidding Instructions" provision)

- If submitting confidential information, include a separate redacted copy with your online submission marked "REDACTED." (See provisions "Submitting Redacted Offers" in Section IV & "Disclosure of Your Bid / Proposal and Submitting Confidential Data" in Section IIA.)
- **Initial here if no redacted copy is necessary _____**

CONFERENCE TYPE: N/A
DATE & TIME: N/A

(See "Conferences - Pre- Proposal" provision)

LOCATION: N/A

AWARD &
AMENDMENTS

Award will be posted on **06/17/2022**. The award, this solicitation, any amendments, and any related notices will be posted at the following web address: <http://www.procurement.sc.gov>.

You must submit a signed copy of this form with Your Offer. By signing, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of ninety (90) calendar days after the Opening Date. (See "Signing Your Offer" provision.)

NAME OF OFFEROR

(full legal name of business submitting the offer)

Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.

AUTHORIZED SIGNATURE

(Person must be authorized to submit binding offer to contract on behalf of Offeror)

DATE SIGNED

TITLE

(business title of person signing above)

STATE VENDOR NO.

(Register to Obtain S.C. Vendor No. at www.procurement.sc.gov)

PRINTED NAME

(printed name of person signing above)

STATE OF INCORPORATION

(If you are a corporation, identify the state of incorporation.)

OFFEROR'S TYPE OF ENTITY: (Check one) (See "Signing Your Offer" provision.)

☐ Sole Proprietorship ☐ Partnership ☐ Other _____

☐ Corporate entity (not tax-exempt) ☐ Corporation (tax-exempt) ☐ Government entity (federal, state, or local)

COVER PAGE - ONLINE ONLY

PAGE TWO

(Return Page Two with Your Offer)

HOME OFFICE ADDRESS (Address for offeror's home office / principal place of business)	NOTICE ADDRESS (Address to which all procurement and contract related notices should be sent.) (See "Notice" clause)

	Area Code - Number - Extension Facsimile

	E-mail Address

PAYMENT ADDRESS (Address to which payments will be sent.) (See "Payment" clause)	ORDER ADDRESS (Address to which purchase orders will be sent) (See "Purchase Orders and "Contract Documents" clauses)
_____ Payment Address same as Home Office Address	_____ Order Address same as Home Office Address
_____ Payment Address same as Notice Address (check only one)	_____ Order Address same as Notice Address (check only one)

ACKNOWLEDGMENT OF AMENDMENTS							
Offerors acknowledges receipt of amendments by indicating amendment number and its date of issue. (See "Amendments to Solicitation" Provision)							
Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date

DISCOUNT FOR PROMPT PAYMENT (See "Discount for Prompt Payment" clause)	10 Calendar Days (%)	20 Calendar Days (%)	30 Calendar Days (%)	_____ Calendar Days (%)
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I. SCOPE OF SOLICITATION

On behalf of all Using Governmental Units, the Office of State Procurement (OSP) is soliciting proposals from qualified Offerors for integrated one card system(s) to be used as a solution for security, controlled access, and facilitation of convenient commerce. The one card system(s) will be able to provide a complete and comprehensive one card system that is scalable and capable of modifying existing one card systems, while meeting requirements for the safeguarding of sensitive information.

IMPORTANT NOTICE: IF THE TERMS AND CONDITIONS HEREIN ARE OBJECTED TO, QUALIFIED, OR SUPPLEMENTED IN YOUR OFFER, YOUR OFFER MAY BE DETERMINED NON-RESPONSIVE AND NOT CONSIDERED FURTHER. See "Responsiveness and Improper Offers" provision in Section IIA, SC Code of Laws §11-35-1520(13), and SC Code of Regulations Chapter 19-445.2070.

ACQUIRE SERVICES and SUPPLIES / EQUIPMENT (JAN 2006)

The purpose of this solicitation is to acquire services and supplies or equipment complying with the enclosed description and/or specifications and conditions. [01-1005-1]

MAXIMUM CONTRACT PERIOD - ESTIMATED (JAN 2006)

Start Date: 07/06/2022

End Date: 07/05/2027

The Maximum Contract Period is comprised of a one-year initial term with four optional renewal terms of one year each.

Dates provided are estimates only. Any resulting Contract will begin on the date specified in the notice of award. See clause entitled "Term of Contract - Effective Date/Initial Contract Period."

II. INSTRUCTIONS TO OFFERORS - A. GENERAL INSTRUCTIONS

DEFINITIONS, CAPITALIZATION, AND HEADINGS (DEC 2015)

CLAUSE HEADINGS USED IN THIS SOLICITATION ARE FOR CONVENIENCE ONLY AND SHALL NOT BE USED TO CONSTRUE MEANING OR INTENT. EVEN IF NOT CAPITALIZED, THE FOLLOWING DEFINITIONS ARE APPLICABLE TO ALL PARTS OF THE SOLICITATION, UNLESS EXPRESSLY PROVIDED OTHERWISE.

AMENDMENT means a document issued to supplement the original solicitation document.

AUTHORITY means the State Fiscal Accountability Authority or its successor in interest.

BUSINESS means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity. [11-35-310(3)]

CHANGE ORDER means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract. [11-35-310(4)]

CONTRACT See clause entitled Contract Documents & Order of Precedence.

CONTRACT MODIFICATION means a written order signed by the procurement officer, directing the contractor to make changes which the clause of the contract titled "Changes," if included herein, authorizes the Procurement Officer to order without the consent of the contractor. [11-35-310(9)]

CONTRACTOR means the Offeror receiving an award as a result of this solicitation.

COVER PAGE means the top page of the original solicitation on which the solicitation is identified by number. Offerors are cautioned that Amendments may modify information provided on the Cover Page.

OFFER means the bid or proposal submitted in response this solicitation. The terms Bid and Proposal are used interchangeably with the term Offer.

OFFEROR means the single legal entity submitting the offer. The term Bidder is used interchangeably with the term Offeror. See bidding provisions entitled Signing Your Offer and Bid/Proposal As Offer To Contract.

PAGE TWO means the second page of the original solicitation, which is labeled Page Two.

PROCUREMENT OFFICER means the person, or his successor, identified as such on either the Cover Page, an amendment, or an award notice.

YOU and YOUR means Offeror.

SOLICITATION means this document, including all its parts, attachments, and any Amendments.

STATE means the Using Governmental Unit(s) identified on the Cover Page.

SUBCONTRACTOR means any person you contract with to perform or provide any part of the work.

US or WE means the using governmental unit.

USING GOVERNMENTAL UNIT means the unit(s) of government identified as such on the Cover Page. If the Cover Page identifies the Using Governmental Unit as "Statewide Term Contract," the phrase "Using Governmental Unit" means any South Carolina Public Procurement Unit [11-35-4610(5)] that has submitted a Purchase Order to you pursuant to the contract resulting from this solicitation. Reference the clauses titled "Purchase Orders" and "Statewide Term Contract."

WORK means all labor, materials, equipment, services, or property of any type, provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract.

[02-2A003-3]

AMENDMENTS TO SOLICITATION (JAN 2004)

(a) The Solicitation may be amended at any time prior to opening. All actual and prospective Offerors should monitor the following web site for the issuance of Amendments: www.procurement.sc.gov. (b) Offerors shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on Page Two, (3) by letter, or (4) by submitting a bid that indicates in some way that the bidder received the amendment. (c) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged. [02-2A005-1]

AUTHORIZED AGENT (FEB 2015)

All authority regarding this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the government with regard to this procurement or the resulting contract. [02-2A007-1]

AWARD NOTIFICATION (MODIFIED)

Notice regarding any award, cancellation of award, or extension of award will be posted at the location and on the date specified on the Cover Page or, if applicable, any notice of extension of award. Should the contract resulting from this Solicitation have a total or potential value in excess of one hundred thousand dollars, such notice will be sent electronically to all Offerors responding to the Solicitation and any award will not be effective until the calendar day (including weekends and holidays) immediately following the seventh business day after such notice is given.

BID/PROPOSAL AS OFFER TO CONTRACT (JAN 2004)

By submitting Your Bid or Proposal, You are offering to enter into a contract with the Using Governmental Unit(s). Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page. An Offer may be submitted by only one legal entity; "joint bids" are not allowed. [02-2A015-1]

BID ACCEPTANCE PERIOD (JAN 2004)

In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing. [02-2A020-1]

BID IN ENGLISH AND DOLLARS (JAN 2004)

Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation. [02-2A025-1]

AUTHORITY AS PROCUREMENT AGENT (DEC 2015)

The Procurement Officer is an employee of the Authority acting on behalf of the Using Governmental Unit(s) pursuant to the Consolidated Procurement Code. Any contracts awarded as a result of this procurement are between the Contractor and the Using Governmental Units(s). The Authority is not a party to such contracts, unless and to the extent that the Authority is a using governmental unit, and bears no liability for any party's losses arising out of or relating in any way to the contract. [02-2A030-3]

CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (MAY 2008)

GIVING FALSE, MISLEADING, OR INCOMPLETE INFORMATION ON THIS CERTIFICATION MAY RENDER YOU SUBJECT TO PROSECUTION UNDER SECTION 16-9-10 OF THE SOUTH CAROLINA CODE OF LAWS AND OTHER APPLICABLE LAWS.

(a) By submitting an offer, the offeror certifies that-

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to-

- (i) Those prices;
- (ii) The intention to submit an offer; or
- (iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory-

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; or

(2)(i) Has been authorized, in writing, to act as agent for the offeror's principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification [As used in this subdivision (b)(2)(i), the term "principals" means the person(s) in the offeror's organization responsible for determining

the prices offered in this bid or proposal];

(ii) As an authorized agent, does certify that the principals referenced in subdivision (b)(2)(i) of this certification have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification.

(c) If the offeror deletes or modifies paragraph (a)(2) of this certification, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure. [02-2A032-1]

CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS (JAN 2004)

(a) (1) By submitting an Offer, Offeror certifies, to the best of its knowledge and belief, that-

(i) Offeror and/or any of its Principals-

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;

(B) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

(b) Offeror shall provide immediate written notice to the Procurement Officer if, at any time prior to contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) If Offeror is unable to certify the representations stated in paragraphs (a)(1), Offer must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure of the Offeror to furnish additional information as requested by the Procurement Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, the Procurement Officer may terminate the contract resulting from this solicitation for default.

[02-2A035-1]

CODE OF LAWS AVAILABLE (JAN 2006)

The South Carolina Code of Laws, including the Consolidated Procurement Code, is available at:

<http://www.scstatehouse.gov/code/statmast.php>

The South Carolina Regulations are available at:

<http://www.scstatehouse.gov/coderegs/statmast.php>

[02-2A040-2]

DISCLOSURE OF CONFLICTS OF INTEREST OR UNFAIR COMPETITIVE ADVANTAGE (FEB 2015)

You warrant and represent that your offer identifies and explains any unfair competitive advantage you may have in competing for the proposed contract and any actual or potential conflicts of interest that may arise from your participation in this competition or your receipt of an award. The two underlying principles are (a) preventing the existence of conflicting roles that might bias a contractor's judgment, and (b) preventing an unfair competitive advantage. If you have an unfair competitive advantage or a conflict of interest, the state may withhold award. Before withholding award on these grounds, an offeror will be notified of the concerns and provided a reasonable opportunity to respond. Efforts to avoid or mitigate such concerns, including restrictions on future activities, may be considered. Without limiting the foregoing, you represent that your offer identifies any services that relate to either this solicitation or the work and that has already been performed by you, a proposed subcontractor, or an affiliated business of either. [02-2A047-2]

DEADLINE FOR SUBMISSION OF OFFER (JAN 2004)

Any offer received after the Procurement Officer of the governmental body or his designee has declared that the time set for opening has arrived, shall be rejected unless the offer has been delivered to the designated purchasing office or the governmental body's mail room which services that purchasing office prior to the opening. [R.19-445.2070(G)] [02-2A050-1]

DRUG FREE WORKPLACE CERTIFICATION (JAN 2004)

By submitting an Offer, Contractor certifies that, if awarded a contract, Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended. [02-2A065-1]

DUTY TO INQUIRE (FEB 2015)

Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror's risk. All ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation shall be interpreted to require the better quality or greater quantity of work and/or materials, unless otherwise directed by amendment. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the State's attention. See clause entitled "Questions from Offerors." [02-2A070-2]

ETHICS CERTIFICATE (MAY 2008)

By submitting an offer, the offeror certifies that the offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The state may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the procurement officer at the same time the law requires the statement to be filed. [02-2A075-2]

OMIT TAXES FROM PRICE (JAN 2004)

Do not include any sales or use taxes in Your price that the State may be required to pay. [02-2A080-1]

OPEN TRADE REPRESENTATION (JUN 2015)

By submitting an Offer, Offeror represents that Offeror is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300. [02-2A083-1]

PROTESTS (MAY 2019)

If you are aggrieved in connection with the solicitation or award of the contract, you may be entitled to protest, but only as provided in Section 11-35-4210. To protest a solicitation, you must submit a protest within fifteen days of the date the applicable solicitation document is issued. To protest an award, you must (i) submit notice of your intent to protest within seven business days of the date the award notice is posted, and (ii) submit your actual protest within fifteen days of the date the award notice is posted. Days are calculated as provided in Section 11-35-310(13). Both protests and notices of intent to protest must be in writing and must be received by the appropriate Chief Procurement Officer within the time provided. See clause entitled "Protest-CPO". The grounds of the protest and the relief requested must be set forth with enough particularity to give notice of the issues to be decided. [02-2A085-2]

PROHIBITED COMMUNICATIONS AND DONATIONS (FEB 2015)

Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of law.

(a) During the period between publication of the solicitation and final award, *you must not communicate, directly or indirectly, with the Using Governmental Unit or its employees, agents or officials regarding any aspect of this procurement activity*, unless otherwise approved in writing by the Procurement Officer. All communications must be solely with the Procurement Officer. [R. 19-445.2010]

(b) You are advised to familiarize yourself with Regulation 19-445.2165, which restricts donations to a governmental entity with whom you have or seek to have a contract. *You represent that your offer discloses any gifts made, directly or through an intermediary, by you or your named subcontractors to or for the benefit of the Using Governmental Unit during the period beginning eighteen months prior to the Opening Date.* [R. 19-445.2165] [02-2A087-1]

PUBLIC OPENING (JAN 2004)

Offers will be publicly opened at the date/time and at the location identified on the Cover Page, or last Amendment, whichever is applicable. [02-2A090-1]

Questions submitted previously during the question period for solicitation 5400021922 are included as an attachment. See "Previous Vendor Questions & Answers." We do not anticipate receiving any further questions.

QUESTIONS FROM OFFERORS (FEB 2015)

(a) Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing. Questions regarding the original solicitation or any amendment must be received by the Procurement Officer no later than five (5) days prior to opening unless an earlier date is stated on the Cover Page. Label any communication regarding your questions with the name of the procurement officer, and the solicitation's title and number. Oral explanations or instructions will not be binding. [See R. 19-445.2042(B)] Any information given a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective offerors. See clause entitled "Duty to Inquire." **We will not identify you in our answer to your question.** (b) The State seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer -- as soon as possible -- regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition. [See R. 19-445.2140] [02-2A095-2]

REJECTION/CANCELLATION (JAN 2004)

The State may cancel this solicitation in whole or in part. The State may reject any or all proposals in whole or in part. [SC Code Section 11-35-1710 & R.19-445.2065] [02-2A100-1]

RESPONSIVENESS/IMPROPER OFFERS (JUN 2015)

(a) Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation.

(b) Multiple Offers. Offerors may submit more than one Offer, provided that each Offer has significant differences other than price. Each separate Offer must satisfy all Solicitation requirements. If this solicitation is an Invitation for Bids, each separate offer must be submitted as a separate document. If this solicitation is a Request for Proposals, multiple offers may be submitted as one document, provided that you clearly differentiate between each offer and you submit a separate cost proposal

for each offer, if applicable.

(c) Responsiveness. Any Offer which fails to conform to the material requirements of the Solicitation may be rejected as nonresponsive. Offers which impose conditions that modify material requirements of the Solicitation may be rejected. If a fixed price is required, an Offer will be rejected if the total possible cost to the State cannot be determined. Offerors will not be given an opportunity to correct any material nonconformity. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer. [R.19-445.2070 and Section 11-35-1520(13)]

(d) Price Reasonableness: Any offer may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price. [R. 19-445.2070].

(e) Unbalanced Bidding. The State may reject an Offer as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the State even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

(f) **Do not submit bid samples or descriptive literature unless expressly requested.** Unsolicited bid samples or descriptive literature will not be examined or tested, will not be used to determine responsiveness, and will not be deemed to vary any of the provisions of the solicitation. S.C. Code Ann. Reg. 19-445.2077(D).

[02-2A105-2]

SIGNING YOUR OFFER (JAN 2004)

Every Offer must be signed by an individual with actual authority to bind the Offeror. (a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm. (b) If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words by its Partner, and signed by a general partner. (c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign. (d) An Offer may be submitted by a joint venturer involving any combination of individuals, partnerships, or corporations. If the Offeror is a joint venture, the Offer must be submitted in the name of the Joint Venture and signed by every participant in the joint venture in the manner prescribed in paragraphs (a) through (c) above for each type of participant. (e) If an Offer is signed by an agent, other than as stated in subparagraphs (a) through (d) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the agent's authorization to bind the principal. [02-2A115-1]

STATE OFFICE CLOSINGS (JAN 2004)

If an emergency or unanticipated event interrupts normal government processes so that offers cannot be received at the government office designated for receipt of bids by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal government processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule bid opening. If state offices are closed at the time a pre-bid or pre-proposal conference is scheduled, an Amendment will be issued to reschedule the conference. Useful information may be available at: <https://scemd.org/closings/>. [02-2A120-3]

DISCLOSURE OF YOUR BID / PROPOSAL AND SUBMITTING CONFIDENTIAL DATA (FEB 2021)

(a) According to Section 11-35-410, any person submitting a document in response or with regard to any solicitation or other request must "comply with instructions provided in the solicitation for marking information exempt from public disclosure. Information not marked as required by the applicable instructions may be disclosed to the public." **IF YOU IDENTIFY YOUR ENTIRE RESPONSE AS EXEMPT FROM PUBLIC DISCLOSURE, OR IF YOU DO NOT SUBMIT A REDACTED COPY AS REQUIRED, THE STATE MAY, IN ITS SOLE DISCRETION, DETERMINE YOUR BID OR PROPOSAL NONRESPONSIVE AND INELIGIBLE FOR AWARD.** (b) By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page, or portion thereof, of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page, or portion thereof, was redacted and conspicuously marked "Trade Secret" or "Confidential" or "Protected", (2) agrees that any information not redacted and marked, as required by these bidding instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final

contract amount, are subject to public disclosure. (c) If your offer includes any information that you claim is exempt from public disclosure, you must submit one complete copy of your offer from which you have removed or concealed such information (the redacted copy). Except for the information removed or concealed, the redacted copy must be identical to your original offer. (d) Do not mark your entire response (bid, proposal, quote, etc.) as confidential, trade secret, or protected. If only portions of a page are subject to some protection, do not redact the entire page. The redacted copy must reflect the same pagination as the original and show the empty space from which information was redacted. The Procurement Officer must be able to view, search, copy and print the redacted copy without a password. If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. (e) On the redacted copy, you must identify the basis of your claim by marking each redaction as follows: You must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that you redacted and claim as exempt from public disclosure because it is either (1) a trade secret as defined in Section 30-4-40(a)(1) of the Freedom of Information Act, or (2) privileged and confidential, as that phrase is used in Section 11-35-410. You must separately mark with the words "TRADE SECRET" every page, or portion thereof, that you redacted and claim as exempt from public disclosure as a trade secret pursuant to Section 39-8-20 of the Trade Secrets Act. You must separately mark with the word "PROTECTED" every page, or portion thereof, that you redacted and claim as exempt from public disclosure pursuant to Section 11-35- 1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. (f) In determining whether to release documents, the State will detrimentally rely on your redaction and marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "Protected". By submitting a response, you agree to defend, indemnify and hold harmless the State of South Carolina, its agencies, officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from withholding information by the State of South Carolina or any of its agencies, that you have redacted or marked as "Confidential" or "Trade Secret" or "Protected". (All references to S.C. Code of Laws.) [02-2A125-3]

SUBMITTING A PAPER OFFER OR MODIFICATION (MAR 2015)

Unless specifically instructed otherwise in the solicitation, you should submit your offer or modification in accordance with the clause titled "ONLINE BIDDING INSTRUCTIONS." Paper offers are discouraged. If you must submit a paper offer or modification the following instructions apply. (a) All prices and notations should be printed in ink or typewritten. Errors should be crossed out, corrections entered and initialed by the person signing the bid. Do not modify the solicitation document itself (including bid schedule). (b) (1) All copies of the offer or modification, and any other documents required to be submitted with the offer shall be enclosed in a sealed, opaque envelope or package. (2) Submit your offer or modification to the address on the Cover Page. (3) The envelope or package must show the time and date specified for opening, the solicitation number, and the name and address of the bidder. If the offer or modification is sent by mail or special delivery service (UPS, Federal Express, etc.), the outermost envelope or wrapper must be labeled "OFFER ENCLOSED" on the face thereof. (c) If you are responding to more than one solicitation, submit each offer in a separate envelope or package. (d) Submit the number of copies indicated on the Cover Page. (e) Facsimile or e-mail offers, modifications, or withdrawals, will not be considered unless authorized by the Solicitation. [02-2A130-2]

TAX CREDIT FOR SUBCONTRACTING WITH DISADVANTAGED SMALL BUSINESSES (JAN 2008)

Pursuant to Section 12-6-3350, a taxpayer having a contract with this State who subcontracts with a socially and economically disadvantaged small business is eligible for an income tax credit equal to four percent of the payments to that subcontractor for work pursuant to the contract. The subcontractor must be certified as a socially and economically disadvantaged small business as defined in Section 11-35-5010 and regulations pursuant to it. The credit is limited to a maximum of fifty thousand dollars annually. A taxpayer is eligible to claim the credit for ten consecutive taxable years beginning with the taxable year in which the first payment is made to the subcontractor that qualifies for the credit. After the above ten consecutive taxable years, the taxpayer is no longer eligible for the credit. A taxpayer claiming the credit shall maintain evidence of work performed for the contract by the subcontractor. The credit may be claimed on Form TC-2, "Minority Business Credit." A copy of the subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be attached to the contractor's income tax return. Questions regarding the tax credit and how to file are to be referred to: SC Department of Revenue, Research and Review, Phone: (803) 898-5786, Fax: (803) 898-5888. Questions regarding subcontractor certification are to be referred to: Governor's Office of Small and Minority Business Assistance, Phone: (803) 734-0657, Fax: (803) 734-2498. [02-2A135-1]

VENDOR REGISTRATION MANDATORY (MODIFIED)

You must have a state vendor number to be eligible to submit an offer. To obtain a state vendor number, visit www.procurement.sc.gov and select Doing Business with Us. Then select Vendor Registration. (To determine if your business is already registered, go to "Vendor Search"). Upon registration, you will be assigned a state vendor number. Vendors must keep their vendor information current. If you are already registered and know your User ID & Password, you

can update your information by selecting Update Vendor Registration. If you need to update information but do not have your User ID/Password, you must complete a new vendor registration and On Step 9 – Messages to Administration indicate “Update vendor number” with your existing 10-digit vendor number. (Please note that vendor registration does not substitute for any obligation to register with the S.C. Secretary of State Index - Business Entities Online - S.C. Secretary of State (sc.gov) or S.C. Department of Revenue Withholding (sc.gov).

WITHDRAWAL OR CORRECTION OF OFFER (JAN 2004)

Offers may be withdrawn by written notice received at any time before the exact time set for opening. If the Solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for opening. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid. The withdrawal and correction of Offers is governed by S.C. Code Section 11-35-1520 and Regulation 19-445.2085. [02-2A150-1]

II. INSTRUCTIONS TO OFFERORS -- B. SPECIAL INSTRUCTIONS

CONFERENCE - PRE-BID/PROPOSAL (JAN 2006)

Pre-Bid/Proposal Conference Date and Time: **01/13/2022 11:00 AM**

Location of Pre-Bid/Proposal Conference: **Web Conference**

Contact the Procurement Officer before **5:00 PM** on **January 12, 2022** to obtain access credentials for this web conference.

Due to the importance of all offerors having a clear understanding of the specifications and requirements of this solicitation, a conference of potential offerors will be held on the date specified on the cover page. Bring a copy of the solicitation with you. Any changes resulting from this conference will be noted in a written amendment to the solicitation. Your failure to attend will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the State. The State assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available at the conference. Nor does the State assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract. [02-2B025-1]

CONTENTS OF OFFER (RFP) (FEB 2015)

- (a) Offers should be complete and carefully worded and should convey all of the information requested.
- (b) Offers should be prepared simply and economically, providing a straightforward, concise description of offeror's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.
- (c) The contents of your offer must be divided into two parts, the technical proposal and the business proposal. Each part should be bound in a single volume.
- (d) If your offer includes any comment over and above the specific information requested in the solicitation, you are to include this information as a separate appendix to your offer. Offers which include either modifications to any of the solicitation's contractual requirements or an offeror's standard terms and conditions may be deemed non-responsive and not considered for award. [02-2B040-2]

ELECTRONIC COPIES - REQUIRED MEDIA AND FORMAT (MODIFIED)

If you submit a paper offer in accordance with the "Submitting a Paper Offer or Modification" provision in Section IIA, in addition to your original paper offer, you must submit an electronic copy on a USB drive. Your business and technical proposals must be on separate media. Every USB drive must be labeled with the solicitation number and the offeror's name and specify whether its contents address technical proposal or business proposal. If sets are provided, each USB in the set must be appropriately identified as to its relationship to the set, e.g., 1 of 2. The electronic copy must be identical to the original paper offer. File format shall be compatible with Microsoft Office (version 2003 or later), or Adobe Acrobat or equivalent Portable Document Format (.pdf) viewer. The Procurement Officer must be able to view, search, copy and print electronic documents without a password.

ONLINE BIDDING INSTRUCTIONS (MAR 2015)

- (a) Mandatory Registration. You must register before you can submit an offer online! See clause entitled "Vendor Registration Mandatory."
- (b) Steps for Online Bidding
 1. The link provided on the solicitation's Cover Page will take you to our web based on-line bidding system, where you will enter and/or upload your offer.
 2. Follow the general user instructions posted at www.procurement.sc.gov under the heading "Doing Business with Us" and then "Submitting Offers."
 3. Confirm your offer has a status of "submitted" by refreshing the "RFx and Auctions" screen. Only offers with a status of "submitted" have been received by the State. Offers with a status of "saved" have not been received.
 4. Save or print a copy of your offer using the "Print Preview" button after your offer has been submitted.
- (c) If you have problems entering an on-line offer, you must contact the SCEIS Help Desk for assistance at (803) 896-0001 and follow the prompts. You may also contact the SCEIS Help Desk on-line at <http://www.sceis.sc.gov/vendorrequests/>. Do not contact the Procurement Officer with problems entering an offer into the system. Only questions regarding the solicitation document should be addressed with the Procurement Officer.

(d) Do not wait until the last minute to submit your offer. If an on-line offer is not completed and in a submitted status prior to the submission deadline, the offer will not be considered for award.

OPENING PROPOSALS -- INFORMATION NOT DIVULGED (FEB 2015)

In competitive sealed proposals, neither the number or identity of offerors nor prices will be divulged at opening. [Section 11-35-1530 & R. 19-445.2095(C)(1)] [02-2B110-2]

PROTEST - CPO - ITMO ADDRESS (MODIFIED)

Any protest must be addressed to the Chief Procurement Officer, Information Technology Management Office, and submitted in writing

(a) by email to protest-itmo@itmo.sc.gov, or

(b) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201.

III. SCOPE OF WORK/SPECIFICATIONS

This contract is to acquire a one card system that will allow the use of a single identification (ID) card to interface with a variety of hardware and software platforms. The one card system includes all necessary hardware, software, and consumables to provide ID cards that can provide fully integrated services to include, but not limited to, the following functional areas:

- Campus ID
- Activity access and monitoring (i.e. recreation, athletic)
- Card holder self-service, including web-based deposit capability
- Copy machine transactions
- Door entry to on campus housing, labs, classrooms
- Food services / meal plans
- Laundry services
- Library book check out and fee payment
- Parking
- Prepaid services and credit accounts
- Print control software and hardware
- Reporting
- Snack and beverage vending
- Student tracking
- Off-campus merchant support

SOLUTION REQUIREMENTS

The solution includes all necessary hardware, software, and services that collectively provide one card identification functionality.

1. The solution will ideally:
 - 1.1. have turnkey installation with configuration and support
 - 1.2. be easy and fast to install without placing an undue demand on users
 - 1.3. utilize an open architecture capable of interfacing with other networks such as ATM and POS
 - 1.4. integrate with existing systems as efficiently as possible to prevent data capture duplication and manual intervention in the event of status changes of cardholders
 - 1.5. offer interoperability with other systems
 - 1.6. be scalable to allow for incorporation of future system expansion
 - 1.7. provide web-based usage, reporting, and set-up
 - 1.8. have reconciliation capabilities for transaction activity
 - 1.9. keep pace with the software upgrade schedules
 - 1.10. be available online, in real time 24 hours a day, seven days a week, including holidays, and maintain a 99.9% uptime rating excepting scheduled downtime for routine maintenance to ensure accurate cardholder and transaction data for effective system information management, reporting, and auditing activities
 - 1.11. include an Uninterruptible Power Supply (UPS) to provide operating power to the system in the event of unstable building power
 - 1.11.1. The UPS should support automatic, unattended system shutdown in the event of building power outages. The automatic operation will consist of a complete and orderly shut-down of all system processes, followed by the termination of electrical power to the system
 - 1.11.2. The UPS should interactively communicate with the system via an electronic communication link, exchanging status and other pertinent data
 - 1.11.3. When electrical power is restored to the UPS, the system should automatically restart to full operational capability without operator intervention
 - 1.12. include sufficient disaster recovery protocols to preclude the loss of any data
 - 1.13. be able to expand to accommodate multiple concurrent interactive user workstation/terminal/camera connections
 - 1.14. be capable of integrating with a true print management program
2. The transaction system database should be the single database of record for all cardholder ID Card balances, including any off-campus merchant program(s).
3. No credit card information is to traverse or be stored in any device on UGU's network.
4. Solution should include the following capabilities to support financial accounting:
 - 4.1. Banking/Electronic Funds Transfer
 - 4.2. Balancing/reconciling card accounts

- 4.3. Reports
- 4.4. Ad hoc (describe sort options, i.e. ID account type, ID class, transaction type, tender type, etc.)
- 4.5. Write off/refund accounts
- 4.6. Adjust/update accounts
- 4.7. Audit trail
- 4.8. Compliance with Generally Accepted Accounting Principles (GAAP)
- 4.9. Concurrent fiscal year operations (close out a fiscal year while already into another)
- 4.10. Data storage
- 4.11. Archiving of data
- 4.12. Security administration

HARDWARE

The core server components manage the online central database, ancillary cardholder information, product information, and network configuration.

5. The core server should:
 - 5.1. use an industry-standard relational database engine
 - 5.2. use an industry-standard multitasking, multi-user operating system
 - 5.3. be nonproprietary with an open architecture capable of interfacing with other computer systems
 - 5.4. provide several server options from multiple manufacturers of sufficient size to support desired performance with upgrade paths for future expansion
 - 5.5. be capable of performing updates online in real-time
 - 5.6. support unattended backups across the network
 - 5.7. fit into the UGUs data center environment, including the ability to run in a virtualized environment
 - 5.8. be remotely supportable for diagnostic purposes
 - 5.9. handle real-time communications with the network of card readers
 - 5.10. record and upload transactions stored during offline operations
 - 5.11. respond to online reader authorization requests in two seconds or less. Response time should be sub-second under normal operating conditions
6. Applications supported by the solution will use the same single, central database, the same software, and the same card reader family.
7. Under no circumstances should it be necessary to shut down the system while performing any other functions such as system backup and report generation.
8. Basic Card Reader Specifications
 - 8.1. All card readers should be designed for high-use environments.
 - 8.2. All card readers should feature a continuous swipe-through style card slot with a floating read head, which reads the encoded information on Track II of the ABA magnetic stripe on the ID card.
 - 8.3. All card readers should be capable of being programmed at system workstations by authorized operators only.
 - 8.4. In the event of a communication disruption between the reader and the server, each reader should be able to store cardholder transactions in an offline condition for uploading to the server when communication is restored.
 - 8.5. All readers should be compatible with native IP architecture. Terminal servers, modems and line drivers are not acceptable. All readers should be able to communicate via TCP/IP without additional networking devices.
9. Point of Sale (POS) Card Readers are used for food services, athletic concessions, bookstores, convenience stores, etc. and should:
 - 9.1. be a single, countertop device, featuring a continuous swipe-through style card slot, and be constructed of durable components.
 - 9.2. be touch screen
 - 9.3. not require an additional server for reporting or administration needs
 - 9.4. be native IP capable for communication method
 - 9.5. interface with existing POS systems
10. Self-service kiosks are used for unattended cardholder account management and should:
 - 10.1. include multiple mount options, including pedestal or tabletop
 - 10.2. be touch screen
 - 10.3. not require an additional server for reporting or administration needs
 - 10.4. be native IP capable for communication method
11. The IP-Capable Activity Reader is used to enable and track cardholder access, basic POS, and participation in a wide variety of activities across campus. The IP-Capable Activity Reader should:

- 11.1. be a portable, stand-alone device capable of operating both online and offline at indoor and outdoor locations across campus
12. The IP-Capable Vending Reader is used to complete cardholder transactions at snack and beverage vending machines.
 - 12.1. The IP-Capable Vending Reader should be able to track cash, debit, and credit transactions.
13. The IP-Capable Copy Machine Reader should be:
 - 13.1. a space-saving, easily mountable reader with a horizontal-swipe card slot
 - 13.2. able to track cash, debit, and credit transactions
14. The IP-Capable Access Control Card Readers are used to control access at doors, lot gates, etc. and should:
 - 14.1. provide three Light-Emitting Diodes (LEDs) to indicate if card entry is valid, denied, or the card should be reinserted
 - 14.2. have control electronics mounted remotely within the interior of the secured area
 - 14.3. be protected against power line disturbances (i.e., have power line filter and watchdog timer circuitry)
 - 14.4. be able to store approximately 10,000 transactions while offline, and automatically upload stored transactions upon going online
 - 14.5. be able to support a downloaded cardholder privilege database
 - 14.6. be able to support an optional Personal Identification Number (PIN) pad
 - 14.7. be capable of interfacing with proximity card recognition devices
 - 14.8. be able to support multiple alarm inputs/outputs that will activate other types of peripheral equipment (lights, video camera, sirens, etc.)
 - 14.9. Be able to support multiple independent doors
 - 14.10. Use native TCP/IP Controller communication back to the host server (no terminal servers); and
 - 14.11. Have the ability to remotely lock down all electronic access points
15. The IP-Capable Laundry Center Reader should:
 - 15.1. be able to activate computerized card ready laundry machines
 - 15.2. be able to track cash, debit, and credit transactions
16. The Wireless Reader should integrate with the transaction system and all transactions should be processed over a wireless network without the need for a separate server or additional computer hardware.
17. Ideally the Wireless Reader will:
 - 17.1. Support on-line and off-line functionality
 - 17.2. Campus Card Validation – providing activity/count (Yes/No)
 - 17.3. Campus Card Debit/Credit transactions
 - 17.4. Deposit/Refund
 - 17.5. Balance Inquiry
 - 17.6. Portable Point of Sale

BASIC COMMUNICATION REQUIREMENTS

Reader communications may occur over any facility (TCP/IP networking, wireless networking, RS-232, lease line, fiber and analog lines or other traditional communication pathways) that will support clear-channel, full-duplex, asynchronous communications.

18. Point of Sale (POS) devices, system workstations, and IP devices should communicate with the server via the network and use a standard network connection and IP address.
19. Solution should communicate with other computers via Ethernet with TCP/IP protocols.

SOFTWARE

20. The system administration software should be able to:
 - 20.1. assign operator security codes to permit access to the designated software programs functions, workstations, printers, privileges, and privilege accounts
 - 20.2. add, change, and delete system operators; deny access to previously authorized operators; assign operator login phrases; and grant or deny the use of multiple updates to each operator
 - 20.3. create an events calendar that signals the system to automatically perform an action at a specified date and time (i.e. deny access during holidays or run an end of quarter report)
 - 20.4. specify time period names for use in accounting and reports, and describe locations and cardholder privileges (i.e. first shift, breakfast, etc.)

- 20.5. monitor the status of card readers (online, offline, or inactive) by location or by group
- 20.6. define activities or functions (privileges) that a cardholder is allowed to perform
- 20.7. perform system backups automatically and on demand
- 21. At minimum, the solution should support monetary transactions, event admissions and monitoring transactions, and access-type privileges that reference the central cardholder database.
- 22. The system administration software should be able to:
 - 22.1. segregate funds into multiple accounts for a cardholder, and provide automatic links between accounts, if desired, to provide the cardholder with a reserve
 - 22.2. assign/revoke cardholder privileges and suspend/reactivate the use of cardholder privileges
 - 22.3. manage cardholder account funds (i.e., deposits, transfers, withdrawals, etc.) and perform exchanges
 - 22.4. identify damaged, forgotten, lost, and stolen cards immediately; deactivate expired cards; set personal credit limits as specified by the UGU; and activate and suspend card
 - 22.5. send and cancel user-defined messages to cardholders
 - 22.6. perform system backups automatically and on demand
 - 22.7. use a central database to store all cardholders' information. No credit card information is to traverse or be stored in any device on campus network
 - 22.8. follow Generally Accepted Accounting Principles (GAAP)
- 23. The system administration software should be able to control access to the designated software programs, functions, workstations, printers, privileges and privilege accounts. Specifically, it is required that the system security codes are able to:
 - 23.1. be department-specific to restrict access
 - 23.2. offer operator-defined password protection
 - 23.3. allow operators to select individual workstation timeout values
 - 23.4. integrate with UGU's Active Directory authentication scheme
- 24. The ID system software should:
 - 24.1. be accessible via the World Wide Web (URL) securely (SSL)
 - 24.2. support multiple identifier numbers, (i.e. student/staff ID numbers, legacy ID numbers, ISO numbers), for each cardholder
 - 24.3. add, change, and delete cardholder prepaid services accounts
 - 24.4. define activities or functions (privileges) that a cardholder is allowed to perform
 - 24.5. segregate funds into multiple accounts for a cardholder and provide automatic links between accounts, if desired, to provide the cardholder with a reserve
 - 24.6. add, change, and delete cardholders individually or by group (i.e. multiple updates)
 - 24.7. allow UGU to revoke cardholder privileges and suspend and reactivate the use of privileges
 - 24.8. review cardholder characteristics/data reporting
 - 24.9. manage cardholder account funds (i.e. deposits, transfers, withdrawals, etc.) and perform exchanges
 - 24.10. deactivate expired cards
 - 24.11. allow UGU and/or cardholders to:
 - 24.11.1. designate damaged, forgotten, lost, and stolen cards
 - 24.11.2. set personal credit limits
 - 24.11.3. activate and suspend card
 - 24.11.4. perform balance inquiry
 - 24.12. monitor the status of card readers (online, offline, or inactive) by location or by group
 - 24.13. fully integrate with the existing system with respect to cardholder information. There is to be no redundant data entry
 - 24.14. use a central database to store all cardholders' information. Local databases are unacceptable.
- 25. The ID system software should be able to support, at a minimum, the following mandatory reporting capabilities which will be provided by the Contractor at UGU's request:
 - 25.1. display information on one cardholder, all cardholders, or cardholders within a specified range of ID numbers for a specified date
 - 25.2. report the actions of a specified cardholder for a range of dates and times
 - 25.3. schedule the date and time that reports can be run automatically (i.e., without operator attention)
 - 25.4. reconcile the balances of credit/debit accounts with the balance of all reader transactions for a specified date
 - 25.5. report all or some of the transactions performed by an authorized operator for a range of dates
 - 25.6. report the privilege use activity at a specified location for a range of dates and times
 - 25.7. report the number of patron sales in detail (i.e., peak periods)
 - 25.8. report the quantity of different products selling at a specified location during a specified period of time for a specified range of dates
 - 25.9. report sales and patron counts for all or selected locations for a range of dates and times

26. The POS software should be able to:
 - 26.1. designate POS operators as cashiers or managers to determine the number of functions the operator can perform (i.e. operators designated as managers can use keys defined for managers' use only; operators designated as cashiers cannot)
 - 26.2. restrict the use of any designated key to a manager
 - 26.3. assign each manager or cashier to a specific location(s)
 - 26.4. provide for multiple different types of tenders to include check, cash, split, points/debit/credit, cash equivalency, etc.
 - 26.5. define separate keyboards for each time period on all locations and automatically download the information to the POS device from single workstations
 - 26.6. define operating schedules for accounting and reporting
 - 26.7. create Price Lookup (PLU) lists that identify the products and combinations for which there may or may not be preset keys
 - 26.8. group card readers that have the same operating characteristics (i.e. operating schedules, keyboards, time periods, etc.) into locations
 - 26.9. reside on same single server deployment
 - 26.10. allow cashiers or managers to add an open text comment to a transaction
 - 26.11. seamlessly process off-campus merchant vendor transactions to make sales, track, and report sales from off-campus merchants
27. The door access software application should use the same database and server as the system for processing commerce transactions.
28. The door access software application should allow distributed management and monitoring as follows:
 - 28.1. available from any networked workstation
 - 28.2. secured application login as well as network credentials
 - 28.3. door lists and preferences per User
 - 28.4. alarm filtering / sorting
 - 28.5. alarm notification via workstation interface
 - 28.6. alarm acknowledgement with the ability to add notes
29. The door access software application should provide ease of use for the following:
 - 29.1. graphical schedule previews for doors and permission time frames
 - 29.2. graphical customer preview of access to specific doors
 - 29.3. role based process flow and interface
 - 29.4. ability to group doors by a logical door group, physical and area
 - 29.5. ability to make group configuration changes
 - 29.6. ability to report on corresponding doors in a group; and
 - 29.7. ability to assign multiple "plans" to a cardholder. A plan is a compilation of the permissions that have been for a group of like cardholders for access or denial of access to a door or a group of doors.
30. The door access software application should provide scheduling flexibility for the following:
 - 30.1. unlimited holiday scheduling
 - 30.2. unlimited special day overrides definable for individual or groups of people or doors.
31. The solution should provide the ability to schedule a utility to automatically run at a specific time and include a standardized interface for scheduling utilities to run and reports to print.
32. The solution should provide online system diagnostics that allow monitoring and system troubleshooting, to include:
 - 32.1. a display of the status of all defined locations should be instantly available from any workstation. The status log should include not just readers that are online at the time, but also display the date and time that each offline reader was last online
 - 32.2. error messages saved to an error message log for review at any time from any workstations
33. The system should include the ability to connect to the workstation for complete operation of the workstations. This functionality is to facilitate diagnostics and support from the provider and remote operation by the systems' administrative personnel.
34. Software should be able to integrate with other campus commerce applications such as bookstore, foodservice, and print management and should be compatible with other applications as new versions are released such as:
 - 34.1. Student Information Systems
 - 34.2. Banking/Electronic Funds Transfer
 - 34.3. Point of Sale, food services
 - 34.4. Student Tracking Systems
 - 34.5. Touchnet Payment Gateway

ID Cards

35. Physical ID cards should
 - 35.1. be nonproprietary
 - 35.2. use a standard American Banking Association (ABA) Track II 2,750-oersted high-energy magnetic stripe and encoding
 - 35.3. address proximity-capability
 - 35.4. be American National Standards Institute (ANSI) CR-80 size (2.125" X 3.375")
 - 35.5. have a barcode printed on the front of the card for existing applications that do not read magnetic stripes
 - 35.6. be capable of accommodating the use of a barcode
 - 35.7. be capable of having a photo image printed on the front of the card
36. Mobile credentials should adhere to all industry standards.

Card Valuation

37. Contractor should be able to provide, at UGU's request, a self-service Card Valuation Center kiosk that:
 - 37.1. allows cardholders to make unattended deposits into existing accounts and to check on the balance or status of any account
 - 37.2. has the ability to be configured to dispense pre-encoded visitor cards, if desired, and enable visitors to deposit funds into a master visitor account for their use while on campus
 - 37.3. houses a bill validator, a card swipe reader, a receipt printer and a card dispenser
 - 37.4. displays a welcome message that alternates with legends describing the options available
 - 37.5. is built with tamper-resistant, rugged metal construction
 - 37.6. accepts Credit Cards as form of payment for deposits
 - 37.7. does not store credit card information
38. System should provide a web-based application that allows a student, or other authorized individuals, to remotely make deposits to the student's card account(s). The application should:
 - 38.1. permit students to view their account activity and balances online, and to make deposits, using credit card accounts
 - 38.2. permit parents, or others authorized by a student, to make deposits via credit card accounts to his/her card account(s)
 - 38.3. not allow access to other student account information (balances, usage data, etc.)
 - 38.4. be a core product of the application and cannot be an application provided by a partner or business alliance
 - 38.5. be hosted by the Contractor
 - 38.6. provide Regulation E Compliant formatted statements
 - 38.7. not cause credit card information is to be transmitted over or stored on any device attached to the college campus network

TECHNICAL SUPPORT REQUIREMENTS

Onsite, remote, and phone technical support for all components of the solution.

39. Contractor should be able to meet the following minimum service levels for technical support:
 - 39.1. Available to UGU 24/7
 - 39.2. Available onsite within 4 business hours of notification from UGU
 - 39.3. Remote technical support response time should be within 30 minutes of notification from UGU
 - 39.4. Phone technical support response time should be within 15 minutes of notification from UGU
40. Contractor should have escalation procedures for critical technical support needs.

CONTRACTOR REQUIREMENTS

41. Contractor must certify that the proposed solution and/or any third-party participants are compliant with all electronic processing and data security guidelines and regulations as follows:
 - 41.1. Most current PCI DSS Level I compliance for payment card processing
 - 41.2. Federal Educational Rights Protection Act (FERPA)
 - 41.3. All data transferred and/or stored must be encrypted
42. Contractor should provide a current, state-of-the-art card production system that uses industry standard equipment and that fully integrates with Contractor's transaction processing system and is capable of using cards instantly.
43. Contractor is responsible for working directly with any UGU's outsourced vendors to ensure the solution works on all systems.
44. Contractor must, at UGU's election, provide:
 - 44.1. a system implementation and installation support and assistance
 - 44.2. training
 - 44.3. Customer Service and Support program.

45. Contractor must warrant the solution for a minimum period of one-year. See “Warranty – One Year” provision in Section VIIB.

ORDERING PROCESS

1. UGUs are responsible for (1) preparing a Scope of Work (SOW) that clearly describes all services to be performed and all deliverables to be provided, so that total cost of ownership may be established; and (2) for sending to the Contractor. SOWs must, at minimum, include:
 - a. Specific deliverables
 - b. Desired deadline for each deliverable
 - c. Specific features and functionalities
 - d. Services to be performed
 - e. Location of work
 - f. Project performance schedule
 - g. UGU’s right not proceed with the work
2. Contractor prepares a proposal for SOW and sends to UGU
 - a. Proposals must address each aspect of the SOW.
 - b. Proposal must include itemized pricing equaling the total cost of ownership (i.e. equipment, installation, training, software, annual fees, etc.) in accordance with contract pricing.
3. UGU reviews proposal and:
 - a. Confirms Contractor’s proposal’s alignment with SOW
 - b. Confirms Contractor’s proposal’s pricing is in accordance with contract pricing
 - c. Determines whether or not to proceed
4. If applicable, UGU issues a purchase order and attaches the SOW and proposal to the purchase order

DELIVERY/PERFORMANCE LOCATION -- PURCHASE ORDER (JAN 2006)

After award, all deliveries shall be made and all services provided to the location specified by the Using Governmental Unit in its purchase order. [03-3015-1]

DELIVERY DATE -- PURCHASE ORDER (MODIFIED)

All items shall be delivered within the days specified on the UGU’s purchase order.

QUALITY -- NEW (JAN 2006)

All items must be new. [03-3060-1]

ADMINISTRATIVE SERVICES FEE - COLLECTION AND REPORTING (JUN 2015)

(a) Procurement Services (PS) establishes and maintains master State contracts for the benefit of all South Carolina state and local public entities. These contracts allow all public entities both to maximize the State's purchasing power by aggregating their requirements and to benefit from increased efficiencies in the acquisition process. Procurement Services' cost for this central purchasing activity is offset by an administrative fee which each contractor includes in its contract pricing (though not separately itemized or invoiced) and is paid to the vendor by each participating public entity. The contractor collects the fee as a fiduciary for the State and remits the same as calculated in accordance with the clause titled "ADMINISTRATIVE SERVICES FEE - CALCULATION." The price stated in the contractor's bid or proposal must include all amounts necessary for contractor to meet this obligation.

(b) As used in this clause, the term "reporting period" means each full calendar quarter (Jan. - Mar., Apr. - Jun., Jul. - Sep., and Oct. - Dec.) and any remaining periods less than a full calendar quarter during the term of this contract. For each reporting period, contractor shall report to PS its total sales pursuant to this contract for the period and shall remit the fee to the PS Reports Manager. Payment for each reporting period is due no later than the last day of the month immediately following the end of the reporting period (Example: payment for the reporting period ending March 31 is due April 30). If the amount due for a reporting period is less than \$10.00, no payment is required. The procurement officer will provide contractor an information packet, including a detailed explanation of reporting and payment requirements, within fifteen (15) calendar days following contract award. You may contact the Reports Manager at:

Procurement Services Division
Attn: Reports Manager
1201 Main Street, Suite 600

Columbia, SC 29201

Phone: (803) 737-0600 (ask to speak to the Reports Manager)

Failure to receive the information packet does not relieve contractor from its obligations hereunder.

(c) Contractor shall submit a usage report for each reporting period, even if no payment is due for the reporting period. The usage report shall include any information requested by PS to verify the amount due. At a minimum, each usage report shall reflect the following information for the applicable reporting period: contractor's name, contract number, contract description, reporting period/quarter, total dollar value of sales (excluding sales taxes and showing any adjustments for credits or refunds), total number of units (if practicable), and the number, date, and amount of contractor's check to PS. Unless otherwise specified by the reports manager, the usage report shall be submitted electronically according to instructions in the information packet. If the reports manager requires the contractor to provide a more detailed usage report, the reports manager will work directly with the contractor to determine the appropriate content and format of the report.

(d) During the term of this contract and for a period of three years thereafter, PS or its authorized representatives shall be afforded access at reasonable times to contractor's records (including, without limitation, bank statements, deposits, checks; invoices; correspondence; ledgers; receipts; transmittals) in order to audit all transactions involving goods sold, work performed, or fees due pursuant to this contract. If the audit indicates that contractor has materially underpaid PS, then contractor shall remit the balance found to be due (including any amounts assessed pursuant to subparagraph (e)) and reimburse PS for all costs of the audit.

(e) Payments of the fee which are due and unpaid by the contractor (including amounts disclosed by audit) shall accrue interest as provided in the Payment and Interest clause for amounts due to the State. In addition to the fee and interest, contractor agrees to pay to PS its reasonable expenses of collection, including costs and attorneys' fees (and fees for inside counsel), whether or not PS commences legal action.

(f) If the contractor fails to (i) timely submit accurate usage reports; (ii) remit to PS the fee when due; or (iii) promptly and fully cooperate with an audit request, the State may, without prejudice to any other remedy available to the State, take any one or more of the following actions:

(1) direct the contractor to not accept any further orders under the contract until PS determines that the cause for such direction has been eliminated;

(2) terminate this contract;

(3) direct the contractor to not accept any further orders under any other master State contract established by PS until PS determines that the cause for such direction has been eliminated.

(g) For purposes of this clause, PS is intended as a third-party beneficiary of this contract.

[03-3090-3]

ADMINISTRATIVE SERVICES FEE - CALCULATION - ITMO (JUN 2015)

For each reporting period, Contractor shall pay to PS a fee equal to one (1.0%) percent of the total dollar amount (excluding sales taxes and adjusted for credits or refunds) of purchases made by any public procurement unit from Contractor pursuant to this contract. [03-3095-1]

IV. INFORMATION FOR OFFERORS TO SUBMIT

INFORMATION FOR OFFERORS TO SUBMIT -- EVALUATION (JAN 2006)

In addition to information requested elsewhere in this solicitation, offerors should submit the following information for purposes of evaluation:

A. Technical Proposal

1. For each of the items outlined in Section III indicate one of the following options: "Meets," "Can Meet," or "Does Not Meet" followed by the appropriate explanation as described in a-c below.
 - a. For each of the items you indicate "Meets," describe how the proposed solution will meet in detail.
 - b. For each of the items you indicate "Can Meet," describe why it doesn't currently meet, under what circumstances it can be met, and what it would take to make the proposed solution meet.
 - c. For each of the items you indicate "Does Not Meet," briefly explain why the proposed solution does not meet.
2. List all Manufacturers of hardware, software, and software-as-a-service of the proposed solution, as applicable.
 - a. For each Manufacturer, list the specific hardware, software, and software-as-a-service you are proposing as part of your solution.
 - b. For each software-as-a-service Manufacturer, provide a list of the agreements that will be necessary to access and use the proposed solution. Provide a brief description of each listed agreement. Do NOT provide these agreements with your offer. The Procurement Officer will request these agreements in negotiations with the highest ranked offeror and Offerors must be able to produce the agreements within two business days.
3. Submit a completed Software Table (Attachment 3).
4. Describe what functional modules are currently integrated with the proposed solution.
5. In terms of integration with other third-party systems,
 - a. how does the proposed solution protect the integrity of its data?
 - b. do these methods prevent and/or limit the ability for other systems to integrate with it? Please describe.
6. Does the proposed solution allow for true real-time data exchange with other third-party systems?
7. What is your company's strategy for providing interoperability?
8. What database and version does your proposed solution employ?
9. What methods of data exchange does your proposed solution support?
10. Does the proposed solution support real-time transfer? If so, please describe your proposed system's ability for real-time transfer.
11. Does your proposed solution support transfer of data via batch process?
12. Are all data components contained within the application's relational database?
13. Does the database repository supply or support commercially available import and export database tools for transporting data into and out of the proposed solution?
14. Does the proposed solution provide a data dictionary of the supporting application data repository?
15. If a hard drive failed on a weekend and the last automatic backup was physically damaged, what steps would be performed to recover that weekend's transaction?
16. Provide a detailed description of the proposed solution's functions available to ensure disaster recovery and data integrity.
17. Does your proposed solution submit transactions to a central system for posting?
18. Describe how your proposed system will continue to operate when the readers fail or go off-line from the central system.
19. Describe data encryption used between the host server, readers, and point of sale registers (i.e. AES 256 bit).
20. Describe the capabilities of your software to integrate with other campus commerce applications such as bookstore, foodservice, print management and what/if any customization is required to do so and describe what processes are in place to ensure compatibility with other applications as new versions are released such as:
 - a. Student Information Systems
 - b. Banking/Electronic Funds Transfer
 - c. Point of Sale, food services
 - d. Student Tracking Systems
 - e. Touchnet Payment Gateway
21. Describe your mobile credential solution, if applicable.
22. Describe your proposed video imaging/card production system to include both hardware and software.
23. Reuse of existing hardware is preferred. Describe how your proposed solution can utilize existing hardware.

24. What imaging database does your proposed solution support?
25. Describe how you would allow for the use of previously captured and stored JPEG images with your proposed ID card production system.
26. Do your printers support Ethernet interface to the host?
27. Can the printers print on the back of the card as well as on the front (duplex) without operator intervention?
28. A UGU may desire to maintain ID images and data on a centralized server that could be accessed from all campuses. A UGU may also desire to capture image and produce ID cards on site at each campus of the UGU. Describe how your proposed solution could meet these needs, if possible.
29. Provide detailed information describing the print management program, its features and limitations, as well as potential for revenue generations.
30. Describe your Off-Campus merchant program and any revenue generating opportunities that exist with the program.
31. Indicate how your system will work in conjunction with an existing Point of Sale system.
32. Provide a complete, executed Service Provider Security Assessment Questionnaire.

B. Qualifications/Experience

33. Describe previous experience (implementations and results) for projects of similar size and scope, and describe your background in developing, supplying, and maintaining an online, real-time ID card system.
34. Provide information requested in Section V, "Qualifications – Required Information."
35. Provide information requested in "Subcontractor Identification" provision, if applicable. If not applicable, clearly indicate no subcontractors.

C. Price Proposal

See Section VIII.

D. Miscellaneous

36. Submit completed, executed Cover Page and Page Two, acknowledge any Amendments.
37. Submit completed "Minority Participation" provision.
38. Submit redacted offer as required by "Submitting Redacted Offers" provision, if applicable. If not applicable, initial the Cover Page to indicate no redacted copy is necessary.

[04-4005-1]

INFORMATION FOR OFFERORS TO SUBMIT -- GENERAL (MAR 2015)

You shall submit a signed Cover Page and Page Two. If you submit your offer electronically, you must upload an image of a signed Cover Page and Page Two. Your offer should include all other information and documents requested in this part and in parts II.B. Special Instructions; III. Scope of Work; V. Qualifications; VIII. Bidding Schedule/Price Proposal; and any appropriate attachments addressed in Part IX. Attachments to Solicitations. You should submit a summary of all insurance policies you have or plan to acquire to comply with the insurance requirements stated herein, if any, including policy types; coverage types; limits, sub-limits, and deductibles for each policy and coverage type; the carrier's A.M. Best rating; and whether the policy is written on an occurrence or claims-made basis. [04-4010-2]

MINORITY PARTICIPATION (DEC 2015)

Is the bidder a South Carolina Certified Minority Business? ☐ Yes ☐ No

Is the bidder a Minority Business certified by another governmental entity? ☐ Yes ☐ No

If so, please list the certifying governmental entity: _____

Will any of the work under this contract be performed by a SC certified Minority Business as a subcontractor? ☐ Yes ☐ No

If so, what percentage of the total value of the contract will be performed by a SC certified Minority Business as a subcontractor? _____

Will any of the work under this contract be performed by a minority business certified by another governmental entity as a subcontractor? ☐ Yes ☐ No

If so, what percentage of the total value of the contract will be performed by a minority business certified by another governmental entity as a subcontractor? _____

If a certified Minority Business is participating in this contract, please indicate all categories for which the Business is certified:

- ☐ Traditional minority
- ☐ Traditional minority, but female
- ☐ Women (Caucasian females)
- ☐ Hispanic minorities
- ☐ DOT referral (Traditional minority)
- ☐ DOT referral (Caucasian female)
- ☐ Temporary certification
- ☐ SBA 8 (a) certification referral
- ☐ Other minorities (Native American, Asian, etc.)

(If more than one minority contractor will be utilized in the performance of this contract, please provide the information above for each minority business.)

The Department of Administration, Division of Small and Minority Business Contracting and Certification, publishes a list of certified minority firms. The Minority Business Directory is available at the following URL: <http://osmba.sc.gov/directory.html>.

[04-4015-3]

SERVICE PROVIDER SECURITY ASSESSMENT QUESTIONNAIRE - REQUIRED (FEB 2015)

[ASK QUESTIONS NOW: If you have a properly qualified third-party report or certification you believe we should accept in lieu of those identified in item (b), submit a question identifying same pursuant to the clause titled Questions from Offerors.]

The Contractor must demonstrate that programs, policies and procedures are in place to adequately provide for the confidentiality, integrity, and availability of the information systems used by contractor to process, store, transmit, and access all government information. In order for the State to accurately evaluate the strength and viability of the Contractor's security policies, procedures and practices related to confidentiality, integrity and availability, Offerors must submit with their offers a thorough and complete written response to the Service Provider Security Assessment Questionnaire ("Response to SPSAQ") attached to this Solicitation, which must address all applicable organizations and applicable information systems. The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security – Definitions. [04-4027-1]

SUBMITTING REDACTED OFFERS (MODIFIED)

If your offer includes any information that you marked as "Confidential," "Trade Secret," or "Protected" in accordance with the clause entitled "DISCLOSURE OF YOUR BID / PROPOSAL AND SUBMITTING CONFIDENTIAL DATA," you must also submit one complete copy of your offer from which you have removed or concealed such information (the redacted copy). The redacted copy should (i) reflect the same pagination as the original, (ii) show the empty space from which information was redacted, and (iii) be submitted online or on electronic media. (See "Online Bidding Instructions" and "Electronic Copies - Required Media and Format" clauses) Except for the information removed or concealed, the redacted copy must be identical to your original offer, and the Procurement Officer must be able to view, search, copy and print the redacted copy without a password.

If a redacted copy is not necessary, don't forget to initial the Cover Page to indicate.

V. QUALIFICATIONS

QUALIFICATIONS OF OFFEROR (MAR 2015)

(1) To be eligible for award, you must have the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance. We may also consider a documented commitment from a satisfactory source that will provide you with a capability. We may consider information from any source at any time prior to award. We may elect to consider (i) key personnel, any predecessor business, and any key personnel of any predecessor business, including any facts arising prior to the date a business was established, and/or (ii) any subcontractor you identify. (2) You must promptly furnish satisfactory evidence of responsibility upon request. Unreasonable failure to supply requested information is grounds for rejection. (3) **Corporate subsidiaries are cautioned that the financial capability of an affiliated or parent company will not be considered in determining financial capability;** however, we may elect to consider any security, e.g., letter of credit, performance bond, parent-company corporate guaranty, that you offer to provide. Instructions and forms to help assure acceptability are posted on www.procurement.sc.gov, link to "Standard Clauses & Provisions." [05-5005-2]

QUALIFICATIONS - REQUIRED INFORMATION (MAR 2015)

Financial Information: Offerors must depict financial stability by demonstrating a successful track record of at least three years. Offer must include in its Business Plan a copy of its latest annual report. In addition, include a cover letter from the individual evaluating the financials to indicate if the financial data was either audited, complied or reviewed. Indicate your company's annual sales volume for the following:

1. Campus System Hardware and Software
2. Total Annual Sales Volume

Submit the following information or documentation for you and for any subcontractor (at any tier level) that you identify pursuant to the clause titled Subcontractor - Identification. Err on the side of inclusion. You represent that the information provided is complete.

- (a) Executive summary limited to one page describing the general history and experience of the business in providing work of similar size and scope.
- (b) Complete the table below for each of the three most recent, comparable contracts which have been performed.

Company Name	
Scope of Services Provided	
Contract Size	
Start Date	
Contract Term	
Contact Name	
Contact Telephone Number	
Contact Address	
Contact Email	
Contractor Project Manager Name	

- (c) A list of every South Carolina public body for which supplies or services have been provided at any time during the past three years, if any.
- (d) List of failed projects, suspensions, debarments, and significant litigation.
- (e) Offerors must depict financial stability by demonstrating a successful track record of at least three years. Offer must include in its Business Plan a copy of its latest annual report. In addition, include a cover letter from the individual evaluating the financials to indicate if the financial data was either audited, complied or reviewed. Indicate your company's annual sales volume for the following: (1) Campus System Hardware and Software; and (2) Total Annual Sales Volume.

You may be required to submit the following information or documentation for you and for any Subcontractor (at any tier level) that you identify pursuant to the clause titled Subcontractor – Identification within two business days upon the request of the OSP Procurement Manager. Err on the side of inclusion. You represent that the information provided will be complete.

- (f) Information reflecting the current financial position. Include the most current financial statement and financial statements for the last two fiscal years. If the financial statements have been audited in accordance with the following requirements, provide the audited version of those statements. [Reference Statement of Financial Accounting Concepts No. 5 (FASB, December, 1984), as amended.]

SUBCONTRACTOR - IDENTIFICATION (FEB 2015)

If you intend to subcontract, at any tier level, with another business for any portion of the work and that portion either (1) exceeds 10% of your cost, (2) involves access to any "government information," as defined in the clause entitled "Information Security - Definitions," if included, or (3) otherwise involves services critical to your performance of the work (err on the side of inclusion), your offer must identify that business and the work which they are to perform. Identify potential subcontractors by providing the business name, address, phone, taxpayer identification number, **and point of contact** . In determining your responsibility, the state may contact and evaluate your proposed subcontractors. [05-5030-2]

VI. AWARD CRITERIA

AWARD CRITERIA - PROPOSALS (MODIFIED)

Award(s) will be made to the highest ranked, responsive and responsible offeror(s) whose offer(s) are determined to be the most advantageous to the State.

AWARD TO MULTIPLE OFFERORS

Award may be made to up to five Offerors. In addition to the Offeror with the highest ranked proposal, Offerors with proposals that score within 15% of the highest ranked proposal may be considered for award. Among the proposals scoring within 15% of the highest ranked proposal, the four Offerors with the next four highest ranked proposals may be considered for award. If negotiations are unsuccessful with any Offeror, the State may enter negotiations with the Offeror of the next highest ranked proposal, if such proposal also scored within 15% of the highest ranked proposal.

COMPETITION FROM PUBLIC ENTITIES (JAN 2006)

If a South Carolina governmental entity submits an offer, the Procurement Officer will, when determining the lowest offer, add to the price provided in any offers submitted by non-governmental entities a percentage equivalent to any applicable sales or use tax. S.C. Code Ann. Regs 117-304.1 (Supp. 2004). [06-6057-1]

DISCUSSIONS AND NEGOTIATIONS – OPTIONAL (FEB 2015)

Submit your best terms from both a price and a technical standpoint. Your proposal may be evaluated and your offer accepted without any discussions, negotiations, or prior notice. Ordinarily, nonresponsive proposals will be rejected outright without prior notice. Nevertheless, the State may elect to conduct discussions, including the possibility of limited proposal revisions, but only for those proposals reasonably susceptible of being selected for award. [11-35-1530(6); R.19-445.2095(I)] If improper revisions are submitted during discussions, the State may elect to consider only your unrevised initial proposal, provided your initial offer is responsive. The State may also elect to conduct negotiations, beginning with the highest ranked offeror, or seek best and final offers, as provided in Section 11-35-1530(8). Negotiations may involve both price and matters affecting the scope of the contract, so long as changes are within the general scope of the request for proposals. If negotiations are conducted, the State may elect to disregard the negotiations and accept your original proposal. [06-6058-1]

EVALUATION FACTORS - PROPOSALS (JAN 2006)

Offers will be evaluated using only the factors stated below. Evaluation factors are stated in the relative order of importance, with the first factor being the most important. Once evaluation is complete, all responsive offerors will be ranked from most advantageous to least advantageous.

Value - Section VIII

Technical Proposal - Section IV, (A) Technical Proposal

Qualifications/Experience - Section IV, (B) Qualifications/Experience

[06-6065-1]

UNIT PRICE GOVERNS (JAN 2006)

In determining award, unit prices will govern over extended prices unless otherwise stated. [06-6075-1]

VII. TERMS AND CONDITIONS -- A. GENERAL

ASSIGNMENT, NOVATION, AND CHANGE OF NAME, IDENTITY, OR STRUCTURE (FEB 2015)

(a) Contractor shall not assign this contract, or its rights, obligations, or any other interest arising from this contract, or delegate any of its performance obligations, without the express written consent of the responsible procurement officer. The foregoing restriction does not apply to a transfer that occurs by operation of law (e.g., bankruptcy; corporate reorganizations and consolidations, but not including partial asset sales). Notwithstanding the foregoing, contractor may assign monies receivable under the contract provided that the state shall have no obligation to make payment to an assignee until thirty days after contractor (not the assignee) has provided the responsible procurement officer with (i) proof of the assignment, (ii) the identity (by contract number) of the specific state contract to which the assignment applies, and (iii) the name of the assignee and the exact address or account information to which assigned payments should be made. (b) If contractor amends, modifies, or otherwise changes its name, its identity (including its trade name), or its corporate, partnership or other structure, or its FEIN, contractor shall provide the procurement officer prompt written notice of such change. (c) Any name change, transfer, assignment, or novation is subject to the conditions and approval required by Regulation 19-445.2180, which does not restrict transfers by operation of law. [07-7A004-2]

BANKRUPTCY - GENERAL (FEB 2015)

(a) Notice. In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Using Governmental Unit. This notification shall be furnished within two (2) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all State contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract. (b) Termination. This contract is voidable and subject to immediate termination by the State upon the contractor's insolvency, including the filing of proceedings in bankruptcy. [07-7A005-2]

CHOICE-OF-LAW (JAN 2006)

The Agreement, any dispute, claim, or controversy relating to the Agreement, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation. [07-7A010-1]

CONTRACT DOCUMENTS AND ORDER OF PRECEDENCE (FEB 2015)

(a) Any contract resulting from this solicitation shall consist of the following documents: (1) a Record of Negotiations, if any, executed by you and the Procurement Officer, (2) the solicitation, as amended, (3) documentation of clarifications [11-35-1520(8)] or discussions [11-35-1530(6)] of an offer, if applicable, (4) your offer, (5) any statement reflecting the State's final acceptance (a/k/a "award"), and (6) purchase orders. These documents shall be read to be consistent and complimentary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. (b) The terms and conditions of documents (1) through (5) above shall apply notwithstanding any additional or different terms and conditions in any other document, including without limitation, (i) a purchase order or other instrument submitted by the State, (ii) any invoice or other document submitted by Contractor, or (iii) any privacy policy, terms of use, or end user agreement. Except as otherwise allowed herein, the terms and conditions of all such documents shall be void and of no effect. (c) No contract, license, or other agreement containing contractual terms and conditions will be signed by any Using Governmental Unit. Any document signed or otherwise agreed to by persons other than the Procurement Officer shall be void and of no effect. [07-7A015-2]

DISCOUNT FOR PROMPT PAYMENT (JAN 2006)

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the state annotates such invoice with the date of receipt at the time of receipt. For the

purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.
[07-7A020-1]

DISPUTES (JAN 2006)

(1) Choice-of-Forum. All disputes, claims, or controversies relating to the Agreement shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. Contractor agrees that any act by the government regarding the Agreement is not a waiver of either the government's sovereign immunity or the government's immunity under the Eleventh Amendment of the United States Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation. (2) Service of Process. Contractor consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided as the Notice Address on Page Two or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail. [07-7A025-1]

EFT INFORMATION (FEB 2021)

The Contractor must furnish to the State Treasurer's Office information necessary for making a payment by electronic funds transfer (EFT). You may do this by completing STO Form 4 and filing it with the STO. Additional information is available at the STO's website at <https://treasurer.sc.gov> (.) The Contractor is responsible for the currency, accuracy and completeness of the EFT information. Updating EFT information may not be used to accomplish an assignment of the right to payment, does not alter the terms and conditions of this contract, and is not a substitute for a properly executed contractual document.
[07-7A027-1]

EQUAL OPPORTUNITY (JAN 2006)

Contractor is referred to and shall comply with all applicable provisions, if any, of Title 41, Part 60 of the Code of Federal Regulations, including but not limited to Sections 60-1.4, 60-4.2, 60-4.3, 60-250.5(a), and 60-741.5(a), which are hereby incorporated by reference. [07-7A030-1]

FALSE CLAIMS (JAN 2006)

According to the S.C. Code of Laws Section 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime. [07-7A035-1]

FIXED PRICING REQUIRED (JAN 2006)

Any pricing provided by contractor shall include all costs for performing the work associated with that price. Except as otherwise provided in this solicitation, contractor's price shall be fixed for the duration of this contract, including option terms. This clause does not prohibit contractor from offering lower pricing after award. [07-7A040-1]

NO INDEMNITY OR DEFENSE (FEB 2015)

Any term or condition is void to the extent it requires the State to indemnify, defend, or pay attorney's fees to anyone for any reason. [07-7A045-2]

NOTICE (JAN 2006)

(A) After award, any notices shall be in writing and shall be deemed duly given (1) upon actual delivery, if delivery is by hand, (2) upon receipt by the transmitting party of automated confirmation or answer back from the recipient's device if delivery is by telex, telegram, facsimile, or electronic mail, or (3) upon deposit into the United States mail, if postage is prepaid, a return receipt is requested, and either registered or certified mail is used. (B) Notice to contractor shall be to the address identified as the Notice Address on Page Two. Notice to the state shall be to the Procurement Officer's address on the Cover Page. Either party may designate a different address for notice by giving notice in accordance with this paragraph.

OPEN TRADE (JUN 2015)

During the contract term, including any renewals or extensions, Contractor will not engage in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300. [07-7A053-1]

PAYMENT AND INTEREST (FEB 2021)

(a) The State shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified herein, including the purchase order, payment shall not be made on partial deliveries accepted by the Government.

(b) Unless otherwise provided herein, including the purchase order, payment will be made by electronic funds transfer (EFT). See clause titled "EFT Information."

(c) Notwithstanding any other provision, payment shall be made in accordance with S.C. Code Section 11-35-45, or Chapter 6 of Title 29 (real property improvements) when applicable, which provides the Contractor's exclusive means of recovering any type of interest from the Owner. Contractor waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable. Except as set forth in this paragraph, the State shall not be liable for the payment of interest on any debt or claim arising out of or related to this contract for any reason.

(d) Amounts due to the State shall bear interest at the rate of interest established by the South Carolina Comptroller General pursuant to Section 11-35-45 ("an amount not to exceed fifteen percent each year"), as amended, unless otherwise required by Section 29-6-30.

(e) Any other basis for interest, including but not limited to general (pre- and post-judgment) or specific interest statutes, including S.C. Code Ann. Section 34-31-20, are expressly waived by both parties. If a court, despite this agreement and waiver, requires that interest be paid on any debt by either party other than as provided by items (c) and (d) above, the parties further agree that the applicable interest rate for any given calendar year shall be the lowest prime rate as listed in the first edition of the Wall Street Journal published for each year, applied as simple interest without compounding.

(f) The State shall have all of its common law, equitable and statutory rights of set-off. [07-7A055-4]

PUBLICITY (JAN 2006)

Contractor shall not publish any comments or quotes by State employees, or include the State in either news releases or a published list of customers, without the prior written approval of the Procurement Officer. [07-7A060-1]

PURCHASE ORDERS (JAN 2006)

Contractor shall not perform any work prior to the receipt of a purchase order from the using governmental unit. The using governmental unit shall order any supplies or services to be furnished under this contract by issuing a purchase order. Purchase orders may be used to elect any options available under this contract, e.g., quantity, item, delivery date, payment method, but are subject to all terms and conditions of this contract. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order. [07-7A065-1]

SURVIVAL OF OBLIGATIONS (JAN 2006)

The Parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnification - Third Party Claims, Intellectual Property Indemnification, and any provisions regarding warranty or audit. [07-7A075-1]

TAXES (JAN 2006)

Any tax the contractor may be required to collect or pay upon the sale, use or delivery of the products shall be paid by the State, and such sums shall be due and payable to the contractor upon acceptance. Any personal property taxes levied after delivery shall be paid by the State. It shall be solely the State's obligation, after payment to contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to contractor by the taxing authority. In the event that the contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by the State to contractor, contractor shall be liable to the State for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on Contractor's net income or assets shall be the sole responsibility of the contractor.

TERMINATION DUE TO UNAVAILABILITY OF FUNDS (JAN 2006)

Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. In the event of a cancellation pursuant to this paragraph, contractor will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor will not be reimbursed any costs amortized beyond the initial contract term. [07-7A085-1]

THIRD PARTY BENEFICIARY (JAN 2006)

This Contract is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns, and no other person will have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third party beneficiary or otherwise. [07-7A090-1]

WAIVER (JAN 2006)

The State does not waive any prior or subsequent breach of the terms of the Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by failing to strictly or promptly insist upon any term of the Contract. Only the Procurement Officer has actual authority to waive any of the State's rights under this Contract. Any waiver must be in writing. [07-7A095-1]

VII. TERMS AND CONDITIONS -- B. SPECIAL

CHANGES (JAN 2006)

(1) Contract Modification. By a written order, at any time, and without notice to any surety, the Procurement Officer may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:

- (a) drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the [State] in accordance therewith;
- (b) method of shipment or packing;
- (c) place of delivery;
- (d) description of services to be performed;
- (e) time of performance (i.e., hours of the day, days of the week, etc.); or,
- (f) place of performance of the services. Subparagraphs (a) to (c) apply only if supplies are furnished under this contract. Subparagraphs (d) to (f) apply only if services are performed under this contract.

(2) Adjustments of Price or Time for Performance. If any such change increases or decreases the contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made in the contract price, the delivery schedule, or both, and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract. Failure of the parties to agree to an adjustment shall not excuse the contractor from proceeding with the contract as changed, provided that the State promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

(3) Time Period for Claim. Within 30 days after receipt of a written contract modification under Paragraph (1) of this clause, unless such period is extended by the Procurement Officer in writing, the contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the contractor's claim unless the State is prejudiced by the delay in notification.

(4) Claim Barred After Final Payment. No claim by the contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

[07-7B025-1]

CISG (JAN 2006)

The parties expressly agree that the UN Convention on the International Sale of Goods shall not apply to this agreement. [07-7B030-1]

COMPLIANCE WITH LAWS (JAN 2006)

During the term of the contract, contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs. [07-7B035-1]

CONTRACT DOCUMENTS & ORDER OF PRECEDENCE—SOFTWARE LICENSING (MODIFIED)

Notwithstanding the clause entitled "Contract Documents & Order of Precedence," but as provided in the clause titled "Software Licensing Agreements—Single Solicitation," any contract awarded pursuant to this solicitation shall not include a software licensing agreement. Further, the document titled South Carolina Standard Amendment To End User License Agreements For Commercial Off-The-Shelf Software – Single Solicitation, which is attached hereto as an exhibit, is offered as information only and does not form part of the contract.

CONTRACT LIMITATIONS (JAN 2006)

No sales may be made pursuant to this contract for any item or service that is not expressly listed. No sales may be made pursuant to this contract after expiration of this contract. Violation of this provision may result in termination of this contract and may subject contractor to suspension or debarment. [07-7B045-1]

CONTRACTOR'S LIABILITY INSURANCE - GENERAL (FEB 2015)

(a) Without limiting any of the obligations or liabilities of Contractor, Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A: VII, and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work and the results of that work by the contractor, his agents, representatives, employees or subcontractors.

(b) Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit. This contract shall be considered to be an "insured contract" as defined in the policy.

(2) Auto Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage.

(3) Worker's Compensation: As required by the State of South Carolina, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

(c) Every applicable Using Governmental Unit, and the officers, officials, employees and volunteers of any of them, must be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

(d) For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the State, every applicable Using Governmental Unit, and the officers, officials, employees and volunteers of any of them. Any insurance or self-insurance maintained by the State, every applicable Using Governmental Unit, or the officers, officials, employees and volunteers of any of them, shall be excess of the Contractor's insurance and shall not contribute with it.

(e) Prior to commencement of the work, the Contractor shall furnish the State with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this section. All certificates are to be received and approved by the State before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The State reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this section, at any time.

(f) Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify the State immediately upon receiving any information that any of the coverages required by this section are or will be changed, cancelled, or replaced.

(g) Contractor hereby grants to the State and every applicable Using Governmental Unit a waiver of any right to subrogation which any insurer of said Contractor may acquire against the State or applicable Using Governmental Unit by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the State or Using Governmental Unit has received a waiver of subrogation endorsement from the insurer.

(h) Any deductibles or self-insured retentions must be declared to and approved by the State. The State may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

(i) The State reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

[07-7B056-2]

CONTRACTOR'S LIABILITY INSURANCE – INFORMATION SECURITY AND PRIVACY (FEB 2015)

[ASK QUESTIONS NOW: For products providing the coverages required by this clause, the insurance market is evolving. Our research indicates that the requirements stated herein reflect commercially-available insurance products. Any offeror having concerns with any specific requirements of this clause should communicate those concerns to the procurement officer well in advance of opening.]

(a) Without limiting any other obligations or liabilities of Contractor, Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A: VII, and maintain for the duration of the contract, a policy or policies of insurance against claims which may arise from or in connection with the performance of the work and the results of that work by the contractor, his agents, representatives, employees, subcontractors or any other entity for which the contractor is legally responsible.

(b) Coverage must include claims for:

(i) information security risks, including without limitation, failure to prevent unauthorized access to, tampering with or unauthorized use of a computer system; introduction of malicious codes, computer viruses, worms, logic bombs, etc., into data or systems; or theft, damage, unauthorized disclosure, destruction, or corruption of information in whatever form;

(ii) privacy risks, including (A) failure to properly handle, manage, store, dispose of, destroy, or otherwise control non-public

personally identifiable information in any format; (B) loss of, unauthorized access to, or disclosure of confidential information; and (C) any form of invasion, infringement or interference with rights of privacy, including breach of security/privacy laws or regulations;

(iii) contractual liability for the contractor's obligations described in the clauses titled "Indemnification - Third Party Claims - Disclosure Of Information" and "Information Use And Disclosure;" and

(iv) errors, omissions, or negligent acts in the performance, by the contractor or by any entity for which the contractor is legally responsible, of professional services included in the work.

(c) If the work includes content for internet web sites or any publications or media advertisements, coverage must also include claims for actual or alleged infringement of intellectual property rights, invasion of privacy, as well as advertising, media and content offenses.

(d) If the work includes software, coverage must also include claims for intellectual property infringement arising out of software and/or content (with the exception of patent infringement and misappropriation of trade secrets)

(e) Coverage shall have limits no less than five million (\$5,000,000.00) dollars per occurrence and ten million (\$10,000,000.00) dollars aggregate.

(f) If the insurance required by this clause is procured on a form affording "claims-made" coverage, then (i) all limits stated above as "per occurrence" shall be understood to mean "per claim" or "per occurrence," as is consistent with the terms of the "claims-made" policy; and (ii) such claims-made insurance shall provide for a retroactive date no later than the date the contract is awarded.

(g) All terms of this clause shall survive termination of the contract and shall continue until thirty (30) days past the final completion of the work, including the performance of any warranty work. In addition, contractor shall maintain in force and effect any "claims-made" coverage for a minimum of two (2) years after final completion of all work or services to be provided hereunder. Contractor shall purchase an extended reporting period, or "tail coverage," if necessary to comply with the latter requirement.

(h) Every applicable Using Governmental Unit, and the officers, officials, employees and volunteers of any of them, must be covered as additional insureds on the policy or policies of insurance required by this clause.

(i) For any claims related to this contract, the insurance coverage required by this clause shall be primary insurance as respects the State, every applicable Using Governmental Unit, and the officers, officials, employees and volunteers of any of them. Any insurance or self-insurance maintained by the State, every applicable Using Governmental Unit, or the officers, officials, employees and volunteers of any of them, shall be excess of the Contractor's insurance and shall not contribute with it.

(j) Prior to commencement of the work, the Contractor shall furnish the State with original certificates of insurance for every applicable policy effecting the coverage required by this clause. All certificates are to be received and approved by the Procurement Officer before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The State reserves the right to require complete, certified copies of all required insurance policies, including policy declarations and any endorsements required by this section, at any time.

(k) Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify the State immediately upon receiving any information that any of the coverages required by this clause are or will be changed, cancelled, or replaced.

(l) Contractor hereby grants to the State and every applicable Using Governmental Unit a waiver of any right to subrogation which any insurer of said Contractor may acquire against the State or applicable Using Governmental Unit by virtue of the payment of any loss under such insurance as is required by this clause. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the State or Using Governmental Unit has received a waiver of subrogation endorsement from the insurer.

(m) Any deductibles or self-insured retentions must be declared to and approved by the State. The State may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. [07-7B058-1]

CONTRACTOR PERSONNEL (JAN 2006)

The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. [07-7B060-1]

CONTRACTOR'S OBLIGATION -- GENERAL (JAN 2006)

The contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the work. The contractor must act as the prime contractor and assume full responsibility for any subcontractor's performance. The contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements. [07-7B065-1]

DEFAULT (JAN 2006)

(a) (1) The State may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to:

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or

(iii) Perform any of the other material provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The State's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Procurement Officer) after receipt of the notice from the Procurement Officer specifying the failure.

(b) If the State terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Procurement Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the State in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the State may require the Contractor to transfer title and deliver to the State, as directed by the Procurement Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Procurement Officer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.

(f) The State shall pay contract price for completed supplies delivered and accepted. The Contractor and Procurement Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property; if the parties fail to agree, the Procurement Officer shall set an amount subject to the Contractor's rights under the Disputes clause. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the Procurement Officer determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the termination had been issued for the convenience of the State. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the State, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the contractor's rights under the Disputes clause.

(h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this contract.

[07-7B075-1]

DISPOSAL OF PACKAGING (JAN 2006)

Contractor shall dispose of all wrappings, crating, and other disposable materials pertaining to this contract at the end of each working day and upon completion of installation. [07-7B085-1]

ESTIMATED QUANTITY -- PURCHASES FROM OTHER SOURCES (JAN 2006)

The state may bid separately any unusual requirements or large quantities of supplies covered by this contract. [07-7B090-1]

ESTIMATED QUANTITY -- UNKNOWN (JAN 2006)

The total quantity of purchases of any individual item on the contract is not known. The State does not guarantee that the State will buy any specified item or total amount. The omission of an estimated purchase quantity does not indicate a lack of need but rather a lack of historical information. [07-7B095-1]

ILLEGAL IMMIGRATION (NOV 2008)

(An overview is available at www.procurement.sc.gov) By signing your offer, you certify that you will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to the State upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to you and your subcontractors or sub-subcontractors; or (b) that you and your subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." You agree to include in any contracts with your subcontractors language requiring your subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14. [07-7B097-1]

INDEMNIFICATION-THIRD PARTY CLAIMS - GENERAL (NOV 2011)

Notwithstanding any limitation in this agreement, and to the fullest extent permitted by law, Contractor shall defend and hold harmless Indemnitees for and against any and all suits or claims of any character (and all related damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property arising out of or in connection with the goods or services acquired hereunder or caused in whole or in part by any act or omission of contractor, its subcontractors, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an Indemnitee, and whether or not such claims are made by a third party or an Indemnitee; however, if an Indemnitee's negligent act or omission is subsequently determined to be the sole proximate cause of a suit or claim, the Indemnitee shall not be entitled to indemnification hereunder. Contractor shall be given timely written notice of any suit or claim. Contractor's obligations hereunder are in no way limited by any protection afforded under workers' compensation acts, disability benefits acts, or other employee benefit acts. This clause shall not negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist. The obligations of this paragraph shall survive termination, cancelation, or expiration of the parties' agreement. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance. As used in this clause, "Indemnitees" means the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees. [07-7B100-2]

INDEMNIFICATION - THIRD PARTY CLAIMS – DISCLOSURE OF INFORMATION (FEB 2015)

(a) Without limitation, Contractor shall defend and hold harmless Indemnitees from and against any and all suits, claims, investigations, or fines (hereinafter "action") of any character (and all related damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which arise out of or in connection with a disclosure of government information (as defined in the clause titled Information Security - Definitions) caused in whole or in part by any act or omission of contractor, its subcontractors at any tier, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an Indemnitee, and whether or not such action is brought by a third party or an Indemnitee, but only if the act or omission constituted a failure to perform some obligation imposed by the contract or the law.

(b) Indemnitee must notify contractor in writing within a reasonable period of time after Indemnitee first receives written notice of any action. Indemnitee's failure to provide or delay in providing such notice will relieve contractor of its obligations under this clause only if and to the extent that such delay or failure materially prejudices contractors ability to defend such action. Indemnitee must reasonably cooperate with contractor's defense of such actions (such cooperation does not require and is without waiver of an Indemnitees attorney/client, work product, or other privilege) and, subject to Title 1, Chapter 7 of the South Carolina Code of Laws, allow contractor sole control of the defense, so long as the defense is diligently and capably prosecuted. Indemnitee may participate in contractor's defense of any action at its own expense. Contractor may not, without Indemnitee's prior written consent, settle, compromise, or consent to the entry of any judgment in any such commenced or threatened action unless such settlement, compromise or consent (i) includes an unconditional release of

Indemnitee from all liability related to such commenced or threatened action, and (ii) is solely monetary in nature and does not include a statement as to, or an admission of fault, culpability or failure to act by or on behalf of, an Indemnitee or otherwise adversely affect an Indemnitee. Indemnitee's consent is necessary for any settlement that requires Indemnitee to part with any right or make any payment or subjects Indemnitee to any injunction.

(c) Notwithstanding any other provision, contractor's obligations pursuant to this clause are without any limitation whatsoever. Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of the contract. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance.

(d) "Indemnitee" means the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees. [07-7B102-1]

INDEMNIFICATION-INTELLECTUAL PROPERTY (JAN 2006)

(a) Without limitation and notwithstanding any provision in this agreement, Contractor shall, upon receipt of notification, defend and indemnify the State, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees against all actions, proceedings or claims of any nature (and all damages, settlement payments, attorneys' fees (including inside counsel), costs, expenses, losses or liabilities attributable thereto) by any third party asserting or involving an IP right related to an acquired item. State shall allow Contractor to defend such claim so long as the defense is diligently and capably prosecuted. State shall allow Contractor to settle such claim so long as (i) all settlement payments are made by Contractor, and (ii) the settlement imposes no non-monetary obligation upon State. State shall reasonably cooperate with Contractor's defense of such claim. (b) In the event an injunction or order shall be obtained against State's use of any acquired item, or if in Contractor's opinion, the acquired item is likely to become the subject of a claim of infringement or violation of an IP right, Contractor shall, without in any way limiting the foregoing, and at its expense, either: (1) procure for State the right to continue to use, or have used, the acquired item, or (2) replace or modify the acquired item so that it becomes non-infringing but only if the modification or replacement does not adversely affect the specifications for the acquired item or its use by State. If neither (1) nor (2), above, is practical, State may require that Contractor remove the acquired item from State, refund to State any charges paid by State therefor, and take all steps necessary to have State released from any further liability. (c) Contractor's obligations under this paragraph do not apply to a claim to the extent (i) that the claim is caused by Contractor's compliance with specifications furnished by the State unless Contractor knew its compliance with the State's specifications would infringe an IP right, or (ii) that the claim is caused by Contractor's compliance with specifications furnished by the State if the State knowingly relied on a third party's IP right to develop the specifications provided to Contractor and failed to identify such product to Contractor. (d) As used in this paragraph, these terms are defined as follows: "IP right(s)" means a patent, copyright, trademark, trade secret, or any other proprietary right. "Acquired item(s)" means the rights, goods, or services furnished under this agreement. "Specification(s)" means a detailed, exact statement of particulars such as a statement prescribing materials, dimensions, and quality of work. (e) Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of this Agreement. [07-7B103-1]

INFORMATION SECURITY - DEFINITIONS (FEB 2015)

The following definitions are used in those clauses that cross reference this clause.

Compromise means disclosure of information to unauthorized persons, or a violation of the security policy of a system in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object may have occurred. Without limitation, the term "compromise" includes copying the data through covert network channels, or copying the data to unauthorized media, or disclosure of information in violation of any obligation imposed by this contract.

Data means a subset of information in an electronic format that allows it to be retrieved or transmitted.

Government information means information (i) provided to Contractor by, or generated by Contractor for, the using governmental unit, or (ii) acquired or accessed by Contractor as a result of performing the Work. Without limiting the foregoing, government information includes any information that Contractor acquires or accesses by software or web-based services, which includes, without limitation, any metadata or location data. Government information excludes unrestricted information.

Information means any communication or representation of knowledge such as facts, statistics, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual.

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

Public information means any specific information, regardless of form or format, that the State has actively and intentionally disclosed, disseminated, or made available to the public. Information is not public information solely because it may be subject to inspection pursuant to an unfulfilled public records request.

Software means any computer program accessed or used by the Using Governmental Unit or a third party pursuant to or as a result of this contract.

Third party means any person or entity other than the Using Governmental Unit, the Contractor, or any subcontractors at any tier.

Unrestricted information means (1) public information acquired other than through performance of the work, (2) information acquired by Contractor prior to contract formation, (3) information incidental to your contract administration, such as financial, administrative, cost or pricing, or management information, and (4) any ideas, concepts, know-how, methodologies, processes, technologies, techniques which Contractor develops or learns in connection with Contractor's performance of the work.

Web-based service means a service accessed over the Internet and acquired, accessed, or used by the using governmental unit or a third party pursuant to or as a result of this contract, including without limitation, cloud services, software-as-a-service, and hosted computer services.

[07-7B104-1]

INFORMATION SECURITY - SAFEGUARDING REQUIREMENTS (FEB 2015)

(a) Definitions. The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security – Definitions. In addition, as used in this clause—

Clearing means removal of data from an information system, its storage devices, and other peripheral devices with storage capacity, in such a way that the data may not be reconstructed using common system capabilities (i.e., through the keyboard); however, the data may be reconstructed using laboratory methods.

Intrusion means an unauthorized act of bypassing the security mechanisms of a system.

Media means physical devices or writing surfaces including but not limited to magnetic tapes, optical disks, magnetic disks, portable hard drives, “thumb” drives, large scale integration memory chips, and printouts (but not including display media, e.g., a computer monitor, cathode ray tube (CRT) or other (transient) visual output) onto which information is recorded, stored, or printed within an information system.

Safeguarding means measures or controls that are prescribed to protect information.

Voice means all oral information regardless of transmission protocol.

(b) Safeguarding Information. Without limiting any other legal or contractual obligations, contractor shall implement and maintain reasonable and appropriate administrative, physical, and technical safeguards (including without limitation written policies and procedures) for protection of the security, confidentiality and integrity of the government information in its possession. In addition, contractor shall apply security controls when the contractor reasonably determines that safeguarding requirements, in addition to those identified in paragraph (c) of this clause, may be required to provide adequate security, confidentiality and integrity in a dynamic environment based on an assessed risk or vulnerability.

(c) Safeguarding requirements and procedures. Contractor shall apply the following basic safeguarding requirements to protect government information from unauthorized access and disclosure:

(1) Protecting information on public computers or Web sites: Do not process government information on public computers (e.g., those available for use by the general public in kiosks, hotel business centers) or computers that do not have access control. Government information shall not be posted on Web sites that are publicly available or have access limited only by domain/Internet Protocol restriction. Such information may be posted to web pages that control access by user ID/password, user certificates, or other technical means, and that provide protection via use of security technologies. Access control may be provided by the intranet (versus the Web site itself or the application it hosts).

(2) Transmitting electronic information. Transmit email, text messages, blogs, and similar communications that contain government information using technology and processes that provide the best level of security and privacy available, given facilities, conditions, and environment.

(3) Transmitting voice and fax information. Transmit government information via voice and fax only when the sender has a reasonable assurance that access is limited to authorized recipients.

(4) Physical and electronic barriers. Protect government information by at least one physical and one electronic barrier (e.g., locked container or room, login and password) when not under direct individual control.

(5) Sanitization. At a minimum, clear information on media that have been used to process government information before external release or disposal. Overwriting is an acceptable means of clearing media in accordance with National Institute of Standards and Technology 800–88, Guidelines for Media Sanitization, at http://csrc.nist.gov/publications/nistpubs/800-88/NISTSP800-88_with-errata.pdf.

(6) Intrusion protection. Provide at a minimum the following protections against intrusions and compromise:

(i) Current and regularly updated malware protection services, e.g., anti-virus, antispyware.

(ii) Prompt application of security-relevant software upgrades, e.g., patches, service packs, and hot fixes.

(7) Transfer limitations. Transfer government information only to those subcontractors that both require the information for purposes of contract performance and provide at least the same level of security as specified in this clause.

(d) Subcontracts. Any reference in this clause to Contractor also includes any subcontractor at any tier. Contractor is responsible for, and shall impose by agreement requirements at least as secure as those imposed by this clause on, any other person or entity that contractor authorizes to take action related to government information.

(e) Other contractual requirements regarding the safeguarding of information. This clause addresses basic requirements and is subordinate to any other contract clauses or requirements to the extent that it specifically provides for enhanced safeguarding of information or information systems.

[07-7B105-1]

INFORMATION SECURITY – LOCATION OF DATA (FEB 2015)

Notwithstanding any other provisions, contractor is prohibited from processing, storing, transmitting, or accessing government information, as defined in the clause titled Information Security - Definitions, outside the continental United States. For clarity, this obligation is a material requirement of this contract and applies to subcontractors at any tier. [07-7B106-1]

INFORMATION USE AND DISCLOSURE (FEB 2015)

Except to the extent necessary for performance of the work, citizens should not be required to share information with those engaged by the government in order to access services provided by the government and such information should be used by those engaged by the government only to the extent necessary to perform the work acquired; accordingly, this clause addresses basic requirements for the Contractor's use and disclosure of government information, which expressly includes, but is not limited to, information provided by or obtained from the citizens. Anonymizing information does not resolve the foregoing concern. This clause should be broadly interpreted to effectuate this intent. Every obligation in this clause is material. Absent express reference to this clause, this clause supersedes any other clause to the extent of any inconsistency unless and to the extent the other clause provides greater protection for government information.

(a) Definitions. The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security – Definitions.

(b) Legal mandates. Contractor shall be permitted to use, disclose, or retain government information to the limited extent necessary to comply with any requirement imposed on Contractor by law. If it is necessary for Contractor to use, disclose, or retain government information in order to comply with a law, Contractor shall provide using governmental unit with written notice, including a description of the circumstances and applicable law, in advance of such use, disclosure or retention except to the extent expressly prohibited by law.

(c) Flow down. Any reference in this clause to Contractor also includes any subcontractor at any tier. Contractor is responsible for, and shall impose by agreement the requirements of this clause on, any other person or entity that contractor authorizes to take action related to government information.

(d) Collecting Information. Contractor must gather and maintain government information only to the minimum extent necessary to accomplish the work.

(e) Rights, Disclosure and Use. Except as otherwise expressly provided in this solicitation, Contractor agrees NOT to either (1) use or disclose government information, or (2) retain government information after termination or expiration of this contract. Contractor acquires no rights in any government information except the limited rights to use, disclose and retain the government information in accordance with the terms of this solicitation. To the extent reasonably necessary to perform the work, Contractor may: (i) use (including access, process, transmit, and store) and maintain the government information itself; and (ii) disclose government information to persons having a need-to-know (e.g., subcontractors). Before disclosing government information to a subcontractor or third party, Contractor shall give the using governmental unit detailed written notice of both the reason for disclosure and the identity and location of the recipient. The notice shall be provided no later than fifteen (15) business days in advance of the disclosure.

(f) Return. Notwithstanding the using governmental unit's failure to perform or the pendency of a dispute, Contractor agrees to promptly deliver to the using governmental unit (or destroy, at the using governmental unit's option) all government information in its possession as and upon written request of using governmental unit (provided that, if the contract has not expired or been terminated, Contractor shall be excused from the performance of any work reasonably dependent on Contractor's further access to such government information).

(g) Privacy Policy & Applicable Laws. Without limiting any other legal or contractual obligations imposed by this contract or the law, Contractor shall (a) comply with its own privacy policies and written privacy statements relevant to the work, and (b) comply with (1) all laws applicable to Contractor regarding government information, and (2) all laws and standards identified in the clause, if included, entitled Information Use and Disclosure – Standards.

(h) Actions Following Disclosure. Immediately upon discovery of a compromise or improper use of government information, Contractor shall take such action as may be necessary to preserve forensic evidence and eliminate the cause of the compromise or improper use. As soon as practicable, but no later than twenty-four hours after discovery, Contractor shall notify using governmental unit of the compromise or improper use, including a description of the circumstances of the use or compromise. As soon as practicable after discovery, Contractor shall undertake a thorough forensic investigation of any compromise or improper use and provide the using governmental unit all information necessary to enable the using governmental unit to fully understand the nature and extent of the compromise or improper use. With regard to any compromise or improper use of government information, Contractor shall: (1) provide any notification to third parties legally required to be provided such notice by Contractor, and if not (e.g., if legally required of the using governmental unit), Contractor shall reimburse using governmental unit for the cost of providing such notifications; (2) pay all costs and expenses for at least two years of identity theft monitoring services (including without limitation, credit monitoring) and identity theft restoration services for any such affected individuals receiving notice where such services are appropriate given the circumstances of the incident and the nature of the information compromised; (3) undertake any other measures that are customary and reasonable for an entity to

take when experiencing a similar disclosure, (4) pay any related fines or penalties imposed on the using governmental unit, and (5) reimburse the Using Governmental Unit all costs reasonably incurred for communications and public relations services involved in responding to the compromise or improper use. Notwithstanding any other provision, contractor's obligations pursuant to this item (h) are without limitation.

(i) Survival & Remedy. All the obligations imposed by this paragraph are material. The obligations of this section shall survive termination or expiration of the contract. Without limiting any rights the using governmental unit may have, and notwithstanding any other term of this contract, Contractor agrees that using governmental unit may have no adequate remedy at law for a breach of Contractor's obligations under this clause and therefore the using governmental unit shall be entitled to pursue equitable remedies in the event of a breach of this clause. [07-7B108-1]

INFORMATION USE AND DISCLOSURE – STANDARDS (FEB 2015)

To the extent applicable:

(a) Breach of security of state agency data; notification; rights and remedies of injured parties; penalties; notification of Consumer Protection Division, S.C. Code Ann. Section 1-11-490.

(b) South Carolina Financial Identity Fraud and Identity Theft Protection Act (FIFITPA), 2008 Act 190, as amended. Solely for purposes of Section 39-1-90 of the South Carolina Code of Laws, as amended, Contractor is deemed to be the owner of government information, as defined herein, and Contractor agrees that the Using Governmental Unit is not a licensee.

(c) The South Carolina Family Privacy Protection Act of 2002, S.C. Code Ann. Sections 30-2-10, et seq.

(d) Personal Identifying Information Privacy Protection, S.C. Code Ann. Sections 30-2-310 et seq.

(e) Data Breach Notification, 2014 Act No. 286, Section 117.117, as revised in any future annual appropriations act. [07-7B110-1]

LICENSES AND PERMITS (JAN 2006)

During the term of the contract, the Contractor shall be responsible for obtaining, and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and /or inspections required by the State, county, city or other government entity or unit to accomplish the work specified in this solicitation and the contract. [07-7B115-1]

MATERIAL AND WORKMANSHIP (JAN 2006)

Unless otherwise specifically provided in this contract, all equipment, material, and articles incorporated in the work covered by this contract are to be new and of the most suitable grade for the purpose intended. [07-7B120-1]

OFFSHORE CONTRACTING PROHIBITED (FEB 2015)

No part of the resulting contract from this solicitation may be performed offshore of the United States by persons located offshore of the United States or by means, methods, or communications that, in whole or in part, take place offshore of the United States. [07-7B122-1]

PRICE ADJUSTMENTS (JAN 2006)

(1) Method of Adjustment. Any adjustment in the contract price made pursuant to a clause in this contract shall be consistent with this Contract and shall be arrived at through whichever one of the following ways is the most valid approximation of the actual cost to the Contractor (including profit, if otherwise allowed):

(a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

(b) by unit prices specified in the Contract or subsequently agreed upon;

(c) by the costs attributable to the event or situation covered by the relevant clause, including profit if otherwise allowed, all as specified in the Contract; or subsequently agreed upon;

(d) in such other manner as the parties may mutually agree; or,

(e) in the absence of agreement by the parties, through a unilateral initial written determination by the Procurement Officer of the costs attributable to the event or situation covered by the clause, including profit if otherwise allowed, all as computed by the Procurement Officer in accordance with generally accepted accounting principles, subject to the provisions of Title 11, Chapter 35, Article 17 of the S.C. Code of Laws.

(2) Submission of Price or Cost Data. Upon request of the Procurement Officer, the contractor shall provide reasonably available factual information to substantiate that the price or cost offered, for any price adjustments is reasonable, consistent with the provisions of Section 11-35-1830.

[07-7B160-1]

PRICE ADJUSTMENT - LIMITED -- AFTER INITIAL TERM ONLY (JAN 2006)

Upon approval of the Procurement Officer, prices may be adjusted for any renewal term. Prices shall not be increased during the initial term. Any request for a price increase must be received by the Procurement Officer at least ninety (90) days prior to the expiration of the applicable term and must be accompanied by sufficient documentation to justify the increase. If approved, a price increase becomes effective starting with the term beginning after approval. A price increase must be executed as a change order. Contractor may terminate this contract at the end of the then current term if a price increase request is denied. Notice of termination pursuant to this paragraph must be received by the Procurement Officer no later than fifteen (15) days after the Procurement Officer sends contractor notice rejecting the requested price increase. [07-7B165-1]

PRICE ADJUSTMENTS -- LIMITED BY CPI "ALL ITEMS" (JAN 2006)

Upon request and adequate justification, the Procurement Officer may grant a price increase up to, but not to exceed, the unadjusted percent change for the most recent 12 months for which data is available, that is not subject to revision, in the Consumer Price Index (CPI) for all urban consumers (CPI-U), "all items" for services, as determined by the Procurement Officer. The Bureau of Labor and Statistics publishes this information on the web at www.bls.gov. [07-7B170-1]

PRICING DATA -- AUDIT -- INSPECTION (JAN 2006)

[Clause Included Pursuant to Section 11-35-1830, - 2210, & -2220] (a) Cost or Pricing Data. Upon Procurement Officer's request, you shall submit cost or pricing data, as defined by 48 C.F.R. Section 2.101 (2004), prior to either (1) any award to contractor pursuant to 11-35-1530 or 11-35-1560, if the total contract price exceeds \$500,000, or (2) execution of a change order or contract modification with contractor which exceeds \$100,000. Your price, including profit or fee, shall be adjusted to exclude any significant sums by which the state finds that such price was increased because you furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date agreed upon between parties. (b) Records Retention. You shall maintain your records for three years from the date of final payment, or longer if requested by the chief Procurement Officer. The state may audit your records at reasonable times and places. As used in this subparagraph (b), the term "records" means any books or records that relate to cost or pricing data submitted pursuant to this clause. In addition to the obligation stated in this subparagraph (b), you shall retain all records and allow any audits provided for by 11-35-2220(2). (c) Inspection. At reasonable times, the state may inspect any part of your place of business which is related to performance of the work. (d) Instructions Certification. When you submit data pursuant to subparagraph (a), you shall (1) do so in accordance with the instructions appearing in Table 15-2 of 48 C.F.R. Section 15.408 (2004) (adapted as necessary for the state context), and (2) submit a Certificate of Current Cost or Pricing Data, as prescribed by 48 CFR Section 15.406-2(a) (adapted as necessary for the state context). (e) Subcontracts. You shall include the above text of this clause in all of your subcontracts. (f) Nothing in this clause limits any other rights of the state. [07-7B185-1]

RELATIONSHIP OF THE PARTIES (JAN 2006)

Neither party is an employee, agent, partner, or joint venturer of the other. Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party. [07-7B205-1]

RELATIONSHIP OF USING GOVERNMENTAL UNITS (JAN 2006)

Each Using Governmental Unit's obligations and liabilities are independent of every other Using Governmental Unit's obligations and liabilities. No Using Governmental Unit shall be responsible for any other Using Governmental Unit's act or failure to act. [07-7B210-1]

RESTRICTIONS ON PRESENTING TERMS OF USE OR OFFERING ADDITIONAL SERVICES (FEB 2015)

- (a) Citizens, as well as public employees (acting in their individual capacity), should not be unnecessarily required to agree to or provide consent to policies or contractual terms in order to access services acquired by the government pursuant to this contract (hereinafter "applicable services") or, in the case of public employees, to perform their job duties; accordingly, in performing the work, contractor shall not require or invite any citizen or public employee to agree to or provide consent to any end user contract, privacy policy, or other terms of use (hereinafter "terms of use") not previously approved in writing by the procurement officer. Contractor agrees that any terms of use regarding applicable services are void and of no effect.
- (b) Unless expressly provided in the solicitation, public contracts are not intended to provide contractors an opportunity to market additional products and services; accordingly, in performing the work, contractor shall not – for itself or on behalf of any third party – offer citizens or public employees (other than the procurement officer) any additional products or services not required by the contract.
- (c) Any reference to contractor in items (a) or (b) also includes any subcontractor at any tier. Contractor is responsible for

compliance with these obligations by any person or entity that contractor authorizes to take any action related to the work.
(d) Any violation of this clause is a material breach of contract. The parties acknowledge the difficulties inherent in determining the damage from any breach of these restrictions. Contractor shall pay the state liquidated damages of \$1,000 for each contact with a citizen or end user that violates this restriction.
[07-7B212-1]

SERVICE PROVIDER SECURITY REPRESENTATION (FEB 2015)

The following obligations are subordinate to any other contract clause to the extent the other clause specifically provides for enhanced safeguarding of government information, applicable information systems, or applicable organizations. Offeror (i) warrants that the work will be performed, and any applicable information system (as defined in the clause titled "Information Security - Definitions") will be established and maintained in substantial conformity with the information provided in Offeror's Response to SPSAQ; (ii) agrees to provide the Using Governmental Unit with prompt notice of any material variation in operations from that reflected in the Response to SPSAQ; and (iii) agrees to comply with all other obligations involving either information security or information use and disclosure imposed by the contract, notwithstanding any inconsistent statement in Offeror's Response to SPSAQ. To the extent Offeror's Response to SPSAQ does not conform to any other contractual requirements, the Using Agency's lack of objection does not constitute a waiver [07-7B217-1]

SHIPPING / RISK OF LOSS (JAN 2006)

F.O.B. Destination. Destination is the shipping dock of the Using Governmental Units' designated receiving site, or other location, as specified herein. (See Delivery clause) [07-7B220-1]

SOFTWARE LICENSING AGREEMENTS--SINGLE SOLICITATION (MODIFIED)

(a) Definitions. As used in this clause, these terms are defined as follows:

"Commercial Off-The-Shelf (COTS) Software" means software used with no customization and for which source code is not made available to licensees.

"Configuration" means any customer-specific modification to software that does not require changes to the software's source code, such as rules-based, rules engine based, or parameter driven modifications to configure the software.

"Customization" means any customer-specific modification to software that requires changes to the software's source code.

"Firmware" means software sold or licensed only in conjunction with machines, designed for execution only on a machine with which it is provided, designed only for machines other than a dedicated computer, and embedded into or installed on the machine by the machine's manufacturer or seller.

"Licensor" means an entity that owns the intellectual property rights for an item of software or has the authority to license or sublicense the software directly to the using governmental unit.

"Piggyback" means the document attached to this solicitation and entitled South Carolina Standard Amendment To End User License Agreements For Commercial Off-The-Shelf Software, which serves as South Carolina's standard amendment to a licensor's standard software licensing agreement (regardless of how denominated, e.g., master software licensing agreement, end user license agreement) for COTS. [Note: While the piggyback is generally indicative of what the State finds acceptable, terms in a Licensor's standard software licensing agreement may need to be negotiated.]

"Software" means a combination of computer instructions and data definitions that enable computer hardware to perform computational or control functions, excluding firmware.

"Software licensing agreement" means any agreement, regardless of how designated, that defines the intellectual property rights for, or the rights to use, any software product. A software licensing agreement must address only terms directly associated with licensing the right to use the software and must not address any of the work governed by the contract or any services (other than warranty services regarding the software code or associated documentation).

"Software maintenance" means the process of modifying software after delivery to correct faults, improve performance or other attributes, or adapt to a changed environment. (Reference ISO/IEC 14764:2006, as amended or superseded.) Software maintenance does not include any customization or configuration.

"Software product" means any COTS which you propose to provide pursuant to the contract.

"Source code" means computer instructions and data definitions expressed in a form suitable for input into an assembler, compiler or other translator.

(b) Contract and Software Licensing Agreement are Separate. The State seeks to establish related but independent agreements, one with each applicable licensor of COTS and one with the contractor - regardless of whether the licensor and the contractor are the same or different entities. As provided in the clause titled "Bid / Proposal As Offer To Contract," a contract between the State and the contractor results from an award made pursuant to this solicitation. In contrast, the State's acceptance of your offer does not serve as the State's acceptance of any software licensing agreement; rather, software licensing agreements must be separately executed in order to be binding, regardless of whether the license to use the software will be granted by you or a third party. The contract, as defined in the clause titled "Definitions," will address all work (excluding the use rights for any software product) and all terms regarding pricing, payment, and delivery of any software product. Accordingly, the

State intends to pay contractor in order to acquire license rights for any software product, but the license rights will be governed by a software licensing agreement with the licensor.

(c) Critical Instructions. (1) Your offer must identify each software product you propose to provide, identify the licensor, and explain which of the following licensing models apply: (i) you intend to license (or sublicense) the item directly to the State, or (ii) you intend to "resell" or distribute the item to the State (with licensing handled directly with the third-party licensor). You should use the Software Table attached to this solicitation to assist you in providing this information. (2) Your offer must NOT include any software licensing agreements; however, for any software product identified in your offer, you must submit a software licensing agreement upon request of the procurement officer. You must be prepared to provide any requested software licensing agreement within one business day of receiving a request. (3) Regardless of your licensing model, your price must include the cost of providing every software product you propose to provide to the State and those terms will form part of the contract.

(d) Pre-Condition of Award. If the work you are offering to perform is dependent upon the licensing of a software product by the State and the State is unsuccessful in negotiating an acceptable software licensing agreement for any software product for which it finds such an agreement necessary, your offer will be rejected. To facilitate the timely and successful negotiation of a software licensing agreement deemed necessary by the State, the State may ask you, after opening but prior to award, to acquire from the licensor an executed copy of the piggyback. You should communicate with the licensors for any major or critical software product well in advance of submitting a proposal, and licensors should be informed that few changes will be made to the piggyback. [The State already has, and continues to enter into, standing, statewide, licensing agreements for a variety of computer programs. Without limiting any of the above requirements, an applicable agreement may already exist for one or more items of COTS you have identified.] [07-7B224-1]

STATEWIDE TERM CONTRACT (FEB 2021)

(a) With this solicitation, the state seeks to establish a term contract (as defined in Section 11-35- 310(35)) available for use by all South Carolina public procurement units (as defined in Section 11-35-4610(5)). Use by state governmental bodies (as defined in Section 11-35-310(18)), which includes most state agencies, is mandatory except under limited circumstances, as provided in Section 11-35-310(35). See clause entitled "Acceptance of Offers 10% Below Price" in Part VII.B. of this solicitation. Use by local public procurement units is optional. Section 11-35-4610 defines local public procurement units to include any political subdivision, or unit thereof, which expends public funds. Section 11-35-310(23) defines the term political subdivision as all counties, municipalities, school districts, public service or special purpose districts.

(b) The State shall be entitled to audit the books and records of you and any subcontractor to the extent that such books and records relate to the performance of the work. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the contract and by the subcontractor for a period of three years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing by the Chief Procurement Officer.

(c) Notwithstanding the "Purchase Orders" clause, a Using Governmental Unit may include additional contract terms in a purchase order if and to the extent necessary for the Using Governmental Unit (i) to comply with federal laws as are mandatorily applicable to an expenditure of federal assistance, grant, or contract funds, or (ii) to impose organizational, operational, or technical security measures designed to protect the integrity, availability, or confidentiality of the Using Governmental Unit's data. Additional contract terms may not be used if they involve an increase in pricing or materially alter the scope of work. Contractor may decline to honor a purchase order that includes additional contract terms, but only if the Contractor provides the applicable Using Governmental Unit with prompt written notice of such rejection and the work acquired with that purchase order has not begun. For purposes of a specific purchase order, Contractor accepts additional contract terms by performing any of the work acquired with that purchase order. As used herein, "additional contract terms" means only those additional terms not otherwise expressly allowed by this contract.

(d) EFT information the Contractor provides to the State Treasurer's Office (STO) is only used to process payment of invoices to Using Governmental Units on whose behalf the STO makes payment. For all other Using Governmental Units the method of payment must be addressed in the purchase order. See clause titled "Payment & Interest."

(e) If the contractor is suspended or debarred pursuant to Section 11-35-4220, the State may, without prejudice to any other remedy available to the State, take any one or more of the following actions: (1) order the contractor to not accept any further orders under the contract until the suspension or debarment has been lifted; (2) terminate this contract; (3) order the contractor to not accept any further orders under any other statewide term contract; or (4) terminate the contractor's award of any other statewide term contract. [07-7B225-4]

STATEWIDE TERM CONTRACT - ACCEPTANCE OF OFFERS 10% BELOW PRICE (NOV 2012)

Pursuant to Section 11-35-310(35), the state may purchase items available on this contract from a third party (an "alternate vendor") if the alternate vendor offers a price that is at least ten percent less than the price established by this contract and, after being offered an opportunity, you decline to meet the alternate vendor's price. With regard to the items acquired, the alternate vendor must agree to be bound by all the terms and conditions of this contract. All acquisition pursuant to this clause must be documented by the procurement officer using the attached form. [07-7B227-1]

STATEWIDE TERM CONTRACT -- SCOPE (JAN 2006)

The scope of this contract is limited by the Bidding Schedule / Cost Proposals and by the description included in Part I, Scope of Solicitation. Sales of supplies or services not within the scope of this contract are prohibited. See clause entitled Contract Limitations. [07-7B230-1]

TERM OF CONTRACT -- EFFECTIVE DATE / INITIAL CONTRACT PERIOD (JAN 2006)

The effective date of this contract is the first day of the Maximum Contract Period as specified on the final statement of award. The initial term of this agreement is 1years, 0months, 0days from the effective date. Regardless, this contract expires no later than the last date stated on the final statement of award. [07-7B240-1]

TERM OF CONTRACT -- OPTION TO RENEW (FEB 2021)

At the end of the initial term, and at the end of each renewal term, this contract shall automatically renew for a period of one year, unless contractor receives notice that the state elects not to renew the contract at least thirty (30) days prior to the date of renewal. Regardless, this contract expires no later than the last date stated on the final statement of award. [07-7B245-3]

TERMINATION FOR CONVENIENCE -- INDEFINITE DELIVERY / INDEFINITE QUANTITY CONTRACTS (JAN 2006)

Unless the termination so provides, a termination for convenience shall not operate to terminate any purchase orders issued prior to the effective date of termination. [07-7B255-1]

TERMINATION FOR CONVENIENCE (JAN 2006)

(1) Termination. The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State. The Procurement Officer shall give written notice of the termination to the contractor specifying the part of the contract terminated and when termination becomes effective.

(2) Contractor's Obligations. The contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the contractor will stop work to the extent specified. The contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the contractor to assign the contractor's right, title, and interest under terminated orders or subcontracts to the State. The contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

(3) Right to Supplies. The Procurement Officer may require the contractor to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. The contractor shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the contractor in which the State has an interest. If the Procurement Officer does not exercise this right, the contractor shall use best efforts to sell such supplies and manufacturing materials in a accordance with the standards of Uniform Commercial Code Section 2-706. Utilization of this Section in no way implies that the State has breached the contract by exercise of the Termination for Convenience Clause.

(4) Compensation. (a) The contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data required by Section 11-35-1830 bearing on such claim. If the contractor fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the contractor, if at all, an amount set in accordance with Subparagraph (c) of this Paragraph.

(b) The Procurement Officer and the contractor may agree to a settlement and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the State, the proceeds of any sales of supplies and manufacturing materials under Paragraph (3) of this clause, and the contract price of the work not terminated;

(c) Absent complete agreement under Subparagraph (b) of this Paragraph, the Procurement Officer shall pay the contractor the following amounts, provided payments agreed to under Subparagraph (b) shall not duplicate payments under this Subparagraph:

(i) contract prices for supplies or services accepted under the contract;

(ii) costs reasonably incurred in performing the terminated portion of the work less amounts paid or to be paid for accepted supplies or services;

(iii) reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Paragraph (2) of this clause. These costs must not include costs paid in accordance with Subparagraph (c)(ii) of this paragraph;

(iv) any other reasonable costs that have resulted from the termination. The total sum to be paid the contractor under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph (b) of this Paragraph, and the contract price of work not terminated.

(d) Contractor must demonstrate any costs claimed, agreed to, or established under Subparagraphs (b) and (c) of this Paragraph using its standard record keeping system, provided such system is consistent with any applicable Generally Accepted Accounting Principles.

(5) Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not (i) affect the State's right to require the termination of a subcontract, or (ii) increase the obligation of the State beyond what it would have been if the subcontract had contained an appropriate clause.

[07-7B265-1]

WARRANTY – ONE YEAR (JAN 2006)

Contractor warrants all items acquired shall conform to all contractors' representations, the requirements of this contract, and all published documentation.

[07-7B275-1]

VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL

PRICE PROPOSAL (JAN 2006)

Notwithstanding any other instructions herein, you shall submit the following price information as a separate document: [08-8015-1]

Part 1

Submit the most current manufacturer's price list(s) for your proposed solution.

Part 2

Complete Attachment 1 and submit as an Excel spreadsheet. The manufacturer's price list(s) and Part A of the Bid Schedule will be utilized to determine the contract pricing if awarded. Add lines for in-scope standard professional services and corresponding pricing.

IX. ATTACHMENTS TO SOLICITATION

ATTACHMENTS LIST [09-9002-1]

The following documents are attached to this solicitation:

1. Important Tax Notice - Nonresidents Only
2. Purchase Order Attachment - Acceptance of Offers 10% Below Statewide Term Contract Price
3. Service Provider Security Assessment Questionnaire
4. Attachment 4 - Previous Vendor Questions & Answers

The following documents are posted on the solicitation website:

5. Attachment 1 - Price Proposal
6. Attachment 2 - South Carolina Standard Amendment to End User License Agreements for Commercial Off-The-Shelf Software
7. Attachment 3 - Software Table

IMPORTANT TAX NOTICE - NONRESIDENTS ONLY

Withholding Requirements for Payments to Nonresidents: Section 12-8-550 of the South Carolina Code of Laws requires persons hiring or contracting with a nonresident conducting a business or performing personal services of a temporary nature within South Carolina to withhold 2% of each payment made to the nonresident. The withholding requirement does not apply to (1) payments on purchase orders for tangible personal property when the payments are not accompanied by services to be performed in South Carolina, (2) nonresidents who are not conducting business in South Carolina, (3) nonresidents for contracts that do not exceed \$10,000 in a calendar year, or (4) payments to a nonresident who (a) registers with either the S.C. Department of Revenue or the S.C. Secretary of State and (b) submits a Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to the person letting the contract.

The withholding requirement applies to every governmental entity that uses a contract ("Using Entity"). Nonresidents should submit a separate copy of the Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to every Using Entity that makes payment to the nonresident pursuant to this solicitation. Once submitted, an affidavit is valid for all contracts between the nonresident and the Using Entity, unless the Using Entity receives notice from the Department of Revenue that the exemption from withholding has been revoked.

Section 12-8-540 requires persons making payment to a nonresident taxpayer of rentals or royalties at a rate of \$1,200.00 or more a year for the use of or for the privilege of using property in South Carolina to withhold 7% of the total of each payment made to a nonresident taxpayer who is not a corporation and 5% if the payment is made to a corporation. Contact the Department of Revenue for any applicable exceptions.

For information about other withholding requirements (e.g., employee withholding), contact the South Carolina Department of Revenue at 1-844-898-8542 or visit the Department's website at: <http://dor.sc.gov>

This notice is for informational purposes only. This agency does not administer and has no authority over tax issues. All registration and withholding tax questions should be directed to the South Carolina Department of Revenue at 1-844-898-8542. Additional contact information can be found by visiting the Department's website at <http://dor.sc.gov>.

PLEASE SEE THE "NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING" FORM (FORM NUMBER I-312) LOCATED AT: <http://dor.sc.gov>

[09-9005-5]

Purchase Order Attachment

Acceptance of Offers 10% Below Statewide Term Contract Price

Instructions: If an agency purchases any item available on the Term Contract identified below from a business (an Alternate Vendor) other than the Term Contract Contractor and the total price of the purchase order exceeds \$500, then the procurement officer making the purchase must attach this form to the purchase order issued to the Alternate Vendor. The agency procurement officer must complete the following four blanks: the number and description of the applicable Term Contract, the number of the agency's Purchase Order, and the name of Term Contract Contractor that you offered an opportunity to match.

Term Contract Solicitation No.	Term Contract Description
Term Contract Contractor	Purchase Order No.

Agreement

By signing this document, Alternate Vendor is entering into a contract with the agency named above regarding the items referenced on Purchase Order identified above. Regarding the items acquired with the Purchase Order, Alternate Vendor agrees to be bound by all the terms and conditions of the Term Contract Solicitation identified above. Alternate Vendor has received and read a copy of the Term Contract Solicitation identified above. The Purchase Order may be used to elect only those options expressly allowed in the Term Contract Solicitation. Possible options might include quantity, item, delivery date, and payment method. Any contract resulting from this Purchase Order is limited to the documents identified in the clause entitled Contract Documents & Order of Precedence.

NAME OF ALTERNATE VENDOR (full legal name of business entering this contract)	STATE VENDOR NO. (Register to Obtain S.C. Vendor No. at www.procurement.sc.gov)
AUTHORIZED SIGNATURE (person authorized to enter binding contract on behalf of Alternate Vendor)	TITLE (business title of person signing)
PRINTED NAME (printed name of person signing above)	DATE SIGNED

Certification of Compliance

I certify as follows: (1) every item acquired with the Purchase Order is priced at least ten percent less than the Term Contract price for the same item; (2) the Term Contract Contractor identified above declined to meet the prices stated on the Purchase Order after being offered a reasonable opportunity to meet the price stated on the Purchase Order; and, (3) this purchase complies with Section 11-35-310(35), which is reprinted below.

AUTHORIZED SIGNATURE (procurement officer authorized to issue purchase order and sign certification)	TITLE (business title of person signing)
PRINTED NAME (printed name of person signing above)	DATE SIGNED

Section 11-35-310(35) of the South Carolina Code of Laws reads as follows: ""Term contract" means contracts established by the chief procurement officer for specific supplies, services, or information technology for a specified time and for which it is mandatory that all governmental bodies procure their requirements during its term. As provided in the solicitation, if a public procurement unit is offered the same supplies, services, or information technology at a price that is at least ten percent less than the term contract price, it may purchase from the vendor offering the lower price after first offering the vendor holding the term contract the option to meet the lower price. The solicitation used to establish the term contract must specify contract terms applicable to a purchase from the vendor offering the lower price. If the vendor holding the term contract meets the lower price, then the governmental body shall purchase from the contract vendor. All decisions to purchase from the vendor offering the lower price must be documented by the procurement officer in sufficient detail to satisfy the requirements of an external audit. A term contract may be a multi term contract as provided in Section 11-35-2030."

----- PURCHASE ORDER ATTACHMENT (APR 2015) -----

[09-9020-2]

SERVICE PROVIDER SECURITY ASSESSMENT QUESTIONNAIRE

Instructions: (1) Attach additional pages or documents as appropriate and make sure answers cross reference to the questions below. (2) As used in this Questionnaire, the phrase "government information" shall have the meaning defined in the clause titled "Information Security." (3) This Questionnaire must be read in conjunction with both of the following two clauses (a) Service Provider Security Assessment Questionnaire – Required, and (b) Service Provider Security Representation.

1. Describe your policies and procedures that ensure access to government information is limited to only those of your employees and contractors who require access to perform your proposed services.
2. Describe your disaster recovery and business continuity plans.
3. What safeguards and practices do you have in place to vet your employees and contractors who will have access to government information?
4. Describe and explain your security policies and procedures as they relate to your use of your contractors and next-tier subcontractors.
5. List any reports or certifications that you have from properly accredited third-parties that demonstrate that adequate security controls and assurance requirements are in place to adequately provide for the confidentiality, integrity, and availability of the information systems used to process, store, transmit, and access all government information. (For example, an ISO/IEC 27001 compliance certificate, an AICPA SOC 2 (Type 2) report, or perhaps an AICPA SOC 3 report (i.e., a SysTrust or WebTrust seal)). For each certification, describe the scope of the assessment performed. Will these reports / certifications remain in place for the duration of the contract? Will you provide the state with most recent and future versions of the applicable compliance certificate / audit report?
6. Describe the policies, procedures and practices you have in place to provide for the physical security of your data centers and other sites where government information will be hosted, accessed or maintained.
7. Will government information be encrypted at rest? Will government information be encrypted when transmitted? Will government information be encrypted during data backups, and on backup media? Please elaborate.
8. Describe safeguards that are in place to prevent unauthorized use, reuse, distribution, transmission, manipulation, copying, modification, access or disclosure of government information.
9. What controls are in place to detect security breaches? What system and network activity do you log? How long do you maintain these audit logs?
10. How will government information be managed after contract termination? Will government information provided to the Contractor be deleted or destroyed? When will this occur?
11. Describe your incident response policies and practices.
12. Identify any third party which will host or have access to government information.

Offeror's response to this questionnaire includes any other information submitted with its offer regarding information or data security.

SIGNATURE OF PERSON AUTHORIZED TO REPRESENT THE ACCURACY OF THIS INFORMATION ON BEHALF OF CONTRACTOR:

By: _____
(authorized signature)

Its: _____
(title of person signing)

(printed name of person signing above)

Date: _____

ATTACHMENT 4
Previous Vendor Questions & State Responses

QUESTIONS FROM OFFERORS - AMENDMENT (JUN 2017)

THE SOLICITATION IS AMENDED AS PROVIDED HEREIN. INFORMATION OR CHANGES RESULTING FROM QUESTIONS WILL BE SHOWN IN A QUESTION-AND-ANSWER FORMAT. ALL QUESTIONS RECEIVED HAVE BEEN REPRINTED BELOW. THE “STATE’S RESPONSE” SHOULD BE READ WITHOUT REFERENCE TO THE QUESTIONS. THE QUESTIONS ARE INCLUDED SOLELY TO PROVIDE A CROSS-REFERENCE TO THE POTENTIAL OFFEROR THAT SUBMITTED THE QUESTION. QUESTIONS DO NOT FORM A PART OF THE CONTRACT; THE “STATE’S RESPONSE” DOES. ANY RESTATEMENT OF PART OR ALL OF AN EXISTING PROVISION OF THE SOLICITATION IN AN ANSWER DOES NOT MODIFY THE ORIGINAL PROVISION EXCEPT AS FOLLOWS: UNDERLINED TEXT IS ADDED TO THE ORIGINAL PROVISION. STRICKEN TEXT IS DELETED. [02-2A097-1]

1. Solicitation Reference: Section II. Instructions to Offerors -- B. Special Instructions states, “If your offer includes any comment over and above the specific information requested in the solicitation, you are to include this information as a separate appendix to your offer.”

Vendor Question: We’re concerned that a single Appendix document may cause upload issues, given the collective file size of [Vendor]’s and our partners’ additional content that we wish to provide. Is it acceptable to attach either:

- multiple Appendix document
- a PDF Portfolio (compilation of multiple documents, where each is a separate PDF attachment)
- a document list with each linked to the document within Dropbox

Please let us know your preference

State’s Response: No change. Multiple appendix documents or a PDF Portfolio are perfectly acceptable options. Links to Dropbox (or any cloud repository) are not acceptable.

Exhibit B

Materials Management Office Vendor Response Form

Sol # 5400022908 [Click here to enter a date.](#)

Posting Date Read at Bid Opening

Change Date To: 00/00/0000 00/00/0000 00/00/0000 00/00/0000 00/00/0000 3/15/2022

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Issue Date: 2/22/2022

Open by Scott Hawkins

Buyer Kristen Hutto

RFP

Witness by Barbara McAllister

Description: STC One Card Identification Systems

Agency: STC

Other NOTES:

Bidder	Code
1 ITC SYSTEMS CORP SRM	7000312744
2 ATRIUM CAMPUS LLC SRM	7000310837
3 TRANSACT CAMPUS INC SRM	7000289337
4 SMITHS ADDRESSING MACHINE SERVICES SRM	7000024862
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127 Click here to enter text. Click here to enter text.	Click here to enter text.

Exhibit C

Offeror	Evaluator A	Evaluator B	Evaluator C	Total Score	
Atrium Campus LLC	92.00	81.00	76.50	249.50	
ITC Systems Corp	76.00	59.00	68.00	203.00	18.64%
Smiths Addressing Machine Services	82.00	60.00	44.50	186.50	25.25%
Transact Campus Inc	49.00	78.00	60.00	187.00	25.05%

Atrium Campus LLC

	<u>Evaluator A</u>	<u>Evaluator B</u>	<u>Evaluator C</u>	<u>Total</u>
Value	40.00	28.00	32.00	100.00
Technical Proposal	38.00	38.00	32.00	108.00
Qualifications/Experience	14.00	15.00	12.50	41.50
	92.00	81.00	76.50	249.50

ITC Systems Corp

	<u>Evaluator A</u>	<u>Evaluator B</u>	<u>Evaluator C</u>	<u>Total</u>
Value	40.00	17.00	20.50	77.50
Technical Proposal	28.00	32.00	35.50	95.50
Qualifications/Experience	8.00	10.00	12.00	30.00
	76.00	59.00	68.00	203.00

Smiths Addressing Machine Services

	<u>Evaluator A</u>	<u>Evaluator B</u>	<u>Evaluator C</u>	<u>Total</u>
Value	35.00	27.00	15.50	77.50
Technical Proposal	35.00	25.00	20.00	80.00
Qualifications/Experience	12.00	8.00	9.00	29.00
	82.00	60.00	44.50	186.50

Transact Campus Inc

	<u>Evaluator A</u>	<u>Evaluator B</u>	<u>Evaluator C</u>	<u>Total</u>
Value	25.00	31.00	15.00	71.00
Technical Proposal	18.00	35.00	32.50	85.50
Qualifications/Experience	6.00	12.00	12.50	30.50
	49.00	78.00	60.00	187.00

Exhibit D

STATE OF SOUTH CAROLINA
SFAA, DIV. OF PROCUREMENT SERVICES, ITMO
1201 MAIN STREET, SUITE 600
COLUMBIA SC 29201

Intent to Award
Posting Date: June 17, 2022

Solicitation: 5400022908
Description: STC One Card Identification Systems
Agency: Statewide Term Contract

The State intends to award contract noted below. Unless otherwise suspended or canceled, this document becomes the final Statement of Award effective **June 30, 2022**. Unless otherwise provided in the solicitation, the final statement of award serves as acceptance of your offer.

Contractor should not perform work on or incur any costs associated with the contract prior to the effective date of the contract. Contractor should not perform any work prior to the receipt of a purchase order from the using governmental unit. The State assumes no liability for any expenses incurred prior to the effective date of the contract and issuance of a purchase order.

CERTIFICATES OF INSURANCE COVERAGE TO BE FURNISHED PRIOR TO COMMENCEMENT OF SERVICES UNDER CONTRACT.

If you are aggrieved in connection with the award of the contract, you may be entitled to protest, but only as provided in Section 11-35-4210. To protest an award, you must (i) submit notice of your intent to protest within seven business days of the date the award notice is posted, and (ii) submit your actual protest within fifteen days of the date the award notice is posted. Days are calculated as provided in Section 11-35-310(13). Both protests and notices of intent to protest must be in writing and must be received by the appropriate Chief Procurement Officer within the time provided. See clause entitled "Protest-CPO". The grounds of the protest and the relief requested must be set forth with enough particularity to give notice of the issues to be decided.

PROTEST - CPO ADDRESS - ITMO: Any protest must be addressed to the Chief Procurement Officer, Information Technology Management Office, and submitted in writing

- (a) by email to protest-itmo@itmo.sc.gov, or
- (b) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201.

Contract Number: 4400029343
Awarded To: ATRIUM CAMPUS LLC (7000310837)
177 HUNTINGTON AVENUE
STE 1703
PMB 84154
BOSTON MA 02115-3153

Total Potential Value: \$ 5,000,000.00
Maximum Contract Period: July 06, 2022 through July 05, 2027

Note: As an indefinite delivery, indefinite quantity contract the Total Potential Value is an estimated amount and may be adjusted as needed. This Intent to Award does not guarantee the Contractor will receive any amount of work under this contract.

Procurement Officer
KRISTEN HUTTO

ROGERS JOSEPH O'DONNELL

June 23, 2022

Via E-mail to protest-itmo@itmo.sc.gov

Chief Procurement Officer
Information Technology Management Office
State of South Carolina
SFAA, Division of Procurement Services, ITMO
1201 Main Street, Suite 600
Columbia, SC 29201
protest-itmo@itmo.sc.gov

Re: Transact Campus Inc.'s Notice of Intent to Protest re Solicitation No.
5400022908, STC One Card Identification Systems

Dear Chief Procurement Officer:

This letter serves as Transact Campus Inc.'s ("Transact") Notice of Intent to Protest the Notice of Intent to Award ("Notice") for Solicitation No. 5400022908, STC One Card Identification Systems ("Solicitation"). The Notice was posted on June 17, 2022, and stated that South Carolina intended to make award to Atrium Campus LLC ("Atrium"). The Notice of Intent to Award appears improper because Atrium was scored unreasonably high and Transact was scored unreasonably low, given the comparative products and the publicly-available information regarding each company's proposals and the state's evaluation. This improper scoring demonstrates that the evaluation was improper and that award would be an abuse of discretion.

If the scoring was conducted appropriately, Transact would have scored higher than, or at least within 15% of Atrium's score, making Transact eligible for award. South Carolina should cancel the Notice of Intent to Award and re-evaluate the proposals to ensure fair and accurate scoring.

Transact has standing to protest because it submitted an offer in response to the solicitation. *See* SC Code § 11-35-4210(1)(b). Transact's Notice of Intent to Protest is timely because the Notice of Intent to Award was posted on June 17, 2022, and this Notice of Intent to Protest is submitted within seven (7) business days of that date. *Id.*

In accordance with SC Code § 11-35-4210(7), Transact requests that the award be stayed pending resolution of this protest.

Chief Procurement Officer
Information Technology Management Office

June 23, 2022

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Transact will submit its detailed statement of protest following this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Deitz', with a stylized flourish extending from the end.

Joshua M. Deitz
jdeitz@rjo.com

ROGERS JOSEPH O'DONNELL

July 1, 2022

Via E-mail to protest-itmo@itmo.sc.gov

Chief Procurement Officer
Information Technology Management Office
State of South Carolina
SFAA, Division of Procurement Services, ITMO
1201 Main Street, Suite 600
Columbia, SC 29201
protest-itmo@itmo.sc.gov

Re: Transact Campus Inc.'s Detailed Statement of Protest re Solicitation
No. 5400022908, STC One Card Identification Systems

Dear Chief Procurement Officer:

This letter serves as Transact Campus Inc.'s ("Transact") Detailed Statement of Protest of the Notice of Intent to Award ("Notice") for Solicitation No. 5400022908, STC One Card Identification Systems ("Solicitation"). The Notice was posted on June 17, 2022, and stated that the State of South Carolina ("South Carolina" or the "State") intended to make award to Atrium Campus LLC ("Atrium"). The Notice of Intent to Award appears improper because Atrium was scored unreasonably high and Transact was scored unreasonably low, given the comparative products and the publicly-available information regarding each company's proposals and the state's evaluation. This improper evaluation appears to have resulted in an improper award, and continuing with that award would be an abuse of discretion.

If the scoring was conducted appropriately, Transact would have scored higher than, or at least within 15% of Atrium's score, making Transact eligible for award. South Carolina should cancel the Notice of Intent to Award and re-evaluate the proposals to ensure fair and accurate scoring.

I. TRANSACT HAS STANDING TO PROTEST AS AN OFFEROR

Transact has standing to protest because it submitted a timely, responsive offer in response to the solicitation. *See* SC Code § 11-35-4210(1)(b); Solicitation at 11.

Chief Procurement Officer
Information Technology Management Office

July 1, 2022
Page 2

II. TRANSACT'S PROTEST IS TIMELY

Transact's protest is timely. The Notice of Intent to Award was posted on June 17, 2022. Transact submitted its Notice of Intent to Protest within seven (7) business days of that date, on June 23, 2022. Solicitation at 11; Notice at 1. Transact submits this Detailed Statement of Protest on July 1, 2022, within 15 days of the Notice. Solicitation at 11; Notice at 1.

III. THE AWARD SHOULD BE STAYED PENDING RESOLUTION OF THIS PROTEST

In accordance with SC Code § 11-35-4210(7), Transact requests that the award be stayed pending resolution of this protest. Transact is not aware of any exception that would apply to this award.

IV. THE SOLICITATION AND AWARD

South Carolina issued the Solicitation on February 22, 2022, for a Statewide Term Contract for STC One Card Identification Systems. Solicitation at 1. The Solicitation defined the scope of services to be provided as: "integrated one card system(s) to be used as a solution for security, controlled access, and facilitation of convenient commerce. The one card system(s) will be able to provide a complete and comprehensive one card system that is scalable and capable of modifying existing one card systems, while meeting requirements for the safeguarding of sensitive information." Proposal at 6. The Solicitation provided that award could be made to up to five offerors – the highest ranked offeror and any other offerors whose score was within 15% of the highest ranked offeror. *Id.* at 31.

The Solicitation required offerors to submit a Technical Proposal, a statement of Qualifications / Experience, and a Price Proposal. *Id.* at 25-26. The Technical Proposal required offerors to address items listed in Section III of the Solicitation and state whether the offeror "Meets," "Can Meet," or "Does Not Meet" each item. *Id.* at 25.

A. Evaluation and Scoring

The Solicitation provided that offerors would be evaluated on three factors, (1) Value, (2) Technical Proposal, and (3) Qualifications / Experience, with the first factor being the most important. The Solicitation did not include information on the evaluation process, how evaluators would be selected, how scores would be assigned, and/or whether and how scores would be reviewed for consistency.

Chief Procurement Officer
Information Technology Management Office

July 1, 2022

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The State selected three evaluators, Dora Robson (Evaluator A), Steve Robbins (Evaluator B) and H. Vashon Brown (Evaluator C).¹ Scoring was conducted in two phases, with the first phase assessing the Technical Proposal and Qualifications / Experience, and the second phase assessing Value. The results of that scoring are below:

Atrium Campus LLC	<u>Evaluator A</u>	<u>Evaluator B</u>	<u>Evaluator C</u>	
Value	40.00	28.00	32.00	Total
Technical Proposal	38.00	38.00	32.00	100.00
Qualifications/Experience	14.00	15.00	12.50	108.00
	92.00	81.00	76.50	41.50
				249.50
ITC Systems Corp	<u>Evaluator A</u>	<u>Evaluator B</u>	<u>Evaluator C</u>	
Value	40.00	17.00	20.50	Total
Technical Proposal	28.00	32.00	35.50	77.50
Qualifications/Experience	8.00	10.00	12.00	95.50
	76.00	59.00	68.00	30.00
				203.00
Smiths Addressing	<u>Evaluator A</u>	<u>Evaluator B</u>	<u>Evaluator C</u>	
Value	35.00	27.00	15.50	Total
Technical Proposal	35.00	25.00	20.00	77.50
Qualifications/Experience	12.00	8.00	9.00	80.00
	82.00	60.00	44.50	29.00
				186.50
Transact Campus Inc	<u>Evaluator A</u>	<u>Evaluator B</u>	<u>Evaluator C</u>	
Value	25.00	31.00	15.00	Total
Technical Proposal	18.00	35.00	32.50	71.00
Qualifications/Experience	6.00	12.00	12.50	85.50
	49.00	78.00	60.00	30.50
				187.00

¹ Of these evaluators, Transact is informed that Evaluator B, Steve Robbins, has the most experience with both university procurement in general and this area of procurement specifically. The State should have considered Mr. Robbin's scores as the most reasonable and reliable, and an indication as to whether the remaining scores demonstrated an unreasonable disparity that would undermine the overall results.

Chief Procurement Officer
Information Technology Management Office

July 1, 2022
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Atrium was the highest ranking offeror and was issued a Notice of Intent to Award. No other offerors were within 15% of Atrium's score, so, despite the Solicitation providing for multiple awards, only Atrium received a notice of intent to award.

V. GROUNDS FOR PROTEST

Transact protests the Notice on two primary grounds related to the evaluation of proposals. First, Atrium received credit for stating that it “meets” all items in the Technical Proposal, despite admitting in its proposal that it did not actually meet various items. The evaluators should have used the available information to determine whether offerors’ answers were accurate, and should have scored accordingly. Second, the scoring shows significant disparities that should have led the State to review and assess the scoring for whether it was fair and accurate and conduct another round of evaluations in response to the unexplained and unreasonable disparities. Had Atrium been scored appropriately with regard to items they admit they did not meet, and had Transact not received unreasonably skewed scores by one particular evaluator, Transact would have been within 15% of Atrium's score and should have received one of the multiple awards available under the Solicitation.

South Carolina requires competition in public contracting to “maximize to the fullest extent practicable the purchasing value of funds,” “foster effective broad-based competition,” “ensure the fair and equitable treatment of all persons who deal with the procurement system,” and “provide safeguards for the maintenance of a procurement system of quality and integrity[.]” SC Code § 11-35-20.

Where, as here, the Solicitation provides for multiple awards, and the evaluation and scoring present evidence of apparent error, the State should reconduct the evaluation to ensure that the evaluation is conducted properly and accurately, and the State is contracting with the best possible offerors. Especially where a solicitation provides for multiple bidders, the State should ensure that the citizens of South Carolina are provided with the best possible options for public contracts, including ongoing competition between multiple qualified offerors for further contracts in the State. This would best maximize public funds and best protect the public trust.

A. Atrium Should Have Received Lower Scores for its Technical Proposal Where it Incorrectly Stated it Meets Items

The Solicitation required offerors to state in their proposals whether the offeror the offeror “Meets,” “Can Meet,” or “Does Not Meet” each item listed in the Technical Proposal. Atrium stated in its Technical Proposal that it Meets each item listed. This was not accurate. For example, Atrium's response to the following items appears inaccurate.

Chief Procurement Officer
Information Technology Management Office

July 1, 2022

Page 5

- 6.0 - Applications supported by the solution will use the same single, central database, the same software, and the same card reader family.
 - Atrium's solution requires multiple databases, as Atrium is an integrator that uses multiple companies to deliver its solutions. Because Atrium has to use multiple systems, it is impossible to have a single, central database, the same software, and the same card reader family. Atrium should not have answered that it Meets this item. Atrium should have received correspondingly lower scores, and this inaccurate answer should have raised concerns about the reliability of Atrium's proposal.
- 9.5 - Point of Sale (POS) Card Readers are used for food services, athletic concessions, bookstores, convenience stores, etc. and should ... interface with existing POS systems.
 - Atrium cannot necessarily integrate to Cloud POS without securing conditional integrations outside of Atrium's control. Atrium should not have answered that it Meets this item. Atrium should have received correspondingly lower scores, and this inaccurate answer should have raised concerns about the reliability of Atrium's proposal.
- 20.5 - The system administration software should be able to ... monitor the status of card readers (online, offline, or inactive) by location or by group.
 - Atrium answered that it Meets this item, but stated "Atrium currently monitors only online and offline status. We are happy to discuss extending this monitoring as an enhancement." This directly contradicts Atrium's answer, as Atrium clearly does not Meet this item, and should answered as either "Can Meet," or "Does Not Meet." Atrium should have received correspondingly lower scores, and this inaccurate answer should have raised concerns about the reliability of Atrium's proposal.
- 23.3 - The system administration software should be able to control access to the designated software programs, functions, workstations, printers, privileges and privilege accounts. Specifically, it is required that the system security codes are able to ... allow operators to select individual workstation timeout values.
 - Atrium answered that it Meets this item, but stated "Client Admins cannot currently configure individual timeout values (there is a global setting for

Chief Procurement Officer
Information Technology Management Office

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select individual all Admin browser sessions); however, Atrium is willing to discuss this as an enhancement.” This directly contradicts Atrium’s answer, as Atrium clearly does not Meet this item, and should answered as either “Can Meet,” or “Does Not Meet.” Atrium should have received correspondingly lower scores, and this inaccurate answer should have raised concerns about the reliability of Atrium’s proposal.

- 24.12 - The ID system software should ... monitor the status of card readers (online, offline, or inactive) by location or by group.
 - Atrium answered that it Meets this item, but stated “Atrium currently monitors only online and offline status. We are happy to discuss extending this monitoring as an enhancement.” This directly contradicts Atrium’s answer, as Atrium clearly does not Meet this item, and should answered as either “Can Meet,” or “Does Not Meet.” Atrium should have received correspondingly lower scores, and this inaccurate answer should have raised concerns about the reliability of Atrium’s proposal.
- 30.1 – The door access software application should provide scheduling flexibility for the following: ... unlimited holiday scheduling
 - Atrium answered that it “supports Timetable and Event schedule types. ... All Atrium partner door access software applications fully meet requirements 30.1-30.2 as indicated below.” Atrium then listed a number of partners that it stated met the requirements, including Lenel and S2. However, both Lenel and S2 are limited to 30 holidays, and do not support unlimited holiday scheduling. Atrium should not have answered that it Meets this item. Atrium should have received correspondingly lower scores, and this inaccurate answer should have raised concerns about the reliability of Atrium’s proposal.
- 34.5 - Software should be able to integrate with other campus commerce applications such as bookstore, foodservice, and print management and should be compatible with other applications as new versions are released such as ... Touchnet Payment Gateway.
 - Atrium answered that it Meets this item, but stated “Atrium has an open transactional API which is available to communicate with TouchNet. Given TouchNet is an Atrium competitor in the campus card management marketplace, UGUs should contact TouchNet to verify they are willing to

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connect to Atrium and at what cost. Atrium uses the CyberSource payment gateway.” This directly contradicts Atrium’s answer, as Atrium clearly does not Meet this item, and should answered as either “Can Meet,” or “Does Not Meet.” Atrium should have received correspondingly lower scores, and this inaccurate answer should have raised concerns about the reliability of Atrium’s proposal.

These facially inaccurate answers should have led to both lower scores and additional scrutiny of Atrium’s proposal for other answers that are inaccurate, incomplete, or conditional.

Transact accurately answered that it Meets 92% of the listed items. Transact was apparently punished for its accurate response, while Atrium was rewarded for answering mechanically and then providing contrary explanations. Atrium’s Technical Proposal should have been reviewed for accuracy, and where its answers were qualified or untrue, Atrium should have received lower scores. If Atrium’s proposal had received the appropriate level of scrutiny and scoring, it would have received overall lower scores and Transact’s scores would have been even closer.

B. The Solicitation Scoring Shows Unreasonable Discrepancies that Should Have Prompted a Review and Reevaluation to be Fair and Accurate

As scored, Transact is not within 15% of Atrium’s score. However, that difference is largely due to the extreme disparity in scoring created by Evaluator A’s disproportionate and unreasonable scores. Evaluator A scored Transact a total of 43 points lower than Atrium. By comparison, Evaluator B scored Transact only 3 points lower than Atrium, and Evaluator C scored Transact 16.5 points lower than Atrium. This extreme disparity should have prompted the State to review the scores, require the evaluators to explain the disparities, and to conduct a reevaluation to ensure that all evaluators were scoring fairly, consistently, and accurately. To the extent that each evaluator used a different rubric and/or different standards, the evaluation and scoring would not be a reliable method to identify the best offeror(s) for the State.

Evaluator A’s scores are dramatically different than Evaluators B and C, and appear to reflect an overly mechanical approach in some areas, and a dramatically unbalanced approach in others. Evaluator A scored Atrium at 92, the highest score of any evaluator for any offeror. Evaluator B scored Atrium at 81, and Evaluator C scored Atrium at 76.5. On the other hand, Evaluator A scored Transact at only 49, the lowest score of any evaluator for any offeror, while Evaluator B scored Transact at 78, and Evaluator C scored Transact at 60.

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Evaluator A was similarly off-track in scoring ITC and Smiths. Evaluator A scored ITC at 76, while Evaluator B scored ITC at only 59, and Evaluator C scored ITC at 68. The most unexplainable score is for value, where Evaluator A scored ITC at 40, while Evaluator B scored ITC at only 17 and Evaluator C scored ITC at 20.5. And again, for Smiths, Evaluator A scored Smiths at a total of 82 points, compared to 60 for Evaluator B and 44.5 for Evaluator C. These scores should have raised serious concerns about the reliability of the evaluation and scoring.

1. The Scoring for Technical Proposal and Qualifications/Experience Contains Unexplained, Unreasonable Disparities

With regards to the Technical Proposal, Evaluator A awarded Atrium 38 points, while only awarding Transact 18. The 20-point difference is not explained in the score cards and has no basis in the actual Technical Proposals submitted by each offeror. By comparison, Evaluator B scored Atrium 38 and Transact 35, and Evaluator C scored Atrium 32 and Transact 32.5 (higher than Atrium). As demonstrated above, Atrium's inaccurate responses should have resulted in lower scores, bringing these scores even closer.

The scores for Qualifications / Experience show the same disparity. Evaluator A scored Atrium at 14 and Transact at 6, again, an 8 point difference that is not explained in the score cards or the objective information provided by each offeror. On the other hand, Evaluator B scored Atrium at 15 and Transact at 12, and Evaluator C scored Atrium at 12.5 and Transact at 12.5. Again, the proposals for Transact and Atrium demonstrate, at the very least, comparable qualifications and experience for Atrium and Transact. Without any rational explanation for the disparate scores in comparison to the content of each proposal, the State should have reconsidered the scoring for both categories to ensure the proposals were accurate and the scoring process was consistent and reliable.

2. The Scoring for Value Demonstrates Both a Disparity to the Approach and the Validity of the Scoring

For Value, Evaluator A awarded Atrium 40 points, while Evaluator B awarded only 28 and Evaluator C awarded 32. By comparison, Evaluator A awarded Transact only 25 points, while Evaluator B awarded 31 points (higher than Atrium) and Evaluator C awarded 15 points.

The Value score is particularly problematic because the Solicitation required a Price Proposal that consisted of price lists and schedules for products and services rather than specific proposed prices. Rather than comparing apples to apples by comparing specific proposed prices for each offeror, the evaluators were forced to compare the detailed pricing

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schedules and the various options offered by each offeror in a vacuum, with a potentially huge variance in how each evaluator could hypothetically combine various products for various schools with particular needs, how each offerors' proposed discounts would apply to the combined pricing for each particular implementation, and how the resulting total pricing could be established and compared between offerors.

Evaluator A's notes reveal the complexity of this process. Evaluator A listed particular prices on each offeror's score card, but these categories are inconsistent between score cards and do not have consistent analysis or conclusions. From the score card, it is entirely impossible to determine why Atrium was scored 15 points higher than Transact. On the other hand, Evaluator C did not show any sort of comparison, and simply made prose notes, though again, these notes do not explain the 17 point disparity between Atrium and Transact. Evaluator C wrote that Atrium "seems more straightforward with pricing" but noted "not sure how much more of a discount the pricing actually is." Despite being unsure, Evaluator C nonetheless awarded Atrium 32 points. Meanwhile, Evaluator C wrote that Transact had "good pricing overall[,] however depending on the needs of equipment/printers/etc then it could become more expensive." Without any explanation, Evaluator C then awarded Transact only 15 points. Not only is it clear that Evaluator C was not able to truly compare pricing and value based on the information provided in the proposals, but it does not appear that there was any consistent basis for Evaluator C's comments or scores.

Meanwhile, Evaluator B provided consistent comments and appears to have scored within a much narrower range, awarding Atrium 28 points and Transact 31. Comparing all three evaluators, Evaluator B seemed to have the most consistent approach and the most consistent basis for how each offeror was scored. The State should have considered the basis and reliability of the scoring for each Evaluator and conducted another round of evaluations using a more consistent and reliable approach.

3. Eliminated Evaluator A's Skewed Scores Demonstrates that Transact Would Have Scored within 15% of Atrium With More Consistent and Reliable Scoring

Evaluator A's scores are so skewed, that if those scores were eliminated, Transact would have scored within 15% of Atrium, 157.5 (Atrium) to 138 (Transact), a difference of approximately 12%. Including Evaluator A's scores increased the disparity to 25%. There is simply no reasonable explanation for these disparities, and it is an abuse of discretion for the State to ignore them, given the massive impact on the State of awarding only a single

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contract as opposed to awarding multiple bidders and preserving competition, choice, and value for South Carolina institutions and citizens.

These extreme and unexplained disparities and the massive impact on overall scoring and award should have triggered a review and assessment by the State to ensure that the evaluation process was on-track. The State should now conduct another round of evaluations with consistent and reliable scoring to ensure that South Carolina receives the best possible options for this contract.

VI. REQUEST FOR RELIEF

Transact requests that the Notice be cancelled and that the State conduct another round of evaluations to ensure that each proposal is evaluated and scored in line with the requirements and standards in the Solicitation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joshua M. Deitz', with a stylized flourish at the end.

Joshua M. Deitz
jdeitz@rjo.com