

**State of Nebraska**  
**REQUEST FOR PROPOSAL FOR**  
**CONTRACTUAL SERVICES FORM**

RETURN TO:  
 NE DEPT OF CORRECTIONAL  
 SERVICES  
 ATTN: Peggy Arp  
 FOLSOM & W. PROSPECTOR PLACE  
 P.O. BOX 94661 (68509-4661)  
 LINCOLN, NE 68522  
 TELEPHONE: (402) 479-5779

SOLICITATION NUMBER	RELEASE DATE
<b>RFP 79765-O3</b>	<b>May 1, 2015</b>
OPENING DATE AND TIME	PROCUREMENT CONTACT
<b>June 1, 2015 2:00 p.m. Central Time</b>	<b>Peggy Arp</b>

This form is part of the specification package and must be signed in ink and returned, along with proposal documents, by the opening date and time specified.

**PLEASE READ CAREFULLY!**

**SCOPE OF SERVICE**

The State of Nebraska, Department of Correctional Services, is issuing this Request for Proposal, RFP Number 79765-O3 for the purpose of selecting a qualified Contractor(s) to provide medical testing and drug testing.

Written questions are due no later than May 14, 2015, and should be submitted via e-mail to [peggy.arp@nebraska.gov](mailto:peggy.arp@nebraska.gov). Written questions may also be sent by facsimile to (402) 479-5663.

Bidder should submit one (1) original and (1) copy of the entire proposal. Proposals must be submitted by the proposal due date and time.

PROPOSALS MUST MEET THE REQUIREMENTS OUTLINED IN THIS REQUEST FOR PROPOSAL TO BE CONSIDERED VALID. PROPOSALS WILL BE REJECTED IF NOT IN COMPLIANCE WITH THESE REQUIREMENTS.

1. Sealed proposals must be received in Nebraska Department of Corrections Services by the date and time of proposal opening indicated above. No late proposals will be accepted. No electronic, e-mail, fax, voice, or telephone proposals will be accepted.
2. This form "REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES" MUST be manually signed, in ink, and returned by the proposal opening date and time along with bidders proposal and any other requirements as specified in the Request for Proposal in order for a bidder's proposal to be evaluated.
3. It is the responsibility of the bidder to check the website for all information relevant to this solicitation to include addenda and/or amendments issued prior to the opening date. Website address is as follows: <http://das.nebraska.gov/materiel/purchasing.html>
4. It is understood by the parties that in the State of Nebraska's opinion, any limitation on the Contractor's liability is unconstitutional under the Nebraska State Constitution, Article XIII, Section 3, and that any limitation of liability shall not be binding on the State of Nebraska despite inclusion of such language in documents supplied with the Contractor's bid or in the final contract.

**IMPORTANT NOTICE:** Pursuant to Neb. Rev. Stat. §84-602.02, all State contracts in effect as of January 1, 2014 will be posted to a public website beginning July 1, 2014. All information not specifically excluded by State Law **WILL BE POSTED FOR PUBLIC VIEWING.**

Contractor hereby grants permission to the State of Nebraska and/or its agencies to reprint or republish any and all copyrighted documents related to Contractor's response to this Request for Proposal, and any and all figures, illustrations, photographs, charts, and other supplementary material on a website accessible by the public pursuant to Neb. Rev. Stat. §84-602.02. This waiver does not

apply to proprietary information properly submitted in a separate sealed, package clearly marked "Proprietary."

Contractor represents and warrants that the contents of this response to Request for Proposal and all figures, illustrations, photographs, charts, and other supplementary material herein are original and do not libel anyone or infringe upon any patent, copyright, proprietary right, or any other right whatsoever of any other party. Contractor represents and warrants that Contractor has full power and authority to execute this Copyright Release and to grant the State of Nebraska and/or its agencies the right granted herein.

Contractor agrees to indemnify, defend, and hold harmless the State of Nebraska and/or its agencies against any and all claims, suits, and/or judgments, including costs, expenses, damages, and reasonable legal fees based upon and arising from Contractor's violation of the rights of others and/or by reason of a breach of any of the foregoing warranties.

### **BIDDER MUST COMPLETE THE FOLLOWING**

By signing this Request for Proposal for Contractual Services form, the bidder guarantees compliance with the provisions stated in this Request for Proposal, agrees to the terms and conditions unless otherwise agreed to (see Section III) and certifies that bidder maintains a drug free work place environment.

Per Nebraska's Transparency in Government Procurement Act, Neb. Rev Stat §73-603 DAS is required to collect statistical information regarding the number of contracts awarded to Nebraska Contractors. This information is for statistical purposes only and will not be considered for contract award purposes.

\_\_\_\_ **NEBRASKA CONTRACTOR AFFIDAVIT:** Bidder hereby attests that bidder is a Nebraska Contractor. "Nebraska Contractor" shall mean any bidder who has maintained a bona fide place of business and at least one employee within this state for at least the six (6) months immediately preceding the posting date of this RFP.

\_\_\_\_ I hereby certify that I am a **Resident disabled veteran or business located in a designated enterprise zone** in accordance with Neb. Rev. Stat. §73-107 and wish to have preference, if applicable, considered in the award of this contract.

FIRM: \_\_\_\_\_

COMPLETE ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ FAX NUMBER: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

TYPED NAME & TITLE OF SIGNER: \_\_\_\_\_

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## GLOSSARY OF TERMS

**Acceptance Test Procedure:** Benchmarks and other performance criteria, developed by the State of Nebraska or other sources of testing standards, for measuring the effectiveness of products or services and the means used for testing such performance.

**Addendum:** Something to be added or deleted to an existing document; a supplement.

**Agency:** Any state agency, board, or commission other than the University of Nebraska, the Nebraska State colleges, the courts, the Legislature, or any other office or agency established by the Constitution of Nebraska.

**Agent/Representative:** A person authorized to act on behalf of another.

**Amend:** To alter or change by adding, subtracting, or substituting.

**Amendment:** A written correction or alteration to a document.

**Appropriation:** Legislative authorization to expend public funds for a specific purpose. Money set apart for a specific use.

**ARO:** After Receipt of Order

**Award:** All purchases, leases, or contracts which are based on competitive proposals will be awarded according to the provisions in the Request for Proposal. The State reserves the right to reject any or all proposals, wholly or in part, or to award to multiple bidders in whole or in part. The State reserves the right to waive any deviations or errors that are not material, do not invalidate the legitimacy of the proposal, and do not improve the bidder's competitive position. All awards will be made in a manner deemed in the best interest of the State.

**Best and Final Offer (BAFO):** In a competitive bid, the final offer submitted which contains the bidder's (vendor's) most favorable terms for price.

**Bid/Proposal:** The offer submitted by a vendor in a response to written solicitation.

**Bid Bond:** An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the vendor will not withdraw the bid.

**Bidder:** A vendor who submits an offer bid in response to a written solicitation.

**Business:** Any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other private legal entity.

**Business Day:** Any weekday, except State-recognized holidays.

**Calendar Day:** Every day shown on the calendar including Saturdays, Sundays, and State/Federal holidays.

**Cancellation:** To call off or revoke a purchase order without expectation of conducting or performing it at a later time.

**Collusion:** An agreement or cooperation between two or more persons or entities to accomplish a fraudulent, deceitful, or unlawful purpose.

**Commodities:** Any equipment, material, supply or goods; anything movable or tangible that is provided or sold.

**Commodities Description:** Detailed descriptions of the items to be purchased; may include information necessary to obtain the desired quality, type, color, size, shape, or special characteristics necessary to perform the work intended to produce the desired results.

**Competition:** The effort or action of two or more commercial interests to obtain the same business from third parties.

**Confidential Information:** Unless otherwise defined below, "Confidential Information" shall also mean proprietary trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. §84-712.05(3)). In accordance with Nebraska Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific, named competitor(s) who would be advantaged by release of the information and the specific advantage the competitor(s) would receive.

**Contract:** An agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law; the writing that sets forth such an agreement.

**Contract Administration:** The management of the contract which includes and is not limited to contract signing, contract amendments and any necessary legal actions.

**Contract Management:** The management of day to day activities at the agency which includes and is not limited to ensuring deliverables are received, specifications are met, handling meetings and making payments to the Contractor.

**Contract Period:** The duration of the contract.

**Contractor:** Any individual or entity having a contract to furnish commodities or services.

**Cooperative Purchasing:** The combining of requirements of two or more political entities to obtain advantages of volume purchases, reduction in administrative expenses or other public benefits.

**Copyright:** A property right in an original work of authorship fixed in any tangible medium of expression, giving the holder the exclusive right to reproduce, adapt and distribute the work.

**CPU:** Any computer or computer system that is used by the State to store, process, or retrieve data or perform other functions using Operating Systems and applications software.

**Critical Program Error:** Any Program Error, whether or not known to the State, which prohibits or significantly impairs use of the Licensed Software as set forth in the documentation and intended in the contract.

**Customer Service:** The process of ensuring customer satisfaction by providing assistance and advice on those products or services provided by the Contractor.

**Default:** The omission or failure to perform a contractual duty.

**Deviation:** Any proposed change(s) or alteration(s) to either the terms and conditions or deliverables within the scope of the written solicitation or contract.

**Evaluation:** The process of examining an offer after opening to determine the vendor's responsibility, responsiveness to requirements, and to ascertain other characteristics of the offer that relate to determination of the successful award.

**Evaluation Committee:** Committee(s) appointed by the requesting agency that advises and assists the procuring office in the evaluation of bids/proposals (offers made in response to written solicitations).

**Extension:** Continuance of a contract for a specified duration upon the agreement of the parties beyond the original Contract Period. Not to be confused with "Renewal Period".

**Free on Board (F.O.B.) Destination:** The delivery charges are included in the quoted price and prepaid by the vendor. Vendor is responsible for all claims associated with damages during delivery of product.

**Free on Board (F.O.B.) Point of Origin:** The delivery charges are not included in the quoted price and are the responsibility of the agency. Agency is responsible for all claims associated with damages during delivery of product.

**Foreign Corporation:** A foreign corporation that was organized and chartered under the laws of another state, government, or country.

**Installation Date:** The date when the procedures described in "Installation by Contractor", and "Installation by State", as found in the RFP, ITB (written solicitation) or contract are completed.

**Late Bid/Proposal:** An offer received after the Opening Date and Time.

**Licensed Software Documentation:** The user manuals and any other materials in any form or medium customarily provided by the Contractor to the users of the Licensed Software which will provide the State with sufficient information to operate, diagnose, and maintain the Licensed Software properly, safely, and efficiently.

**Mandatory/Must:** Required, compulsory, or obligatory.

**May:** Discretionary, permitted; used to express possibility.

**Module (see System):** A collection of routines and data structures that perform a specific function of software.

**Must:** See Shall/Will/Must.

**National Institute for Governmental Purchasing (NIGP):** National Institute of Governmental Purchasing – Source used for assignment of universal commodity codes to goods and services.

**NDCS:** Nebraska Department of Correctional Services

**Open Market Purchase:** Authorization may be given to an agency to purchase items above direct

purchase authority due to the unique nature, price, quantity, location of the using agency, or time limitations by the AS Materiel Division, State Purchasing Bureau.

**Opening Date and Time:** Specified date and time for the public opening of received, labeled, and sealed formal proposals.

**Operating System:** The control program in a computer that provides the interface to the computer hardware and peripheral devices, and the usage and allocation of memory resources, processor resources, input/output resources, and security resources.

**Outsourcing:** The contracting out of a business process which an organization may have previously performed internally or has a new need for, to an independent organization from which the process is purchased back.

**Payroll & Financial Center (PFC):** Electronic procurement system of record.

**Performance Bond:** An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the Contractor fulfills any and all obligations under the contract.

**Platform:** A specific hardware and Operating System combination that is different from other hardware and Operating System combinations to the extent that a different version of the Licensed Software product is required to execute properly in the environment established by such hardware and Operating System combination.

**Pre-Bid/Pre-Proposal Conference:** A meeting scheduled for the purpose of clarifying a written solicitation and related expectations.

**Product:** Something that is distributed commercially for use or consumption and that is usually (1) tangible personal property, (2) the result of fabrication or processing, and (3) an item that has passed through a chain of commercial distribution before ultimate use or consumption.

**Program Error:** Code in Licensed Software which produces unintended results or actions, or which produces results or actions other than those described in the specifications. A program error includes, without limitation, any Critical Program Error.

**Program Set:** The group of programs and products, including the Licensed Software specified in the RFP, plus any additional programs and products licensed by the State under the contract for use by the State.

**Project:** The total scheme, program, or method worked out for the accomplishment of an objective, including all documentation, commodities, and services to be provided under the contract.

**Proposal:** See Bid/Proposal.

**Proprietary Information:** Proprietary information is defined as trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. §84-712.05(3)). In accordance with Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific, named competitor(s) who would be advantaged by release of the information and the specific advantage the competitor(s) would receive.

**Protest/Grievance:** A complaint about a governmental action or decision related to an Invitation to Bid or resultant contract, brought by a vendor who has timely submitted a bid response in connection with the award in question, to AS Materiel Division or another designated agency with the intention of achieving a remedial result.

**Public Proposal Opening:** The process of opening correctly submitted offers at the time and place specified in the written solicitation and in the presence of anyone who wished to attend.

**Recommended Hardware Configuration:** The data processing hardware (including all terminals, auxiliary storage, communication, and other peripheral devices) to the extent utilized by the State as recommended by the Contractor.

**Release Date:** The date of public release of the written solicitation to seek offers

**Renewal Period:** Optional contract periods subsequent to the original Contract Period for a specified duration with previously agreed to terms and conditions. Not to be confused with Extension.

**Request for Information (RFI):** A general invitation to vendors requesting information for a potential future solicitation. The RFI is typically used as a research and information gathering tool for preparation of a solicitation.

**Request for Proposal (RFP):** A written solicitation utilized for obtaining competitive offers.

**Responsible Bidder:** A bidder who has the capability in all respects to perform fully and lawfully all requirements with integrity and reliability to assure good faith performance.

**Responsive Bidder:** A bidder who has submitted a bid which conforms to all requirements of the solicitation document.

**Shall/Will/Must:** An order/command; mandatory.

**Should:** Expected; suggested, but not necessarily mandatory.

**Software License:** Legal instrument with or without printed material that governs the use or redistribution of licensed software.

**Sole Source – Commodity:** When an item is available from only one source due to the unique nature of the requirement, its supplier, or market conditions.

**Sole Source – Services:** A service of such a unique nature that the vendor selected is clearly and justifiably the only practical source to provide the service. Determination that the vendor selected is justifiably the sole source is based on either the uniqueness of the service or sole availability at the location required.

**Specifications:** The detailed statement, especially of the measurements, quality, materials, and functional characteristics, or other items to be provided under a contract.

**System (see Module):** Any collection or aggregation of two (2) or more Modules that is designed to function, or is represented by the Contractor as functioning or being capable of functioning, as an entity.

**Termination:** Occurs when either party, pursuant to a power created by agreement or law, puts an

end to the contract prior to the stated expiration date. All obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

**Trade Secret:** Information, including, but not limited to, a drawing, formula, pattern, compilation, program, device, method, technique, code, or process that (a) derives independent economic value, actual or potential, from not being known to, and not being ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy (see Neb. Rev. Stat. §87-502(4)).

**Trademark:** A word, phrase, logo, or other graphic symbol used by a manufacturer or vendor to distinguish its product from those of others, registered with the U.S. Patent and Trademark Office.

**Upgrade:** Any change that improves or alters the basic function of a product of service.

**Vendor:** An individual or entity lawfully conducting business in the State of Nebraska, or licensed to do so, who seeks to provide goods or services under the terms of a written solicitation.

**Vendor Performance Report:** A report issued to the Contractor by State Purchasing Bureau when products or services delivered or performed fail to meet the terms of the purchase order, contract, and/or specifications, as reported to State Purchasing Bureau by the agency. The State Purchasing Bureau shall contact the Contractor regarding any such report. The vendor performance report will become a part of the permanent record for the Contractor. The State may require vendor to cure. Two such reports may be cause for immediate termination.

**Will:** See Shall/Will/Must.

**Work Day:** See Business Day.

## I. SCOPE OF THE REQUEST FOR PROPOSAL

The State of Nebraska, Department of Correctional Services, is issuing this Request for Proposal, RFP Number 79765-O3 for the purpose of selecting a qualified Contractor(s) to provide medical testing and drug testing. Any resulting contract is not an exclusive contract to furnish the services provided for in this Request for Proposal, and does not preclude the purchase of similar services from other sources.

A contract resulting from this Request for Proposal will be issued for approximately a period of two (2) years effective the date of award. The contract has the option to be renewed for two (2) additional two (2) year periods mutually agreed upon by all parties. The State reserves the right to extend the period of this contract beyond the termination date when mutually agreeable to the Contractor and the State of Nebraska.

**ALL INFORMATION PERTINENT TO THIS REQUEST FOR PROPOSAL CAN BE FOUND ON THE INTERNET AT:** <http://das.nebraska.gov/materiel/purchasing.html>

### A. SCHEDULE OF EVENTS

The State expects to adhere to the tentative procurement schedule shown below. It should be noted, however, that some dates are approximate and subject to change.

	<b>ACTIVITY</b>	<b>DATE/TIME</b>
1.	Release Request for Proposal	May 1, 2015
2.	Last day to submit written questions	May 14, 2015
3.	State responds to written questions through Request for Proposal "Addendum" and/or "Amendment" to be posted to the Internet at: <a href="http://das.nebraska.gov/materiel/purchasing.html">http://das.nebraska.gov/materiel/purchasing.html</a>	May 21, 2015
4.	Proposal opening Location: NDCS Central Office, Building #1 Purchasing Division Folsom & W. Prospector Place Lincoln, NE 68522	June 1, 2015 2:00 p.m. Central Time
5.	Review for conformance of mandatory requirements	June 1, 2015
6.	Evaluation period	June 2-4, 2015
7.	Post "Letter of Intent to Contract" to Internet at: <a href="http://das.nebraska.gov/materiel/purchasing.html">http://das.nebraska.gov/materiel/purchasing.html</a>	June 5, 2015
8.	Contract award	June 24, 2015
9.	Contractor start date	July 1, 2015

## **II. PROCUREMENT PROCEDURES**

### **A. PROCURING OFFICE AND CONTACT PERSON**

Procurement responsibilities related to this Request for Proposal reside with the Department of Correctional Services. The point of contact for the procurement is as follows:

Name: Peggy Arp  
Agency: Department of Correctional Services  
Address: P.O. Box 94661  
Lincoln, NE 68509-4661

OR

Address: Folsom & W. Prospector Place, Bldg. #1  
Lincoln, NE 68522  
Telephone: (402) 479-5779  
Facsimile: (402) 479-5663  
E-Mail: [peggy.arp@nebraska.gov](mailto:peggy.arp@nebraska.gov)

### **B. GENERAL INFORMATION**

The Request for Proposal is designed to solicit proposals from qualified vendors who will be responsible for providing medical testing and drug testing at a competitive and reasonable cost. Proposals that do not conform to the mandatory items as indicated in the Request for Proposal will not be considered.

Proposals shall conform to all instructions, conditions, and requirements included in the Request for Proposal. Prospective bidders are expected to carefully examine all documentation, schedules, and requirements stipulated in this Request for Proposal, and respond to each requirement in the format prescribed.

A fixed-price contract will be awarded as a result of this proposal. In addition to the provisions of this Request for Proposal and the awarded proposal, which shall be incorporated by reference in the contract, any additional clauses or provisions required by the terms and conditions will be included as an amendment to the contract.

### **C. CUSTOMER SERVICE**

In addition to any specified service requirements contained in this agreement, the Contractor agrees and understands that satisfactory customer service is required. Contractor will develop or provide technology and business procedures designed to enhance the level of customer satisfaction and to provide the customer appropriate information given their situation. Contractor, its employees, Sub-Contractors, and agents must be accountable, responsive, reliable, patient, and have well-developed communication skills as set forth by the customer service industry's best practices and processes.

### **D. COMMUNICATION WITH STATE STAFF AND EVALUATORS**

From the date the Request for Proposal is issued until a determination is announced regarding the selection of the Contractor, contact regarding this project between potential Contractors and individuals employed by the State is restricted to only written communication with the staff designated above as the point of contact for this Request for Proposal. Bidders shall not have any communication with, or attempt to communicate with or influence in any way, any evaluator involved in this RFP.

Once a Contractor(s) is preliminarily selected, as documented in the intent to contract, that Contractor is restricted from communicating with State staff until a contract is signed. Violation of this condition may be considered sufficient cause to reject a Contractor's proposal and/or selection irrespective of any other condition.

The following exceptions to these restrictions are permitted:

1. Written communication with the person(s) designated as the point(s) of contact for this Request for Proposal or procurement;
2. Contacts made pursuant to any pre-existing contracts or obligations and
3. State-requested presentations, key personnel interviews, clarification sessions or discussions to finalize a contract.

Violations of these conditions may be considered sufficient cause to reject a bidder's proposal and/or selection irrespective of any other condition. No individual member of the State, employee of the State, or member of the Evaluation Committee is empowered to make binding statements regarding this Request for Proposal. The buyer will issue any clarifications or opinions regarding this Request for Proposal in writing.

**E. WRITTEN QUESTIONS AND ANSWERS**

Any explanation desired by a bidder regarding the meaning or interpretation of any Request for Proposal provision must be submitted in writing to the Department of Correctional Services and clearly marked "RFP Number 79765-O3; Medical Screening/Testing Questions". It is preferred that questions be sent via e-mail to [peggy.arp@nebraska.gov](mailto:peggy.arp@nebraska.gov). Questions may also be sent by facsimile to (402) 479-5663, but must include a cover sheet clearly indicating that the transmission is to the attention of Peggy Arp, Buyer, showing the total number of pages transmitted, and clearly marked "RFP Number 79765-O3; Medical Screening/Testing Questions".

It is recommended that Bidders submit questions sequentially numbered, include the RFP reference and page number using the following format.

<u>Question Number</u>	<u>RFP Section Reference</u>	<u>RFP Page Number</u>	<u>Question</u>

Written answers will be provided through an addendum to be posted on the Internet at and/or <http://das.nebraska.gov/materiel/purchasing.html> on or before the date shown in the Schedule of Events.

**F. SUBMISSION OF PROPOSALS**

The following describes the requirements related to proposal submission, proposal handling, and review by the State.

To facilitate the proposal evaluation process, one (1) original and one (1) copy of the entire proposal should be submitted. Proposals must be submitted by the proposal due date and time. **A separate sheet must be provided that clearly states which sections have been submitted as proprietary or have copyrighted materials.** All proprietary information the bidder wishes the State to withhold must be submitted in accordance with the instructions

outlined in Section III, Proprietary Information. Proposal responses should include the completed Form A, Bidder Contact Sheet. Proposals must reference the Request for Proposal number and be sent to the specified address. Please note that the address label should appear in Section II part A as specified on the face of each container or bidder's bid response packet. Rejected late proposals will be returned to the bidder unopened, if requested, at bidder's expense. If a recipient phone number is required for delivery purposes, (402) 479-5779 should be used. The Request for Proposal number must be included in all correspondence.

Emphasis should be concentrated on conformance to the Request for Proposal instructions, responsiveness to requirements, completeness and clarity of content. If the bidder's proposal is presented in such a fashion that makes evaluation difficult or overly time consuming, it is likely that the proposal will be rejected.

**IMPORTANT NOTICE:** Pursuant to Neb. Rev. Stat. §84-602.02, all State contracts in effect as of January 1, 2014 will be posted to a public website beginning July 1, 2014. All information not specifically excluded by State Law **WILL BE POSTED FOR PUBLIC VIEWING**.

**G. PROPOSAL OPENING**

The sealed proposals will be publicly opened and the bidding entities announced on the date, time, and location shown in the Schedule of Events. Proposals will be available for viewing by those present after the proposal opening. Vendors may also contact the State to schedule an appointment for viewing proposals after the Intent to Award has been posted.

**H. LATE PROPOSALS**

Proposals received after the time and date of the proposal opening will be considered late proposals. Rejected late proposals will be returned to the bidder unopened, if requested, at bidder's expense. The State is not responsible for proposals that are late or lost due to mail service inadequacies, traffic, or any other reason(s).

**I. REJECTION OF PROPOSALS**

The State reserves the right to reject any or all proposals, in whole or in part, or to award to multiple bidders in whole or in part. The State reserves the right to waive any deviations or errors that are not material, do not invalidate the legitimacy of the proposal and do not improve the bidder's competitive position. All awards will be made in a manner deemed in the best interest of the State.

**J. MANDATORY REQUIREMENTS**

The proposals will first be examined to determine if all mandatory requirements listed below have been addressed to warrant further evaluation. Proposals not meeting mandatory requirements will be excluded from further evaluation. The mandatory requirement items are as follows:

1. Request For Proposal For Contractual Services form, signed in ink; and
2. Cost Proposal (Form B).

**Neb. Rev. Stat. §73-107 allows for a preference for a resident disabled veteran or business located in a designated enterprise zone.** When a state contract is to be awarded to the lowest responsible bidder, a resident disabled veteran or a business located in a designated enterprise zone under the Enterprise Zone Act shall be allowed a preference over any other resident or nonresident bidder, if all other factors are equal.

**Resident disabled veterans means any person (a) who resides in the State of Nebraska, who served in the United States Armed Forces, including any reserve component or the National Guard, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), and who possesses a disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense and (b)(i) who owns and controls a business or, in the case of a publicly owned business, more than fifty percent of the stock is owned by one or more persons described in subdivision (a) of this subsection and (ii) the management and daily business operations of the business are controlled by one or more persons described in subdivision (a) of this subsection. Any contract entered into without compliance with this section shall be null and void.**

Therefore, if a resident disabled veteran or business located in a designated enterprise zone submits a bid in accordance with Neb. Rev. Stat. §73-107 and has so indicated on the RFP cover page under "Bidder must complete the following" requesting priority/preference to be considered in the award of this contract, the following will need to be submitted by the vendor within ten (10) business days of request:

- a. Documentation from the United States Armed Forces confirming service;
- b. Documentation of discharge or otherwise separated characterization of honorable or general (under honorable conditions);
- c. Disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense; and
- d. Documentation which shows ownership and control of a business or, in the case of a publicly owned business, more than fifty percent of the stock is owned by one or more persons described in subdivision (a) of this subsection; and the management and daily business operations of the business are controlled by one or more persons described in subdivision (a) of this subsection.

Failure to submit the requested documentation within ten (10) business days of notice will disqualify the bidder from consideration of the preference.

#### **K. REFERENCE CHECKS**

The State reserves the right to check any reference(s), regardless of the source of the reference information, including but not limited to, those that are identified by the company in the proposal, those indicated through the explicitly specified contacts, those that are identified during the review of the proposal, or those that result from communication with other entities involved with similar projects. The State may use a third-party to conduct reference checks.

Information to be requested and evaluated from references may include, but is not limited to, some or all of the following: financial stability of the company, project description and background, job performed, functional and technical abilities, communication skills and timeliness, cost and schedule estimates and accuracy, problems (poor quality deliverables, contract disputes, work stoppages, et cetera), overall performance, and whether or not the reference would rehire the firm or individual. Only top scoring bidders may receive reference checks and negative references may eliminate bidders from consideration for award.

**L. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS**

All bidders should be authorized to transact business in the State of Nebraska. All bidders are expected to comply with all Nebraska Secretary of State Registration requirements. It is the responsibility of the bidder to comply with any registration requirements pertaining to types of business entities (e.g. person, partnership, foreign or domestic limited liability company, association, or foreign or domestic corporation or other type of business entity). The bidder who is the recipient of an Intent to Award will be required to certify that it has so complied and produce a true and exact copy of its current (within ninety (90) calendar days), valid Certificate of Good Standing or Letter of Good Standing; or in the case of a sole proprietorship, provide written documentation of sole proprietorship. This must be accomplished prior to the award of the contract. Construction Contractors are expected to meet all applicable requirements of the Nebraska Contractor Registration Act and provide a current, valid certificate of registration. Further, all bidders shall comply with any and all other applicable Nebraska statutes regarding transacting business in the State of Nebraska. Bidders should submit the above certification(s) with their bid.

If a bank is registered with the Office of Comptroller of Currency, it is not required to register with the State. However, the Office of Comptroller of Currency does have a certificate of good standing/registration. The bank could provide that for verification. (Optional)

**M. VIOLATION OF TERMS AND CONDITIONS**

Violation of the terms and conditions contained in this Request for Proposal or any resultant contract, at any time before or after the award, shall be grounds for action by the State which may include, but is not limited to, the following:

1. Rejection of a bidder's proposal;
2. Suspension of the bidder from further bidding with the State for the period of time relative to the seriousness of the violation, such period to be within the sole discretion of the State.

**III. TERMS AND CONDITIONS**

By signing the “Request for Proposal for Contractual Services” form, the bidder guarantees compliance with the provisions stated in this Request for Proposal, agrees to the Terms and Conditions unless otherwise agreed to, and certifies bidder maintains a drug free work place environment.

Bidders are expected to closely read the Terms and Conditions and provide a binding signature of intent to comply with the Terms and Conditions; provided, however, a bidder may indicate any exceptions to the Terms and Conditions by (1) clearly identifying the term or condition by subsection, (2) including an explanation for the bidder’s inability to comply with such term or condition which includes a statement recommending terms and conditions the bidder would find acceptable. Rejection in whole or in part of the Terms and Conditions may be cause for rejection of a bidder’s proposal. **Bidders must include completed Section III with their proposal response.**

**A. GENERAL**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contract resulting from this Request for Proposal shall incorporate the following documents:

1. Amendment to Contract Award with the most recent dated amendment having the highest priority;
2. Contract Award and any attached Addenda;
3. The Request for Proposal form and the Contractor’s Proposal, signed in ink;
4. Amendments to RFP and any Questions and Answers; and
5. The original RFP document and any Addenda.

These documents constitute the entirety of the contract.

Unless otherwise specifically stated in a contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference with number one (1) receiving preference over all other documents and with each lower numbered document having preference over any higher numbered document: 1) Amendment to Contract Award with the most recent dated amendment having the highest priority, 2) Contract Award and any attached Addenda, 3) the signed Request for Proposal form and the Contractor’s Proposal, 4) Amendments to RFP and any Questions and Answers, 5) the original RFP document and any Addenda.

Any ambiguity in any provision of this contract which shall be discovered after its execution shall be resolved in accordance with the rules of contract interpretation as established in the State of Nebraska.

Once proposals are opened they become the property of the State of Nebraska and will not be returned.

**B. AWARD**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

All purchases, leases, or contracts which are based on competitive proposals will be awarded according to the provisions in the Request for Proposal. The State reserves the right to reject any or all proposals, wholly or in part, or to award to multiple bidders in whole or in part, and at its discretion, may withdraw or amend the Request for Proposal at any time. The State reserves the right to waive any deviations or errors that are not material, do not invalidate the legitimacy of the proposal, and do not improve the bidder's competitive position. All awards will be made in a manner deemed in the best interest of the State. The Request for Proposal does not commit the State to award a contract. If, in the opinion of the State, revisions or amendments will require substantive changes in proposals, the due date may be extended.

By submitting a proposal in response to this Request for Proposal, the bidder grants to the State the right to contact or arrange a visit in person with any or all of the bidder's clients.

Once intent to award decision has been determined, it will be posted to the Internet at: <http://das.nebraska.gov/materiel/purchasing.html>

Grievance and Protest Procedure is as follows:

Within ten (10) calendar days of the intent to award decision being issued, grievances or protests are to be expressed in writing to the Department of Correctional Services, Materiel Administrator via email [dcs.purchasing@nebraska.gov](mailto:dcs.purchasing@nebraska.gov) or via U.S. Mail - P.O. Box 94661 Lincoln, NE 68509-4661. The notification should state the bid number and specific issues that are to be addressed. A response will be made by the DCS Materiel Administrator.

If the response from the Materiel Administrator has not satisfied the grievance of the vendor, a protest letter is to be sent to the Deputy Director of Administration, Department of Correctional Services via U.S. Mail - P.O. Box 94661 Lincoln, NE 68509-4661. A meeting will be scheduled with the vendor to discuss the issues.

Any protests must be filed by a vendor within ten (10) business days after the intent to award decision is posted to the Internet.

**C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor shall comply with all applicable local, state and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act prohibits Contractors of the State of Nebraska, and their Sub-Contractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensations, or privileges of employment because of race, color, religion, sex, disability, marital status, or national origin (Neb. Rev. Stat. §48-1101 to 48-1125). The Contractor guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The Contractor shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this Request for Proposal.

**D. PERMITS, REGULATIONS, LAWS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor shall procure and pay for all permits, licenses, and approvals necessary for the execution of the contract. The Contractor shall comply with all applicable local, state, and federal laws, ordinances, rules, orders, and regulations.

**E. OWNERSHIP OF INFORMATION AND DATA**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State of Nebraska shall have the unlimited right to publish, duplicate, use and disclose all information and data developed or derived by the Contractor pursuant to this contract.

The Contractor must guarantee that it has the full legal right to the materials, supplies, equipment, and other rights or titles (e.g. rights to licenses transfer or assign deliverables) necessary to execute this contract. The contract price shall, without exception, include compensation for all royalties and costs arising from patents, trademarks, and copyrights that

are in any way involved in the contract. It shall be the responsibility of the Contractor to pay for all royalties and costs, and the State must be held harmless from any such claims.

**F. INSURANCE REQUIREMENTS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor shall not commence work under this contract until all the insurance required hereunder has been obtained and such insurance has been approved by the State. The Contractor shall maintain all required insurance for the life of this contract and shall ensure that the State Purchasing Bureau has the most current certificate of insurance throughout the life of this contract. If Contractor will be utilizing any Sub-Contractors, the Contractor is responsible for obtaining the certificate(s) of insurance required herein under from any and all Sub-Contractor(s). Contractor is also responsible for ensuring Sub-Contractor(s) maintain the insurance required until completion of the contract requirements. The Contractor shall not allow any Sub-Contractor to commence work on any subcontract until all similar insurance required of the Sub-Contractor has been obtained and approved by the Contractor. Approval of the insurance by the State shall not limit, relieve, or decrease the liability of the Contractor hereunder.

If by the terms of any insurance a mandatory deductible is required, or if the Contractor elects to increase the mandatory deductible amount, the Contractor shall be responsible for payment of the amount of the deductible in the event of a paid claim.

**1. WORKERS' COMPENSATION INSURANCE**

The Contractor shall take out and maintain during the life of this contract the statutory Workers' Compensation and Employer's Liability Insurance for all of the Contractors' employees to be engaged in work on the project under this contract and, in case any such work is sublet, the Contractor shall require the Sub-Contractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the Sub-Contractor's employees to be engaged in such work. This policy shall be written to meet the statutory requirements for the state in which the work is to be performed, including Occupational Disease. This policy shall include a waiver of subrogation in favor of the State. The amounts of such insurance shall not be less than the limits stated hereinafter.

**2. COMMERCIAL GENERAL LIABILITY INSURANCE AND COMMERCIAL AUTOMOBILE LIABILITY INSURANCE**

The Contractor shall take out and maintain during the life of this contract such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect the Contractor and any Sub-Contractor performing work covered by this contract from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this contract, whether such operation be by the Contractor or by any Sub-Contractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than limits stated hereinafter.

The Commercial General Liability Insurance shall be written on an occurrence basis, and provide Premises/Operations, Products/Completed Operations, Independent Contractors, Personal Injury and Contractual Liability coverage. The policy shall include the State, and others as required by the contract documents. This policy shall be primary, and any insurance or self-insurance carried by the State shall be considered excess and non-contributory. The Commercial Automobile Liability Insurance shall be written to cover all Owned, Non-owned and Hired vehicles.

**3. INSURANCE COVERAGE AMOUNTS REQUIRED**

**a. WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY**

Coverage A	Statutory
Coverage B	
Bodily Injury by Accident	\$100,000 each accident
Bodily Injury by Disease	\$500,000 policy limit
Bodily Injury by Disease	\$100,000 each employee

**b. COMMERCIAL GENERAL LIABILITY**

General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal/Advertising Injury	\$1,000,000 any one person
Bodily Injury/Property Damage	\$1,000,000 per occurrence
Fire Damage	\$50,000 any one fire
Medical Payments	\$5,000 any one person

**c. COMMERCIAL AUTOMOBILE LIABILITY**

Bodily Injury/Property Damage	\$1,000,000 combined single limit
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**d. UMBRELLA/EXCESS LIABILITY**

Over primary insurance	\$1,000,000 per occurrence
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**e. SUBROGRATION WAIVER**

“Waiver of Subrogation on the Worker’s Compensation in favor of the State of Nebraska.”

**f. LIABILITY WAIVER**

“The State of Nebraska, Certificate holder, is an additionally insured, primary & noncontributory on the General Liability.”

**4. EVIDENCE OF COVERAGE**

The Contractor should furnish the State, with their proposal response, a certificate of insurance coverage complying with the above requirements, which shall be submitted to the attention of the Buyer.

Department of Correctional Services  
Purchasing Division  
Folsom & W. Prospector Place, Bldg. #1  
Lincoln, NE 68522  
(facsimile (402) 479-5663).

These certificates or the cover sheet shall reference the RFP number, and the certificates shall include the name of the company, policy numbers, effective dates, dates of expiration, and amounts and types of coverage afforded. If the State is damaged by the failure of the Contractor to maintain such insurance, then the Contractor shall be responsible for all reasonable costs properly attributable thereto.

Notice of cancellation of any required insurance policy must be submitted to Department of Correctional Services, Purchasing Division when issued and a new coverage binder shall be submitted immediately to ensure no break in coverage.

**G. COOPERATION WITH OTHER CONTRACTORS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State may already have in place or choose to award supplemental contracts for work related to this Request for Proposal, or any portion thereof.

1. The State reserves the right to award the contract jointly between two or more potential Contractors, if such an arrangement is in the best interest of the State.
2. The Contractor shall agree to cooperate with such other Contractors, and shall not commit or permit any act which may interfere with the performance of work by any other Contractor.

**H. INDEPENDENT CONTRACTOR**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

It is agreed that nothing contained herein is intended or should be construed in any manner as creating or establishing the relationship of partners between the parties hereto. The Contractor represents that it has, or will secure at its own expense, all personnel required to perform the services under the contract. The Contractor's employees and other persons engaged in work or services required by the Contractor under the contract shall have no contractual relationship with the State; they shall not be considered employees of the State.

All claims on behalf of any person arising out of employment or alleged employment (including without limit claims of discrimination against the Contractor, its officers, or its agents) shall in no way be the responsibility of the State. The Contractor will hold the State harmless from any and all such claims. Such personnel or other persons shall not require nor be entitled to any compensation, rights, or benefits from the State including without limit, tenure rights, medical and hospital care, sick and vacation leave, severance pay, or retirement benefits.

**I. CONTRACTOR RESPONSIBILITY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor is solely responsible for fulfilling the contract, with responsibility for all services offered and products to be delivered as stated in the Request for Proposal, the Contractor’s proposal, and the resulting contract. The Contractor shall be the sole point of contact regarding all contractual matters.

If the Contractor intends to utilize any Sub-Contractor’s services, the Sub-Contractor’s level of effort, tasks, and time allocation must be clearly defined in the Contractor’s proposal. The Contractor shall agree that it will not utilize any Sub-Contractors not specifically included in its proposal, in the performance of the contract without the prior written authorization of the State. Following execution of the contract, the Contractor shall proceed diligently with all services and shall perform such services with qualified personnel in accordance with the contract.

**J. CONTRACTOR PERSONNEL**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor warrants that all persons assigned to the project shall be employees of the Contractor or specified Sub-Contractors, and shall be fully qualified to perform the work required herein. Personnel employed by the Contractor to fulfill the terms of the contract shall remain under the sole direction and control of the Contractor. The Contractor shall include a similar provision in any contract with any Sub-Contractor selected to perform work on the project.

Contractor shall make his/her employees aware of Neb. Rev. Stat. 28-322.01 that states it shall be a Felony for individuals working for or under contract to the Department of Correctional Services to engage in sexual contact or relations with an inmate or parolee within the State correctional system, and that no inmate nor parolee is legally capable of giving consent to any such relationship.

Contractor’s personnel shall be subject to departmental security checks prior to their arrival on site, and will carry proper identification with them at all times while on facility grounds.

Personnel commitments made in the Contractor’s proposal shall not be changed without the prior written approval of the State. Replacement of key personnel, if approved by the State, shall be with personnel of equal or greater ability and qualifications.

Contractor shall inform his/her personnel of the Nebraska Department of Correctional Services Tobacco Policy, which states that tobacco and tobacco-related products are contraband and must not be carried into any NDCS-owned or controlled property. Such products must remain in Contractor's locked vehicle while on NDCS-owned or controlled property.

The State reserves the right to require the Contractor to reassign or remove from the project any Contractor or Sub-Contractor employee.

In respect to its employees, the Contractor agrees to be responsible for the following:

1. Any and all employment taxes and/or other payroll withholding;
2. Any and all vehicles used by the Contractor's employees, including all insurance required by state law;
3. Damages incurred by Contractor's employees within the scope of their duties under the contract;
4. Maintaining workers' compensation and health insurance and submitting any reports on such insurance to the extent required by governing State law; and
5. Determining the hours to be worked and the duties to be performed by the Contractor's employees.

**K. STATE OF NEBRASKA PERSONNEL RECRUITMENT PROHIBITION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor shall not, at any time, recruit or employ any State employee or agent who has worked on the Request for Proposal or project, or who had any influence on decisions affecting the Request for Proposal or project.

**L. CONFLICT OF INTEREST**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

By submitting a proposal, bidder certifies that there does not now exist any relationship between the bidder and any person or entity which is or gives the appearance of a conflict of interest related to this Request for Proposal or project.

The bidder certifies that it shall not take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its services hereunder or which creates an actual or appearance of conflict of interest.

The bidder certifies that it will not employ any individual known by bidder to have a conflict of interest.

**M. PROPOSAL PREPARATION COSTS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State shall not incur any liability for any costs incurred by bidders in replying to this Request for Proposal, , or in any other activity related to bidding on this Request for Proposal.

**N. ERRORS AND OMISSIONS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The bidder shall not take advantage of any errors and/or omissions in this Request for Proposal or resulting contract. The bidder must promptly notify the State of any errors and/or omissions that are discovered.

**O. BEGINNING OF WORK**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The bidder shall not commence any billable work until a valid contract has been fully executed by the State and the successful Contractor. The Contractor will be notified in writing when work may begin.

**P. ASSIGNMENT BY THE STATE**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State shall have the right to assign or transfer the contract or any of its interests herein to any agency, board, commission, or political subdivision of the State of Nebraska. There shall be no charge to the State for any assignment hereunder.

**Q. ASSIGNMENT BY THE CONTRACTOR**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor may not assign, voluntarily or involuntarily, the contract or any of its rights or obligations hereunder (including without limitation rights and duties of performance) to any third party, without the prior written consent of the State, which will not be unreasonably withheld.

**R. DEVIATIONS FROM THE REQUEST FOR PROPOSAL**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The requirements contained in the Request for Proposal become a part of the terms and conditions of the contract resulting from this Request for Proposal. Any deviations from the Request for Proposal must be clearly defined by the bidder in its proposal and, if accepted by the State, will become part of the contract. Any specifically defined deviations must not be in conflict with the basic nature of the Request for Proposal, mandatory requirements, or applicable state or federal laws or statutes. "Deviation", for the purposes of this RFP, means any proposed changes or alterations to either the contractual language or deliverables within the scope of this RFP. The State discourages deviations and reserves the right to reject proposed deviations.

**S. GOVERNING LAW**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contract shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings against the State of Nebraska regarding this Request for Proposal or any resultant contract shall be brought in the State of Nebraska administrative or judicial forums as defined by State law. The Contractor must be in compliance with all Nebraska statutory and regulatory law.

**T. ATTORNEY'S FEES**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

In the event of any litigation, appeal, or other legal action to enforce any provision of the contract, the Contractor agrees to pay all expenses of such action, as permitted by law, including attorney's fees and costs, if the State is the prevailing party.

**U. ADVERTISING**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor agrees not to refer to the contract award in advertising in such a manner as to state or imply that the company or its services are endorsed or preferred by the State. News releases pertaining to the project shall not be issued without prior written approval from the State.

**V. STATE PROPERTY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor shall be responsible for the proper care and custody of any State-owned property which is furnished for the Contractor's use during the performance of the contract. The Contractor shall reimburse the State for any loss or damage of such property; normal wear and tear is expected.

**W. SITE RULES AND REGULATIONS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor shall use its best efforts to ensure that its employees, agents, and Sub-Contractors comply with site rules and regulations while on State premises. If the Contractor must perform on-site work outside of the daily operational hours set forth by the State, it must make arrangements with the State to ensure access to the facility and the equipment has been arranged. No additional payment will be made by the State on the basis of lack of access, unless the State fails to provide access as agreed to between the State and the Contractor.

**X. NOTIFICATION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

During the bid process, all communication between the State and a bidder shall be between the bidder's representative clearly noted in its proposal and the buyer noted in Section II. A., Procuring Office and Contact Person, of this RFP. After the award of the contract, all notices under the contract shall be deemed duly given upon delivery to the staff designated as the point of contact for this Request for Proposal, in person, or upon delivery by U.S. Mail, facsimile, or e-mail. Each bidder should provide in its proposal the name, title, and complete address of its designee to receive notices.

1. Except as otherwise expressly specified herein, all notices, requests, or other communications shall be in writing and shall be deemed to have been given if delivered personally or mailed, by U.S. Mail, postage prepaid, return receipt requested, to the parties at their respective addresses set forth above, or at such other addresses as

may be specified in writing by either of the parties. All notices, requests, or communications shall be deemed effective upon personal delivery or three (3) calendar days following deposit in the mail.

2. Whenever the Contractor encounters any difficulty which is delaying or threatens to delay its timely performance under the contract, the Contractor shall immediately give notice thereof in writing to the State reciting all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery schedule or be construed as a waiver by the State of any of its rights or remedies to which it is entitled by law or equity or pursuant to the provisions of the contract. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery schedule because of such delay.

Either party may change its address for notification purposes by giving notice of the change, and setting forth the new address and an effective date.

For the duration of the contract, all communication between Contractor and the State regarding the contract shall take place between the Contractor and individuals specified by the State in writing. Communication about the contract between Contractor and individuals not designated as points of contact by the State is strictly forbidden.

**Y. EARLY TERMINATION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contract may be terminated as follows:

1. The State and the Contractor, by mutual written agreement, may terminate the contract at any time.
2. The State, in its sole discretion, may terminate the contract for any reason upon thirty (30) calendar day's written notice to the Contractor. Such termination shall not relieve the Contractor of warranty or other service obligations incurred under the terms of the Contract. In the event of termination the Contractor shall be entitled to payment, determined on a pro rata basis, for products or services satisfactorily performed or provided.
3. The State may terminate the contract immediately for the following reasons:
  - a. if directed to do so by statute;
  - b. Contractor has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business;
  - c. a trustee or receiver of the Contractor or of any substantial part of the Contractor's assets has been appointed by a court;
  - d. fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the contract by its Contractor, its employees, officers, directors, or shareholders;

- e. an involuntary proceeding has been commenced by any party against the Contractor under any one of the chapters of Title 11 of the United States Code and (i) the proceeding has been pending for at least sixty (60) calendar days; or (ii) the Contractor has consented, either expressly or by operation of law, to the entry of an order for relief; or (iii) the Contractor has been decreed or adjudged a debtor;
- f. a voluntary petition has been filed by the Contractor under any of the chapters of Title 11 of the United States Code;
- g. Contractor intentionally discloses confidential information;
- h. Contractor has or announces it will discontinue support of the deliverable;
- i. second or subsequent documented "vendor performance report" form deemed acceptable by the Nebraska Department of Corrections or;
- j. Contractor engaged in collusion or actions which could have provided Contractor an unfair advantage in obtaining this contract.

**Z. FUNDING OUT CLAUSE OR LOSS OF APPROPRIATIONS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State may terminate the contract, in whole or in part, in the event funding is no longer available. The State's obligation to pay amounts due for fiscal years following the current fiscal year is contingent upon legislative appropriation of funds for the contract. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal years for which such funds are not appropriated. The State will give the Contractor written notice thirty (30) calendar days prior to the effective date of any termination, and advise the Contractor of the location (address and room number) of any related equipment. All obligations of the State to make payments after the termination date will cease and all interest of the State in any related equipment will terminate. The Contractor shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the Contractor be paid for a loss of anticipated profit.

**AA. BREACH BY CONTRACTOR**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State may terminate the contract, in whole or in part, if the Contractor fails to perform its obligations under the contract in a timely and proper manner. The State may, by providing a written notice of default to the Contractor, allow the Contractor to cure a failure or breach of contract within a period of thirty (30) calendar days (or longer at State's discretion considering the gravity and nature of the default). Said notice shall be delivered by Certified Mail, Return Receipt Requested, or in person with proof of delivery. Allowing the Contractor time to cure a

failure or breach of contract does not waive the State's right to immediately terminate the contract for the same or different contract breach which may occur at a different time. In case of default of the Contractor, the State may contract the service from other sources and hold the Contractor responsible for any excess cost occasioned thereby.

**BB. ASSURANCES BEFORE BREACH**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

If any document or deliverable required pursuant to the contract does not fulfill the requirements of the Request for Proposal/resulting contract, upon written notice from the State, the Contractor shall deliver assurances in the form of additional Contractor resources at no additional cost to the project in order to complete the deliverable, and to ensure that other project schedules will not be adversely affected.

**CC. ADMINISTRATION – CONTRACT TERMINATION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

1. Contractor must provide confirmation that upon contract termination all deliverables prepared in accordance with this agreement shall become the property of the State of Nebraska; subject to the ownership provision (section E) contained herein, and is provided to the State of Nebraska at no additional cost to the State.
2. Contractor must provide confirmation that in the event of contract termination, all records that are the property of the State will be returned to the State within thirty (30) calendar days. Notwithstanding the above, Contractor may retain one copy of any information as required to comply with applicable work product documentation standards or as are automatically retained in the course of Contractor's routine back up procedures.

**DD. PENALTY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

In the event that the Contractor fails to perform any substantial obligation under the contract, the State may withhold all monies due and payable to the Contractor, without penalty, until such failure is cured or otherwise adjudicated.

**EE. FORCE MAJEURE**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Neither party shall be liable for any costs or damages resulting from its inability to perform any of its obligations under the contract due to a natural disaster, or other similar event outside the control and not the fault of the affected party (“Force Majeure Event”). A Force Majeure Event shall not constitute a breach of the contract. The party so affected shall immediately give notice to the other party of the Force Majeure Event. The State may grant relief from performance of the contract if the Contractor is prevented from performance by a Force Majeure Event. The burden of proof for the need for such relief shall rest upon the Contractor. To obtain release based on a Force Majeure Event, the Contractor shall file a written request for such relief with the State Purchasing Bureau. Labor disputes with the impacted party’s own employees will not be considered a Force Majeure Event and will not suspend performance requirements under the contract.

**FF. PROHIBITION AGAINST ADVANCE PAYMENT**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Payments shall not be made until contractual deliverable(s) are received and accepted by the State.

**GG. PAYMENT**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

State will render payment to Contractor when the terms and conditions of the contract and specifications have been satisfactorily completed on the part of the Contractor as solely determined by the State. Payment will be made by the responsible agency in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2401 through 81-2408). The State may require the Contractor to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for any services provided by the Contractor prior to the Effective Date, and the Contractor hereby waives any claim or cause of action for any such services.

**HH. INVOICES**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Invoices for payments must be submitted by the Contractor to the agency requesting the services with sufficient detail to support payment. The terms and conditions included in the Contractor’s invoice shall be deemed to be solely for the convenience of the parties. No terms or conditions of any such invoice shall be binding upon the State, and no action by the State, including without limitation the payment of any such invoice in whole or in part, shall be construed as binding or estopping the State with respect to any such term or condition, unless the invoice term or condition has been previously agreed to by the State as an amendment to the contract.

Invoices should be mailed and/or e-mailed to the point of contact listed below:

Invoices: NE Department of Correctional Services  
 Accounts Payable  
 P.O. Box 94661  
 Lincoln, NE 68509-4661  
 Or Via e-mail to: DCS.AccountsPayable@nebraska.gov  
 Accounts Payable Contact (402) 479-5701

**II. RIGHT TO AUDIT**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Contractor shall establish and maintain a reasonable accounting system that enables the State to readily audit contract. The State and its authorized representatives shall have the right to audit, to examine, and to make copies of or extracts from all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to this contract kept by or under the control of the Contractor, including, but not limited to those kept by the Contractor, its employees, agents, assigns, successors, and Sub-Contractors. Such records shall include, but not be limited to, accounting records, written policies and procedures; all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; backcharge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence.

Contractor shall, at all times during the term of this contract and for a period of five (5) years after the completion of this contract, maintain such records, together with such supporting or underlying documents and materials. The Contractor shall at any time requested by the State, whether during or after completion of this contract and at Contractor's own expense make such records available for inspection and audit (including copies and extracts of records as required) by the State. Such records shall be made available to the State during normal business hours at the Contractor's office or place of business. In the event that no such location is available, then the financial records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location that is convenient for the State. Contractor shall ensure the State has these rights with Contractor's assigns, successors, and Sub-Contractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Contractor and any Sub-Contractors to the extent that those sub-contracts or agreements relate to fulfillment of the Contractor's obligations to the State.

Costs of any audits conducted under the authority of this right to audit and not addressed elsewhere will be borne by the State unless certain exemption criteria are met. If the audit identifies overpricing or overcharges (of any nature) by the Contractor to the State in excess of one-half of one percent (.5%) of the total contract billings, the Contractor shall reimburse the State for the total costs of the audit. If the audit discovers substantive findings related to fraud, misrepresentation, or non-performance, the Contractor shall reimburse the State for total costs of audit. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Contractor's invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of the State's findings to Contractor.

**JJ. TAXES**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State is not required to pay taxes of any kind and assumes no such liability as a result of this solicitation. Any property tax payable on the Contractor's equipment which may be installed in a state-owned facility is the responsibility of the Contractor.

**KK. INSPECTION AND APPROVAL**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Final inspection and approval of all work required under the contract shall be performed by the designated State officials. The State and/or its authorized representatives shall have the right to enter any premises where the Contractor or Sub-Contractor duties under the contract are being performed, and to inspect, monitor or otherwise evaluate the work being performed. All inspections and evaluations shall be at reasonable times and in a manner that will not unreasonably delay work.

**LL. CHANGES IN SCOPE/CHANGE ORDERS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State may, upon the written agreement of Contractor, make changes to the contract within the general scope of the RFP. The State may, at any time work is in progress, by written agreement, make alterations in the terms of work as shown in the specifications, require the Contractor to make corrections, decrease the quantity of work, or make such other changes as the State may find necessary or desirable. The Contractor shall not claim forfeiture of contract by reasons of such changes by the State. Changes in work and the amount of compensation to be paid to the Contractor shall be determined in accordance with applicable unit prices if any, or a pro-rated value.

Corrections of any deliverable, service or performance of work required pursuant to the contract shall not be deemed a modification. Changes or additions to the contract beyond the scope of the RFP are not permitted..

**MM. SEVERABILITY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

If any term or condition of the contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular provision held to be invalid.

**NN. CONFIDENTIALITY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

All materials and information provided by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information. All materials and information provided by the State or acquired by the Contractor on behalf of the State shall be handled in accordance with federal and state law, and ethical standards. The Contractor must ensure the confidentiality of such materials or information. Should said confidentiality be breached by a Contractor; Contractor shall notify the State immediately of said breach and take immediate corrective action.

It is incumbent upon the Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a (i)(1), which is made applicable to Contractors by 5 U.S.C. 552a (m)(1), provides that any officer or employee of a Contractor, who by virtue of his/her employment or official position has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

**OO. PROPRIETARY INFORMATION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Data contained in the proposal and all documentation provided therein, become the property of the State of Nebraska and the data becomes public information upon opening the proposal.

If the bidder wishes to have any information withheld from the public, such information must fall within the definition of proprietary information contained within Nebraska's public record statutes. **All proprietary information the bidder wishes the State to withhold must be submitted in a sealed package, which is separate from the remainder of the proposal, and provide supporting documents showing why such documents should be marked proprietary.** The separate package must be clearly marked PROPRIETARY on the outside of the package. **Bidders may not mark their entire Request for Proposal as proprietary.** Bidder's cost proposals may not be marked as proprietary information. Failure of the bidder to follow the instructions for submitting proprietary and copyrighted information may result in the information being viewed by other bidders and the public. Proprietary information is defined as trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. §84-712.05(3)). In accordance with Attorney General Opinions 92068 and 97033, bidders submitting information as proprietary may be required to prove specific, named competitor(s) who would be advantaged by release of the information and the specific advantage the competitor(s) would receive. Although every effort will be made to withhold information that is properly submitted as proprietary and meets the State's definition of proprietary information, the State is under no obligation to maintain the confidentiality of proprietary information and accepts no liability for the release of such information.

**IMPORTANT NOTICE:** Pursuant to Neb. Rev. Stat. §84-602.02, all State contracts in effect as of January 1, 2014 will be posted to a public website beginning July 1, 2014. All information not specifically excluded by State Law **WILL BE POSTED FOR PUBLIC VIEWING.**

**PP. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION/COLLUSIVE BIDDING**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

By submission of this proposal, the bidder certifies, that it is the party making the foregoing proposal and that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham proposal, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and further that the bidder has not, directly or indirectly, submitted the proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

**QQ. STATEMENT OF NON-COLLUSION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The proposal shall be arrived at by the bidder independently and be submitted without collusion with, and without any direct or indirect agreement, understanding or planned common course of action with, any person; firm; corporation; bidder; Contractor of materials, supplies, equipment or services described in this RFP. Bidder shall not collude with, or attempt to collude with, any state officials, employees or agents; or evaluators or any person involved in this RFP. The bidder shall not take any action in the restraint of free competition or designed to limit independent bidding or to create an unfair advantage.

Should it be determined that collusion occurred, the State reserves the right to reject a bid or terminate the contract and impose further administrative sanctions.

**RR. PRICES**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

All prices, costs, and terms and conditions outlined in the proposal shall remain fixed and valid commencing on the opening date of the proposal until an award is made (and for bidder receiving award, prices shall remain as bid for the duration of the contract unless otherwise so stated in the contract) or the Request for Proposal is cancelled. Prices are only negotiable during contract renewal options. Prices offered herein will remain firm from the date of award of contract. Prices may be subject to change on each contract renewal option.

Contractor represents and warrants that all prices for services, now or subsequently specified are as low as and no higher than prices which the Contractor has charged or intends to charge customers other than the State for the same or similar products and services of the same or equivalent quantity and quality for delivery or performance during the same periods of time. If, during the term of the contract, the Contractor shall reduce any and/or all prices charged to any customers other than the State for the same or similar products or services specified herein, the Contractor shall make an equal or equivalent reduction in corresponding prices for said specified products or services.

Contractor also represents and warrants that all prices set forth in the contract and all prices in addition, which the Contractor may charge under the terms of the contract, do not and will not violate any existing federal, state, or municipal law or regulations concerning price discrimination and/or price fixing. Contractor agrees to hold the State harmless from any such violation. Prices quoted shall not be subject to increase throughout the contract period unless specifically allowed by these specifications.

**SS. BEST AND FINAL OFFER**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State will compile the final scores for all parts of each proposal. The award may be granted to the lowest responsible bidder. Alternatively, bidders may be requested to submit best and final offers. If best and final offers are requested by the State and submitted by the bidder, they will be evaluated Based on cost. The award will then be granted to the highest scoring bidder. However, a bidder should provide its best offer in its original proposal. Bidders should not expect that the State will request a best and final offer.

**TT. ETHICS IN PUBLIC CONTRACTING**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

No bidder shall pay or offer to pay, either directly or indirectly, any fee, commission compensation, gift, gratuity, or anything of value to any State officer, legislator, employee or evaluator based on the understanding that the receiving person's vote, actions, or judgment will be influenced thereby. No bidder shall give any item of value to any employee of the State Purchasing Bureau or any evaluator.

Bidders shall be prohibited from utilizing the services of lobbyists, attorneys, political activists, or consultants to secure the contract. It is the intent of this provision to assure that the prohibition of state contact during the procurement process is not subverted through the use of lobbyists, attorneys, political activists, or consultants. It is the intent of the State that the process of evaluation of proposals and award of the contract be completed without external influence. It is not the intent of this section to prohibit bidders from seeking professional advice, for example consulting legal counsel, regarding terms and conditions of this Request for Proposal or the format or content of their proposal.

If the bidder is found to be in non-compliance with this section of the Request for Proposal, they may forfeit the contract if awarded to them or be disqualified from the selection process.

**UU. INDEMNIFICATION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

**1. GENERAL**

The Contractor agrees to defend, indemnify, hold, and save harmless the State and its employees, volunteers, agents, and its elected and appointed officials (“the indemnified parties”) from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses (“the claims”), sustained or asserted against the State, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the Contractor, its employees, Sub-Contractors, consultants, representatives, and agents, except to the extent such Contractor liability is attenuated by any action of the State which directly and proximately contributed to the claims.

**2. INTELLECTUAL PROPERTY**

The Contractor agrees it will, at its sole cost and expense, defend, indemnify, and hold harmless the indemnified parties from and against any and all claims, to the extent such claims arise out of, result from, or are attributable to, the actual or alleged infringement or misappropriation of any patent, copyright, trade secret, trademark, or confidential information of any third party by the Contractor or its employees, Sub-Contractors, consultants, representatives, and agents; provided, however, the State gives the Contractor prompt notice in writing of the claim. The Contractor may not settle any infringement claim that will affect the State’s use of the Licensed Software without the State’s prior written consent, which consent may be withheld for any reason.

If a judgment or settlement is obtained or reasonably anticipated against the State’s use of any intellectual property for which the Contractor has indemnified the State, the Contractor shall, at the Contractor’s sole cost and expense, promptly modify the item or items which were determined to be infringing, acquire a license or licenses on the State’s behalf to provide the necessary rights to the State to eliminate the infringement, or provide the State with a non-infringing substitute that provides the State the same functionality. At the State’s election, the actual or anticipated judgment may be treated as a breach of warranty by the Contractor, and the State may receive the remedies provided under this RFP.

**3. PERSONNEL**

The Contractor shall, at its expense, indemnify and hold harmless the indemnified parties from and against any claim with respect to withholding taxes, worker’s compensation, employee benefits, or any other claim, demand, liability, damage, or loss of any nature relating to any of the personnel provided by the Contractor.

**VV. NEBRASKA TECHNOLOGY ACCESS STANDARDS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Contractor shall review the Nebraska Technology Access Standards, found at <http://nitc.nebraska.gov/standards/2-201.html> and ensure that products and/or services provided under the contract are in compliance or will comply with the applicable standards. In the event such standards change during the Contractor’s performance, the State may create an amendment to the contract to request the contract comply with the changed standard at a cost mutually acceptable to the parties.

**WW. ANTITRUST**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this contract resulting from antitrust violations which arise under antitrust laws of the United States and the antitrust laws of the State.

**XX. DISASTER RECOVERY/BACK UP PLAN**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor shall have a disaster recovery and back-up plan, of which a copy should be provided to the State, which includes, but is not limited to equipment, personnel, facilities, and transportation, in order to continue services as specified under the specifications in the contract in the event of a disaster.

**YY. TIME IS OF THE ESSENCE**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Time is of the essence in this contract. The acceptance of late performance with or without objection or reservation by the State shall not waive any rights of the State nor constitute a waiver of the requirement of timely performance of any obligations on the part of the Contractor remaining to be performed.

**ZZ. RECYCLING**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Preference will be given to items which are manufactured or produced from recycled material or which can be readily reused or recycled after their normal use as per Neb. Rev. Stat. §81-15,159.

**AAA. DRUG POLICY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Contractor certifies it maintains a drug free work place environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

**BBB. EMPLOYEE WORK ELIGIBILITY STATUS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification

of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at <http://das.nebraska.gov/materiel/purchasing.html>

The completed United States Attestation Form should be submitted with the Request for Proposal response.

2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

**CCC. CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND INELIGIBILITY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor, by signature to this RFP, certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from participating in transactions (debarred). The Contractor also agrees to include the above requirements in any and all Sub-Contracts into which it enters. The Contractor shall immediately notify the Department if, during the term of this contract, Contractor becomes debarred. The Department may immediately terminate this contract by providing Contractor written notice if Contractor becomes debarred during the term of this contract.

Contractor, by signature to this RFP, certifies that Contractor has not had a contract with the State of Nebraska terminated early by the State of Nebraska. If Contractor has had a contract terminated early by the State of Nebraska, Contractor must provide the contract number, along with an explanation of why the contract was terminated early. Prior early termination may be cause for rejecting the proposal.

**DDD. POLITICAL SUB-DIVISIONS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor may extend the contract to political sub-divisions conditioned upon the honoring of the prices charged to the State. Terms and conditions of the Contract must be met by political sub-divisions. Under no circumstances shall the State be contractually obligated or liable for any purchases by political sub-divisions or other public entities not authorized by Neb. Rev. Stat. §81-145, listed as “all officers of the state, departments, bureaus, boards, commissions, councils, and institutions receiving legislative appropriations.” A listing of Nebraska political subdivisions may be found at the website of the Nebraska Auditor of Public Accounts.

**EEE. OFFICE OF PUBLIC COUNSEL**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

If it provides, under the terms of this contract and on behalf of the State of Nebraska, health and human services to individuals; service delivery; service coordination; or case management, Contractor shall submit to the jurisdiction of the Office of Public Counsel, pursuant to Neb. Rev. Stat. §§ 81-8,240 et seq. This section shall survive the termination of this contract and shall not apply if Contractor is a long-term care facility subject to the Long-Term Care Ombudsman Act, Neb. Rev. Stat. §§ 81-2237 et seq.

**FFF. LONG-TERM CARE OMBUDSMAN**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

If it is a long-term care facility subject to the Long-Term Care Ombudsman Act, Neb. Rev. Stat. §§ 81-2237 et seq., Contractor shall comply with the Act. This section shall survive the termination of this contract.

**JJJ. LICENSE/SERVICE OR OTHER AGREEMENTS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Any License/Service or other such agreements which the bidder may want the State to consider must be submitted with the bid. Any License/Service or other such agreements submitted to the State post bid opening may result in the bid being rejected in its entirety. Any such agreement, if agreed to by the State, will be considered an addendum to the contract. Any terms and conditions contained in any such accepted agreement (addendum) must not conflict with or alter the State's Terms and Conditions (Terms and Conditions) as contained in the RFP and finalized in the contract. In the event of any conflict between the Terms and Conditions and any addendum the Terms and Conditions will prevail.

The State reserves the right to reject any submitted addendum and considers the submission of any such addendum to be a proposed alteration of the Terms and Conditions.

This clause does not apply to any third party license or service agreements

#### IV. PROJECT DESCRIPTION AND SCOPE OF WORK

##### A. SCOPE OF WORK

The bidder must provide the following information in response to this Request for Proposal.

The Nebraska Department of Correctional Services (NDCS) seeks to enter into a contract for a period of two (2) years effective July 1, 2015 through June 30, 2017, with the option to renew for two (2) additional two (2) years periods as mutually agreed upon by all parties for the purpose to provide the following:

Medical Testing  
Drug Testing

This contract will be for all applicants and some services will be provided to existing employees as described in Section B, Work Plan.

NDCS applicants for employment and existing employees come from a multitude of geographic locations throughout the state. NDCS facilities and programs are located in Lincoln, Omaha, Tecumseh, York, and McCook. It is the intent of NDCS to provide all applicants reasonable availability in obtaining such required testing in regions convenient to their potential site of employment.

**NDCS reserves the right to award multiple contracts from this RFP. The State reserves the right to give consideration to a contractor that can provide all services requested in the RFP if it is determined to be in the best interest of the State.**

*Requirements:* NDCS requires successful applicants for employment to schedule the testing/screening necessary for their proposed positions at least ten (10) days **prior** to their Pre-Service Training. The Contractor(s) shall confidentially communicate (designated fax or computer access) the confirmed results to the Agency designee within time frames specified in Section IV. D, Scope of Work. It is the applicant's responsibility to schedule the appointment in a timely manner, which will be scheduled within two (2) days of contact. NDCS will not be responsible for applicants that miss an appointment, mileage reimbursement, no call no show, short notice calls, or any other charges **unless** specifically identified in this contract.

All individuals performing services as requested in this RFP must be licensed State of Nebraska health care professionals in good standing with any requirements necessary to perform each Scope of Work component. Contractor(s) must have qualified licensed personnel available to discuss testing/screening performed with NDCS. Contractor(s) must provide a private and confidential space, personnel, equipment and supplies necessary for safe and proper performance.

The Contractor(s) shall be accomplished and knowledgeable in the subject area of Occupational Health and all State and Federal Statutes and Regulations that apply. (<http://www.nebraskalegislature.gov/> and <https://foh.hhs.gov/> )

The Contractor(s) shall treat all NDCS applicants and employees in a professional and confidential manner (Section II, C), and shall address their methods of retaining confidentiality in their proposal. Preferred hours of operation should be from 7:00 AM to 5:00 PM (Central Time), Monday through Friday.

Services for existing NDCS employees shall be scheduled with the Contractor(s) on an as-needed basis.

As requested by NDCS, Contractor(s) shall submit related reports and statistical information to NDCS for all services provided by Contractor(s) when requested. The Contractor(s) is required to create and maintain an electronic database to track relevant information as mutually defined and approved by Contractor(s) and NDCS. This database will become the property of NDCS.

For informational purposes, the tentative pre-service schedule for calendar year 2015 and 2016 is shown below. ***It is expected that the greatest number of scheduled visits to Contractor(s) for Testing, Examinations and Screenings would fall within the two (2) to three (3) week period prior to the first day of Pre-Service Training Classes. Classes may be added if necessary, notification will be given in advance.***

<b>Pre-Service Training Class Start Dates 2015</b>
July 6, 2015
July 27, 2015
August 17, 2015
September 8, 2015
September 28, 2015
October 19, 2015
November 9, 2015
December 7, 2015
December 28, 2015

<b>Pre-Service Training Class Start Dates 2016</b>
January 25, 2016
February 16, 2016
March 7, 2016
March 28, 2016
April 18, 2016
May 9, 2016
May 31, 2016
June 20, 2016

**B. WORK PLAN**

**Applicant Medical Testing**

NDCS is seeking to contract with a qualified Contractor(s) for the purpose of medical testing, examinations, and screening of NDCS applicants as listed within the Scope of Work description.

It is the intent of NDCS to require successful applicant(s) for employment to schedule the testing, examinations, and/or screening necessary for their proposed positions prior to their first day of Pre-Service Training Classes, with the results also received by NDCS seven (7) calendar days prior to that first day of training. NDCS will work with applicants to ensure that they understand it is the applicant's responsibility to schedule the appointment in a timely manner.

All individuals performing services as requested in this RFP must be licensed State of Nebraska health care professionals in good standing with the minimum standards necessary to perform each Scope of Work component.

**Applicant/Employee Medical Drug Testing**

NDCS is seeking to contract with a qualified Contractor(s) to administer and conduct a controlled substance testing program for its applicants and employees. Services will include both pre-employment screening for controlled substances, as well as random testing of employees and reasonable suspicion drug testing services. **Contractor(s) to indicate if the testing process is to be performed off-site.**

Drugs to be tested for under this proposal include:

- Marijuana;
- Cocaine;
- Amphetamines/Methamphetamines;
- Opiates;
- Phencyclidine; or
- DERIVATIVES OF THESE SUBSTANCES.

Tests to be performed under this proposal will typically be conducted during normal business hours, between 7:00 AM through 5:00 PM (Central Time) **Note: Saliva testing will not be considered.**

1. Five-Drug Panel Test during normal business hours, Monday through Friday
2. Five-Drug Panel Test **after** normal business hours, Monday through Friday; All Day Saturday & Sunday)
3. DOT Drug Screen during normal business hours, Monday through Friday
4. DOT Alcohol Testing during normal business hours, Monday through Friday
5. Split Specimen Testing

**PROJECT ENVIRONMENT AND REQUIREMENTS – OFF-SITE TESTING/SCREENS/EXAMS**

**Applicant/Employee Drug Testing**

The selected Contractor(s) is required to have certified collectors at designated sites to collect urine specimens from NDCS applicants and/or employees. The collection sites will have the following items available on site: chain of custody forms, urine collection kits meeting DOT requirements for those applicants/employees covered by DOT regulations, and kits meeting non-DOT requirements for the remainder. The successful Contractor(s) will provide an individual knowledgeable in their organization’s operations and drug testing processes to testify in judicial or labor arbitration, as necessary (See Provide Post-Implementation Support, Page 47 H.).

This RFP encompasses controlled substance testing for the following categories:

1. All post-job offer pre-employment applicants for NE Department of Correctional Services (NDCS) positions, totaling approximately 500 persons per year.
2. Random drug tests for NDCS existing employees. NDCS expects to randomly test approximately 10% of its existing workforce per year. Existing employees number approximately 2300 persons, and random testing will be approximately 575 persons per year. **Quantities are estimated and shall not be construed as a minimum or maximum.** Please refer to Project Planning and Management Page 41.

3. Reasonable suspicion tests for NDCS personnel on an as-needed basis, anticipated to be approximately nine (9) tests per year.

4. Testing of all NDCS employees who utilize a Commercial Driver's License (CDL) as part of their job responsibilities, according to federal Department of Transportation (DOT) regulations. These regulations require 50% random drug and 10% random alcohol testing. NDCS estimates that approximately nine (9) persons per year will be tested under DOT regulations. NDCS employees requiring this type of testing drive straight trucks in the performance of their duties, which requires a CDL licensure.

5. Follow-up or return-to-duty testing, including any post-accident testing. NDCS estimates approximately nine (9) employees per year will be tested in this category.

Respirator Exam for Power Plant

### **BUSINESS REQUIREMENTS**

Proposals shall address implementation plan, information packets, and/or other tools Contractor(s) will provide NDCS to aid in developing applicant/employee notification of procedures.

Contractor(s) will work with NDCS staff to ensure efficiency in scheduling so that NDCS will receive results within agreed upon timeframes.

Prior to commencement of the contract, NDCS may require Contractor's staff complete and pass security background checks if services performed at NDCS facilities. Photo identification badges will be issued to personnel performing services under the contract. Security checks and badges will be at no cost to the Contractor(s), and can be arranged by contacting NDCS human resources staff/or designee listed within the contract.

Proposals will include time requirements necessary to schedule services so that NDCS will receive results prior to onset of Pre-Service Training Classes. For example, what is the minimum window or timeframe required to process the applicant's testing and results? Will persons identifying themselves as NDCS applicants or employees be able to receive priority scheduling, if necessary?

Contractor(s) will invoice NDCS Accounting monthly for testing and screenings performed on NDCS applicants and employees.

Notification will be made to Contractor(s) of approved individuals and the level of services required who will be requesting scheduling. Contractor(s) will provide a **monthly statement** with applicant's last and first name (alphabetical order), date of service, and tests performed on the statement the NDCS Human Resources Contact listed.

### **NDCS APPLICANTS/EXISTING EMPLOYEES**

***\*\*Quantities are estimated only and shall not be construed to be either a minimum or a maximum.***

AUTHORIZED FTE						
Facility	Officer:	Corporals:	Sergeants:	Casewrks:	Other:	TOTAL
CCCL	0	15	4	8	22	49
CCCO	0	4	2	10.5	12	28.5
DEC	32	63	10	0	32.5	137.5
LCC	45	52	11	44	80	232
NCCW	0	54	6	26	40.5	126.5
NCYF	0	30	3	13	29	75
NSP	126	116	27	53	130	452
OCC	29	38	7	33	68	175
TSCI	93	169	25	34	110	431
WEC	0	31	8	8	25	72
CSI & FSP	0	25	0	0	68	93
AP	0	0	0	0	63	63
NURSES	0	0	0	0	46.5	46.5
HEALTH SERV	0	0	0	0	201.75	201.75
TEACHERS	0	0	0	0	25	25
CENT OFC	0	1	0	2	134	137
	325	598	103	231.5	1087.25	2344.75

### NDCS FACILITY LOCATIONS & AGENCY RESPONSIBILITIES

NDCS includes the following facilities and programs, from which the applicants and employees to be tested will be drawn. Proposals must address testing/collection site locations and the maximum amount of sites provided for convenience of applicants/employees located throughout the state. Quantities stated are estimated only and shall not be construed to be either the minimum or a maximum.

#### NDCS Contacts:

Robin Nolte, Administrative Asst.  
801 W Prospector Place, Bldg. #1  
Lincoln, NE 68522  
(402) 479-5979

Crystal Prochnow, HR Manager  
801 W Prospector Place, Bldg. #1  
Lincoln, NE 68522  
(402) 479-5690

Keith Ernst, Assistant HR Administrator  
801 W Prospector Place, Bldg. #1  
Lincoln, NE 68522  
(402) 479-5888

Erinn Criner, HR Administrator  
801 W Prospector Place, Bldg. #1  
Lincoln, NE 68522  
(402) 479-5752

Matthew Parker, ADA Coordinator  
801 W Prospector Place, Bldg. #1  
Lincoln, NE 68522  
(402) 432-5182

Contractor's proposal must address implementation of the scope of work above, including the medical description of each procedure.

Contractor(s) to provide a list of laboratories that will be used and provide documentation that they are properly accredited.

Contractor(s) will use the series of forms provided by NDCS.

### **Applicant/Employee Drug Testing**

The following are mandatory program components that must be provided by the Contractor(s), to include any Sub-Contractor(s) used by the Contractor(s) in performance of the requested services. **The proposal submitted by the Contractor(s) shall respond to all points listed below, citing sections and subsections as they are defined. Failure of the Contractor's proposal to cite references may be cause for eliminating the proposal from consideration.**

### **Statement of Qualifications**

It is the intent of NDCS to contract with one (1) firm (utilizing sub-contractors) if possible, but could be awarded to multiple contractors. The State reserves the right to give consideration to a contractor that can provide all services requested in the RFP if it is determined to be in the best interest of the State. Contractors shall present a profile of their organization and other services provided by sub-entities to include:

1. A statement as to whether the organization is local, regional, national, or international.
2. The location of the offices and facilities from which services will be provided, including:
  - a) Program Administration—Contact Name and Telephone Number
  - b) Specimen Collection
  - c) Approved Courier Service, which provides verifiable Chain of Custody services
  - d) Specimen Testing (Laboratory Services), including Location and Telephone Number
  - e) Medical Review Officer (MRO) Services Rendered—Location and Telephone Number.
3. The Contractor(s) and any sub-Contractor(s) must follow standard written Chain of Custody protocols as provided on Page 47 of this RFP.
4. The Contractor(s) must provide for 24-hour collection of specimens seven (7) days a week.
5. The Contractor(s) must notify NDCS within five (5) business days of the test results of the collected specimens, which includes the Medical Review Officer meeting the requirements listed on Page 46 of this RFP.
6. The Contractor(s) shall explain their methodology for keeping records of all test results, including type of test, test findings, and the applicant's/employee's work site.
7. Qualifications of the Contractor(s), Contractor's staff, and Medical Review Officer, including experience and credentials of each. A separate statement certifying that all administrative staff, collection site staff, and Medical Review Officer meet or exceed the requirements of the Federal Highway Administration, Nebraska Health and Human Services System, Regulation and Licensure requirements, certification, and on-going education/training requirements.

## **PROJECT PLANNING AND MANAGEMENT**

Contractor's proposal shall explain their methodology for record keeping of all test results, including the type of test and test findings by applicant/employee. This methodology shall also discuss how privacy issues are addressed. All results must be faxed to the NDCS secured fax line. If a secure website is available for use, it may be implemented if approved by NDCS.

NDCS will provide the Contractor(s) with the names and telephone numbers of the work-site coordinators who have been assigned responsibility for administration of the drug testing program for the agency.

NDCS will ensure that the Contractor(s) is provided the necessary information regarding applicants and employees who are to be tested. The information will be provided on an NDCS approved form.

NDCS will provide updated lists of employees to the Contractor(s) on a quarterly basis for selection of random testing recipients.

## **PROVIDE POST IMPLEMENTATION SUPPORT**

At the request of the NDCS Agency Director or designee, the Contractor(s) will provide expert witness(es) for an employee/applicant grievance/arbitration hearing, and/or pretrial and trials, at a billable hourly rate when requested by NDCS. The Contractor(s) shall provide telephone consultation to the NDCS Agency Counsel or, designee, at no additional charge to NDCS.

### **C. DELIVERABLES (REQUIRED)**

Deliverables under this project are the performance of the work requested on a monthly basis. Contractor(s) will invoice NDCS Accounting monthly for a lump sum for testing and screenings performed on NDCS applicants and employees. Invoice will be by collection site for the tests administered to NDCS applicants/employees. Invoices **only** (minus confidential information such as names/social security numbers) to be sent to the following address:

NE Department of Correctional Services, Accounts Payable  
P.O. Box 94661  
Lincoln, NE 68509-4661  
[DCS.AccountsPayable@nebraska.gov](mailto:DCS.AccountsPayable@nebraska.gov)

Contractor(s) will provide a **monthly statement** with applicant's last and first name (alphabetical order), date of service, and tests performed on the statement the NDCS Human Resources Contact listed. NDCS prefers the statement to be provided electronically in an excel format.

Contractor(s) will provide to NDCS a monthly-itemized invoice including names, dates and cost of each test performed, **as outline in detailed information regarding specific testing**.

<p><b><u>Applicant Medical Testing</u></b> The type of testing/screening/examination needed by applicants/employees is dependent upon the degree of inmate contact and/or provision of health care services. For reference, see <b>below for groupings and service components.</b></p> <p><b>Group A: Applicants with Inmate Contact, but Not Providing Health Care Services</b></p>
<p>Physical Examination Hepatitis B Immunization Series (Applicant Choice to Receive Series) Dipstick U/A</p>

<p><b>Group B: Applicants with Direct Inmate Contact Providing Health Care Services</b></p>
<p>Physical Examination Communicable Disease Testing Hepatitis B Immunization Series (Applicant Choice to Receive Series) Dipstick U/A</p>

<p><b>Group C: New Applicants without Inmate Contact and Not Providing Health Care Services</b></p>
<p>Screening</p>

<p><b>Group D: Existing Employees and Contracted Staff with inmate contact &amp; providing Healthcare Services.</b></p>
<p>Annual 2 Step TB Test</p>

<p><b>Group Respirator Exam/Questionnaire for NSP Power Plant Workers</b></p>	<b>E:</b>
<p>Bi-Annual Respirator Exam Review</p>	

**For Service Components (see below), Contractor’s proposal must identify the category of health professional that will be performing each service.**

## **SERVICE COMPONENTS**

### **Screening:**

1. Performed by RN or LPN
2. Up to 5 minutes
3. Medical History Review
4. Vital Signs (blood pressure, pulse, respiration)

### **TB Interferon Testing**

1. Performed by RN, LPN or Phlebotomist
2. Up to 5 minutes (Single step)
3. Lab result within 48-72 hours
4. X-ray (if TB results positive) 2 view PA & Lateral
5. One step TB if results are indeterminate/no results

### **Annual TB Testing (at NDCS facilities)**

1. Performed by RN, LPN or Phlebotomist
2. Up to 5 minutes (Single step)
3. Lab result within 48-72 hours
4. X-ray (if TB results positive) 2 view PA & Lateral
5. One step TB if results are indeterminate/no results
6. Two step TB testing may be asked also

### **Communicable Disease**

1. Performed by nurse or lab personnel
2. Buccal HIV swab or Blood Test (Buccal HIV swab preferred, if available)
3. Hepatitis A,B,C blood screen (four (4) screens)

### **Hepatitis B Immunization**

1. Performed by RN or LPN
2. 3 shot series

### **Physical Examination**

1. Estimated 15 minutes, performed by PA, NP, MD, or DO
2. Medical History Review
3. Includes a dipstick UA
4. Equivalent to school athletic exam (vital signs, height, weight, integument/lesions, HEENT including visual acuity (use of eye chart), neck, lungs, heart, abdomen, hernia assessment, spine, extremities, neurological, psychological (mini-mental status))

Upon request, Contractor(s) will be provided with a private room to perform these services. Contractor(s) must provide personnel and all equipment and supplies necessary for safe and proper performance. A secured space will be made available at the Contractor's request to store any such equipment and supplies that would be left on site. Contractor(s) will be aware that such storage is at his or her own risk.

NDCS will provide all necessary utilities for services performed within our buildings under this contract.

### **Existing Employees**

Existing employees shall be tested in conjunction with applicants, with scheduling to be coordinated between Contractor(s) and NDCS.

### **Disposal of Medical Waste**

Contractor(s) is responsible for proper disposal of medical waste and/or biohazard materials. NDCS will not be responsible for any such disposal

### **Drug Testing (to include Random)**

#### **Random Employee/Applicant Screening:**

Performed by RN or LPN  
Up to 5 minutes  
Medical History Review  
Vital Signs (blood pressure, pulse, respiration)

#### **Hepatitis B Immunization**

Performed by RN or LPN  
3 shot series

#### **Physical Examination**

Estimated 15 minutes, performed by PA, NP, MD, or DO  
Medical History Review  
Includes a dipstick UA  
Equivalent to school athletic exam (vital signs, height, weight, integument/lesions, HEENT including visual acuity (use of eye chart), neck, lungs, heart, abdomen, hernia assessment, spine, extremities, neurological, psychological (mini-mental status)

### **Respiratory NSP**

All results of **physical examinations and physical screenings** are to be provided to NDCS contact(s) within 48 hours and/or two (2) business days from the date of service. Results of **all other** medical testing shall be provided to NDCS contact(s) within 72 hours and/or three (3) business days after Contractor's receipt of results. Contractor's proposal will address response time for the provision of all test results to NDCS associated with the above requested services.

Such results shall be faxed to a specified fax number. Contractor's proposal shall address methods of delivery, confidentiality, and all other relevant issues. NDCS contact(s) for receipt of results shall be identified prior to onset of services.

### **Applicant/Employee Drug Testing**

#### **After Hours**

#### **1. Enumerated Services**

Proposals shall provide a base test cost per specimen, which does not include the following expenses: administration, blind testing, record keeping, mileage reimbursement, no call no show, short notice calls, split specimen, and/or any other charges **unless** specifically identified in this contract.

## **2. Random Testing Selection Process**

The Contractor(s) shall describe their established and validated process for random selection of employees for testing. The random selection shall be drawn from 10% of existing NDCS employees for testing agency wide, on a quarterly basis.

## **3. Collection Process**

Collections shall include split specimen bottles and pre-printed DOT and non-DOT Drug Testing Custody and Control forms.

The Contractor(s) is responsible for establishing and maintaining quality control measures.

Collection site personnel shall be trained in compliance with applicable regulations and shall be regularly engaged in the business of urine collection procedures for controlled substances testing. It shall be the Contractor's responsibility to provide trained collection site personnel.

## **4. Reasonable Cause/Reasonable Suspicion Testing**

For reasonable cause testing the Contractor(s) must be able to accommodate NDCS's need to have such tests performed during all shifts on as-needed basis. Contractor(s) shall explain their procedure within the proposal submitted.

## **5. Laboratory Services—Certification, Personnel, and Confidential Routing of Results**

The Contractor(s), laboratory, collection sites, and any entity involved in testing or collection shall hold a SAMHSA certification (<http://www.samhsa.gov/>). The date of certification and proof of certification must be submitted with the proposal. Information that relates to any suspension or revocation of the laboratory, past or pending, must be submitted with the proposal.

The laboratory used by the Contractor(s) shall conduct testing and provide storage of specimens in accordance with SAMHSA regulations.

Specimens shall be analyzed for the following drugs: 1) Marijuana, 2) Cocaine, 3) Amphetamines/Methamphetamines, 4) Opiates, 5) Phencyclidine OR DERIVATIVES OF THESE SUBSTANCES.

Upon request by NDCS, the Contractor(s) shall also test for benzodiazepine, barbiturates, and LSD, or their derivatives.

The Contractor(s), upon request by NDCS, shall provide a list of all authorized personnel performing and overseeing the testing process, including certifications and licenses. Authorized personnel are individuals who have access to those areas used for receiving, testing, and storage of urine specimens and/or delivery personnel.

## **6. Communication of Results and Disposal / Retention of Specimens**

The Contractor(s) shall confidentially communicate the confirmed, positive GC/MS test results to the Agency designee within five (5) business days following collection of specimen. The Contractor(s) shall ensure the security of data transmission and limit access to any data transmission, storage, and retrieval system. The Contractor(s) shall retain copies of test results and associated forms for one (1) year, or, in the event of litigation, until the employee grievance appeal process and all legal remedies have been exhausted.

The laboratory shall only release information regarding a positive drug test to the individual subject of the test, a designee of the employing agency (NDCS), and parties to an employee grievance appeal filed under the Nebraska Administrative Code, or the applicable labor agreement.

The Contractor(s) shall dispose of all negative samples within seven (7) days of the test, except for test of CDL employees, which are governed by Federal guidelines.

The Contractor(s) shall retain confirmed positive samples in long-term frozen storage for one (1) year, or in the event of litigation or appeals, until all legal remedies have been exhausted.

## **7. Chain of Custody Procedures**

The Contractor(s) will provide DOT standard Chain of Custody (COC) forms that are acceptable to the NDCS Agency General Counsel, or designee. All chain of custody will be maintained at contractors testing site, but made available upon NDCS requests.

The COC form is to be used by each collection site, and will include a distinct specimen identification number for each sample, to be used for donor identification and reporting of test results. COC form shall include the NDCS agency identification number, the applicant/employee's name, Employee Address Book Number/Employee Number, and space for notation of any special circumstances identified by collection site staff.

The Contractor(s), laboratory, collection sites, and any entity involved in the Chain of Custody will follow all applicable Federal Highway Administration Regulations for both alcohol and drug testing relevant to the DOT/CDL testing program, including 50% random drug testing, and 10% random alcohol testing.

## **8. Medical Review Officer**

The Contractor(s) shall provide a certified Medical Review Officer (MRO) who is responsible for meeting all requirements under federal and state laws.

The MRO shall be a licensed physician responsible for receiving laboratory results generated by the drug-testing program. The MRO must have knowledge of substance abuse disorders, and have appropriate medical training to interpret and evaluate a person's confirmed test result and his/her medical history, plus any other relevant biomedical history.

If the test results are positive, the MRO will immediately attempt to contact the subject of the test by telephone. If repeated attempts to contact the subject of the test are unsuccessful after 72 hours, the MRO will contact the NDCS agency contact person and report an initial positive test.

The Contractor(s) shall provide within the proposal the location and hours of business of the MRO, and shall provide both a regular and an emergency telephone number for the MRO.

The MRO will be available for testimony as an expert witness, if needed (see Provide Post Implementation Support).

The MRO will verify that a reported confirmatory test is positive or adulterated.

## **9. Quality Control Measures**

The Contractor(s) shall maintain a quality control program to ensure:

Proper performance of all tests and proper reporting of all test results.

Acceptable analytical performance for all controls and standards to provide accurate and reproducible results.

Proof of maintenance of quality control testing.

Documentation of validity, reliability, accuracy, precision, and performance characteristics of each test and test system.

Participation in proficiency testing of the College of American Pathologists, or equivalent, and obtain satisfactory results in such testing, proof of which must be furnished to the NDCS agency designee on a quarterly basis.

Demonstrate implementation procedures that ensure carryover does not contaminate the testing of an individual's specimen, and document such procedures. Ten percent (10%) of all test samples are to be quality control samples.

#### **10. Record Keeping**

The Contractor(s) will maintain and make available to NDCS agency designee documentation on all aspects of the drug testing process.

Upon notice to the Contractor(s) from NDCS, the Contractor(s) will retain documents for any tests under grievance appeal/arbitration and/or legal challenge, until all legal remedies have been exhausted. These documents will include, but are not limited to:

- The names of all individuals authorized to have access to specimens;
- Chain of Custody documents;
- Quality assurance/quality control records;
- Procedural manuals;
- All test data and reports;
- Performance records on performance testing; and
- Hard copies of computer-generated data upon request.

#### **11. Release of Information**

The Contractor(s) shall obtain approval from the NDCS agency designee prior to releasing confidential information.

The Contractor(s) may release information/documents pertaining to the NDCS Drug Testing Program only to the NDCS agency designee(s).

The Contractor(s) agrees that any drug testing laboratory used by the Contractor(s) shall be required to maintain applicant/employee test records in confidence, as required by the United States Department of Health and Human Services (<http://www.hhs.gov/>) and the governing regulations of NDCS.

#### **12. Summary Reports**

The Contractor(s) shall submit program, fiscal status, and statistical reports as requested by the NDCS agency designee.

The Contractor(s) shall list all results by Sample Identification Number and submit the results to the agency designee.

The Contractor(s) shall send all summary reports in an agreed upon printed and electronic format:

For Initial Testing:

1. Number of specimens received
2. Number of specimens screened negative
3. Number of specimens screened positive
4. Type of drugs detected
5. Number of specimens confirmed as adulterated.

For Confirmatory Testing (GC/MS):

1. Number of specimens received
2. Number of specimens reported negative
3. Number of specimens reported positive
4. Type of drugs detected
5. Number of specimens confirmed as adulterated.

Annual Summary of Agency Results, to include program strengths and suggested program improvements.

**TB Test**

The type of testing/screening needed by applicant/employees is dependent upon the degree of inmate contact and/or provision of health care services.

All results are to be provided to NDCS contact(s) within 72 hours and/or three (3) business days from the date of service. Notification will be made to Contractor(s) of approved individuals via secure email, a listing of all employees required to have testing performed within two (2) work days of scheduled date. List will include employee name, ID number, date of birth and sex.

In the event of a "Positive" result, NDCS will coordinate with employee in obtaining an X-ray evaluation. In the event of a "No Response" result, NDCS Medical Director or designee will review the results and make necessary recommendations for further testing (1 step TB).

**D. PAYMENT SCHEDULE**

The payment schedule for the project is tied to specific dates and deliverables. Invoices may be submitted by the Contractor on specific dates based on the completion and acceptance of related deliverables. No invoice will be approved unless the associated deliverables have been approved. A percentage of the total contract cost may then be invoiced based on the following schedule.

**Billing Process**

Contractor(s) will invoice NDCS Accounting monthly for a lump sum for testing and screenings performed on NDCS applicants and employees. Invoice will be by collection site for the tests administered to NDCS applicants/employees. Invoices **only** (minus confidential information such as names/social security numbers) to be sent to the following address:

NE Department of Correctional Services, Accounts Payable  
P.O. Box 94661  
Lincoln, NE 68509-4661

[DCS.AccountsPayable@nebraska.gov](mailto:DCS.AccountsPayable@nebraska.gov)

Notification will be made to Contractor(s) of approved individuals and the level of services required who will be requesting scheduling. Contractor(s) will provide a **monthly statement** with applicant's last and first name (alphabetical order), date of service, and tests performed on the statement the NDCS Human Resources Contact listed. NDCS prefers the statement to be provided electronically in an excel format.

Detailed medical testing information must be provided **via email or fax** to the NDCS Designee as follows:

NE Department of Correctional Services, Human Resources  
Attn: Robin Nolte  
PO Box 94661  
Lincoln, NE 68509-4661  
Secure Fax: (402) 479-5719  
Email address: robin.nolte@Nebraska.gov

Detailed drug testing information must be provided via email or fax to the NDCS Agency Drug-site Coordinator, listed below:

Nebraska Department of Correctional Services, Human Resources  
Attn: Crystal Prochnow  
P.O. Box 94661  
Lincoln, NE 68509-4661

Facsimile: (402) 479-5719  
Email: crystal.prochnow@nebraska.gov

Secondary Contact listed below:

Nebraska Department of Correctional Services, Human Resources  
Attn: Keith Ernst  
P.O. Box 94661  
Lincoln, NE 68509-4661

Facsimile: (402) 479-5719  
Email: keith.ernst@nebraska.gov

For positive tests, any applicant/employee requested second split specimen testing costs (if any) will be the responsibility of the applicant/employee, with the applicant/employee receiving written notice of same, in accordance with DOT guidelines.

The Contractor(s) will not test or invoice for any specimen that is received without a complete and correct Chain of Custody form.

Base Price for full performance in meeting the requirements of this RFP for the initial term of the proposed contract shall include a base price for positive EMIT test results and each employee refusal; with the base test costs per specimen inclusive of all other expenses, (e.g. administration, blind testing, record keeping, mileage reimbursement, no call no show, short

notice calls, contract and split specimen, and/or any other charges **unless** specifically identified in this contract).

# Form A

## Bidder Contact Sheet

### Request for Proposal Number 79765-03

The Bidder Contact Sheet should be completed and submitted with each response to this Request for Proposal. This is intended to provide the State with information on the bidder's name and address, and the specific person(s) who are responsible for preparation of the bidder's response. Each bidder shall also designate a specific contact person who will be responsible for responding to the State if any clarifications of the bidder's response should become necessary. This will also be the person who the State contacts to set up a presentation/demonstration, if required.

Preparation of Response Contact Information	
Bidder Name:	
Bidder Address:	
Contact Person & Title:	
E-mail Address:	
Telephone Number (Office):	
Telephone Number (Cellular):	
Fax Number:	

Each bidder shall also designate a specific contact person who will be responsible for responding to the State if any clarifications of the bidder's response should become necessary. This will also be the person who the State contacts to set up a presentation/demonstration, if required.

Communication with the State Contact Information	
Bidder Name:	
Bidder Address:	
Contact Person & Title:	
E-mail Address:	
Telephone Number (Office):	
Telephone Number (Cellular):	
Fax Number:	

**Form B**

**Bid Sheet**

**Request for Proposal Number 79765-O3**

BID SUBMISSION SHEET (To be included with Cost Proposal)

**Where Will Contractor(s) Provide Service? (Circle as appropriate)**

- Lincoln Area**                      Yes    No
- Omaha Area**                      Yes    No
- Tecumseh Area**                      Yes    No
- York Area**                      Yes    No
- McCook Area**                      Yes    No

If Contractor(s) is providing bid for more than one geographic location, is the cost per service component the same in every location? \_\_\_\_\_ (yes/no)

If "No," a separate pricing summary must be provided for every geographic location bid.

**TESTING PROVIDED**

**COST (each)**

- Physical Exam \_\_\_\_\_
- Screening \_\_\_\_\_
- Chest X-Ray One (1) View \_\_\_\_\_
- Chest X-Ray Two (2) View \_\_\_\_\_
- TB Test two (2) step \_\_\_\_\_
- TB Test Interferon \_\_\_\_\_
- HIV Testing \_\_\_\_\_
- HIV Confirmation \_\_\_\_\_
- HEP ABC Screening (4 Step) \_\_\_\_\_
- HEP B 3 Series (per shot) \_\_\_\_\_
- Respiratory Questionnaire (coal) \_\_\_\_\_

Respiratory Physical (coal)	_____
Pulmonary Function Test (coal)	_____
Chest X-Ray One (1) View (coal)	_____
Chest X-Ray Two (2) View (coal)	_____
Expert Testimony (hourly)	_____
Telephone Consult (hourly)	_____
DOT Drug Screen	_____
DOT Alcohol Screen	_____
BAT (regular hour)	_____
BAT (after hour)	_____
5 Panel (regular hour)	_____
5 Panel (after 5pm)	_____
Split Specimen	_____
Expert Testimony Drug Testing (hourly)	_____

