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CHAIRMAN, HOUSE WAYS AND MEANS COMMITTEE

GRANT GILLESPIE
EXECUTIVE DIRECTOR

THE DIVISION OF PROCUREMENT SERVICES

DELBERT H. SINGLETON, JR.
DIVISION DIRECTOR
(803) 734-8018

JOHN ST. C. WHITE
MATERIALS MANAGEMENT OFFICER
(803) 737-0600
FAX: (803) 737-0639

Protest Decision

Matter of: Geotab USA, Inc.

File No.: 2025-201

Posting Date: October 9, 2024

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

Solicitation No.: 5400026434

Description: STC Telematics

DIGEST

The Chief Procurement Officer (CPO) denies in part and grants in part the protest of Geotab USA, Inc. (Geotab). Geotab's protest is attached as Exhibit A (sans exhibits to the protest).¹

AUTHORITY

The Chief Procurement Officer (CPO) conducted an administrative review per S.C. Code Ann. §11-35-4210. As a part of his administrative review, the CPO held a limited hearing to allow the parties to question three evaluators about matters raised in Geotab's protest. This decision is based on materials in the procurement file, testimony at the hearing, and applicable law and precedents.

¹ The exhibits to Geotab's protest are voluminous (342 pages). The CPO has included some of them, such as the solicitation, as separate exhibits to this decision. Others, such as Geotab and Samsara's proposals, are not included.

BACKGROUND

On January 10, 2024, the State Fiscal Accountability Authority, Division of Procurement Services (the Division) issued a solicitation for proposals for a vehicle telematics solution.² [Exhibit B, page one only]

On February 6, 2024, the Division issued Amendment 1 replacing the original request for proposals and answering vendor questions. [Exhibit C]

By the deadline for receipt of proposals, the Division received nine proposals, including proposals from Geotab and Samsara, Inc. [Exhibit D] The evaluation committee ranked the proposal of Samsara, Inc. (Samsara) as the most advantageous to the State. [Exhibit E] On July 11, 2024, the Division posted an Intent to Award a contract to Samsara. [Exhibit F] On July 26, 2024, after timely filing a notice of intent to protest, Geotab protested the Division's intended award. On August 16, 2024, Samsara filed a response to Geotab's protest. [Exhibit G]

DISCUSSION

Geotab's protest sets forth two grounds of protest, 1) "the State unreasonably evaluated Geotab's qualifications and technical proposal" and 2) "the State failed to consider only the evaluation factors stated in the Solicitation and thereby applied unstated evaluation criteria."

Claim State Unreasonably Evaluated Geotab

Evaluations are inherently subjective. *Appeal by Drew Industrial Div.*, Panel Case No. 1993-14. Variation in scores alone is only proof of their subjective nature. *Id.* The South Carolina Procurement Review Panel (Panel) has stated that so long as the evaluators follow the requirements of the Procurement Code and the solicitation, fairly consider all proposals, and are not actually biased, it will not re-evaluate proposals and will not substitute its judgment for the judgment of the evaluators. *Appeal by Replica, Inc.*, Panel Case No. 2023-2. The Panel has also stated that the burden of proof is on the appellants to demonstrate by a preponderance of the

² A telematics solution monitors vehicles using global positioning system technology and on-board diagnostics.

evidence that the determination made by the evaluators is clearly erroneous, arbitrary, capricious, or contrary to law. *Appeal by Transportation Management Services, Inc.*, Panel Case No. 2000-3; S.C. Code Ann. § 11-35-2410(A).

Much of Geotab’s first claim is that its qualifications are demonstrably superior to Samsara’s, and it was error for two of the five evaluators to score Geotab otherwise, and error for a third not to score Geotab higher than he did even though he ranked Geotab higher than any other vendor. Geotab notes that its overall score on both its technical proposal and its qualifications was higher than Samsara’s but argues that based on its “superior qualifications,” it should have received higher scores than it did from three of the evaluators. Geotab does not complain about the other two evaluators because they gave Geotab the highest score possible.

The evaluators Geotab takes exception with are evaluators 1, 3, and 5 arguing “[their rationales for doing so are unclear because their narratives do not justify their scoring” or, in the case of evaluator 3, “does not match his scoring.” The evaluator scores for Geotab and Samsara are listed below:

		1	2	3	4	5	
GEOTAB							
Technical Proposal	55	54	55	52	55	53	269
Qualifications	25	23	25	22	25	22	117
Price Proposal	20	13	13	13	13	13	65
Total Points							451
Samsara							
Technical Proposal	55	55	49	50	55	55	264
Qualifications	25	25	23	20	20	25	113
Price Proposal	20	16	16	16	16	16	80
Total Points							457

Geotab notes that Evaluator 1 gave it 54 points out of 55 for its technical proposal and 23 out of 25 for qualifications but the evaluator’s narrative does not make any negative comments.

[Exhibit H] Geotab makes a similar complaint about Evaluator 5. [Exhibit I] Geotab further complains that both evaluators give Samsara perfect scores for both its technical proposal and qualifications. Evaluator 3 ranked Geotab technical solution and qualifications higher than that of any other offeror; however, Geotab still argues that ranking was flawed based on Evaluator

3's comments regarding Geotab. [Exhibit J] In short, Geotab argues that if there are not negative comments in an evaluator's scoring narrative, there is no logical basis for a less than perfect score. However, nothing in the Code or regulations requires a written explanation for every consideration that effects an evaluator's scoring. Further, Geotab's line of reasoning ignores the fact that evaluators when evaluating proposals and qualifications using the criteria in the solicitation necessarily compare proposals and qualifications of each offeror to one another (consciously or subconsciously) with respect to each criterion. This is necessarily so because the goal is to select the offeror that they consider most advantageous to the state. *Appeal by Coastal Rapid Pub. Transit Auth.*, Panel Case No. 1992-16. This process is necessarily a subjective process. The evaluator scores reflect their subjective opinion as to which proposal is most advantageous or whose qualifications are the greater. An evaluator may not have any negative comments regarding a vendor's qualification and still consider them to be less qualified than another vendor.

Geotab's first ground of protest makes no claim of bias nor does it reveal any violation of the Procurement Code or requirements of the solicitation. It is nothing more than a claim of a superior proposal and superior qualifications, a claim that any self-respecting vendor would make about itself. However, the Panel has stated that arguments that an offeror's proposal is superior to the others is fruitless and without merit since the determination of what is most advantageous to the State can only be determined by the State. *Appeal by TRAVELSIGNS*, Panel Case No. 1995-8. The CPO denies this ground of protest.

Claim State Failed to Consider Only the Evaluation Factors Stated in the Solicitation

Geotab's second ground of protest is based on comments made by Evaluator 5 in his narrative comments supporting his scores of both Geotab and Samsara's qualifications, which Geotab claims constitute "unstated evaluation criteria."

Regarding Geotab's Qualifications and Experience, Evaluator 5 states:

HUGE government and other clients

Would certainly understand SFM³ & SC needs and challenges

Concern that State of SC would just be another customer – not a big fish to them – would we get the same level of service they provide larger states & gov't. entities?

Geotab asserts that this Evaluators concern is not a matter of qualifications and experience but speculation. The CPO agrees.

At the hearing, Evaluator 5 testified that his concern that South Carolina would not be a “big fish” to Geotab had no impact on his scoring of Geotab’s qualifications. While this may be true, the evaluation form where Evaluator 5 made his comments states:

In an effort to support my evaluation of this RFP, I hereby provide a brief explanation for each score given to each evaluation criteria.

Therefore, the only reasonable conclusion is that Evaluator 5’s concern in fact affected his score. However, this by itself would not change the result. Even if Evaluator 5 gave Geotab the highest possible score for Qualifications and Experience, Geotab would not be the highest ranked offeror.

Evaluator 5’s comments regarding Samsara’s qualifications included the statements: “American Made! Veteran support policy.” Geotab argues these were inappropriate considerations.

Part VI of the solicitation described the “Experience and Qualifications” evaluation factor as follows:

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.

2. Qualifications and Experience (0-25 points)

4.1.3 and 4.1.4 of Technical Proposal

- Demonstrated ability to provide its solution and services

³ State Fleet Management.

- Offeror's degree of compatibility with fleet management software, ESRI, and OEM-equipped telematics devices.
- Proportion of services provided within the Continental United States

[highlighting supplied] [Exhibit C, p. 28.]

Section 4.1.3 which is referenced under the above-quoted evaluation factor, is in Part IV of the solicitation setting forth information for offerors to submit with their proposals. Part IV states:

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. ...

4.1.3 QUALIFICATIONS

NOTE: The requirements listed here are separate from the requirements listed in Section V, Qualifications. Do NOT include any financial data about your company in the Technical Proposal.

A general description of your business including, but not limited to the following:

- a. General description of the company.
- b. Experience and qualifications of the company and its ability to perform on this, and other contracts, of similar size and scope.
- c. Number of years' experience in providing the requested solution with testimonies from former and current customers.
- d. Any other information you feel would give the evaluation panel insight into your qualifications and experience.

[highlighting supplied] [Id., p. 23]

Reading Parts IV and VI together, the information offerors were to submit for evaluation under Part IV does not expand the evaluation factors set forth in Part VI. Instead, that information may only be used to evaluate only the factors stated in Part VI.

In the portion of its proposal addressing its Qualification and Experience, Samsara includes the following:

- d. Any other information you feel would give the evaluation panel insight into your qualifications and experience.

Samsara is a Publicly Listed American Company

- Samsara is a proudly American company. By choosing Samsara, the State of South Carolina can buy American and support American jobs.
- Samsara also actively supports our veterans, celebrating and assisting them throughout the year. Samsara has introduced a new leave policy providing up to 12 weeks of full pay for employees called away on reserve duty. Samsara's commitment extends beyond legal requirements, offering military differential pay for up to 90 days to ensure employees on military duty receive their full Samsara pay during this period.

While Evaluator 5's comment "American Made" may not be an exact quote of what Samsara stated in its proposal, it is obviously shorthand for what Samsara stated. However, the relative criterion states "Proportion of services provided within the Continental United States." The fact that Samsara is an American company says nothing about the proportion of its services provided in the Continental United States. Moreover, the location of where Samsara's products are made says nothing about the proportion of its services that are provided in the Continental United States. These simply were not evaluation factors in Part VI.

The fact that Samsara also supports veterans is laudable. However, this is not relevant to one of the evaluation factors in Part VI.

In his testimony at the hearing, Evaluator 5 said that his comments respecting Samsara, "American Made! Veteran support policy," did not affect his scoring of Samsara. However, as noted above, the evaluation form states:

In an effort to support my evaluation of this RFP, I hereby provide a brief explanation for each score given to each evaluation criteria.

From this, the CPO can only conclude that Evaluator 5's comments set forth factors that did in fact affect his evaluation score. Therefore, the CPO finds that Evaluator 5 inappropriately considered factors other than the evaluation factors in the solicitation. Moreover, there is no way for the CPO to determine how this may have affected Evaluator 5's scoring of Samsara and whether or not it would have changed the determination of which offeror was the highest ranked.

DECISION

For the reasons stated above, the CPO grants Geotab's protest in part, cancels the award, and remands this Procurement back to the Division to proceed in accordance with the Procurement Code. The CPO encourages the Division to consider whether re-evaluation, rather than re-solicitation, would be appropriate. This procurement has already been re-solicited once, and re-evaluation can be a viable option. *See, e.g., Appeal by Blue Cross and Blue Shield of South Carolina*, Panel Case No. 2019-2 (finding re-evaluation of proposals proper after procurement officer noticed an error during negotiations); *Frank E. Basil*, B-238354 (Comp. Gen. 1990) (finding where evaluation was based on unstated criteria, reevaluation was the proper remedy).



John St. C. White
Chief Procurement Officer

Columbia, South Carolina

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised July 2024)

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 2024 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 Geotabs, 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
1205 Pendleton Street, Suite 367, 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.

GEOTAB®

Geotab USA, Inc.
6543 S. Las Vegas
Blvd.
Suite 200
Las Vegas, Nevada
89119, USA

+1 (800) 397
7102

www.geotab.com

EMAIL

July 26, 2024

BY EMAIL TO PROTEST-MMO@MMO.SC.GOV

Chief Procurement Officer, Materials Management Office
SFAA, Division of Procurement Services
1201 Main Street, Suite 600
Columbia, SC 29201

Re: Bid Protest of Geotab USA, Inc., Under Solicitation No. 5400026434

Hello,

Geotab USA, Inc. ("Geotab") hereby protests the award to Samsara Inc. ("Samsara") by the State of South Carolina in response to Solicitation No. 5400026434. As described below, in awarding the contract to Samsara, the State unreasonably evaluated Geotab's proposal and applied unstated evaluation criteria.

INTRODUCTION

Through the solicitation for STC Telematics, the State seeks "a comprehensive statewide aftermarket telematics solution" for the State's fleet of more than 10,000 vehicles. Exhibit 1 (Solicitation Amendment 1) at 4. Telematics is a method of monitoring vehicles using GPS technology and on-board diagnostics to track and manage a vehicle fleet. The State seeks a partner to provide and install telematics devices for the state fleet of vehicles, as well as to operate the collection of data from those devices through a Software-as-a-Service portal. *Id.* The goal is "to achieve a more cost-effective and efficient management of the Statewide Fleet." *Id.* at 16.

Geotab has been ranked as the #1 commercial telematics vendor worldwide, largely due to its successful partnership with many of the world's largest and most complex enterprise and public sector fleets. Geotab already provides its telematics solution to a federal fleet of more than 400,000 vehicles, the U.S. Postal Service's fleet of approximately 250,000 vehicles, and a series of state fleets, including those of California, Minnesota, Ohio, Illinois, North Carolina, Colorado, Oklahoma, Nevada, Missouri, Connecticut, and Wyoming. Geotab also has eleven state Department of Transportation clients, including the two largest, TxDOT and CalTrans.

However, in making the award to Samsara, the State failed to reasonably evaluate Geotab's proposal, particularly its qualifications. Three of the five evaluators deducted points from Geotab's proposal based on its qualifications, but they provided no reason for doing so. Two of these evaluators inexplicably awarded Samsara higher scores for its qualifications, despite Geotab's qualifications being demonstrably better in every respect. One evaluator also applied unstated evaluation criteria when assessing Geotab's and Samsara's proposals, ignoring both State law and the Solicitation terms that require the evaluators to consider only a designated set of evaluation criteria.

These errors render erroneous the State's decision to award the contract to Samsara. Correction of these infirmities would demonstrate that Geotab's proposal best meets the State's need for a telematics solution. For these reasons, we respectfully request that your office sustain this protest and require both a re-examination of the proposals and a new award decision.

TIMELINESS AND STAY OF PERFORMANCE

This protest is timely filed within fifteen days after July 11, 2024, the date on which the State issued its Intent to Award. See S.C. Code § 11-35-4210(1)(b). This filing triggers an automatic stay of the award until ten days after this protest is finally resolved. *Id.* § 11-35-4210(7).

INTERESTED PARTY STATUS

Geotab is an actual offeror whose direct economic interest has been adversely and prejudicially affected by the State's decision to award the contract to Samsara. If not for the errors described below, the State would have awarded the contract to Geotab. Thus, Geotab has standing to assert this protest under § 11-35-4210(1)(b).

FACTUAL BACKGROUND

A. The Solicitation

On January 10, 2024, the State issued the Solicitation seeking a contractor to provide "a comprehensive vehicular telematics solution that includes hardware, firmware, a web-accessed portal, and cloud-based storage." Exhibit 1 at 16. Each telematics device installed on a vehicle must be able to report a series of different data points, including the vehicle's speed, position, fuel usage and efficiency, odometer readings, stop details, and various analytics. *Id.* at 18.

The Solicitation specified that the State would make the award "to the highest ranked, responsive and responsible offeror whose offer is determined to be the most advantageous to the State." *Id.* at 28. The proposals would be evaluated on a numerical system based on three factors: (1) the technical proposal (on a scale of 0 to

55 points from each evaluator); (2) qualifications and experience (from 0 to 25 points); and the price proposal (from 0 to 20 points). *Id.* at 28.

For the qualifications section, the Solicitation advised offerors to provide a “general description of your business including, but not limited to the following:

- a. General description of the company.
- b. Experience and qualifications of the company and its ability to perform on this, and other contracts, of similar size and scope.
- c. Number of years’ experience in providing the requested solution with testimonies from former and current customers.
- d. Any other information you feel would give the evaluation panel insight into your qualifications and experience.”

Exhibit 1 at 23. Offerors were instructed that 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.” *Id.* at 27. The Solicitation stated that the proposals “will be evaluated using only the factors stated below.” *Id.* at 28. For qualifications, the Solicitation listed only the following three evaluation factors:

- “Demonstrated ability to provide its solution and services”
- “Offeror’s degree of compatibility with fleet management software, ESRI, and OEM-equipped telematics devices.”
- “Proportion of services provided within the Continental United States.”

Id.

B. The State’s Evaluation

Geotab and Samsara timely submitted their proposals on February 22, 2024. See Exhibits 2, 3. In its qualifications section, Geotab stated that it provided telematics to “to over 50,000 customers in 160 countries.” Exhibit 2 at 63. Geotab’s proposal demonstrated significantly greater experience than Samsara’s proposal, particularly in the public sector. Geotab explained its experience performing 13 different state contracts, 14 different contracts with State Departments of Transportation, and dozens of contracts with fleets greater than 10,000 vehicles. Exhibit 2 at 65. Samsara, meanwhile, featured testimonials from the City and County of Denver, the City of Fort Lauderdale, and the City of Allentown, and it touted other contracts with “The City of Houston, The State of Tennessee, DHL, XPO Logistics, American Airlines etc.” Exhibit 3 at 41.

The following table compares the qualifications demonstrated in Geotab’s and Samsara’s proposals:

	Geotab	Samsara
Experience	20 years	9 years
Customers	50,000	30,000
State Contracts	California Minnesota Colorado Ohio Oklahoma Nevada Wyoming Utah Connecticut North Carolina Missouri Massachusetts West Virginia	Tennessee New York
Contracts with DOTs	California Texas Colorado Missouri Pennsylvania Massachusetts North Carolina Utah Kentucky Oregon Nevada Vermont Maryland Delaware	New Jersey
Annual data points	27.4 trillion	6 trillion
References	U.S. General Services Administration (400,000 vehicles) State of California (50,000 vehicles) New York City (30,000 vehicles)	State of Tennessee (10,000 vehicles) DHL (3,200 vehicles)

On July 11, 2024, the State announced its intent to award the contract to Samsara. Exhibit 4. Along with the Notice of Intent, the State provided Geotab with a composite scoresheet showing that Samsara was evaluated to have the highest number of evaluation points (457), only six points more than second-place Geotab. Exhibit 5. Five other offerors submitted proposals (two of them relying on Geotab

devices for their solutions), but their point totals were substantially lower than those for Samsara and Geotab. *Id.*

The State also provided the following summary of each evaluator’s scoresheets:

	Max PTs	Evaluator 1	Evaluator 2	Evaluator 3	Evaluator 4	Evaluator 5	Total
GEOTAB							
Technical Proposal	55	54	55	52	55	53	269
Qualifications	25	23	25	22	25	22	117
Price Proposal	20	13	13	13	13	13	65
Total Points							451

Samsara							
Technical Proposal	55	55	49	50	55	55	264
Qualifications	25	25	23	20	20	25	113
Price Proposal	20	16	16	16	16	16	80
Total Points							457

Id. This summary shows that Samsara’s proposal slightly outscored Geotab’s proposal by a final score of 457 to 451. Geotab’s proposal scored slightly higher than Samsara overall on both its technical proposal (269 to 264) and its qualifications (117 to 113).

Id. However, Samsara’s proposal scored higher on price (80 to 65). *Id.*

The State also provided Geotab with the individual scoresheets of all five evaluators. Exhibit 6. The individual evaluator scoresheets show some unusual anomalies. Although Geotab rated higher than Samsara in both its technical proposal and its qualifications, two evaluators (Nos. 1 and 5) gave perfect scores to Samsara in these categories but took away points from Geotab. Their rationales for doing so are unclear because their narratives do not justify their scoring. The same is true for Evaluator 3, whose narrative also does not match his scoring.

1. Evaluator 1

Evaluator 1 gave perfect scores to Samsara for technical proposal (55 points) and qualifications (25), but he awarded Geotab only 54 points for its technical proposal and 23 points for its qualifications. This evaluator’s written narrative, however, provided no explanation as to why he removed points from Geotab. His narrative had no criticism of Geotab’s proposal. Specifically, for the technical proposal, Evaluator 1 stated:

GEOTAB provided an excellent product for telematics solution for powered and non-powered assets. The proposal provided robust warranty and scalable plans to address additional telematics preference or needs via Active Track and Pro-Plus Plan. Platforms are very customizable and there is direct relationship with GEOTAB. RFP gave extensive details on capability of products and offerings for dynamic fleet telematics requirements.

Exhibit 6 at 10. Similarly, Evaluator 1 had nothing but praise for Geotab's qualifications, even though he docked Geotab's proposal two points for this factor. He stated:

GEOTAB is very qualified for fleet and more so government fleet with major customers like U.S. Homeland Security, Maryland Department of Transportation and contracts with many other states, governmental entities, and transportation departments. GEOTAB is well experienced for fleet telematics needs with bolstered OEM relationships and responsive customer service.

Id.

2. Evaluator 3

Evaluator 3 gave Geotab 52 out of 55 points for its technical proposal, but he did not list any technical criticisms in his narrative, at least in the section reserved for the technical evaluation. Evaluator 3 wrote the following narrative regarding Geotab's technical proposal:

- "Wide range of customizable reports + dashboards."
- "Prioritization on DATA + SECURITY."
- "Highly scalable"
 - "Capable of handling all fleet sizes."
- "Should be seamless integration."

Exhibit 6 at 37. Evaluator 3 also took three points away from Geotab's proposal for its qualifications, although the criticisms in the narrative section had nothing to do with Geotab's qualifications. Evaluator 3 gave the following narrative description of Geotab's qualifications:

- "More robust, but I worry about the learning curve for users."
- "May be complex resulting in longer deployment and implementation."
- "Advanced features."

- “Years of experience with diverse client portfolio.”
- “Very innovative.”

Id.

3. Evaluator 5

Evaluator 5 also gave Samsara a perfect score for its technical proposal and qualifications while taking points away from Geotab. This evaluator, however, praised Geotab’s experience, as follows:

- “HUGE government and other clients”
- “would certainly understand SFM and SC needs and challenges.”

Exhibit 6 at 66. The only potential concern this evaluator raised was that Geotab’s experience was, in effect, *too good*. He speculated: “Concern that State of SC would just be another customer – not a big fish to them – would we get the same level of service they provide larger states + gov’t entities?” *Id.*

GROUNDINGS OF PROTEST

The State’s evaluation of Geotab’s proposal was clearly erroneous, arbitrary, capricious, or contrary to law in two respects. First, the State unreasonably evaluated Geotab’s qualifications and technical proposal. Second, the State failed to consider only the evaluation factors stated in the Solicitation and thereby applied unstated evaluation criteria.

I. Legal Standards

The South Carolina Procurement Code “must be construed and applied to promote underlying purposes and policies.” S.C. Code Ann. §11-35-20(1). Among these purposes and policies are: 1) “ensuring that procurements are the most advantageous to the State;” 2) “to foster effective broad-based competition for public procurement within the free enterprise system;” and 3) “to ensure the fair and equitable treatment of all persons who deal with the procurement system which will promote increased public confidence in the procedures followed in public procurement.” *Id.* §11-35-20(2)(a), (b), and (f).

The State’s issuance of an award is “final and conclusive, unless clearly erroneous, arbitrary, capricious, or contrary to law.” S.C. Code Ann. §11-35-2410. South Carolina law emphasizes that proposals in competitive sealed procurements “must be evaluated using only the criteria stated in the request for proposals and there must be adherence to weightings that have been assigned previously.” S.C. Code § 11-35-1530(7). This provision reiterates that the State may consider “only the evaluation factors stated in the request for proposals.” *Id.* The statute further states that the

“award of the contract must be made on the basis of evaluation factors that must be stated in the RFP.” *Id.* §11-35-1530(9).

“To prove arbitrary and capricious conduct such as will permit the court to overturn a procurement decision, the aggrieved bidder must demonstrate a lack of reasonable or rational basis for the agency decision ... or clear and prejudicial violation of relevant statutes and regulations which would be tantamount to a lack of reasonable or rational basis.” *Matter of Thales DIS USA, Inc.*, Case No. 2024-204 (Feb. 23, 2024) (quotations omitted).

II. The State Unreasonably Evaluated Geotab’s Proposal.

The State misevaluated Geotab’s proposal, primarily by failing to give Geotab proper credit for its significantly superior qualifications. In fact, one evaluator even took points away from Geotab because its qualifications were *too good*. Another also acted unreasonably by taking points away from Geotab because it potentially gave the State “too many options.” These errors were arbitrary and capricious. They also fail to promote the State’s procurement policies of ensuring “that procurements are the most advantageous to the State” and ensuring “the fair and equitable treatment” of bidders. S.C. Code Ann. §11-35-20(2)(a), (b), and (f).

While often evaluations involve subjective judgments on the part of the evaluators, here, there are objective metrics by which an offeror can be assessed. More contracts covering more vehicles are objectively superior to fewer contracts covering fewer vehicles. Public sector contracts are more relevant to the State than private sector contracts. It is against this backdrop that the unreasonable and irrational nature of the evaluation can be clearly discerned.

A. Evaluators 1 and 5 Misevaluated Geotab’s Qualifications.

First, two of the evaluators lacked a reasonable or rational basis to determine that Samsara’s qualifications were superior to Geotab’s. Two of the evaluators (Evaluators 1 and 5) gave perfect scores to Samsara for its qualifications, but lower scores to Geotab despite Geotab’s objectively superior qualifications.

Specifically, as shown the chart above, Geotab has more than twice the years of experience as Samsara does, nearly twice as many customers, thirteen times more statewide contracts, seven times as many contracts with State Departments of Transportation, and more than four times as many data points processed. Geotab’s references were also significantly more impressive than Samsara’s. Geotab provided a reference from a contract with the federal General Services Administration, under which Geotab provides telematics devices and services for the federal government’s fleet of 400,000 vehicles. Exhibit 2 at 66–67. Geotab also provided references from the State of California (50,000 vehicles served) and New York City (30,000 vehicles). *Id.* Samsara, by contrast, only provided two references, from the State of Tennessee

(10,000 vehicles served) and a private company, DHL, in which it provided services for only 3,200 vehicles. Exhibit 3 at 50-55.

Based on this, Evaluators 1 and 5 could not have reasonably or rationally determined that Samsara's qualifications were superior. Yet, each evaluator gave perfect scores to Samsara while docking a total of five points from Geotab's scores. Neither evaluator provided any rational reason for these scores. Evaluator 1 had no criticism for Geotab's qualifications, but instead stated that Geotab is "very qualified for fleet and more so government fleet" and that it "is well experienced for fleet telematics needs." Exhibit 6 at 10. There is simply no rationale for Evaluator 1 to have given Geotab a less-than-perfect score, let alone a lower score than Samsara.

The same is true for Evaluator 5. The evaluator took three points off from Samsara's qualifications score, but only on the basis that Geotab's qualifications were too impressive. The evaluator concluded that Geotab had "HUGE government and other clients" and "would certainly understand SFM and SC needs and challenges." Exhibit 6 at 66. But he worried that Geotab's extensive experience with government customers meant that the "State of SC would just be another customer – not a big fish to them – would we get the same level of service they provide larger states + gov't entities?" *Id.* It was irrational—and, indeed, perverse—for Evaluator 5 to give Geotab demerits for its excellent experience.

Evaluator 5's conclusions with regard to Geotab's technical proposal were similarly flawed. He concluded that Geotab's solution was the "industry standard," that it was "very high quality," and that it "checks all boxes and meets needs." *Id.* Again, however, this evaluator expressed concerns that Geotab's solution was *too* robust and that it perhaps presented "too many options." *Id.* Again, the extraordinary and sophisticated functionality that Geotab's solution offered should not be held against it.

B. Evaluator 3 Miscalculated Geotab's Qualifications.

Evaluator 3 had no rational basis for simultaneously deducting points from Geotab for both its technical proposal and qualifications. This evaluator took away a total of six points from Geotab (three each from its technical proposal and qualifications), but the record reflects he had no actual criticisms of Geotab's qualifications.

Specifically, under his notes on Geotab's qualifications, Evaluator 3 identified a concern that the solution was so "robust" that "I worry about the learning curve for users." Exhibit 6 at 37. In that same vein, the evaluator wrote that Geotab's solution may "be complex resulting in longer deployment and implementation." *Id.* But these notes clearly concern Geotab's technical proposal, *not* its qualifications. In fact, in Geotab's proposal, the first example Geotab included under the 'Relevant Experience and Qualifications' section detailed Geotab's installation of over 12,000 devices across the entire state of Texas within the timeframe required by the customer, showing that

Geotab was easily able to handle complex deployments and implementations. Exhibit 2 at 63. Evaluator 3 had no criticisms for Geotab's qualifications; in fact, the only comment that this evaluator had on Geotab's qualifications was that it had "years of experience with diverse client portfolio." Exhibit 6 at 37.

Inexplicably, however, Evaluator 3 deducted points from Geotab on its qualifications, only assigning 22 out of 25 points for this factor. This assigned score was wholly untethered from the evaluation and therefore unreasonable.

III. The State Applied Unstated Evaluation Criteria.

The evaluations also showed the use of evaluation criteria that were not disclosed in the Solicitation. Again, the Solicitation required that the State evaluate the offerors' qualifications based "using only the factors" enumerated. Exhibit 1 at 28; see also S.C. Code § 11-35-1530(7) (requiring that proposals in "must be evaluated using only the criteria stated" in the solicitation). For the qualifications factor, evaluators could only consider:

- "Demonstrated ability to provide its solution and services"
- "Offeror's degree of compatibility with fleet management software, ESRI, and OEM-equipped telematics devices."
- "Proportion of services provided within the Continental United States."

Exhibit 1 at 28.

Evaluator 5's narrative, however, shows that he considered numerous additional factors in evaluating both Geotab's and Samsara's proposal not identified in the Solicitation.

In its proposal, Geotab clearly demonstrated its "ability to provide its solution and services." This was shown by the dozens of contracts that Geotab already held with various states and state Departments of Transportation, from the two smallest states (Wyoming and Vermont) to the two largest states (California and Texas). Geotab also performed contracts with States whose populations are similar to that of South Carolina, such as Kentucky and Colorado. Through these qualifications, Geotab indisputably proved its "ability" to perform a telematics contract for South Carolina.

Nonetheless, Evaluator 5 deducted points from Geotab based on speculation as to whether Geotab intended to provide the same level of service for South Carolina as it would for its larger customers. Specifically, Evaluator 5 expressed his concern "that State of SC would just be another customer – not a big fish to them – would we get the same level of service they provide larger states + gov't entities?" Exhibit 6 at 66. But this is not a matter of Geotab's "ability" to do so, which is the only relevant consideration here. Moreover, the fact that Geotab could successfully perform for Kentucky and Colorado meant that it could perform for South Carolina. In other words,

Evaluator 5's "concern" both has nothing to do with the evaluation criteria **and** facially has no validity.

Evaluator 5 also applied unstated evaluation criteria when awarding a perfect score to Samara for its qualifications. For example, in his narrative, Evaluator 5 stated, "American Made! Veteran support policy." Exhibit 6 at 68. Although Samsara touted the fact that it is an American company and that it supported veterans, this is irrelevant to the stated evaluation criteria. Evaluator 5 should not have considered this under the terms of the Solicitation.

But even ignoring the application of unstated evaluation criteria, the assessment was incorrect. Samsara made no representation in its proposal that its products were made in America, as Evaluator 5 concluded. Instead, Samsara only represented that it was an American company, based in San Francisco. Exhibit 2 at 38–39. As a result, Evaluator 5's conclusion here was clearly erroneous in addition to being the result of unstated evaluation criteria.

Because Evaluator 5 did not follow the requirements of the Solicitation and violated South Carolina procurement law, the State should reevaluate Geotab's and Samsara's proposals and make a new award decision.

RESERVATION OF ADMINISTRATIVE REMEDIES


Geotab hereby provides notice of its intent to participate in all protest review, settlement, appeal, and other procedures under S.C. Code Ann. §11-35-4210 and requests copies of all notices, decisions, and other actions by the State under the Procurement Code in relation to this protest. Geotab welcomes the opportunity to answer any questions or provide supporting documents regarding this bid protest.

RELIEF REQUESTED

For the foregoing reasons, Geotab requests that the State sustain its protest, reevaluate Geotab's and Samsara's proposals to address the errors detailed above, and make a new award decision.

Respectfully submitted,

Neil Cawse
CEO, Geotab USA, Inc.

	<p align="center">State of South Carolina</p> <p align="center">Request for Proposal</p>	Solicitation: 5400026434 Date Issued: 01/10/2024 Procurement Officer: MICHAEL SPEAKMON, CPPO Phone: 803-737-9816 E-Mail Address: mspeakmon@mmo.sc.gov Mailing Address: SFAA, Div. of Procurement Services 1201 Main Street, Suite 601 Columbia SC 29201
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DESCRIPTION: **STC Telematics**USING GOVERNMENTAL UNIT: **Statewide Term Contract**SUBMIT YOUR OFFER ON-LINE AT THE FOLLOWING URL: <http://www.procurement.sc.gov>SUBMIT OFFER BY (Opening Date/Time): **02/22/2024 11:00 AM** (See "Deadline For Submission Of Offer" provision)QUESTIONS MUST BE RECEIVED BY: **01/22/2024 3:00 PM** (See "Questions From Offerors" provision)

NUMBER OF COPIES TO BE SUBMITTED: **ONE (1) Electronic Media Copies of Technical & Price Proposals, One (1) Redacted Copy** via electronic media (marked "redacted"), (See "Submitting Redacted Offers" provision Section IV., "Submitting Confidential Information" Section II.A., & "Electronic Copies-Required Media & Format" provision Section II.B.) **[See Online Bidding Instructions in Section II.B.]**

Initial here if **NO redacted copy is necessary** _____

CONFERENCE TYPE: Pre-Proposal DATE & TIME: 01/22/2024 10:00 AM <small>(As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions)</small>	LOCATION: This meeting will be via Microsoft Teams only. Refer to Section IIB, "Conference Pre-Bid/Proposal" for instructions to attend the meeting.
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AWARD & AMENDMENTS	Award will be posted on 04/08/2024 . The award, this solicitation, any amendments, and any related notices will be posted at the following web address: http://www.procurement.sc.gov
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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 one hundred eighty (180) calendar days after the Opening Date. (See "Signing Your Offer" provision.)

NAME OF OFFEROR <small>(full legal name of business submitting the offer)</small>	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 <small>(Person must be authorized to submit binding offer to contract on behalf of Offeror.)</small>	DATE SIGNED
TITLE <small>(business title of person signing above)</small>	STATE VENDOR NO. <small>(Register to Obtain S.C. Vendor No. at www.procurement.sc.gov)</small>
PRINTED NAME <small>(printed name of person signing above)</small>	STATE OF INCORPORATION <small>(If you are a corporation, identify the state of incorporation.)</small>

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)

	<p align="center">State of South Carolina</p> <p align="center">Request for Proposal Amendment #1</p>	<p>Solicitation: 5400026434 Date Issued: 02/06/2024 Procurement Officer: MICHAEL SPEAKMON, CPPO Phone: 803-737-9816 E-Mail Address: mspeakmon@mmo.sc.gov Mailing Address: SFAA, Div. of Procurement Services 1201 Main Street, Suite 601 Columbia SC 29201</p>
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DESCRIPTION: **STC Telematics**USING GOVERNMENTAL UNIT: **Statewide Term Contract**SUBMIT YOUR OFFER ON-LINE AT THE FOLLOWING URL: <http://www.procurement.sc.gov>SUBMIT OFFER BY (Opening Date/Time): **02/22/2024 11:00 AM** (See "Deadline For Submission Of Offer" provision)QUESTIONS MUST BE RECEIVED BY: **02/13/2024 10:00 AM** **Questions Limited to Amended Parts Only**

NUMBER OF COPIES TO BE SUBMITTED: **ONE (1) Electronic Media Copies of Technical & Price Proposals, One (1) Redacted Copy** via electronic media (marked "redacted"), (See "Submitting Redacted Offers" provision Section IV., "Submitting Confidential Information" Section II.A., & "Electronic Copies-Required Media & Format" provision Section II.B.) **[See Online Bidding Instructions in Section II.B.]**

Initial here if **NO redacted copy is necessary** _____

<p>CONFERENCE TYPE: Pre-Proposal DATE & TIME: 01/22/2024 10:00 AM</p> <p>(As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions)</p>	<p>LOCATION: This meeting will be via Microsoft Teams only. Refer to Section II.B, "Conference Pre-Bid/Proposal" for instructions to attend the meeting.</p>
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AWARD & AMENDMENTS	Award will be posted on 04/08/2024 . 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 one hundred eighty (180) calendar days after the Opening Date. (See "Signing Your Offer" provision.)

NAME OF OFFEROR <small>(full legal name of business submitting the offer)</small>	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 <small>(Person must be authorized to submit binding offer to contract on behalf of Offeror.)</small>	DATE SIGNED
TITLE <small>(business title of person signing above)</small>	STATE VENDOR NO. <small>(Register to Obtain S.C. Vendor No. at www.procurement.sc.gov)</small>
PRINTED NAME <small>(printed name of person signing above)</small>	STATE OF INCORPORATION <small>(If you are a corporation, identify the state of incorporation.)</small>

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)

PAGE TWO

(Return Page Two with Your Offer)

<p>HOME OFFICE ADDRESS (Address for offeror's home office / principal place of business)</p> <p>Dun & Bradstreet # _____</p>	<p>NOTICE ADDRESS (Address to which all procurement and contract related notices should be sent.) (See "Notice" clause)</p> <p>_____</p> <p>Area Code - Number - Extension Facsimile</p> <p>_____</p> <p>E-mail Address</p>
---	--

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

<p>DISCOUNT FOR PROMPT PAYMENT (See "Discount for Prompt Payment" clause)</p>	10 Calendar Days (%)	20 Calendar Days (%)	30 Calendar Days (%)	_____ Calendar Days (%)
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PREFERENCES - A NOTICE TO VENDORS (SEP. 2009):

Preferences do not apply per 11-35-1524(5)

PREFERENCES - ADDRESS AND PHONE OF IN-STATE OFFICE

Preferences do not apply per 11-35-1524(5)

_____ In-State Office Address same as Home Office Address _____ In-State Office Address same as Notice Address **(check only one)**

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IMPORTANT NOTICE: In order to provide a more manageable solicitation, the State has opted to issue a complete new document. This approach has been selected in an effort to ensure the clarity of the contract documents during both the “Pre-Award” and “Post Award” phases of this procurement. Prospective bidders should discard the original solicitation document and use this document when preparing their on-line bids.

In an effort to assist your review of the amendment, we have endeavored to highlight changes in yellow. To use this feature, Offerors will need to view the electronic version of this document.

Despite our best efforts, there is a chance that a change was inadvertently left unhighlighted. Therefore, Offerors are cautioned that they are responsible to review the content of the entire document and cannot rely detrimentally on highlights identifying all changes.

I. SCOPE OF SOLICITATION

ACQUIRE SERVICES and SUPPLIES / EQUIPMENT (Modified)

The State of South Carolina seeks to implement a comprehensive statewide aftermarket telematics solution that will be utilized primarily by the central fleet management body, the Department of Administration’s State Fleet Management. To meet the requirements of S.C. Code Annotated §1-11-220 *et seq.*, the Office of State Procurement seeks to establish a Statewide Term Contract(s) with qualified Offeror(s) to provide an aftermarket telematics solution and the installation and implementation thereof.

The State of South Carolina operates a mixed-use and mixed-manufacturer fleet of over 10,000 motor vehicles. The Contractor will be responsible for providing all necessary telematics hardware and software including ancillary services.

The State requires a fully functioning general telematics solution for light-, medium-, and heavy-duty powered assets with a compatible solution for non-powered assets. The selected solutions will be installed to enable state agencies, higher-education institutions, and political subdivisions to track and monitor fleet vehicles through a Software-as-a-Service (SaaS) portal, at their discretion.

MAXIMUM CONTRACT PERIOD - ESTIMATED (Modified)

The estimated start date for this contract is **04/18/2024** and the estimated end date is **04/17/2029**. The initial term of the contract is two (2) years with the potential for three (3) optional one-year terms. 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 (APR 2023)

("OCI FAQ for Contractors" is available at www.procurement.sc.gov)

(a) You certify that, to the best of your knowledge and belief:

(1) your offer identifies any services that relate to either this solicitation or the work and that have already been performed by you, a proposed subcontractor, or an affiliated business or consultant of either; and

(2) there are no relevant facts or circumstances that may give rise to an actual or potential organizational conflict of interest, as defined in S.C. Code Ann. Reg. 19- 445.2127, or 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.

(b) If you, a proposed subcontractor, or an affiliated business or consultant of either, have an unfair competitive advantage or a significant actual or potential conflict of interest, the State may withhold award. Before withholding award on these grounds, the State will notify you of the concerns and provide a reasonable opportunity for you to respond. The State may consider efforts to avoid or mitigate such concerns, including restrictions on future activities. (c) The certification in paragraph (a) of this provision is a material representation of fact upon which the State will rely when considering your offer for award. [02-2A047- 3]

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 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]

QUESTIONS FROM OFFERORS - AMENDMENT (Modified)

The solicitation is amended as provided herein. Information or changes resulting from questions will be shown in a question-and-answer format or made directly in the document. 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.

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 workday 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 "ON-LINE 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 \(sc.gov\)](http://www.sos.sc.gov) or S.C. Department of Revenue [Withholding \(sc.gov\)](http://www.sos.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 (Modified)~~

~~Pre-Bid/Proposal Conference Date and Time: 01/22/2024 10:00 AM~~

~~Location of Pre-Bid/Proposal Conference: The conference will be conducted entirely via Microsoft Teams at no cost to the participants. A computer is required to attend the meeting, but a camera is not. If you would like to participate in the conference, click on the “Pre-Bid Meeting Link” below.~~

~~Pre-Bid Meeting Link~~

~~Should you have trouble with the link above, or you would prefer to call in from a phone, please email Michael Speakmon for attendance instructions no later than Thursday, January 18th, at 2:00 PM. Note in the Subject line: “STC Telematics Pre-Proposal Conference Instructions.” Attendance information and links will be provided one business day before the 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.~~

~~This solicitation includes a NON-Mandatory Pre-Proposal Conference. While attendance is not required, Offerors are strongly encouraged to participate. The purpose of the Pre-Proposal is to identify items that are in error, unclear, or unduly restrictive.~~

~~All conference attendees should read the solicitation and develop their questions in preparation for the conference. The pace of the conference will NOT afford individuals enough time to complete an initial review of the document during the conference.~~

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)

You must submit your offer as an uploaded attachment to your offer in SCEIS. If, for some reason, you are unable to attach your offer, you must submit an electronic copy or copies on compact disk (CD), DVD, or USB drive. Submit the number of copies indicated on the cover page. Each copy should be on separate media. Your business and technical proposals must be on separate media. Every disk or 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 multiple-disk sets are provided, each disk 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 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.

It is preferred that the electronic copy of each proposal be in one .PDF file. The result will be that the State receives one .PDF file for the complete technical proposal, and one .PDF file for the complete price proposal and, if necessary, one .PDF file for the redacted technical proposal.

Electronic File Size Restrictions

SCEIS has a file upload limit size of 10MB per file. If possible, it is best for each part of your offer to fit within this limit. If that is not possible, the Offeror is responsible for breaking their offer into as many sections as necessary to meet the upload requirement, ensuring that the filenames are such as the State may reconstruct the entire offer. The State or the Procurement Officer will not be responsible for incorrect markings of files or missing components of the offer that are not uploaded in SCEIS.

If the offer is submitted via CD, DVD, or thumb drive, each file may not exceed 50MB per file.

ON-LINE BIDDING INSTRUCTIONS (Modified)

(a) Mandatory Registration. You must register before you can submit an offer on-line See clause entitled “VENDOR REGISTRATION MANDATORY.”

(b) Steps for On-Line 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 ,

(b) by post or delivery to 1201 Main Street, Suite 601, Columbia, SC 29201.

III. SCOPE OF WORK/SPECIFICATIONS

DEFINITIONS

Administrator: refers to the SFM designated user in regard to equipped Leased Fleet assets; the SFM and/or UGU designated user in regard to the equipped Statewide Fleet assets; and the applicable UGU administrator in regard to non-Statewide Fleet UGU equipped assets

Leased Fleet: refers to the pool of vehicles owned by the SC Department of Administration's State Fleet Management and loaned to state agencies, as defined by SC Code of Laws §1-11-250

Motor Vehicle Management Act (MVMA): <https://admin.sc.gov/files/MVMA.pdf> or its succeeding legislation

Non-Powered Assets (NPA): Assets that do not have an onboard engine e.g. a trailer

Powered Assets: light-, medium-, and heavy-duty assets that have an onboard engine e.g. sedans, trucks, ATVs, motorcycles, mopeds, and motorized scooters

State Fleet Management (SFM): refers to the Department of Administration, Division of State Agencies Support Services, State Fleet Management

Statewide Fleet: refers to all powered assets that are owned or operated by state agencies, as defined in SC Code of Laws §1-11-250. School buses and service vehicles operated by the SC Department of Education and vehicles operated by the SC Department of Transportation are not considered part of the Statewide Fleet. Statewide Fleet vehicles are subject to SFM oversight and assistance under the Motor Vehicle Management Act (MVMA)

BACKGROUND INFORMATION / CURRENT ENVIRONMENT

In 2015, the State's legislative body revised the Motor Vehicle Management Act (MVMA) to require State Fleet Management (SFM) to develop and implement a comprehensive State Fleet Management Program. The objectives prescribed by the MVMA are intended to achieve a more cost-effective and efficient management of the Statewide Fleet.

The State of South Carolina operates a mixed-use and mixed-manufacturer Statewide Fleet of over 10,000 motor vehicles. Of the 10,000 motor vehicles, approximately 3,200 comprise the State Fleet Management's Leased Fleet. The Leased Fleet includes multiple classes of motor vehicles ranging from sedans to Class 4-chassis vehicles. The remaining estimated 6,800 motor vehicles are owned by state agencies. Additionally, all counties, municipalities, school districts, public service or special purpose districts (collectively referred to as political subdivisions) may utilize this contract to equip fleets that are not a part of the Statewide Fleet.

The State utilizes various fleet management solutions:

- Chevin Fleetwave for SFM assets
- Highway Maintenance Management System (HMMS) for SC Department of Transportation assets
- **FreePro360-FleetPro360** for the SC Department of Forestry, the SC Department of Health and Environmental Control, and the SC Department of Mental Health assets
- AssetWorks for the SC Department of Administration's Surplus Property Office; and others as selected by UGUs.

The UGUs will utilize the telematics solution to monitor and analyze collected data to increase their operating efficiencies. SFM specifically will also utilize the data collected through the telematics solution to fulfill objectives of the MMVA as necessary.

OBJECTIVE

The State seeks a comprehensive vehicular telematics solution that includes hardware, firmware, a web-accessed portal, and cloud-based storage. The State requires a fully functioning general telematics solution for powered assets with a compatible solution for non-powered assets. Contractor will fully implement the solutions on a per-vehicle basis including physical installation at the UGU's discretion, interfacing with any applicable legacy software, and maintenance.

The solution must be compatible with late model vehicles regardless of their form of propulsion (petroleum, EV, hybrid, etc.). It is understood that different types of vehicles will have different types of data available to the solution

but under no circumstances should the device interfere with any of the vehicle's operations.

State Fleet Management Lifecycle

In general, SFM operates on a 5-year life cycle model for light duty (sedans, crossovers) vehicles. The majority of the fleet fall into this category though there is significant exposure to other classes as well. That said, SFM is currently operating in what they call a 5-year hybrid due to the combination of so many vehicles not being properly utilized during COVID-19 and the supply chain disruptions creating such a significant, and costly, need of new vehicles. SFM research concludes that if miles are low enough, there is minimal risk to increasing maintenance cost in the sixth year. Therefore, SFM is making use of that for some vehicles as they steadily work their way back to the 5-year model.

SPECIFICATIONS

General Telematics Solution

Requirements

- Solution must include one of the prequalified base configurations.
- Solution must have the ability to interface/crosswalk with the following to provide information:
 - Fuel Management System
 - Fleet Management System
 - Other GPS Systems (for switchover at end of contract)
 - VIN Decoder Systems
- Solution must utilize a common platform across powered and non-powered assets.
- GPS tracking that:
 - identifies location based on pre-programmed rules and ad hoc requests from the Administrator
 - cannot be disabled by the driver or passengers without alerting the Administrator
 - can be remotely activated/deactivated per vehicle by the Administrator from an external source without assistance of Contractor
 - sends location data to portal at least every sixty seconds
- SaaS telematics solution with secure cloud storage
- 99.5% 9.9% uptime for entire solution functionality
- Forty-eight hours' notice for all scheduled downtime
- Secure, user-friendly online interface accessible from major browsers (e.g. Chrome, Firefox, Safari) and standard hardware form factors (e.g. mobile, desktop, tablet) e.g. by mobile app or by RFID that, at minimum, allows Administrator to:
 - Access individual device identification information (including but not limited to license plate, VIN, assigned department)
 - Access interactive maps with the ability, at minimum, to:
 - Pull GPS location data for individual devices
 - Recall a twelve-month "breadcrumb" history of individual devices' routes and locations
 - Define and edit landmarks
 - Identify the closest landmark to a device
 - Create, modify, and adjust the display of geofencing at the administrator levels
 - Implement and enforce role-based access controls
- Geofencing capabilities to include multi-layering of geofences set by Administrator
- State agencies must have full reporting ability and visibility of all telematics data for all equipped assets owned or operated by that state agency
- SFM must have full reporting ability and visibility of all telematics data for the entire Statewide Fleet. SFM is the only agency that may have this level of access.
- Administrators must have live access to the previous ninety days of all telematics data
- Contractor must ensure Administrator access to and retain all collected data, including interactive map functionality, for a minimum of three years in archives by default, however SFM or political subdivisions may request periodic purges (e.g. for disposed fleet vehicles) as necessary.
- When communications between the physical device and the SaaS solution are interrupted, data residing on the physical device must be preserved, for a minimum of seven calendar days, according to a hierarchy of relative importance. The following types of data shall take precedence over other types of data, from most to least essential:
 - Vehicle location
 - Odometer readings
 - DTC codes

- Solution should have the following standard reporting capabilities:
 - Vehicle speeding (maximum for the trip, average for the trip, known speed zone violations)
 - Idle duration with location
 - Geofence exceptions (incursions and excursions)
 - Fuel usage and MPG
 - Non-business hours and weekend usage
 - Odometer, to include starting and ending odometer for each trip
 - Engine hours, to include total hours and accrued hours for each trip
 - DTC (Diagnostic Trouble Codes)
 - Stop details (location, duration)
 - Unit/device malfunction and GPS failure
 - Possible accident incidents
 - Monthly utilization to include beginning and ending mileage for the month per vehicle, as well as accrued mileage, days utilized, engine hours beginning/ending/accrued
- Custom reporting capabilities
- Administrator dashboard that is configurable per UGU and customizable per Administrator with “quick glance” data summaries
- Notification capability via dashboard and email with flexible parameters
 - Immediate alerts for device disconnection
 - Event alerts (e.g. excessive speeding, idling, DTC)
 - Geofencing incursions and/or excursions
- Ability to update and/or import vehicle and asset identification information in bulk to include:
 - Adding and deleting vehicles
 - Updating license plate numbers
 - Reassigning devices upon transfer (i.e. in the event of total loss, the device can be reassigned to a reserve pool replacement vehicle)
 - Updating of subaccounts to reflect department structure and preferences
- Ability to transfer telematics data to:
 - Fleetwave (Chevin) fleet management software
 - FuelNet (Mansfield)
 - AgileFleet
- Ability to confirm fueling events and quantities received
- Entire solution must be FIPS 140-2 Level I-compliant.
- All collected data must be encrypted in transit
- Additional vulnerability protection measures utilized during firmware update activity
- Required Administrative settings:
 - SFM will be the master account holder for the Statewide Fleet.
 - Subject to legislative exceptions, all non-Statewide Fleet UGUs will be their own master account holder.
 - All UGUs may assign sub-accounts to business areas or departments with customizable role-based access control.
 - SFM must have one-way access to all data and reporting from the telematics solution of the Statewide Fleet. An individual UGU will only be able to view, access, or generate reports for data from its own equipped assets.
 - Administrator must have ability to toggle GPS tracking on and off, with immediate effect.
 - Regardless of UGU’s administrative settings, SFM must have access to the Statewide Fleet’s odometer readings, DTCs, and device disconnection events.

Powered Asset Requirements

- All General Telematics Solution Requirements
- Physical device and all ancillary connectors required for secure mounting to OBD-II port of light- and medium-duty vehicles 9pin/6 pin connectors
- Physical device and all ancillary connectors required for secure mounting to heavy-duty vehicles
- Engine-start driver identification capability e.g. RFID

Non-Powered Assets

- All General Telematics Solution Requirements
- Physical device and all ancillary connectors

Contractor's Responsibilities

- Contractor must work with UGU to ensure that data collected through OEM- equipped telematics devices is not transmitted into or stored in an unapproved environment.
- Contractor is responsible for facilitating interoperability with all major automobile, cab & chassis truck, and large equipment manufacturers (i.e. John Deere, Husqvarna, Kubota, etc.).
- Contractor will be responsible for performing all ancillary services to include the initial installation, facilitation of constant connection through cellular signal, testing, training, reporting, maintenance and repair of devices, technical support, and system upgrades that may be necessary to maintain complete and full functionality of the system.
- Transfer of solution between assets upon Administrator request
- Solution must maintain substantially similar features and functionalities as versions are updated
- Contractor must employ systems or processes to ensure the integrity of component software and firmware as well as the data recorded, managed, and stored by the solution.
- Contractor must ensure that controls such as digital signatures for all software/firmware updates, host-to-host encryption, strong authentication, etc., are implemented to protect the integrity of the component software and firmware and of government data at all times.
- Contractor must provide training on Solution to Administrators upon UGU request.
- If a third-party vendor is utilized for the secure cloud storage component of the Solution, Contractor must ensure that UGU has all appropriate permissions and access to collected data.

UGU Responsibilities

- SFM will be responsible for paying invoices for all SFM equipped assets and Leased Fleet equipped assets.
- UGU will be responsible for paying invoices for UGU-owned equipped assets.
- UGU will be responsible for designating an Administrator as primary point of contact for Contractor
- Administrator will be responsible, upon purchase, for notifying Contractor whether Contractor or UGU will perform installation on assets to be equipped.

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 -- 30 DAYS ARO (JAN 2006)

Unless otherwise specified herein, all items shall be delivered no later than thirty days after contractor's receipt of the purchase order. If the using governmental unit requests delivery sooner than the time specified, contractor may invoice the ordering entity any additional shipping charges approved by the ordering entity on the purchase order. [03-3037-1]

INSTALLATION (JAN 2006)

Contractor shall install all items acquired pursuant to this contract as outlined in this solicitation. [3-3050-1]

OPERATIONAL MANUALS (JAN 2006)

Unless otherwise specified, contractor shall provide one operational manual for each item acquired. [03-3055-1]

QUALITY -- NEW (JAN 2006)

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

TECHNICAL SUPPORT – INCLUDED (Modified)

Upon Administrator's request, contractor shall provide technical assistance or service. Contractor shall respond within one

hour following request.

ADMINISTRATIVE SERVICES FEE - COLLECTION AND REPORTING (Modified)

(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) 896-8956 (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. All materials should be submitted in a standard searchable electronic file format such as a PDF or Word document.

EXCEPT FOR THE PORTIONS EXPLICITLY REQUESTED IN SECTIONS IV AND V, DO NOT SUBMIT THE SOLICITATION DOCUMENT AS PART OF YOUR PROPOSAL.

4.1 TECHNICAL PROPOSAL

List each specific component and service names being proposed to meet or exceed the requirements of the solicitation.

- a. Powered Assets
- b. Non-powered Assets

4.1.1 PROPOSED SOLUTION

Note: In your proposal, state each requirement below and provide the response immediately after before moving to the next requirement. Do this for all requirements. Offerors must provide a response to all requirements.

The Technical Proposal must be developed and submitted in accordance with the instructions outlined in this section. Offeror's proposals shall be prepared simply and economically, and they must include a straightforward, concise description of Offeror's capabilities that satisfy the requirements of this Request for Proposals. Although concise, the proposals should be thorough and detailed so that the evaluators may properly evaluate Offeror's solution. All descriptions of services and solutions should include an explanation of proposed methodology where applicable. The proposals may include additional information that Offeror considers relevant to this Request for Proposal.

- a. Describe each element of the proposed telematics solution that meets or exceeds the requirements of Section III. If the proposed solution does NOT work with specific types of vehicles or equipment describe those exclusions in detail.
- b. Describe the lifecycle and average lifespan of the hardware components of the proposed telematics solution.
- c. Describe the proposed warranty coverage of the hardware components.
- d. Describe how all aspects of the proposed telematics solution are compatible with vehicles from the various major manufacturers. Describe how the proposed telematics solution impacts vehicle manufacturer warranties, if applicable.
- e. How frequently is data collected from the hardware components? How frequently does the collected data upload to the proposed platform? How current is the data available on display in the platform?
- f. How long will the hardware component retain collected data if it is unable to connect to the proposed platform or secure cloud storage?
- g. Describe how data is collected from the hardware component and uploaded to the proposed platform and cloud storage. Describe the data protection in transit and at rest, regardless of location. How is data protected and uploaded to the system/program platform when the vehicle is out-of-range of a quality cellular or satellite signal?
- h. How much is the data storage capacity per device?
- i. Describe Offeror's vulnerability disclosure and handling plan and describe how the proposed telematics solution meets or exceeds the standards contained in [ISO/IEC 29147](#) and [ISO/IEC 30111](#).
- j. Outline Offeror's protocol for validation of hardware and how it meets or exceeds the FIPS 140-2 Level I standard. This protocol must address how the device as a whole, and not merely certain parts or aspects of the device, meets the FIPS 140-2 Level I standards.
- k. Describe the proposed telematics solution's platform accessibility, including browser and device support.
- l. Provide a list of each standard report of the proposed telematics solution, give a brief description of what it includes, and provide a sample of each.
- m. Describe report customization capabilities including custom-built, user-configurable reports.
- n. Describe the Solution's tools for creating user-configurable reports.
- o. Describe the solution's notification capabilities.
- p. Describe users' options to change the reporting parameters and notifications such as: data

synchronization frequency, vehicle identifiers (e.g. tag numbers, internal agency numbers), data summarization, geofencing incursions and excursions, GPS locations, and historical data purging.

- q. Describe ability to update location data and on administrative user level to change parameters on frequency of updates.
- r. Describe additional features and functions that are included as part of the proposed telematics solution and are of no additional cost.
- s. Describe additional features and functions that can be included as part of the proposed telematics solution for an additional cost.
- t. Describe additional capabilities of the solution that are not previously described but are either included in current production or are currently in beta and will be available in future releases at no additional cost.
- u. Describe the methods and formats for delivery of training and reference materials.
- v. Describe how the proposed telematics solution integrates with the following:
 - Fleetwave (Chevin).
 - Highway Maintenance Management System (HMMS)
 - ~~FreePro360~~ FleetPro360
 - AssetWorks
- w. Describe how the proposed telematics solutions integrates with other fleet management software, WEX (Mansfield Oil), and ESRI, if applicable.
- x. Identify other asset management programs with which the proposed telematics solution has previously or currently integrates and provide supporting documentation.
- y. Describe method of detecting driver identification (e.g. by app or by RFID).
- z. Describe what kinds of data will be available in archived form, and what functionality cannot be stored.
- aa. Describe proposed solution's compatibility with all major vehicle manufacturers.
- bb. Provide your disengagement plan including the specific disengagement activities to be performed by Contractor, the Using Governmental Unit, and/or its designee(s) to transition the solution's functions to the Using Governmental Unit or its designee(s).
- cc. Describe how you define uptime, downtime, scheduled maintenance.
- dd. Provide service level metrics for the proposed solution.
- ee. Provide how Contractor will compensate UGU for failure to meet required and described service levels. For example, if the service is unavailable for an extended period of time (other than routine or scheduled maintenance, updates or upgrades) how will the UGU be compensated for the period that the service was not available?
- ff. Describe the solution's role-based access levels and controls. Include description of how solution will accommodate the required administrative settings in Section III.
- gg. Describe the solution's geofencing capabilities.

4.1.2 SPSAQ FORM

Offeror's completed and executed response to the Service Provider Security Assessment Questionnaire attachment (see Section IX).

4.1.3 QUALIFICATIONS

NOTE: The requirements listed here are separate from the requirements listed in Section V, Qualifications. Do NOT include any financial data about your company in the Technical Proposal.

A general description of your business including, but not limited to the following:

- a. General description of the company.
- b. Experience and qualifications of the company and its ability to perform on this, and other contracts, of similar size and scope.
- c. Number of years' experience in providing the requested solution with testimonies from former and current customers.
- d. Any other information you feel would give the evaluation panel insight into your qualifications and experience.

4.1.4 RELATIONSHIPS & AGREEMENTS

- a. Describe the relationship between you and the proposed secure cloud storage provider. If applicable, include description of any contractual relationships or legal arrangements between Offeror and secure cloud storage

- provider, Offeror's partner status(es) with the secure cloud storage provider, and any special designations of Offeror recognized by the secure cloud storage provider.
- b. Provide a list of all necessary agreements to access and utilize any of the cloud-based services included in your proposal. This includes any agreements to access the overall system, end-user licensing agreements, or any other contractually binding agreement that is required to access or use the systems offered in your proposal. For each listed agreement, Offeror must give a brief synopsis of its purpose and specify all parties (e.g. Offeror, secure cloud storage provider, UGU) who will be bound by such agreement(s). These agreements will be requested from the highest ranked Offerors per the "Pre-Condition of Award" provision in Section VI.
 - c. Describe the relationship between you and any vehicle manufacturer. If applicable:
 - Include information regarding proposed solution's compatibility with OEM integrated devices and platforms.
 - Identify each vehicle manufacturer with which you have an established relationship regarding data transfer to and/or from OWM-installed telematics devices. For each identified vehicle manufacturer, describe the level of transferability (e.g. to, from, both to and from).

4.1.5 ADDITIONAL FEATURES

- a. Describe additional features and functions that can be included as part of the proposed telematics solution for an additional cost. For example, mobile application use, cameras or other equipment that is compatible with the solution but not specifically requested including the current costs for said items. These costs will not be part of the price proposal evaluation.
- b. Describe additional capabilities of the solution that are not previously described but are either included in current production or are currently in beta and will be available in future releases at no additional cost.

4.2 PRICE PROPOSAL

See instructions in Section VIII. Submit the Price Proposal and Technical Proposal as separate files. No pricing information should be included in the Technical Proposal.

4.3 ASSUMPTIONS AND EXCEPTIONS

The Offeror shall include any and all assumptions, additional license or subscription documents, terms and conditions, ancillary contracts, or open-source agreements relative to their proposal. The Offeror shall also submit the number and nature of exceptions (if any) such Offeror requests to the terms and conditions in Part 7 B. Special Terms and Conditions. SFAA reserves the right to negotiate the terms and conditions of any such Contractor supplied terms, documents, and agreements or to reject. Any acceptable changes, documents, or agreements shall be documented in the Record of Negotiation.

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]

OFFSHORE CONTRACTING (JAN 2006)

Work that will be performed offshore by the Offeror and/or its subcontractors must be identified in the Offeror's response. For the purpose of this solicitation, offshore is defined as outside the 50 States and US territories. Offeror is to include an explanation for the following:

(a) What type of work is being contracted offshore? _____

(b) What percentage (%) of the total work is being contracted offshore? _____

(c) What percentage (%) of the total value of the contract is being contracted offshore?

(d) Provide a Service Level Agreement (SLA) demonstrating the arrangement between the off-shore contractor and the Offeror. Attach Service Level Agreement to this document or paste here. Data provided by the Offeror in regards to this clause is for information only and will not be used in the evaluation and determination of an award.

[04-4020-1]

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]

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 procurement.sc.gov, link to "Standard Clauses & Provisions." [05-5005-2]

QUALIFICATIONS -- REQUIRED INFORMATION (Modified)

If requested by the procurement officer after bid opening, 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) The general history and experience of the business in providing work of similar size and scope. (b) 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.] (c) A detailed, narrative statement listing the three most recent, comparable contracts (including contact information) which have been performed. For each contract, describe how the supplies or services provided are similar to those requested by this solicitation, and how they differ. (d) A list of every business for which supplies or services substantially similar to those sought with this solicitation have been provided, at any time during the past three years. (e) 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. (f) List of failed projects, suspensions, debarments, and significant litigation. [05-5015-2]

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 (JAN 2006)

Award will be made to the highest ranked, responsive and responsible offeror whose offer is determined to be the most advantageous to the State. [06-6030-1]

AWARD TO ONE OFFEROR (JAN 2006)

Award will be made to one Offeror. [06-6040-1]

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.

1. Technical Proposal (0-55 points)
4.1.1 and 4.1.2 of Technical Proposal

Offeror's proposed solution as a whole, each individual component, and the ancillary services offered to best meet the needs of the State.

2. Qualifications and Experience (0-25 points)
4.1.3 and 4.1.4 of Technical Proposal

- Demonstrated ability to provide its solution and services
- Offeror's degree of compatibility with fleet management software, ESRI, and OEM-equipped telematics devices.
- Proportion of services provided within the Continental United States

3. Price Proposal (0-20 points)

In calculating the price proposal points, the proposal with the lowest Total Evaluated Price in Attachment A receives the maximum points allowed. All other proposals receive a percentage of the points available based

on their price relationship to the lowest. This is determined by applying the following formula:

$(\text{Lowest Price} / \text{Price Being Evaluated}) \times \text{Maximum Price Points Available} = \text{Awarded Price Points}$

[06-6065-1]

UNIT PRICE GOVERNS (JAN 2006)

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

PRE-CONDITION OF AWARD

If the solution you are offering to provide are dependent upon a licensing or services agreement or terms between the secure cloud storage provider and the State, or between the State and the Offeror, and the State is unsuccessful in negotiating an acceptable agreement for any solution for which it finds such an agreement necessary, your offer will be rejected.

Upon request, Offerors must provide all necessary agreements to access and utilize the solution included in your proposal. This includes any agreements to access the overall system, end-user licensing agreements, or any other contractually binding agreement that is required to access or use the solution offered in your proposal as required by Section IV.

Offerors are required to have the authority to negotiate the proposed agreements and/or provide access to a representative of the secure cloud storage provider with the authority to negotiate terms and conditions that are acceptable to the State.

Offeror is required to provide an editable electronic copy of all contractual agreements that will be required to access the solution upon the State's request. This includes Offeror's required contractual documents and any documents required from the secure cloud storage provider. It is expected that the State, the highest ranked Offeror(s), and their proposed the secure cloud storage provider will work in good faith in reaching a mutually acceptable contractual agreement. There are certain terms and conditions, however that are unacceptable to the State. Offerors and their secure cloud storage provider must ensure the following list of items are not included in their proposed contractual documents prior to submission for the State's consideration:

- Choice of law provisions applying the laws of any state other than the State of South Carolina
- Forum selection clauses that designate venue or jurisdiction, other than as provided by South Carolina law
- Clauses requiring the State to indemnify, defend, or hold harmless the Offeror or any other party
- Clauses that require binding arbitration of disputes
- Confidentiality requirements that conflict with disclosure requirements under South Carolina law, including under the SC Freedom of Information Act (SC Code of Laws, Title 30, Chapter 4)
- Clauses that prevent the State's termination of any contract due to non-appropriation of funds
- Clauses that require the waiver of the State's sovereign immunity

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. [07-7A050-1]

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]

ORGANIZATIONAL CONFLICT OF INTEREST (APR 2023)

(a) The Contractor agrees to immediately advise the Procurement Officer if an actual or potential organizational conflict of interest is discovered after award, and to make a full written disclosure promptly thereafter to the Procurement Officer. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Procurement Officer, to avoid, mitigate, or neutralize the actual or potential conflict. (b) The State may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not increase the obligation of the State beyond what it would have been if the subcontract had contained such a clause. (c) The disclosure required by paragraph (a) of this provision is a material obligation of the contract. If the Contractor knew or should have known of an organizational conflict of interest prior to award, or discovers an actual or potential conflict after Organizational Conflicts of Interest PGI, page 32 award, and does not disclose, or misrepresents, relevant information to the Procurement Officer, the State may terminate the contract for default. [07-7A054-1]

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. [07-7A080-1]

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]

CONFERENCE – PRE-PERFORMANCE (JAN 2006)

Unless waived by the Procurement Officer, a pre-performance conference between the contractor, state and Procurement Officer shall be held at a location selected by the state within five (5) days after final award, and prior to commencement of work under the contract. The responsibilities of all parties involved will be discussed to assure a meeting of the minds of all concerned. The successful contractor or his duly authorized representative shall be required to attend at contractor's expense.

State Fleet Management
1430 Senate St., 3rd Floor
Columbia, SC 29201

[07-7B040-1]

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 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]

DISENGAGEMENT SERVICES

Availability

Contractor shall provide the Using Governmental Unit with Disengagement Services described in Contractor's proposal and as set forth below. Contractor shall provide the Disengagement Services to the Using Governmental Unit or its designee(s), commencing upon a request for Disengagement Services by the Using Governmental Unit, and, at the Using Governmental Unit's request, continue providing in accordance with the applicable Disengagement Plan (defined below) for the entire Disengagement Period or, if applicable, the expiration or termination of the Term.

Detailed Disengagement Plan

Contractor shall prepare and deliver to the Using Governmental Unit a detailed Disengagement Plan for Using Governmental Unit's review, comment and approval within thirty business days after written notice from the Using Governmental Unit. The proposed detailed Disengagement Plan shall describe in detail the specific disengagement activities to be performed by Contractor, the Using Governmental Unit and/or its designee(s) to transition the system functions to the Using Governmental Unit or its designee(s). Contractor shall address and resolve any questions or concerns the Using Governmental Unit may have as to any aspect of the proposed detailed Disengagement Plan and incorporate any modifications, additions or deletions to such Disengagement Plan requested by the Using Governmental Unit. Contractor's detailed Disengagement Plan as approved by the Using Governmental Unit in writing shall be deemed appended to and incorporated in the contract.

Performance

During any Disengagement Services, Contractor shall continue to meet the Service Levels and provide the System and Services at the same level and qualities as before the Using Governmental Unit's electing to commence Disengagement. Contractor shall perform the Disengagement Services with at least the same degree of accuracy, quality, completeness, timeliness, responsiveness and resource efficiency as it was required to provide the same or similar Services during the Term, including compliance with the Service Levels.

Rates and Charges

To the extent the Disengagement Services requested by the Using Governmental Unit can be provided by Contractor using personnel and resources already assigned to the Using Governmental Unit without adversely affecting Contractor's ability to meet its performance obligations, there will be no additional charge to the Using Governmental Unit for such Disengagement Services. If material Disengagement Services requested by the Using Governmental Unit cannot be provided by Contractor using then assigned Contractor Personnel then in the Using Governmental Unit's discretion, either: (i) charges will be calculated at the time and materials rates in Contractor's Price Proposal and the Using

Governmental Unit approved Disengagement Plan, or (ii) assigned to the Using Governmental Unit without adversely affecting Contractor's ability to meet its performance obligations, the Using Governmental Unit, in its sole discretion, may forego or delay any work activities or temporarily or permanently adjust the work to be performed by Contractor, the schedules associated with such work or the Service Levels to permit the performance of such Disengagement Services using such personnel.

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 contractor's 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 Indemnitee's 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]

OWNERSHIP OF DATA and MATERIALS (JAN 2006)

All data, material and documentation prepared for the state pursuant to this contract shall belong exclusively to the State. [07-7B125-1]

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 ADJUSTMENTS -- 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]

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]

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 two (2) years 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 1 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]

TERM OF CONTRACT – TERMINATION BY CONTRACTOR (JAN 2006)

Contractor may terminate this contract at the end of the initial term, or any renewal term, by providing the Procurement Officer notice of its election to terminate under this clause at least 180 days prior to the expiration of the then current term. [07-7B250-1]

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 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 (Modified)

The product must carry a minimum five year warranty on all products considered. Warranty commences at UGU's first productive use. The warranty shall include all labor and replacement parts during the first year period, and then parts only years two through five. Hardware returns & shipping must be paid by the vendor.

WARRANTY – STANDARD (JAN 2006)

Contractor must provide the manufacturer's standard written warranty upon delivery of product. Contractor warrants that manufacturer will honor the standard written warranty provided. [07-7B280-1]

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:

There are two pricing elements for this solicitation:

- Monthly Price per Powered Asset
- Monthly Price per Non-Powered Asset

Offerors must make an offer on both line items in order to be responsive. The two prices will be added together to get the "Total Evaluated Price" which will be considered the Price Proposal.

[08-8015-1]

IX. ATTACHMENTS TO SOLICITATION

ATTACHMENTS LIST [09-9002-1]

The following documents are attached to this solicitation:

- Attachment A – Pricing Attachment (Separate Attachment)
- Attachment B – VIN Listing (Separate Attachment)
- Attachment C - Service Provider Security Assessment Questionnaire
- Attachment D – Qualified Products List
- Attachment E – Contractor’s Point of Contact (Submit with your offer)
- Attachment F – Questions Template (Use for submitting questions)

Attachment C

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 sub-contractors.
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)

(printed name of person signing above)

Its: _____

(title of person signing above)

Date: _____

SPSAQ (JAN 2015) [09-9025-1]

Attachment D

This Qualified Products List was issued in accordance with Section 11-35-1820 [R. 19-445.2130] of the South Carolina Consolidated Procurement Code and pursuant to QPL #5400015215.

The following products that were submitted pursuant to QPL #5400015215, and their logical functionally equivalent successors, have been determined to meet the requirements set forth therein. Each qualified product is a base configuration that consists of a device application and a software application. The State anticipates that these configurations will serve as a baseline and that additional applications may be layered over the base configuration.

Device Application	Software Application
Synovia	Core
Samsara	Samsara
NexTraq	NexTraQ
Networkfleet	Networkfleet
GPS Insight	GPS Insight
CalAmp PEG & PULS	Pinpoint Fleet Manager
MyGeotab	Tyler Telematics GPS
MyGeotab	BSM Fleet Center
MyGeotab	AT&T Fleet management for Government

Attachment E
CONTRACTOR'S POINT OF CONTACT

SOLICITATION NUMBER: 5400026434, STC Telematics

(Please complete this form and submit it as an attachment with your offer)

POINT OF CONTACT FOR PLACING ORDERS:

Name: _____

Title: _____

Email: _____

Phone: _____

POINT OF CONTACT FOR ADMINISTRATIVE FEE REPORTING:

Name: _____

Title: _____

Email: _____

Phone: _____

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: **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 dor.sc.gov

PLEASE SEE THE "NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING" FORM (FORM NUMBER I-312) LOCATED AT: **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 <small>(full legal name of business entering this contract)</small>	STATE VENDOR NO. <small>(Register to Obtain S.C. Vendor No. at www.procurement.sc.gov)</small>
AUTHORIZED SIGNATURE <small>(person authorized to enter binding contract on behalf of Alternate Vendor)</small>	TITLE <small>(business title of person signing)</small>
PRINTED NAME <small>(printed name of person signing above)</small>	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 <small>(procurement officer authorized to issue purchase order and sign certification)</small>	TITLE <small>(business title of person signing)</small>
PRINTED NAME <small>(printed name of person signing above)</small>	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]

Questions & Answers

Q1. Does the State prefer a single, central location for installation or will install be required at multiple locations across the state?

Q2. Will the State provide a facility to perform installation or is it the responsibility of the vendor?

Q3. If multiple locations for installation are required, will the State accept a recurring, pre-planned date and location for those installs?

State's Response (Q1-Q3): *No change. Installation will be performed at the Using Governmental Unit's (UGU) designated facility, and some UGUs may have multiple facilities throughout the State. Each UGU will develop an installation schedule with the Contractor.*

Q4. Will the State be responsible for un-installing trackers on end-of-life vehicles, or will that be the responsibility of the vendor?

State's Response: *No change. This will be the responsibility of the State.*

Q5. What is the current fuel program that the State uses for tracking fuel usage, purchase, etc.?

Q6. Does that current fuel program allow for open API integration with other software solutions?

Q7. How does the State get the fuel consumption reports today?

Q8. Would any historical data from other fleet and/or fuel solutions need to be imported into the new vendor solution?

Q9. Can you provide more details on any current GPS systems in place and the desired interaction between these legacy systems and the awarded vendors solution?

Q10. Who is the current Telematics system vendor and in how many vehicles is it installed?

Q11. Who will be responsible for removing any existing telematics equipment?

State's Response (Q5-Q11): *No change. There is no current statewide contract for these services so none of this information is available. Some UGUs may have their own contracts, we are not aware of any, so that information should be requested from them after Contract award.*

Q12. A typical requirement of a Statewide contract is for a contractor to provide project management services. Is this also an expectation of the State for this contract? If so, will the vendor's project management approach be included as part of the Technical Proposal evaluation criteria?

State's Response: *No change. The expectation is for the vendor to assist in initial installation of devices and training for resulting software dashboard within 2-hour training or appropriate lesser time as needed.*

Q13. Page 15. The specifications state 10,000 vehicles but the attached VIN list has over 13,500 listed. Can you please clarify the difference?

State's Response: *No change. The solicitation states that the State "operates a mixed-use and mixed-manufacturer Statewide Fleet of over 10,000 motor vehicles." The total number of vehicles will not remain*

consistent throughout the life of the contract. The VIN list provided is a snapshot of what State Fleet Management (SFM) has in their inventory as of 2023. It does NOT include vehicles not owned by SFM.

Q14. What is the estimated initial purchase quantity? Will State Fleet Management equip all 10,000 state vehicles in the near term? Will UGU/state agencies be required to install this solution or does this contract just establish the vendor if they decide they want Telematics? What would the estimated quantities be for initial versus potential installations?

State's Response: *No change. The State anticipates that purchases will be made in groups of vehicles rather than an initial purchase of a large quantity of devices. Governmental bodies are required to use this contract if they choose to or are required to participate in the program based on the MVMA. Others may choose to participate but it is the State's understanding that this is something that is desirable to many political subdivisions throughout the state. The Office of State Fleet intends to equip approximately 3400 vehicles as quickly as possible.*

Q15. Can you please provide a rough break down of the fleet's quantities in terms of light duty vehicles, heavy duty equipment, and non-powered assets?

State's Response: *No change. The number and type of equipment will vary because of new equipment acquisitions and old equipment turn-ins. Also, the State does not maintain a list of assets for the political subdivisions so an accurate response to this question is not possible.*

Q16. Page 15. The definition of Non-Powered Assets (NPA) is listed as any "assets that do not have an onboard engine". Is there a requirement that the non-powered asset tracker be able to provide its own power or do these non-powered assets all have the ability to provide power to an asset tracker despite not having an engine?

State's Response: *No change. An NPA is not able to provide any power to the asset tracker.*

Q17. Page 16. You mention that "Solution must utilize a common platform across powered and non-powered assets" Are you looking for a solution provider that manufactures both the Powered and Unpowered Asset Trackers, or can the hardware for these devices come from two or several different companies (ex. One for powered, and one for unpowered)?

State's Response: *No change. Any equipment to meet the terms of contract for powered and non-powered assets must be able to be tied to one software platform for use during the contract.*

Q18. Page 16. Can you define/explain what is meant by "crosswalk"?

State's Response: *No change. Connects two systems around similarities or overlaps—data is able to be extracted and imported into other systems by use of equipment identifiers similar to that of other systems, such as vin, equipment number or tag number.*

Q19. Page 16. Is the expectation that the solution be able to "interface/crosswalk" with all Fleet Management Systems listed in the Background Information/Current Environment section on page 15 of the solicitation? (Chevin, HMMS, FreePro360, and AssetWorks)

State's Response: *No change. Yes*

Q20. Page 16. The solicitation specifies a 99.9% uptime requirement. The difference between 99.90% uptime and 99.99% uptime is about 8 hours a year of downtime. Can you clarify whether the state prefers 99.90% or 99.99%?

Q21. SECTION III > Specifications > General Telematics Solution > Bullet 6 (99.9% uptime for entire solution functionality). Is the 99.9% uptime requirement a mandatory requirement, or would 99.5% be acceptable?

State's Response (Q20-Q21): *See the modified requirement in Section III.*

Q22. Page 16. In the general telematics requirement section, there is a requirement for the ability to remotely activate/ deactivate GPS tracking. Is the assumption that the telematics device will continue to collect and report other telematics data while GPS is deactivated?

State's Response: *No change. This deactivation would pertain to location/tracking only. Other vehicle data is still expected to be collected.*

Q23. SECTION III > Specifications > General Telematics Solution > Bullet 2, sub-bullet 3 (Other GPS Systems for switchover at end of contract). Please define "switchover" with respect to this statement. Is the State of South Carolina asking to import old GPS from an older system into a new one?

State's Response: *No change. The request is to be able to have data on tracking device available for export to another system or device at the end of the contract for services with the telematics devices.*

Q24. SECTION III > Specifications > General Telematics Solution > Bullet 1 (Solution must include one of the prequalified base configurations) Can you confirm if this bullet is referring to the Qualified Products List in IX. ATTACHMENTS TO SOLICITATION - Attachment D?

State's Response: *No change. Yes.*

Q25. SECTION III > Specifications > General Telematics Solution > Bullet 20, sub-bullet 2 (Ability to transfer telematics data to:

- Fleetwave (Chevin) fleet management software
- FuelNet (Mansfield)
- AgileFleet)

Please define the data points that will be sent to FuelNet. Is this the same company that provides the Fuel Cards as well?

State's Response: *No change. Any and all data provided by device is subject to upload to Fuelnet, software database provided by current fuel card contractor with use of fuel cards.*

Q26. Pages 17 and 21. Will the state consider removing the FIPS 140-2 requirement, as this would only allow for one product (GeoTab) making this solicitation non-competitive? Other Telematics solutions can be highly secure without this specific requirement.

Q27. Are only FIPS-140-2 devices/services allowed, as this is in conflict with the approved qualified list in attachment D?

State's Response (Q26-Q27): No change. Fips-140-2 equal or greater compliant devices are requirement for contract.

Q28. Page 17 Please provide more detail around information that is needed for custom reporting.

State's Response: No change. Reports that are able to give detailed information on individual vehicles, groups of vehicles, vehicles in certain geofenced areas, maintenance, fuel use, or any other location information with vehicle identifiers such as tag or vin, equipment number for use by the State.

Q29. Page 17. Transfer data – please provide the API information for Fleetwarve, FuelNet, and AgileFleet. Will the State/UGU be providing the API to the telematics provider?

State's Response: No change. The State will not provide any APIs. The State only needs the information in a Microsoft Excel (XLS) format and can manipulate the data from there.

Q30. Technical Support – page 18. Please provide a clearer definition of a one-hour response time. What is the required response within the one-hour time frame?

State's Response: No change. Request one-hour acknowledgement of the receipt of request.

Q31. Training Page 18. Please define the required level of training. Does web-based training meet the requirements of the RFP? Can training be a separate line-item price in the response?

State's Response: No change. Web based training for software interface is acceptable to review all applicable parts of dashboard for users.

Q32. Page 18 – Contractors Responsibilities – Second Bullet. Please define interoperability. Does this mean interface with the proprietary GPS systems these manufacturers have or just with the vehicle or non-powered asset itself?

State's Response: No change. This is to ensure telematics devices provided by contract for powered assets is able to track and provide data from the automobile and large equipment manufacturers if applicable device is available. There is no requirement to interface with the proprietary GPS systems equipped in the vehicles or non-powered assets.

Q33. SECTION IV. INFORMATION FOR OFFERORS TO SUBMIT, 4.1.2 SPSAW Form. Would an ISO 27001 Certificate be sufficient to meet the SPSAQ?

State's Response: No change. No. Completion of the SPSAW form is a requirement of the solicitation. The ISO 27001 certificate may be attached if it is relevant to a response listed on the form, but it cannot be a substitution for the form.

Q34. 4.1.5 ADDITIONAL FEATURES & 4.2 PRICE PROPOSAL Section 4.2 states no pricing information should be included in the Technical Proposal, while Section 4.1.5 asks to include current costs for additional features and functions. Could the State please provide clarity if 4.1.5 pricing can be included in the Technical Proposal?

State's Response: *No change. As clarification, no pricing information related to the evaluated business proposal shall be included in the technical proposal. The pricing for additional/optional features and functions, which are not specific to the scope of this solicitation and the State may or may not take advantage of during the contract term, are not being evaluated as part of the business proposal.*

Q35. Section IV. Item number 1. Due to the large number of standard reports available in our proposed solution, will the State accept links to each sample report as well as within other responses in the Technical Proposal.

State's Response: *No change. Links to evaluated documents are HIGHLY discouraged because there is no guarantee that the evaluators computer system will permit access to the link in the document. Different government entities have different security requirements, and it is not possible to predict if a link will work for all evaluators. The Offeror is responsible for ensuring their offer is complete and failure to access evaluated information will have a strong negative effect on that evaluation.*

Under no circumstances will the State accept links to any contractual terms and conditions. All terms and conditions must be presented in the original offer for the State's consideration and evaluation.

Q36. Page 45, Warranty (Modified). Since some of the products the State is requesting in the Solicitation are sold by third parties, the third-party vendor does not offer the warranty requested in the Solicitation. Will the state substitute Clause 7B280-1 WARRANTY – STANDARD (JAN 2006) from the South Carolina Compendium of Standardized Clauses (version 2.0.2): “Contractor must provide the manufacturer’s standard written warranty upon delivery of product. Contractor warrants that the manufacturer will honor the standard written warranty provided.”

State's Response: *See Section VIIB “Warranty.”*

Q37. Many telematics vendors provide a simple plug and play device for light duty OBD-II vehicles- would the state be interested/willing to install these themselves, as it would be considerably less expensive? Can the vendor price this as an option?

State's Response: *No change. Only the devices listed in Attachment D are acceptable.*

Q38. Can you please provide any additional information on any potential third-party devices that may need to share the vehicle diagnostic port with the telematics device, such as a fueling system device?

State's Response: *No change. - No known devices to share VDP. No information available.*

Q39. As this is based on a 2019 QPL #5400015215, is there a process to add “approved equals” that meet all the other criteria of the solicitation.

State's Response: *No change. The QPL was established through a competitive process after many months of testing and evaluation and this solicitation timeline does not permit the testing and evaluation of additional equipment. No alternatives to the QPL will be accepted.*

Q40. Attachment D Within Attachment D, the Device and Software Application list for Geotab should read: Device – Geotab Software Application – MyGeotab

State's Response: *Attachment D has been updated to reflect this change.*

Q41. Vehicle Information. In addition to the provide VIN list, please provide Make, Model, and Year of the vehicles provided in the initial scope of the RFP.

State's Response: See Attachment B Amend 1. However, not every vehicle listed will have a device installed, and the State cannot guarantee device installation on equipment owned by political subdivisions.

Q42. Admin Fee. Is it acceptable to the State for the admin fee and reporting for Fleet Management services to be included in the current quarterly payment on the State mobility contract?

State's Response: No change. Each statewide term contract is separate from the others and requires independent reporting and payment of administrative fees.

Q43. Would the State please consider issuing an extension to the questions deadline to allow for complete review of the RFP documents?

State's Response: No change. The State provide an opportunity during the pre-proposal meeting to request additional time for questions. The one vendor who requested additional time was granted the time requested.

Exhibit D

	Rfx Number	5400026434				
			SAMSARA INC		DELOITTE CONSULTING LLP	FLEET ANALYTICS LLC
			5500090492		5500090532	5500090540
			Device: Samsara		GeoTab	GeoTab
			Software: Samsara		MyGeoTab	MyGeoTab
			Discussions			
			Powered Asset	\$13.81	\$14.85	\$8.00
			Non-Powered Asset	\$5.82	\$7.00	\$8.00
			Total	\$19.63	\$21.85	\$16.00
			Points Awarded	16	15	20
			Points Available	20		
			Lowest Price	\$16.00		
			LOW \$ / NEXT LOW(S) \$ x POINTS ASSIGNED = PRICE POINTS AWARDED			

Exhibit E

	Cal/Amp	Deloitte	Element	Fleet Analytics	GEOTAB	Samsara	Verizon
Panel Evaluation Points Awarded	345	330	291	275	386	377	284
Cost Evaluation Points Awarded	75	75	40	100	65	80	50
Total Points Awarded	420	405	331	375	451	457	334

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

Intent to Award

Posting Date: July 11, 2024

Solicitation: 5400026434
Description: STC TELEMATICS
Agency: Statewide Term Contract

The State intends to award contract(s) noted below. Unless otherwise suspended or canceled, this document becomes the final Statement of Award effective **July 23, 2024**. 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.

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 - MMO: Any protest must be addressed to the Chief Procurement Officer, Materials Management Office, and submitted in writing

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

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

Contract Number: 4400035067
Awarded To: SAMSARA INC (7000258779)
1 DE HARO STREET
SAN FRANCISCO CA 94103

Initial Contract Period: July 23, 2024 through July 22, 2025

Maximum Contract Period: July 23, 2024 through July 22, 2029

Item	Description	Unit Price
00001	Powered Asset Monthly Price	\$13.81
00002	Non-Powered Asset Monthly Price	\$5.82

Procurement Officer
MICHAEL SPEAKMON, CPPO

John E. Schmidt, III
803.348.2984
John@SchmidtCopeland.com



Melissa J. Copeland
803.309.4686
Missy@SchmidtCopeland.com

August 16, 2024

Via email to jswhite@mmo.sc.gov

John St. C. White
Materials Management Officer and State Engineer
Division of Procurement Services
SC State Fiscal Accountability Authority
1201 Main Street, Suite 600
Columbia, SC 29201

Re: Samsara Inc.'s Response to Bid Protest of Geotab USA, Inc., Under Solicitation
No. 5400026434

Dear Mr. White:

Samsara Inc. ("Samsara") through its undersigned counsel, hereby responds to Geotab USA, Inc.'s ("Geotab") protest, dated July 26, 2024, challenging the State of South Carolina's award of Solicitation No. 5400026434 to Samsara.

BACKGROUND

In 2015, the State's legislative body revised the Motor Vehicle Management Act ("MVMA") to require State Fleet Management ("SFM") to develop and implement a comprehensive State Fleet Management Program. The objectives prescribed by the MVMA are intended to achieve a more cost-effective and efficient management of the Statewide Fleet. The State of South Carolina operates a mixed-use and mixed-manufacturer Statewide Fleet of over 10,000 motor vehicles. Of the 10,000 motor vehicles, approximately 3,200 comprise the State Fleet Management's Leased Fleet. The Leased Fleet includes multiple classes of motor vehicles ranging from sedans to Class 4-chassis vehicles. The remaining estimated 6,800 motor vehicles are owned by state agencies. Additionally, all counties, municipalities, school districts, public service or special purpose districts (collectively referred to as political subdivisions) may utilize this contract to equip fleets that are not a part of the Statewide Fleet.

Solicitation No. 5400026434, STC Telematics Statewide Term Contract ("RFP") is designed to allow the State to implement a comprehensive statewide aftermarket telematics solution that will be utilized primarily by the central fleet management body, the Department of Administration's State Fleet Management.

A review of the scoring shows perfectly logical and appropriate scoring justifications from the materials vendors presented in their proposals. Geotab's argument ignores the many positive and relevant comments about the Samsara proposal, and several negative comments about Geotab's proposal that were fully justified. And as we show, all of the matters considered by evaluators, drawn from the proposals presented, are appropriate given the RFP's breadth in describing the factors to be evaluated.

SUMMARY OF ARGUMENT

Geotab's protest merely disputes the reasonableness of the independent evaluators' scoring of the two subjective award criteria at issue in this RFP process: (1) the offeror's technical proposal; and (2) offeror qualifications and experience. The protest makes no allegation of bias and reveals no impropriety. Instead, contrary to Geotab's allegations, there was no error with the RFP process. Geotab's allegations completely disregard the subjective judgments involved in evaluating these criteria, as well as the discretion evaluators are afforded when assessing how offerors' proposals will serve the particular needs and interests of the State. Geotab also ignores that the State alone, through the evaluators, determines what is in the State's best interest.

"The South Carolina Procurement Review Panel has stated that arguments that an offeror's proposal is superior to the others is fruitless and without merit since the determination of what is most advantageous to the State can only be determined by the State." *Carolina Time Parking Group*, 2024 SC CPO LEXIS 34. Geotab's claim is essentially a blanket assertion that it is "superior," (erroneously treating the subjective scoring criteria as objective) and any scoring to the contrary is unreasonable. It is well established that this is insufficient to sustain a protest. *Id.*

Perhaps recognizing the weaknesses of its unreasonable evaluation claims, Geotab attempts another argument: that the State applied unstated criteria when evaluating the qualifications factor¹. But this too is meritless. It ignores the significant breadth of the subjective evaluation criteria as set forth in the RFP, and once again ignores the evaluators' discretion to determine what is most advantageous for the State. It also attempts to ascribe meaning to written evaluator comments that did not clearly factor into the evaluator's score. Additionally, Geotab fails to establish that any of the alleged defects it identifies in its protest had any impact on the outcome of the award. That alone is fatal to Geotab's claim.

¹ Geotab's protest asserts that Evaluator 5 "considered numerous additional factors" (Protest, page 10) but does not detail them, other than asserting "American made" and "veteran support," which we address. This allegation is impermissibly vague and may not be considered to the extent that it exceeds those specific allegations addressed herein. A protest must be stated with "enough particularity to give notice of the issues to be decided." *S.C. Code Ann* § 11-35-4210(2).

In all, the record supports that the evaluators conducted a thorough and fair RFP process, evaluating only the information contained in the proposals. Geotab's protest amounts to complaints about its "very good," but less than "perfect" scores from the majority of the evaluators. Geotab simply wanted better scores for itself or for Samsara to receive lower scores. This cannot sustain a protest. For these reasons, Geotab's protest should be dismissed and the award to Samsara should stand.

ARGUMENT

A. The Evaluators acted appropriately in scoring the proposals under this RFP.

In this RFP for telematics services, there were five evaluators. In addition to considering proposed price, evaluators scored proposals on two broad, subjective evaluation criteria: "Technical Proposal" and "Experience and Qualifications." The evaluators reviewed and evaluated only the content of the proposals in scoring these subjective factors. Geotab makes no allegation to the contrary. Geotab also makes no allegation of bias or favoritism.

The scoring record shows that Geotab received excellent scores on the two subjective factors slightly outscoring Samsara 269 to 264 on the "Technical Proposal" factor, and outscoring Samsara 117 to 114 on the "Experience and Qualifications" factor. Ultimately, Samsara prevailed overall by virtue of its much better pricing as evaluated by the objective standard traditionally used by the State. Because of its similarly excellent evaluation in subjective criteria, Samsara had very little ground to make up in the pricing to prevail.

1. Geotab's disagreement with the subjective scores of the evaluator is not a sustainable ground of protest.

Geotab's first protest issue is a mere disagreement with scoring. In its argument, Geotab cherry picks certain comments among a few evaluators to make its case, but ignores many other relevant evaluator comments that plainly justify the subjective scoring. Geotab complains only about Evaluators 1, 3 and 5.

Evaluator #1 scored Samsara's proposal slightly higher than Geotab's proposal. In complaining about Evaluator #1's scoring, Geotab focuses on the fact that this evaluator made no negative comments about Geotab's proposal, but it ignores that Evaluator #1 was likewise enthusiastic about specific details concerning Samsara's proposal, with no stated criticisms. The scoring differential between Samsara and Geotab is a minor 3 points. Geotab ignores that this evaluator gave Geotab an almost perfect score of over 96% of available points for the subjective factors.

In complaining about Evaluator #3's scoring, Geotab argues that there was no rational basis for the evaluator to "deduct points" from both the technical proposal and qualifications factors because the evaluator had "no negative comments" about Geotab's qualifications. First, contrary to

Geotab's assertion, the evaluator's negative comments do indeed relate to Geotab's qualifications. As noted, the "Experience and Qualifications" evaluation criteria is both broad and subjective, as detailed more fully below. The evaluator's stated concerns that Geotab's system "may be complex resulting in longer deployment and implementation," and that "I worry about the learning curve for users" of the complex Geotab system may well play into an assessment of the vendor's qualifications and whether those qualifications are a good fit for the State's workforce and operations. These comments also appear under the evaluator's notes on Geotab's qualifications. Second, Geotab does not and cannot point to an RFP requirement or other authority to support its assertion that the absence of negative comments entitles an offeror to a perfect score. If this were right, Samsara should also have received a perfect score from Evaluator #3 on the Experience and Qualifications factor, as the evaluator had no negative comments at all for Samsara's proposal on that factor. And yet, Samsara received a lower score than Geotab on that criteria.

The evaluator was privileged to use his judgment in scoring, and did so, giving Geotab excellent, but not perfect scores. Indeed, Evaluator # 3 actually gave Geotab slightly higher scores than he gave to Samsara in each category. Thus, Geotab's true complaint about Evaluator #3 is that he didn't score Samsara worse than he did. But no reason or analysis supports that complaint. Interestingly, an evaluator that Geotab does not complain about – Evaluator # 4 – gave the same Technical Proposal score to Samsara that Evaluator # 3 gave, about which Geotab does complain. Geotab fails to explain the inconsistency of its argument – why the same score was appropriate for one evaluator to give, but not for the other.

With Evaluator #5, Geotab is incredulous that this evaluator scored Samsara slightly higher than Geotab. In evaluating the Technical Proposals, Evaluator #5 noted that Geotab's offering was "too complex," and expressed concerns about Geotab's commitment to the customer and support in evaluating Experience and Qualifications. Geotab takes issue with these perfectly appropriate rationales for Evaluator #5's scoring. By contrast, Evaluator #5 had no negative comments at all for Samsara's proposal on the two subjective factors. In fact, Evaluator #5 had many superlative comments about the Samsara proposal on these factors, stating that they "loved" many aspects of it. By contrast, this evaluator used more muted praise for Geotab's proposal, in addition to the concerns expressed regarding Geotab's attentiveness to the customer and level of service.

The CPO has held that even evaluator comments that are inconsistent with scoring (which are not evidenced here) are not sufficient evidence to sustain a protest that the evaluation was arbitrary and capricious. *See Protest of MAXIMUS*, 2011 SC CPO LEXIS 16. Geotab's complaint is that it should have been scored some degree higher than Samsara on the subjective criteria - but that is exactly what happened. Hence, Geotab's true complaint is about nothing more than the degree of such difference – a matter left to the sole discretion of evaluators by law. Under the abuse of discretion standard, even if the CPO disagrees with the evaluators' scoring conclusions, those conclusions must remain undisturbed unless there is no evidence at all to support them. *Goodson v. Am. Bankers Ins. Co. of Fla.*, 295 S.C. 400, 402, 368 S.E.2d 687, 689 (Ct. App. 1988) (An abuse of discretion arises when a decision is controlled by an error of law or when it is based upon factual

conclusions, is without evidentiary support.) Likewise, an arbitrary or capricious conclusion is one without any rational basis. *Trimmier v. S.C. Dep't of Labor*, 405 S.C. 239, 746 S.E.2d 491 (Ct. App. 2013). Here, all of the evaluators' scoring is supported by their notes, which contain evidence and rational conclusions.

2. Geotab's assertion that one evaluator considered an "unstated evaluation criteria" is factually incorrect.

Geotab's second protest issue is that one evaluator (Evaluator #5) considered "unstated evaluation criteria," namely that Samsara is an American company and that Samsara's company ethos includes support for veterans.² But the RFP shows that the subjective scoring criteria, "Qualifications and Experience" (25 points) permitted such consideration.

The RFP described the "Experience and Qualifications" evaluation factor as follows:

2. Qualifications and Experience (0-25 points)

4.1.3 and 4.1.4 of Technical Proposal

- Demonstrated ability to provide its solution and services
- Offeror's degree of compatibility with fleet management software, ESRI, and OEM-equipped telematics devices.
- Proportion of services provided within the Continental United States

RFP, Amendment 1, at p. 28.

Section 4.1.3 which is referenced under the above-quoted evaluation factor, stated as follows:

4.1.3 QUALIFICATIONS

NOTE: The requirements listed here are separate from the requirements listed in Section V, Qualifications. Do NOT include any financial data about your company in the Technical Proposal.

A general description of your business including, but not limited to the following:

² It is not clear, but Geotab also appears to assert that the evaluators' assessment of each vendor's level of service and support are "unstated evaluation criteria." Geotab attempts to distinguish its *ability* to provide services from the evaluators' perceived (based on information in the proposal) likelihood that Geotab would carry through with that ability for a smaller customer saying only the former should be considered. If so, this is absurd. Geotab is simply disappointed in the evaluators' assessment of their ability to provide services. As we discuss below, it is quite common for consumers to raise concerns that a company is too large to provide attentive service to smaller customers.

- a. General description of the company.
- b. Experience and qualifications of the company and its ability to perform on this, and other contracts, of similar size and scope.
- c. Number of years' experience in providing the requested solution with testimonies from former and current customers.
- d. Any other information you feel would give the evaluation panel insight into your qualifications and experience.

RFP, Amendment 1, at p. 23³. Section 4.1.3 shows the breadth of the considerations evaluated by the terms of the RFP – *e.g.*, general description of the company and “any other information” offered by the vendor that the vendor felt gave insight into qualifications and experience.

As part of its response to Section 4.1.3.(d), Samsara stated as follows:

Samsara is a Publicly Listed American Company

- Samsara is a proudly American company. By choosing Samsara, the State of South Carolina can buy American and support American jobs.
- Samsara also actively supports our veterans, celebrating and assisting them throughout the year. Samsara has introduced a new leave policy providing up to 12 weeks of full pay for employees called away on reserve duty. Samsara's commitment extends beyond legal requirements, offering military differential pay for up to 90 days to ensure employees on military duty receive their full Samsara pay during this period.
- Public companies are subject to more stringent regulations and oversight by entities like the SEC, which can lead to higher transparency and potentially more robust security practices due to the need for regular disclosures and adherence to strict regulatory standards.

Samsara Proposal, pp. 38-39.

³ Note if Geotab objected to any of the evaluation criteria, it was required to protest such objection timely, before submission of proposals. *S.C. Code Ann. § 11-35-4210*.

Geotab objects to the fact that Evaluator #5 noted that Samsara is an American company (“American Made”) and Samsara’s company commitment to veterans (“Veteran support policy”). But Experience and Qualifications factor expressly permitted evaluators to consider the “general description of the company” and its “business,” as well as “*Any other information you feel would give the evaluation panel insight into your qualifications and experience.*” Regardless of Geotab’s own beliefs, Samsara certainly believes that its commitment to veterans is an integral part of its company and business and contributes to its qualifications and experience. Because these subjective factors are so broadly defined in the RFP, and because there is no allegation that evaluators considered information outside the proposals, this argument is also plainly meritless. Indeed, as we show below, specific RFP language actually called for the consideration of matters about which Geotab complains.

The fact that Samsara is a U.S. company with U.S.-based operations is likewise of value and the RFP called for this information as a matter for consideration.⁴

Here, Geotab’s protest incorrectly asserts:

But even ignoring the application of unstated evaluation criteria, the assessment was incorrect. *Samsara made no representation in its proposal that its products were made in America*, as Evaluator 5 concluded. Instead, Samsara only represented that it was an American company, based in San Francisco. Exhibit 2 at 38–39. As a result, Evaluator 5’s conclusion here was clearly erroneous in addition to being the result of unstated evaluation criteria.

Protest at p. 11 (emphasis added). To the contrary, Samsara’s proposal states that “[b]y choosing Samsara, the State of South Carolina can buy American and support American jobs.” *Samsara Proposal*, p. 39. As Geotab’s protest recognizes, Samsara is an American company, based in San Francisco. Evaluator #5 appropriately read, commented, and scored Samsara’s protest under the appropriate evaluation criteria.

B. Geotab’s Protest should be dismissed as it fails to raise any sustainable grounds of protest.

The Panel has stated numerous times that so long as the evaluators follow the requirements of the Procurement Code and the RFP, fairly consider all proposals, and are not actually biased, the Panel will not re-evaluate proposals and will not substitute its judgment for the judgment of the evaluators. *Carolina Time Parking Group*, 2024 SC CPO LEXIS 34. The burden of proof is

⁴ RFP Evaluation Factor 2 “Qualifications and Experience” included “Proportion of services provided within the Continental United States.” *RFP, Amendment 1*, p. 28

on the protesting party to demonstrate by a preponderance of the evidence that the determination made by the evaluators is clearly erroneous, arbitrary, capricious, or contrary to law. *Id.*

It is well-established that a protest such as this should be dismissed outright.

The Panel will not re-evaluate and compare the professional qualifications of the offerors, and thus second guess the decision of the evaluators... The determination of what is most advantageous to the State can only be determined by the State. An offeror's claim to be superior to other offerors is fruitless. *Protest of Coastal Carolina University, Department of Health & Environmental Control*, 2013 SC CPO LEXIS (citing *First Sun, supra*, and *In Re: Protest of Value Options, Magellan Behavioral Health & Blue Cross and Blue Shield*, Panel Case No. 2001-7, n.7.) As the Panel had stated in previous cases, "the Panel will not substitute its judgment for the judgment of the evaluators, or disturb their findings so long as the evaluators follow the requirements of the Procurement Code and the RFP, fairly consider all proposals, and are not actually biased."

Appeal by First Sun EAP Alliance, Inc., 1994 SC CPO LEXIS 15, citing *Panel Case No. 1992-16, In re: Protest of Coastal Rapid Public Transit Authority*. Geotab's allegations boil down to a disagreement with the evaluators' judgment and is a request to the CPO to second guess them, impermissibly.

In the case of *In The Matter Of: Protest Building Technology Associates*, 2013 SC CPO LEXIS 14, the Panel dismissed a very similar protest, stating:

BTA's protest focuses on BTA's capabilities and includes a brochure extolling those capabilities with respect to roofs. In short, BTA's protest is simply a statement that BTA is better qualified than the selected firms are. The selected firms possess a certificate of authorization to provide engineering services in this state, and have successfully provided such services, including roofing/waterproofing services to state agencies in the past. BTA's opinion of its own abilities vis-a-vis the selected firms does not form a basis of protest. BTA's protest does not allege any violation of the Procurement Code by the College and its selection committee, nor does it request any relief. BTA has failed to state a claim on which relief can be granted." *Protest of Travelsigns*, Panel Case No. 1995-8; *Protest of First Sun EAP Alliance, Inc.*, Panel Case No. 1994-11 ("The Panel will not re-evaluate and compare the professional

qualifications of the offerors, and thus second guess the decision of the evaluators.”); and *Protest of Coastal Rapid Public Transit Authority*, Panel Case No. 1992-16.

In The Matter Of: Protest Building Technology Associates, 2013 SC CPO LEXIS 14. For these reasons, the protest should be dismissed.

Here, Geotab complains about its very good, but less than perfect scores from the majority of the evaluators. In any RFP, a losing vendor can complain about the evaluators who didn't always score them as well as they would have liked. That is no reason to sustain a protest. Any vendor can cherry pick their favorite scores and evaluators to achieve a better result. But the RFP and the law prohibit that approach. No vendor is entitled to a perfect score, such that evaluator's discretion is entirely replaced by a "perfect score" mandate. *See Protest of Heritage Community Services*, 2012 SC CPO LEXIS 56, (CPO properly declined to override the evaluators based on the losing vendor's assertion that it should have received a perfect score on one allegedly "objective" evaluation criterion, "Number of counties in the State where services will be provided" because it is improper for the CPO to substitute his judgment for that of the evaluators.) But that is the crux of Geotab's claim. Geotab essentially argues that it is entitled to a perfect score based on its qualifications, but that approach attempts to entirely replace the evaluator's discretion, which is legally impermissible.

It is well-known and understood that evaluators are selected for their differing viewpoints and perspectives, which are valued. *Matter of HUB Midwest Ltd*, 2023 SC CPO LEXIS 16 ("Evaluators are often experts in their field and bring different perspectives to the evaluation process. The significance an evaluator attributes to particular assertions in a proposal is at their discretion. This is evidence of the subjective nature of the evaluation process so long as they have a reasonable, rational basis and are not actually biased. There is a reasonable and rational basis for the evaluator's analysis, and there is no evidence of actual bias.")

This evaluation was not performed under a "consensus scoring" system. Therefore, it would be unusual for all evaluators to view proposals exactly the same. Instead, they each bring their own perspective to the evaluation. Here, as the RFP provided, all evaluators scored independently and the result was that Samsara's proposal was scored best overall. Geotab focuses on three evaluators only. Naturally, Samsara could likewise attempt to second guess the other evaluators. But that is not permitted, just as Geotab's claim is not permitted. Geotab points to no bias or impropriety on the part of the evaluators, and so its protest should be dismissed outright and denied.

Here, the items considered in scoring and objected to by Geotab are firmly included as part of Samsara's general description of its business. The fact that a company supports veterans is information describing the company's values, as is called for. Further, the RFP expressly invited "Any other information you feel would give the evaluation panel insight into your qualifications and experience" and as a part of 4.1.3, provided that could be scored. Like commitments to minority hiring or DBE goals, a company's commitment to supporting veterans may be an

important part of its overall business strategy and experience. The subjective nature of this factor is also notable. The type of information that will give an evaluator “insight” into an offeror’s “qualifications and experience,” inherently lends itself to subjective judgments. Geotab seemingly acknowledges this, but nevertheless insists that there “are objective metrics by which an offeror can be assessed,” *Protest* at 8. This statement ignores the subjective aspects of the evaluation criteria and the evaluation panel’s discretion to weigh objective and subjective considerations. Geotab’s arguments on this point are inapposite for yet another reason – there is no evidence that any of Geotab’s allegations had any material effect on scoring. The burden is on Geotab to show that any true issues of evaluation actually made a difference in the outcome. *Appeal by Excent Corp.*, 2013 SC CPO LEXIS 23.

Many of the details supporting the evaluators’ scoring are set forth above, and are not repeated here. Evaluators are selected to use their judgment. *Matter of HUB Midwest Ltd, supra*. In ordinary dealings, many consumers consider whether the vendor they are considering would provide them adequate attention, and that sometimes, a larger vendor may be less responsive than a smaller one. This is a common and appropriate consideration. Geotab mischaracterizes this common consideration among consumers as “perverse” and “irrational.” While others may not share or emphasize that consideration, some do, and that is why different evaluators with different perspectives are desirable. Not surprisingly, Geotab twists this elementary logic to argue that it is being “penalized” for being “too good.” But nothing supports that argument. Instead, the evaluators applied their judgment as they would to their everyday experience. Additionally, as the panel noted in *Protest of Travelsigns*, Panel Case No. 1995-8, “the variation of Evaluators’ scores alone is only proof of the subjective nature of the evaluation aspect of the RFP Process.” (emphasis added). Subjectivity is the hallmark of the RFP process and does not equate with arbitrariness. *Santee Wateree Regional Transportation Authority*, Panel Case No. 2000-5.

Geotab’s claim that the largest competitor is the best and must always receive a perfect score is simply wrong and must be rejected. Geotab’s approach is purely substituting Geotab’s judgment for that of the evaluators, which is prohibited.

In reviewing the appeal of *Protest of Value Options, Magellan Behavioral Health & Blue Cross and Blue Shield; Appeal by Value Options, Magellan Behavioral Health & Blue Cross and Blue Shield*, Panel Case 2001-7, the Procurement Review Panel pointed to the following in setting the standard of proof necessary to overturn procurement decisions:

The burden of proof is on the appellants to demonstrate by a preponderance of the evidence that the determination made by the procurement officer is clearly erroneous, arbitrary, capricious or contrary to law. To prove arbitrary and capricious conduct such as will permit the court to overturn a procurement decision, the aggrieved bidder must demonstrate a lack of reasonable or rational basis for the agency decision or subjective bad faith on the part of

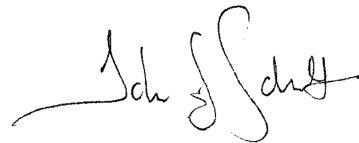
the procuring officer or clear and prejudicial violation of relevant statutes and regulations which would be tantamount to a lack of reasonable or rational basis.

CONCLUSION

Geotab's protest simply quibbles with the scoring and Geotab attempts to substitute its judgment for that of the evaluators – a practice that has never been allowed. All of the evaluators properly scored the proposals under the stated evaluation criteria. Geotab's argument that Evaluator #5 applied an unstated evaluation criteria is objectively false. The RFP advised that Qualifications and Experience would be scored based on the responses to Section 4.1.3. and 4.1.4. and that is exactly what the evaluators did as shown by the scoresheets. Evaluator #5 appropriately considered Samsara's statement that regarding "buy American" and that the company "supports our Veterans."

Ultimately, there is no evidence of any improper scoring of any factors other than the factors set forth in the RFP and the protest should be dismissed under the long-standing precedent set forth above.

Very truly yours,



John E. Schmidt, III

cc: Jamie Telfer
jamietelfer@geotab.com

Manton Grier
mgrier@ogc.sc.gov

Michael Speakmon
mspeakmon@mmo.sc.gov

EVALUATOR SCORE SHEET

STC for Telematics

RFP # 5400026434

Evaluator's Name: (Please Print) Roosevelt Barnwell

Evaluator's Number: 1
(OSP will assign)

Offeror's Name: (Please Print) GEOTAB

EVALUATION CRITERIA:	POINTS ALLOWED	POINTS AWARDED
3. TECHNICAL PROPOSAL Section IV. Information for Offerors to Submit, Section 4.1 & 4.2	55	<u>54</u>
4. QUALIFICATIONS AND EXPERIENCE Section IV. Information for Offerors to Submit, Section 4.1.3	25	<u>23</u>
	Possible Points 80	
	<u>TOTAL POINTS AWARDED</u>	<u>77</u>

Evaluator's Signature:  Date: 4/9/24

EVALUATOR EXPLANATION SUMMARY
STC for Telematics
RFP # 5400026434

Roosevelt Barnwell

1

Evaluator's Name: (Please Print) _____

Evaluator's Number: _____
(OSP will assign)

GEOTAB

Offeror's Name: (Please Print) _____

In an effort to support my evaluation of this RFP, I hereby provide a brief explanation for each score given to each evaluation criteria.

2. TECHNICAL PROPOSAL

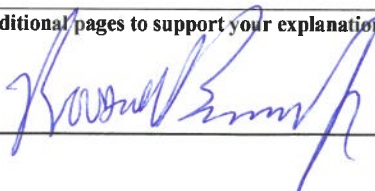
GEOTAB provided an excellent product for telematics solution for powered and non-powered assets. The proposal provided robust warranty and scalable plans to address additional telematics preference or needs via Active Track and Pro-Plus Plan. Platforms are very customizable and there is direct relationship with GEOTAB. RFP gave extensive details on capability of products and offerings for dynamic fleet telematics requirements.

2. QUALIFICATIONS AND EXPERIENCE

GEOTAB is very qualified for fleet and more so government fleet with major customers like U.S. Homeland Security, Maryland Department of Transportation and contracts with many other states, governmental entities, and transportation departments. GEOTAB is well experienced for fleet telematics needs with bolstered OEM relationships and responsive customer service.

NOTE: If needed, please provide additional pages to support your explanation.

Evaluator's Signature: _____



Date: _____

4/9/24

EVALUATOR SCORE SHEET


**STC for Telematics
RFP # 5400026434**

Evaluator's Name: (Please Print) Roosevelt Barnwell

Evaluator's Number: 1
(OSP will assign)

Offeror's Name: (Please Print) Samsara

EVALUATION CRITERIA:	POINTS ALLOWED	POINTS AWARDED
1. TECHNICAL PROPOSAL Section IV. Information for Offerors to Submit, Section 4.1 & 4.2	55	<u>55</u>
2. QUALIFICATIONS AND EXPERIENCE Section IV. Information for Offerors to Submit, Section 4.1.3	25	<u>25</u>
	Possible Points 80	
	<u>TOTAL POINTS AWARDED</u>	<u>80</u>

Evaluator's Signature:  **Date:** 4/9/24

EVALUATOR EXPLANATION SUMMARY
STC for Telematics
RFP # 5400026434

Evaluator's Name: (Please Print) Roosevelt Barnwell

Evaluator's Number: 1
(OSP will assign)

Offeror's Name: (Please Print) Samsara

In an effort to support my evaluation of this RFP, I hereby provide a brief explanation for each score given to each evaluation criteria.

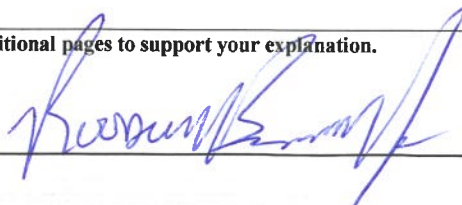
1. TECHNICAL PROPOSAL

Samara was able to provide a wholistic and robust telematics offering that had several additional features that would service the needs of fleet. There were dual simmed enabled devices for powered- assets with Wi-Fi capability. To support device and contract deployment, in-person and virtual training on demand were offered. The telematics product allows for expandability and scalability by features such as Risk Zone, 2-way driver messaging, mobile app, RFID fob feature, Bluetooth device capability and post-mortem analysis on any transactions during the contract. Devices have 30-day backup storage as well as good warranty.

2. QUALIFICATIONS AND EXPERIENCE

Samsara referenced experience with Chevin with city of Boston and a wide range of customers in several industries that operate fleet as a part of its business model. There was also experience with other governmental entities, i.e., the state of New York with vehicles and equipment and cites of Denver and Fort Lauderdale to name a few. Auxiliary services and information provided qualify as robust offering. Samsara also has partnerships with a wide variety of OEMs that are essential for use by UGUs.

NOTE: If needed, please provide additional pages to support your explanation.

Evaluator's Signature:  **Date:** 4/9/29

EVALUATOR SCORE SHEET

**STC for Telematics
RFP # 5400026434**

Evaluator's Name: (Please Print) Thomas Howie

Evaluator's Number: 5
(OSP will assign)

Offeror's Name: (Please Print) Geotab

EVALUATION CRITERIA:	POINTS ALLOWED	POINTS AWARDED
1. TECHNICAL PROPOSAL Section IV. Information for Offerors to Submit, Section 4.1 & 4.2	55	<u>53</u>
2. QUALIFICATIONS AND EXPERIENCE Section IV. Information for Offerors to Submit, Section 4.1.3	25	<u>22</u>
	Possible Points 80	
	<u>TOTAL POINTS AWARDED</u>	<u>75</u>

Evaluator's Signature: Thomas Howie **Date:** 4.9.24

EVALUATOR EXPLANATION SUMMARY

STC for Telematics

RFP # 5400026434

Evaluator's Name: (Please Print) Thomas Howie

Evaluator's Number: 5
(OSP will assign)

Offeror's Name: (Please Print) Geotab

In an effort to support my evaluation of this RFP, I hereby provide a brief explanation for each score given to each evaluation criteria.

1. TECHNICAL PROPOSAL

Vertically integrated -
Robust

Some may argue the industry standard
3rd time in this RFP I've seen the tech.

Very high quality
Checks all boxes + meets needs

Perhaps too complex - too many options?
"Geotab = Microsoft + Samsara = Apple"

2. QUALIFICATIONS AND EXPERIENCE

HUGE government and other clients
would certainly understand SFM + SC needs and
challenges

Concern that State of SC would just be another customer - not
a big fish to them - would we get the same level of service
they provide larger states + gov't entities?

NOTE: If needed, please provide additional pages to support your explanation.

Evaluator's Signature: Thomas Howie Date: 4.9.24

EVALUATOR SCORE SHEET

STC for Telematics

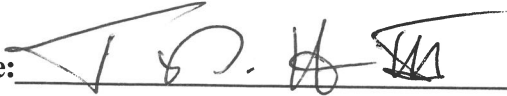
RFP # 5400026434

Evaluator's Name: (Please Print) Thomas Hawie

Evaluator's Number: 5
(OSP will assign)

Offeror's Name: (Please Print) Samsara

EVALUATION CRITERIA:	POINTS ALLOWED	POINTS AWARDED
1. TECHNICAL PROPOSAL Section IV. Information for Offerors to Submit, Section 4.1 & 4.2	55	<u>55</u>
2. QUALIFICATIONS AND EXPERIENCE Section IV. Information for Offerors to Submit, Section 4.1.3	25	<u>25</u>
	Possible Points 80	
	<u>TOTAL POINTS AWARDED</u>	<u>80</u>

Evaluator's Signature: 

Date: 4/9/2024

EVALUATOR EXPLANATION SUMMARY
STC for Telematics
RFP # 5400026434

Evaluator's Name: (Please Print) Thomas Howie

Evaluator's Number: 5
(OSP will assign)

Offeror's Name: (Please Print) Samsara

In an effort to support my evaluation of this RFP, I hereby provide a brief explanation for each score given to each evaluation criteria.

1. TECHNICAL PROPOSAL

- Vertical integration - makes own device^{*} - both devices
- Expandable - Easy to install
- Robust device - Love open APIs^{*}
- 3-5 year unpowered - Nice - customizable - easy battery replace
- Interfaces w/ FleetWave + Assetworks - Agile Fleet (Love ability + history of working w/ other systems)
- Strong Up time
- Love the hardware + ease of use
- Checks every box needed and then some
- Love the vertical integration

2. QUALIFICATIONS AND EXPERIENCE

- State of NY + NJ - both vehicles + equipment - Numerous other cities + Counties - multiple years
- No outsourcing - of equipment!!! (Tractor)
- American Made! Veteran support policy.
- Love - Rate of updates - Dual-SIM - Verizon + AT&T
- Bob Williams - State of Tenn - Very Smart + well respected
- Outstanding Qualifications + Experience

NOTE: If needed, please provide additional pages to support your explanation.

Evaluator's Signature: [Signature]

Date: 4/9/2024

EVALUATOR EXPLANATION SUMMARY
STC for Telematics
RFP # 5400026434

Evaluator's Name: (Please Print) ERIC ZINGMARK

Evaluator's Number: 3
(OSP will assign)

Offeror's Name: (Please Print) Geo TAB

In an effort to support my evaluation of this RFP, I hereby provide a brief explanation for each score given to each evaluation criteria.


1. TECHNICAL PROPOSAL

- Wide range of customizable reports & dashboards.
- Prioritization on DATA & SECURITY.
- Highly scalable
 - Capable of handling all fleet sizes.
- Should be seamless Integration.

2. QUALIFICATIONS AND EXPERIENCE

- More Robust, but I worry about the learning curve for users.
- May be complex resulting in longer deployment and implementation.
- Advanced features
- Years of experience with diverse client portfolio.
- Very innovative.

NOTE: If needed, please provide additional pages to support your explanation.

Evaluator's Signature:  Date: 4.9.24

EVALUATOR SCORE SHEET

STC for Telematics


RFP # 5400026434

Evaluator's Name: (Please Print) ERIC ZINGMAREK

Evaluator's Number: 3
(OSP will assign)

Offeror's Name: (Please Print) Geo Tab

EVALUATION CRITERIA:	POINTS ALLOWED	POINTS AWARDED
1. TECHNICAL PROPOSAL Section IV. Information for Offerors to Submit, Section 4.1 & 4.2	55	<u>52</u>
2. QUALIFICATIONS AND EXPERIENCE Section IV. Information for Offerors to Submit, Section 4.1.3	25	<u>22</u>
	Possible Points 80	
	<u>TOTAL POINTS AWARDED</u>	<u>74</u>

Evaluator's Signature: 

Date: 4.9.24

EVALUATOR EXPLANATION SUMMARY
STC for Telematics
RFP # 5400026434

Evaluator's Name: (Please Print) ERIC ZINGMALL

Evaluator's Number: 3
(OSP will assign)

Offeror's Name: (Please Print) SAMSARA

In an effort to support my evaluation of this RFP, I hereby provide a brief explanation for each score given to each evaluation criteria.

1. TECHNICAL PROPOSAL

- Good Dashboard seems user friendly and simple, but limited customizations.
- Integrated with Fleetwave.
- Battery doesn't seem to last as long, but seems easy enough to replace.
- Seems Easy to upfit the fleet

2. QUALIFICATIONS AND EXPERIENCE

- Working with state governments already is a plus
- Company continues to grow
 - Testament to their expertise & customer satisfaction.
- Wealth of experience.

NOTE: If needed, please provide additional pages to support your explanation.

Evaluator's Signature:  Date: 4.9.24

EVALUATOR SCORE SHEET

STC for Telematics

RFP # 5400026434


Evaluator's Name: (Please Print) ERIC ZINGMALK

Evaluator's Number: 3

(OSP will assign)

Offeror's Name: (Please Print) SAM SARVA

EVALUATION CRITERIA:	POINTS ALLOWED	POINTS AWARDED
1. TECHNICAL PROPOSAL Section IV. Information for Offerors to Submit, Section 4.1 & 4.2	55	<u>50</u>
2. QUALIFICATIONS AND EXPERIENCE Section IV. Information for Offerors to Submit, Section 4.1.3	25	<u>20</u>
	Possible Points 80	
	<u>TOTAL POINTS AWARDED</u>	<u>70</u>

Evaluator's Signature:  **Date:** 4.9.24