STATE OF NEBRASKA SERVICE CONTRACT AWARD

State Purchasing Bureau
1526 K Street, Suite 130
Lincoln, Nebraska 68508
OR
P.O. Box 94847
Lincoln, Nebraska 68509-4847
Telephone: (402) 471-6500
Fax: (402) 471-2089

CONTRACT NUMBER
65386 O4

PAGE	ORDER DATE
1 of 5	03/26/15
BUSINESS UNIT	BUYER
65060026	ROBERT THOMPSON (AS)

VENDOR NUMBER: 2017919

VENDOR ADDRESS:

COGENT COMMUNICATIONS INC
1015 31ST ST NW
WASHINGT DISTRICT OF COLUMBIA 20007-4406

AN AWARD HAS BEEN MADE TO THE VENDOR/CONTRACTOR NAMED ABOVE FOR THE SERVICES AS LISTED BELOW FOR THE PERIOD:

APRIL 01, 2015 THROUGH JUNE 30, 2018

THIS CONTRACT IS NOT AN EXCLUSIVE CONTRACT TO FURNISH THE SERVICES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR SERVICES FROM OTHER SOURCES.

THE STATE RESERVES THE RIGHT TO EXTEND THE PERIOD OF THIS CONTRACT BEYOND THE TERMINATION DATE WHEN MUTUALLY AGREEABLE TO THE VENDOR/CONTRACTOR AND THE STATE OF NEBRASKA.

Original/Bid Document 4862 Z1
Contract to supply and deliver Statewide Internet Service to the State of Nebraska as per the attached specifications for a three (3) year period from date of award. The contract may be renewed for one (1) additional one (1) year period when mutually agreeable to the vendor and the State of Nebraska. The State reserves the right to extend the period of this contract beyond the termination date when mutually agreeable to the vendor and the State of Nebraska.

The State may request that payment be made electronically instead of by state warrant. ACH/EFT Enrollment Form can be found at: http://www.das.state.ne.us/accounting/forms/achenrol.pdf

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

The contractor, by signature to the Request For Proposal, 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 subcontracts 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.

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/lb403/attestation_form.pdf>
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 require 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.

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

4/2/15 DK 3-31-15
BUYER
4-3-15
MATERIEL ADMINISTRATOR

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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. Contractor Network Service Agreements (Acceptable Use Policy (AUP), Service Level Agreement (SLA), Terms and Conditions, Addendum to Terms and Conditions and Product Rider);
5. Amendments to RFP and any Questions and Answers; and
6. 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 Requests For Proposal are opened they become the property of the State of Nebraska and will not be returned.

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 III and that any limitation of liability shall not be binding on the State of Nebraska despite inclusion of such language in documents supplied by the contractor' s bid response.

Vendor Contact: Stacy Baxter, Proposal Coordinator
Phone: (202) 295-4294
Fax: (202) 338-8798
E-Mail: SBAXTER@COGENTCO.COM

(03/26/15 djo)

Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
1	11-20 GBPS INTERNET OMA FARNAM NON-RECURRING COST INITIAL CONTRACT PERIOD APRIL 01 2015 THROUGH JUNE 30 2018	1.0000	EA	1,100.0000	1,100.00
2	MONTHLY XCONNECT 11-20GBPS MONTHLY XCONNECT INITIAL CONTRACT PERIOD APRIL 01 2015 THROUGH JUNE 30 2018	36.0000	MO	400.0000	14,400.00
3	11 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO INITIAL CONTRACT PERIOD APRIL 01 2015 THROUGH JUNE 30 2018	36.0000	MO	7,150.0000	257,400.00

BUYER INITIALS

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Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
4	12 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO INITIAL CONTRACT PERIOD APRIL 01 2015 THROUGH JUNE 30 2018	36.0000	MO	7,800.0000	280,800.00
5	13 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO INITIAL CONTRACT PERIOD APRIL 01 2015 THROUGH JUNE 30 2018	36.0000	MO	8,450.0000	304,200.00
6	14 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO INITIAL CONTRACT PERIOD APRIL 01 2015 THROUGH JUNE 30 2018	36.0000	MO	9,100.0000	327,600.00
7	15 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO INITIAL CONTRACT PERIOD APRIL 01 2015 THROUGH JUNE 30 2018	36.0000	MO	9,750.0000	351,000.00
8	16 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO INITIAL CONTRACT PERIOD APRIL 01 2015 THROUGH JUNE 30 2018	36.0000	MO	10,400.0000	374,400.00
9	17 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO INITIAL CONTRACT PERIOD APRIL 01 2015 THROUGH JUNE 30 2018	36.0000	MO	11,050.0000	397,800.00
10	18 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO INITIAL CONTRACT PERIOD APRIL 01 2015 THROUGH JUNE 30 2018	36.0000	MO	11,700.0000	421,200.00
11	19 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO INITIAL CONTRACT PERIOD APRIL 01 2015 THROUGH JUNE 30 2018	36.0000	MO	12,350.0000	444,600.00
12	20 GBPS INTERNET OMA FARNAM $600.00/GBPS/MO INITIAL CONTRACT PERIOD APRIL 01 2015 THROUGH JUNE 30 2018	36.0000	MO	12,000.0000	432,000.00
13	11-20 GBPS INTERNET OMA FARNAM NON-RECURRING COST	1.0000	EA	1,100.0000	1,100.00

BUYER INITIALS

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CONTRACT NUMBER
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Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
	OPTIONAL RENEWAL PERIOD JULY 01 2018 THROUGH JUNE 30 2019				
14	MONTHLY XCONNECT 11-20GBPS MONTHLY XCONNECT OPTIONAL RENEWAL PERIOD JULY 01 2018 THROUGH JUNE 30 2019	12.0000	MO	400.0000	4,800.00
15	11 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO OPTIONAL RENEWAL PERIOD JULY 01 2018 THROUGH JUNE 30 2019	12.0000	MO	7,150.0000	85,800.00
16	12 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO OPTIONAL RENEWAL PERIOD JULY 01 2018 THROUGH JUNE 30 2019	12.0000	MO	7,800.0000	93,600.00
17	13 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO OPTIONAL RENEWAL PERIOD JULY 01 2018 THROUGH JUNE 30 2019	12.0000	MO	8,450.0000	101,400.00
18	14 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO OPTIONAL RENEWAL PERIOD JULY 01 2018 THROUGH JUNE 30 2019	12.0000	MO	9,100.0000	109,200.00
19	15 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO OPTIONAL RENEWAL PERIOD JULY 01 2018 THROUGH JUNE 30 2019	12.0000	MO	9,750.0000	117,000.00
20	16 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO OPTIONAL RENEWAL PERIOD JULY 01 2018 THROUGH JUNE 30 2019	12.0000	MO	10,400.0000	124,800.00
21	17 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO OPTIONAL RENEWAL PERIOD JULY 01 2018 THROUGH JUNE 30 2019	12.0000	MO	11,050.0000	132,600.00
22	18 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO OPTIONAL RENEWAL PERIOD JULY 01 2018 THROUGH JUNE 30 2019	12.0000	MO	11,700.0000	140,400.00

BUYER INITIALS

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Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
23	19 GBPS INTERNET OMA FARNAM $650.00/GBPS/MO OPTIONAL RENEWAL PERIOD JULY 01 2018 THROUGH JUNE 30 2019	12.0000	MO	12,350.0000	148,200.00
24	20 GBPS INTERNET OMA FARNAM $600.00/GBPS/MO OPTIONAL RENEWAL PERIOD JULY 01 2018 THROUGH JUNE 30 2019	12.0000	MO	12,000.0000	144,000.00
	Total Order				**4,809,400.00**

BUYER INITIALS

ADDENDUM ONE to Contract Award
Terms and Conditions
Contract 65386O4 Statewide Internet service for participants of Network Nebraska - Education
Between
The State of Nebraska and Cogent Communications Inc

The following Terms and Conditions, Addendum One of Contract 65386O4 have been reviewed and agreed upon between Cogent Communications Inc "Contractor" and the State of Nebraska "State". This addendum will become part of the contract for Statewide Internet service for participants of Network Nebraska - Education. The terms and conditions of this Addendum shall supersede, prevail and govern in the case of any inconsistencies with the Terms and Conditions indicated in Section III of the Request for Proposal, except that any section herein marked "Reserved" shall have no effect on the Terms and Conditions indicated in Section III of the Request for Proposal.

By signing this Addendum the Contractor guarantees compliance with the provisions stated herein, agrees to the terms and conditions and certifies Contractor maintains a drug free work place environment.

III. TERMS AND CONDITIONS

A. GENERAL

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. Contractor Network Service Agreements (Acceptable Use Policy (AUP), Service Level Agreement (SLA), Terms and Conditions, Addendum to Terms and Conditions and Product Rider);
5. Amendments to RFP and any Questions and Answers; and
6. 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. **RESERVED**

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

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 subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensation, 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**

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**

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 the 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 the 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**

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 subcontractors, the contractor is responsible for obtaining the certificate(s) of insurance required herein under from any and all subcontractor(s). The contractor is also responsible for ensuring subcontractor(s) maintain the insurance required until completion of the contract requirements. The contractor shall not allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor 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 the contract the statutory Workers' Compensation and Employer's Liability Insurance for all of the contactors' employees to be engaged in work on the project under the contract and, in case any such work is sublet, the contractor shall require the subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the subcontractor'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 the contract such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect contractor and any subcontractor performing work covered by the contract from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under the contract, whether such operation be by the contractor or by any subcontractor 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, as Additional Insured(s). 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

d. **UMBRELLA/EXCESS LIABILITY**

Over Primary Insurance	$1,000,000 per occurrence

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 to the attention of the Buyer at 402-471-2089 (fax)

Administrative Services
State Purchasing Bureau
1526 K Street, Suite 130
Lincoln, NE 68508

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 Administrative Services State Purchasing Bureau when issued and a new coverage binder shall be submitted immediately to ensure no break in coverage.

G. **COOPERATION WITH OTHER CONTRACTORS**
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**
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

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 subcontractor's services, the subcontractor'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 subcontractors 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

The contractor warrants that all persons assigned to the project shall be employees of the contractor or specified subcontractors, 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 subcontractor selected to perform work on the project.

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.

The State reserves the right to require the contractor to reassign or remove from the project any contractor or subcontractor 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 the 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

The contractor shall not knowingly, 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

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. RESERVED

N. ERRORS AND OMISSIONS

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

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

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

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, except in the event of a merger or sale of assets of contractor in which case no consent shall be required. In the event of a merger or sale of assets of contractor, contractor must provide the State with notice of such merger or sale.

R. DEVIATIONS FROM THE REQUEST FOR PROPOSAL

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

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

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

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

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

The contractor shall use its best efforts to ensure that its employees, agents, and subcontractors 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

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

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 days 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 cancellation 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 State Purchasing Bureau; or
   j. contractor engaged in collusion or ones actions which could have provided contractor an unfair advantage in obtaining this contract.

Z. FUNDING OUT CLAUSE OR LOSS OF APPROPRIATIONS

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

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.

BB. ASSURANCES BEFORE BREACH

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

1. Contractor must provide confirmation that upon contract termination all deliverables prepares in accordance with this agreement shall become the property of the State of Nebraska, subject to the ownership provision (section E) contained herein, and be 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, Bidder 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 Bidder's routine back up procedures.

DD. PENALTY

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. Failure to meet the dates for the deliverables as agreed upon by the parties may result in an assessment of penalty due the State of $500.00 dollars per day, until the deliverables are approved and accepted. Contractor will be notified in writing when penalty will commence.

EE. The penalties set forth in Paragraph DD will only accrue to the extent the services are not installed by August 1, 2015, and then, only to the extent that the failure to perform is not due to the fault or actions of the State and/or data center operator. Notwithstanding the preceding, to the extent the State orders additional service(s) after July 1, 2015, the States sole remedy for contractor's failure to meet the date for deliverables shall be service credits issued pursuant to the Network Services Service Level Agreement.

FF. FORCE MAJEURE

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.

GG. PROHIBITION AGAINST ADVANCE PAYMENT

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

HH. PAYMENT

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.

II. INVOICES

Invoices for payments must be submitted by the contractor to the agency requesting the services with sufficient detail to support payment. Invoices for statewide Internet access will be issued to the Office of the Chief Information Officer, State of Nebraska. Additional invoices for other eligible political subdivisions or higher education entities may be issued to those entities. 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.

JJ. RIGHT TO AUDIT

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 subcontractors. 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 subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Contractor and any subcontractors to the extent that those subcontracts 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.

KK. TAXES

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.

LL. INSPECTION AND APPROVAL

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 subcontractor 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.

MM. CHANGES IN SCOPE/CHANGE ORDERS

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.

NN. SEVERABILITY

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.

OO. CONFIDENTIALITY

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.

PP. RESERVED

QQ. RESERVED

RR. STATEMENT OF NON-COLLUSION

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.

SS. PRICES

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.

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.

TT. RESERVED

UU. RESERVED

VV. INDEMNIFICATION

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 third party 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, subcontractors, consultants, representatives, and agents, resulting in the alleged bodily injury and/or damage to tangible personal property, 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, subcontractors, 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.

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, workers'

damage, or loss of any nature relating to the contractor's employment of any of the personnel provided by the contractor.

4. The foregoing indemnity, defense and hold harmless obligations of contractor shall not apply to the extent that any losses are caused by or arise as a result of the negligence or willful misconduct of, or a breach of this contract by the State. The State shall notify contractor of any claim, suit, action or proceeding for which the State is seeking to enforce its rights under this Section promptly after the State learns of the same, and shall provide contractor with information and assistance, at contractor's expense, as reasonably requested by contractor. Notwithstanding any other provision of this Section VV. Indemnification contractor will have no liability for any patent infringement claim of any kind to the extent it is based on (i) a modifications of the Services other than those provided to Customer by contractor; (ii) the use of the Services in combination with any service or equipment provided by Customer; or (iii) the use of the Services not in accordance with the documentation.

WW. NEBRASKA TECHNOLOGY ACCESS STANDARDS

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 that contract comply with the changed standard at a cost mutually acceptable to the parties.

XX. ANTITRUST

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

YY. DISASTER RECOVERY/BACK UP PLAN

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 these specifications in the event of a disaster.

ZZ. TIME IS OF THE ESSENCE

Time is of the essence in the 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.

AAA. RECYCLING

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.

BBB. DRUG POLICY

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.

CCC. EMPLOYEE WORK ELIGIBILITY STATUS

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.

DDD. RESERVED

EEE. POLITICAL SUB-DIVISIONS

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.

FFF. OFFICE OF PUBLIC COUNSEL

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.

GGG. LONG-TERM CARE OMBUDSMAN

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.

This Addendum and any attachments hereto will become part of the Contract. Except as set forth in this Addendum, the Contract is unaffected and shall continue in full force and effect in accordance with its terms. If there is conflict between this Addendum and the Contract or any earlier Addendum, the terms of this Addendum will prevail.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date of execution by both parties below.

State of Nebraska	Contractor: Cogent Communications Inc
By: _____	By: _____
Name: Bo Botelho	Name: Dave Schaeffer
Title: Materiel Administrator	Title: CEO
Date: 4-3-15	Date: 3/27/15

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cogent COMMUNICATIONS

Optical Internet

NETWORK SERVICES TERMS & CONDITIONS NORTH AMERICA

1. SERVICES AND TERM.

1.1. Pursuant to the CSA, Cogent will provide the Services to Customer for the Service charges. Customer's signature on the Order Form or use of the Service or COGENT Network constitutes its acknowledgement and agreement to be bound by the CSA. Capitalized terms are defined at the end of these Terms.

1.2. Each Service's Initial Term is indicated on the applicable Order Form. Customer will be deemed to have accepted the Service as of the Service Date. At the end of the Initial Term, the CSA will renew for successive Renewal Terms equal in length to the Initial Term unless and until terminated as provided herein.

1.3. Customer may order additional Services or locations in North America through additional Order Forms, which will be governed by this CSA. Customer's account must be current in order to make changes to Services or order additional Services.

2. SERVICE CHARGES AND BILLING.

2.1. Service charges are on the Order Form and do not include applicable Taxes unless so indicated. New services or upgrades/relocations will result in additional fees/charges. If a prior Service location remains installed after a new Service location is installed, Customer will be responsible for Service charges for both Service locations until terminated as provided for each Service.

2.2. Invoices are sent monthly in advance. Customer agrees to pay all charges and applicable Taxes for the Service upon receipt of the invoice without counterclaim, set-off or deduction. A late charge shall be added to Customer's past due balance of the lesser of 1.5% per month or the maximum legal rate. COGENT may change the specifications, Terms or charges for the Service for any upcoming Renewal Term by providing Customer at least sixty (60) days advance written notice. Customer agrees that its obligation to pay service charges and Taxes under this CSA shall survive the termination of the CSA.

2.3. Customers claiming tax exemption must provide COGENT with a properly executed exemption form.

3. SERVICE USE AND INTERRUPTION.

3.1. Customer's use of COGENT's Services or Network may only be for lawful purposes and must comply with COGENT's AUP. Transmission of any material in violation of any law, regulation or the AUP is strictly prohibited. Access to other networks connected to COGENT's Network must comply with such other networks' rules. Only Customers whose service location (as set forth on the Order Form) is a COGENT-owned or carrier neutral data center may resell COGENT's Dedicated Internet Access Service (but not any other Service offered in such location). Customers located in any other service location may not resell their Service, in whole or in part.

3.2. COGENT's obligations and Customer's exclusive remedies for failure of COGENT's Network or any Service are stated in the COGENT SLA.

4. TERMINATION, RESTRICTION OR SUSPENSION.

4.1. Prior to the Service Date, COGENT may terminate the CSA if not approved by COGENT corporate management (including credit check). COGENT also may restrict, suspend or terminate the CSA, Customer's use of or access to any Service, or both, at any time if (a) Customer is in material breach of the CSA (including but not limited to the AUP) and, in COGENT's sole judgment, an immediate restriction or suspension is necessary to protect the COGENT Network or COGENT's ability to provide services to other customers; or (b) Customer's account is unpaid sixty (60) days after date of invoice; or (c) COGENT facilities at Customer's location are unavailable, (*i.e.*, no connectivity and building access).

4.2. Either Party may terminate the CSA: (a) at the end of an Initial Term or Renewal Term by providing the other Party with at least thirty (30) days prior written notice (notices provided during a monthly Renewal Term will not be effective until the end of the next month (*i.e.*, notice received April 20th is effective June 1st); or (b) except as otherwise stated herein, during an Initial Term or Renewal Term if the other Party breaches any material term or condition of this CSA and fails to cure such breach within thirty (30) days after receipt of written notice of the same.

4.3. If a Service is terminated prior to the Service Date, Customer shall pay COGENT for all Initial Costs for such Service. If the Service is terminated after the Service Date, Customer shall pay COGENT (a) for the Service up through the date of termination; and (b) except in the case of termination by Customer as provided in Section 4.2 above, or by COGENT due to loss of connectivity or building access at Customer's building(s) under Section 4.1(c) above, the Initial Costs (unless already paid) and the Termination Charge. Customer acknowledges that because actual damages to COGENT caused by early termination of a Service order are uncertain and would be difficult to determine, the Termination Charge is a reasonable liquidated damage and is not a penalty. Any reconnections of the Service shall result in additional reconnection charges to Customer at COGENT's then-prevailing rates.

4.4. If Customer defaults in any of its payment obligations under the CSA, Customer agrees to pay COGENT's reasonable expenses, including but not limited to legal and collection agency fees, incurred by COGENT in enforcing its rights. All termination notices by Customer must be sent separately for each Service (including terminating one Service location after a Service is switched to a new Service location) and must be sent to terms@cogentco.com.

5. DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY.

5.1. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, THE SERVICES ARE PROVIDED "AS IS," AND NEITHER COGENT NOR ANY OF ITS PROVIDERS, LICENSORS, OFFICERS, EMPLOYEES, OR AGENTS MAKES ANY WARRANTY, CONDITION OR GUARANTEE WITH RESPECT TO THE SERVICES OR AS TO THE RESULTS TO BE OBTAINED FROM THE USE OF THE SERVICES, UNDER THIS CSA OR OTHERWISE. THE SERVICES ARE PURCHASED WITH KNOWLEDGE OF THIS WARRANTY LIMITATION. COGENT EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, CONDITIONS OR GUARANTEES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO ANY WARRANTIES OR CONDITIONS OF MERCHANTABILITY, NON-INFRINGEMENT, SATISFACTORY QUALITY, AND/OR FITNESS FOR A PARTICULAR PURPOSE. COGENT DOES NOT MONITOR, AND DISCLAIMS ALL LIABILITY AND RESPONSIBILITY FOR, THE CONTENT OF ANY COMMUNICATION TRANSMITTED BY CUSTOMER OR OTHERS, AND DISCLAIMS ALL LIABILITY AND RESPONSIBILITY FOR UNAUTHORIZED USE OR MISUSE OF THE SERVICES.

5.2. WITHOUT PREJUDICE TO OR LIMITING OF COGENT'S RIGHT TO RECEIVE PAYMENT FOR SERVICES, COGENT'S ENTIRE LIABILITY FOR ALL CLAIMS OF WHATEVER NATURE (INCLUDING CLAIMS BASED ON NEGLIGENCE) ARISING OUT OF THIS AGREEMENT AND ALL OTHERS BETWEEN CUSTOMER AND COGENT, AND THE PROVISION BY COGENT OF FACILITIES, TRANSMISSION, DATA, SERVICES OR EQUIPMENT INCLUDING, BUT NOT LIMITED TO, DAMAGE TO REAL/PERSONAL PROPERTY, SHALL NOT EXCEED THE LESSER OF (A) THE AMOUNT PAID BY CUSTOMER FOR THE SERVICE AT ISSUE IN THE PRIOR SIX (6) MONTHS TO THE ACTION GIVING RISE TO THE CLAIM, OR (B) ONE HUNDRED THOUSAND DOLLARS ($100,000.00) IN TOTAL; PROVIDED, HOWEVER, THAT THE FOREGOING LIMITATIONS SHALL NOT APPLY FOR DEATH OR PERSONAL INJURY CAUSED BY COGENT, OR FOR ANY

Customer: _____

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OTHER LIABILITY WHICH MAY NOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

5.3. CUSTOMER RECOGNIZES THAT THE INTERNET CONSISTS OF MULTIPLE PARTICIPATING NETWORKS THAT ARE SEPARATELY OWNED AND NOT SUBJECT TO COGENT'S CONTROL. CUSTOMER AGREES THAT COGENT SHALL NOT BE LIABLE FOR DAMAGES INCURRED OR SUMS PAID WHEN THE SERVICES ARE TEMPORARILY OR PERMANENTLY UNAVAILABLE DUE TO MALFUNCTION OF, OR CESSATION OF, INTERNET SERVICES BY NETWORK(S) OR INTERNET SERVICE PROVIDERS NOT SUBJECT TO COGENT'S CONTROL, OR FOR TRANSMISSION ERRORS IN, CORRUPTION OF, OR THE SECURITY OF CUSTOMER INFORMATION CARRIED ON SUCH NETWORKS OR INTERNET SERVICE PROVIDERS. COGENT SHALL HAVE NO LIABILITY HEREUNDER FOR DAMAGES INCURRED OR SUMS PAID DUE TO ANY FAULT OF CUSTOMER OR ANY THIRD PARTY, OR BY ANY HARMFUL COMPONENTS (SUCH AS COMPUTER VIRUSES, WORMS, COMPUTER SABOTAGE, AND 'DENIAL OF SERVICE' ATTACKS). COGENT IS NOT LIABLE FOR ANY BREACH OF SECURITY ON THE CUSTOMER'S NETWORK, REGARDLESS OF WHETHER ANY REMEDY PROVIDED IN THIS CSA FAILS OF ITS ESSENTIAL PURPOSE. CUSTOMER AGREES THAT IT WILL NOT HOLD COGENT RESPONSIBLE FOR ANY SELECTION OR RETENTION OF, OR THE ACTS OR OMISSIONS OF, THIRD PARTIES IN CONNECTION WITH THE SERVICES (INCLUDING THOSE WITH WHOM COGENT MAY CONTRACT TO OPERATE THE SERVICES), OR HOLD A THIRD PARTY RESPONSIBLE FOR ANY SELECTION OR RETENTION OF, OR THE ACTS OR OMISSIONS OF, COGENT IN CONNECTION WITH THE SERVICES. WITHOUT LIMITING THE FOREGOING, CUSTOMER AGREES THAT IT WILL NOT HOLD COGENT RESPONSIBLE FOR (A) THIRD PARTY CLAIMS AGAINST CUSTOMER FOR DAMAGES, (B) LOSS OF OR DAMAGE TO CUSTOMER'S RECORDS OR DATA OR THOSE OF ANY THIRD PARTY, OR (C) LOSS OR DAMAGE TO CUSTOMER ASSOCIATED WITH THE INOPERABILITY OF CUSTOMER'S EQUIPMENT OR APPLICATIONS WITH ANY COMPONENT OF THE SERVICES OR THE COGENT NETWORK. CUSTOMER AGREES TO MAKE ALL CLAIMS RELATED TO THE SERVICES DIRECTLY AGAINST COGENT, AND WAIVES ANY RIGHT TO RECOVER DAMAGES (DIRECTLY OR BY INDEMNITY) RELATED TO THE SERVICES BY CLAIMING AGAINST OR THROUGH A THIRD PARTY TO THIS CSA.

5.4. NEITHER COGENT NOR ANYONE ELSE INVOLVED IN CREATING, PRODUCING, DELIVERING (INCLUDING SUSPENDING OR DISCONTINUING SERVICES) OR SUPPORTING THE SERVICES SHALL BE LIABLE TO CUSTOMER, ANY REPRESENTATIVE, OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE SERVICES OR INABILITY TO USE THE SERVICES, INCLUDING, WITHOUT LIMITATION, LOST REVENUE, LOST PROFITS, LOSS OF TECHNOLOGY, RIGHTS OR SERVICES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER UNDER THEORY OF CONTRACT OR TORT (INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE).

5.5. NO ACTION OR PROCEEDING AGAINST COGENT MAY BE COMMENCED BY THE CUSTOMER MORE THAN ONE (1) YEAR AFTER THE LAST DAY ON WHICH THE SERVICE WHICH IS THE BASIS FOR THE ACTION IS RENDERED, AND CUSTOMER ACKNOWLEDGES THAT THIS LIMITATION CONSTITUTES AN EXPRESS WAIVER OF ANY RIGHTS UNDER ANY APPLICABLE STATUTE OF LIMITATIONS WHICH WOULD OTHERWISE AFFORD ADDITIONAL TIME FOR SUCH A CLAIM.

6. INDEMNITY.

6.1. Customer will indemnify, defend and hold harmless COGENT and its directors, officers, employees, affiliates, and its agents and subcontractors from and against any claims, suits, actions, and proceedings from any and all third parties, and for payment of any Losses, to the extent such Losses arise (a) as a result of non-compliance by Customer with its obligations under the CSA; (b) from any and all claims by any of Customer's customers or other third party end users in connection with a Service (including, without limitation, any claims regarding content transmitted using a Service or violation of data protection legislation), regardless of the form of action, whether in contract, tort, warranty, or strict liability; provided, however, that Customer will have no obligation to indemnify and defend COGENT against claims for damages for bodily injury or death caused by COGENT's gross negligence or willful misconduct; or (c) from claims of copyright infringement and all manner of intellectual property claims, defamation claims, claims of publication of obscene, indecent, offensive, racist, unreasonably violent, threatening, intimidating or harassing material, and claims of infringement of data protection legislation, to the extent such Losses are based upon (i) the content of any information transmitted by Customer or by any of Customer's customers or authorized end users, (ii) the use and/or publication of any and all communications or information transmitted by Customer or by any of Customer's customers or authorized end users, or (iii) the use of Service(s) by Customer in any manner inconsistent with the terms of this CSA, including without limitation the AUP.

7. ADDITIONAL PROVISIONS.

7.1. Except as to payment obligations of Customer, neither Party shall have any claim or right against the other Party for any failure of performance due to Force Majeure.

7.2. Neither Party is the agent or legal representative of the other Party, and this CSA does not create a partnership, joint venture or fiduciary relationship between COGENT and Customer. Neither Party shall have any authority to agree for or bind the other Party in any manner whatsoever. This CSA confers no rights, remedies, or claims of any kind upon any third party, including, without limitation, Customer's subscribers or end-users.

7.3. This CSA for Service is made pursuant to and shall be construed and enforced in accordance with the laws of the District of Columbia without regard to its choice of law principles. Any action arising out of or related to this CSA shall be brought in the District or Federal courts located in the District of Columbia, and Customer consents to the jurisdiction and venue of such courts.

7.4. Notices, if required, must be sent in writing by e-mail, courier or first class mail (postage prepaid) to the appropriate contact point listed on the Order Form, and are considered made when received at that address; provided, that termination notices to COGENT must be sent in accordance with Section 4.4 above. In the event of an emergency, COGENT may only be able to provide verbal notice first; such verbal notice will be followed by written notice. Customer is responsible for accuracy of its information on the Order Form, including points of contact.

7.5. Customer may not assign this CSA without COGENT's prior written consent, which consent shall not unreasonably be withheld. Any such assignment without COGENT's prior written consent shall be void.

7.6. Without limiting any other obligation which expressly survives the expiration or prior termination of the term of the CSA, the expiration or prior termination of the term of the CSA shall relieve both Parties of any further obligations hereunder, except with respect to the Sections 2, 3, 4.3, 4.4 and 5 through 7, which shall survive any expiration or termination of these Terms.

7.7. If (but only if) required by COGENT's or Customer's agreement with Customer's Landlord: (a) any cessation or interruption in COGENT's Service does not constitute a default or constructive eviction by Customer's Landlord, and (b) Customer agrees to waive and release Landlord and its related parties from any liability in connection with any damages whatsoever incurred by Customer, including lost revenues, which arise, or are alleged to arise, out of any interruption of or defect in the COGENT Service, **REGARDLESS OF WHETHER SUCH INTERRUPTION OR DEFECT IS CAUSED BY THE ORDINARY NEGLIGENCE (BUT NOT THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT) OF A RELEASED PARTY.**

7.8. The COGENT Network is owned by COGENT, or its licensors, and is protected by copyright and other intellectual property laws. Customer agrees that title to and ownership of the Services, in any form, shall at all times and in any event be held exclusively by COGENT. Customer shall be entitled to only such rights with respect to the Services as are specifically granted herein.

7.9. This CSA and such other written agreements, documents and instruments as may be executed in connection herewith are the final, entire and complete agreement between Customer and COGENT and supersede all prior and contemporaneous negotiations and oral representations and agreements, all of which are merged and integrated into this CSA.

7.10. This CSA and any Addendum thereto may be executed in one or more counterparts all of which taken together shall constitute one and the same instrument.

Customer: _____

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DEFINITIONS

AUP	COGENT's Acceptable Use Policy as posted by COGENT (currently at http://www.cogentco.com/htdocs/policy.php) COGENT reserves the right to amend its AUP at any time, effective upon posting on the COGENT website.
COGENT	Cogent Communications, Inc. or its subsidiaries or affiliates.
COGENT Network	The telecommunications network and network components owned, operated or controlled by COGENT, including COGENT's fiber backbone, metropolitan fiber networks, any equipment connected to such fiber, and the software, data and know-how used by COGENT to provide the Services. Where COGENT services a building through its own facilities, the COGENT Network includes those facilities. The COGENT Network does not include customer premises equipment, customer-ordered telephony circuits, and any networks or network equipment not operated and controlled by COGENT.
Customer	Customer identified in the attached Order Form.
CSA	The entire Customer Subscriber Agreement between COGENT and Customer for provision of the Service, consisting of the Order Form, the Terms, the applicable product rider and the SLA.
Equipment	Customer's equipment, if any.
Force Majeure	Causes beyond a Party's control, including but not limited to: acts of God; fire; explosion; vandalism; cable cut; storm; flood or other similar occurrences; any law, order, regulation, direction, action or request of any government, including federal, state, provincial, municipal and local governments claiming jurisdiction over a Party or the Service, or of any department, agency, commission, bureau, corporation, or other instrumentality of any such government, or of any civil or military authority; national emergencies; unavailability of materials or rights-of-way; insurrections; riots, terrorist acts or wars (declared/undeclared); or strikes, lock-outs, work stoppages, or other labor difficulties, supplier failures, shortages, breaches or delays.
Initial Costs	Greater of (a) installation fees (if not paid); or (b) all third-party costs and charges incurred by or charged to COGENT on behalf of Customer for the Service, including but not limited to local loop fees, cross-connect charges, and wiring fees.
Initial Term	Initial length of term for the Services as indicated on the Order Form.
Landlord	Customer's landlord, building owner or property/telecom manager.
Losses	Costs, fees, liabilities, losses, damages or penalties, including reasonable legal fees.
Order Form	Cover form to which these Terms are attached, identifying the specific Service(s) to be delivered.
Party or **Parties**	COGENT and/or Customer.
Renewal Term	Subsequent length of term for the Services after completion of the Initial Term.
Service(s)	Bandwidth services provided by COGENT under the Customer Subscriber Agreement.
Service Date	Earlier of date on which (a) COGENT deems that the Service is available for Customer's use at either the COGENT-defined demarcation point or last-available test point; or (b) Customer first uses the Service or the COGENT Network.
SLA	The Service Level Agreement as posted by COGENT (currently at www.cogentco.com) for Customer's specific Service(s). COGENT reserves the right to amend the Service SLAs at any time, effective upon posting on the COGENT website.
Space	Rented rack space from COGENT, if any.
Tax or **Taxes**	All taxes arising in any jurisdiction, including without limitation all: sales, use, excise, gross receipts, value added, access, bypass, franchise, telecommunications, property (for co-location customers), consumption, or other taxes, fees, duties, charges or surcharges (however designated) which are imposed on or based on the provision, sale or use of the Service(s), including such taxes imposed directly on COGENT or for which COGENT is permitted to invoice Customer in connection with COGENT's performance under the CSA. Taxes do not include COGENT's income taxes.
Termination Charge	Single payment equal to any third-party cancellation charges and the total remaining dollar value of the applicable Service order through the Initial Term or Renewal Term, as applicable.
Terms	Terms and conditions that apply to the Services COGENT provides to Customer .

Customer: _____

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NETWORK SERVICES ADDENDUM NORTH AMERICA

This addendum (Addendum) amends the Network Services Terms & Conditions entered into between Customer and COGENT for the Services specified therein. Unless otherwise defined herein, capitalized or defined terms in the Network Services Terms & Conditions have the same meaning in this Addendum. In the event of a conflict between this Addendum and the Network Services Terms & Conditions, this Addendum shall prevail.

Terms Sec. 3.1 Section 3.1 of the Terms is amended by inserting the following after the second sentence:

"The State of Nebraska recognizes that the purpose of the AUP is to prevent material breeches of network integrity and to prevent unlawful use or transmission of unlawful material. In this situation, the State of Nebraska is acting as the originator of a statewide master contract for 288 entities and over 400,000 end users who are outside of the direct control of the State of Nebraska. Sufficient security measures and appropriate use of Network Nebraska Internet are denoted in the Network Nebraska Memorandum of Agreement http://www.nitc.nebraska.gov/nnag/meetings/documents/Documents/NetworkNebraska_MoA2013_FINAL.doc , Section VI.A.i-viii, which all entities must adhere."

Terms Sec. 4.3 Section 4.3 of the Terms is amended to read as follows:

"If a Service is terminated prior to the Service Date, Customer shall pay COGENT for all Initial Costs for such Service. If the Service is terminated after the Service Date, Customer shall pay COGENT for the Service up through the date of termination. Any reconnections of the Service shall result in additional reconnection charges to Customer at COGENT's then-prevailing rates."

Terms Sec. 5.2 Section 5.2 of the Terms is amended by adding the following immediately to the end thereof:

"WITHOUT PREJUDICE TO OR LIMITING OF COGENT'S RIGHT TO RECEIVE PAYMENT FOR SERVICES, COGENT'S ENTIRE LIABILITY FOR ALL CLAIMS OF WHATEVER NATURE (INCLUDING CLAIMS BASED ON NEGLIGENCE) ARISING OUT OF THIS AGREEMENT AND ALL OTHERS BETWEEN CUSTOMER AND COGENT, AND THE PROVISION BY COGENT OF FACILITIES, TRANSMISSION, DATA, SERVICES OR EQUIPMENT INCLUDING, BUT NOT LIMITED TO, DAMAGE TO REAL/PERSONAL PROPERTY, SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS ($100,000.00) IN TOTAL; PROVIDED, HOWEVER, THAT THE FOREGOING LIMITATIONS SHALL NOT APPLY FOR DEATH OR PERSONAL INJURY CAUSED BY COGENT, OR FOR ANY OTHER LIABILITY WHICH MAY NOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW."

Terms Sec. 5.3 Section 5.3 of the Terms is amended by deleting the fifth sentence which begins, "Customer agrees that it will not" and the seventh sentence which begins, "Customer Agrees to make all."

Terms Sec. 7.3 Section 7.3 of the Terms, first sentence, is amended by striking "the District of Columbia" and replacing with "Nebraska".

Section 7.3 of the Terms, second sentence, is amended to read:

"Any action arising out of or related to this CSA shall be brought in the State or Federal courts located in Nebraska, and each party consents to the jurisdiction and venue of such courts for such actions."

Accepted and agreed to:

CUSTOMER: State of NE
By: Brenda L. Decker
Name: Brenda L. Decker
Title: Acting CIO
Date: 3-31-2015

COGENT COMMUNICATIONS, INC.
By:
Name: Dave Schaeffer
Title: CEO
Date: 3/27/15

State of Nebraska 031915

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PRODUCT RIDER – DEDICATED INTERNET ACCESS GLOBAL

his product rider (Rider) amends the CSA entered into between Customer and COGENT for the Services specified therein. Unless otherwise defined herein, capitalized or defined terms in the CSA have the same meaning in this Rider. In the event of a conflict between forms, the following will be the order of priority: First, the Order Form; Second, this Rider; Third, the Terms; and Fourth, the SLA.

1. Service and Options

Within the scope of the Dedicated Internet Access Service, COGENT transmits IP-packets between the COGENT Network and associated networks of its Customers as well as to and from the global Internet using COGENT's settlement-free peering agreements with other networks.

Subject to their availability, Customer may select one or more options associated with the Service such as listed in the Order Form, in which case Customer agrees to pay the related fees such as indicated in the Order Form:

MultiBGP: Customer may connect to COGENT's network with multiple BGP sessions over a single port, such BGP sessions being on its own assigned AS (the Primary ASN) and ASs from third parties represented by Customer (the Secondary ASNs). In this case, Customer will be required to provide COGENT with a Letter of Authorization ("LOA") issued by the third parties having registered the Secondary ASNs in order to activate such Service, and all interactions, being during provisioning or operations, related to BGP-sessions set up between COGENT's network and Secondary ASNs will be handled exclusively between COGENT and Customer. The fact that a BGP session is being set up between COGENT and other parties represented by Customer does not constitute a contractual relationship between COGENT and the other parties, this interaction is ruled by the contractual relationship established between COGENT and the Customer. COGENT will charge an additional Monthly Fee for each Secondary ASN connected.

Link Aggregation (LAG): In certain Service Locations, Customer may elect to aggregate multiple 10 Gigabit Ethernet Services in such Service Location into a Link Aggregation bundle (a "LAG-bundle"). Under such option, COGENT will configure the LAG-bundle in such a way that, in case of an outage of some (but not all) Services involved in the LAG-bundle, unaffected Services in such LAG-bundle will continue to pass traffic. Link Aggregation is the technical combination of ports and is independent from billing options: COGENT will bill burstable Services involved in a LAG-bundle independently from each other, unless Customer elects to combine them using the "Summed Burst Billing" or "Aggregate Burst Billing" options described in section 2 below.

Equipment: COGENT may, at its sole discretion and if available, provide equipment for certain Services. The fees for such equipment as agreed in the Order Form will be added to Customer's invoice. COGENT does not guarantee and is not responsible for any specific type of equipment, or any equipment at all, to be made available to Customer, and such equipment will belong to Customer upon receipt. Customer will provide its own technical support to install, maintain, and integrate equipment. COGENT will not provide on-site technical support. Customer will be responsible for applicable replacement costs if the equipment is subject to any damage, unauthorized alteration/modification/repair, abnormal use, misuse, neglect, abuse, accident, improper installation, or other acts caused by Customer, its employees, contractors, or any other person. Such action or inaction may void any manufacturer warranties. Customer further agrees to indemnify and hold harmless COGENT for any third party claim based on Customer's unauthorized alteration or modification of the equipment. COGENT is not responsible for Service disruptions caused by any request by Customer to relocate equipment.

Expedite Delivery: COGENT's installation guarantee is strictly limited to the installation guarantee stated in the SLA. However, Customer may request in the Order Form an expedited delivery for Service. COGENT will use commercially reasonable efforts to accommodate Customer's request; provided, however, that COGENT does not guarantee that any such request will be fulfilled (and any such guarantees given either orally or in writing are hereby disclaimed) nor does COGENT guarantee that the Service will be delivered on a specific date, such as the Requested Service Date indicated on the Order Form.

2. Burstable Service

If Customer is purchasing COGENT's burstable Service, Customer will have a minimum bandwidth commitment assigned for a given port (the Bandwidth Commitment or Committed Data Rate, "CDR"). The Bandwidth Commitment is agreed upon in the Order Form and is the minimum amount of bandwidth that will be charged to Customer each month at the base Service price, even if not fully used by Customer during a given month. Customer may burst up to the maximum bandwidth that can be carried on a given port, e.g. 1,000 Mbps for a Gig-Ethernet port, subject to availability of bandwidth within the COGENT network.

If Customer exceeds the Bandwidth Commitment on any burstable port in any given calendar month, Customer agrees to pay the additional per Mbps charge for excess bandwidth usage over the Bandwidth Commitment as indicated in the Order Form. Such excess bandwidth usage is calculated by COGENT as the difference between total bandwidth usage and Bandwidth Commitment, where total bandwidth usage is determined by collecting bandwidth usage samples every 5 minutes throughout the month for each port (a sample is based upon the average usage across the 5-minute segment) and determining the appropriate percentile (90th or 95th) of usage as indicated in the Order Form. Only one sample is captured for each 5-minute period, even though two samples are collected - one for inbound utilization and one for outbound utilization. The higher of the two samples is retained. For partial months, the total number of samples for the calendar month is used; for samples where there is no usage, 0 is the recognized value. For example, in a 30-day billing period, 8,640 samples are collected (12 samples/hour x 24 hours/day x 30 days) and listed from highest to lowest. In case of 95th percentile billing, the highest 5%or 432 samples are discarded (representing the top 5% of usage levels). The highest remaining sample (sample 433 in this example) is used to determine total bandwidth usage. For 90th percentile billing, the highest 10%or 864 samples are discarded (representing the top 10% of usage levels). The highest remaining sample (sample 865 in this example) is used to determine total bandwidth usage.

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See Order Form or web site for full contact details.
www.cogentco.com

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Under the "Summed Burst Billing" option available in conjunction with 90th percentile burst billing, COGENT calculates excess usage as the difference between the sum of total bandwidth usage and the sum of Bandwidth Commitment across all summed ports. For example, if Summed Burst Billing is applied over three ports with a Bandwidth Commitment of 200 Mbps on each (i.e., a total Bandwidth Commitment of 600 Mbps) and the individual 90th percentile total bandwidth usage amounts were 70 Mbps, 150 Mbps and 500 Mbps, the excess bandwidth usage would be 120 Mbps (70 + 150 + 500 - 600).

Under the "Aggregate Burst Billing" option available in conjunction with 95th percentile burst billing, excess bandwidth usage is calculated by COGENT as the difference between total aggregated bandwidth usage and the summed Bandwidth Commitment across all aggregated ports, where total aggregated bandwidth usage is determined by adding usage samples every 5 minutes across all aggregated ports. For example, if there are three aggregated ports, every 5 minutes three inbound samples and three outbound samples are collected, added up to one bandwidth usage value per direction, and the higher of the two values is retained. In a 30-day billing period, the final 8,640 retained bandwidth usage values reflect the aggregated usage across all ports. These values are listed from highest to lowest. The highest 5% or 432 values are discarded (representing the top 5% of usage levels). The highest remaining value (value 433 in this example) is used to determine total aggregated bandwidth usage.

Under both "Summed Burst Billing" and "Aggregate Burst Billing" options, a Master Service is defined in the Order Form, and all other Services involved in a Summed or Aggregate calculation are listed. Excess bandwidth usage (burst usage) calculated across the listed ports will be billed on the Master Service account. The relevant data (additional per Mbps charge for excess bandwidth usage and Billing Currency) pertaining to the Master Service will be used for calculating excess bandwidth usage fees across Master Service and all other involved Services. For example, if a customer orders ports in the UK, US, and Canada and defines the US port as the Master, all excess bandwidth usage will be billed on the US invoice in US dollars, at the burst fee indicated on the US port order form.

These billing options are independent from the Link Aggregation (LAG) option: COGENT will not combine Services involved in "Summed Burst Billing" or "Aggregate Burst Billing" into a LAG-bundle, unless Customer elects to combine them using the Link Aggregation (LAG) option described in section 1 above. Furthermore, if Customer wishes that COGENT bills Services part of a LAG-bundle according to the "Summed Burst Billing" or "Aggregate Burst Billing" option, then Customer must elect these options for such Services, in addition to the election of the LAG Option.

3. Customer's Duties to Cooperate

Customer or its representative must cooperate with COGENT in the installation process, which includes accurate completion of an Order Form containing detailed demarcation information and other onsite contact listings, and of the necessary technical questionnaires (IP Questionnaire, BGP Questionnaire, etc.) as provided by COGENT. Customer or its representative must be physically present at the time of installation. During installation and at all other times, the Customer will allow access and if necessary provide escort, for COGENT's or its representatives' necessary personnel to perform the installation and maintenance of the Service, to the designated building's phone closet(s) or telecommunications room or to the Customer's premises for the purposes of survey, installation, operations and maintenance of the Service, after prior arrangement between the parties. Customer's failure to cooperate shall release COGENT from its obligations pertaining to the Installation Guarantee included in the SLA but shall not suspend the Service Date or billing start date.

In the event of technical problems relating to the Service, the Customer will ensure that COGENT's or its representatives' service engineers have unrestricted access to the designated building's phone closet(s) or telecommunications room or to the customer premises equipment. Customer's failure to provide access shall release COGENT from its obligations pertaining to the Network Availability part of the SLA.

4. Demarcation Point

Within a COGENT data center: If Service delivery takes place within a COGENT data center, COGENT will deliver the Service at a demarcation point situated on the COGENT equipment. COGENT will provide, maintain and operate the necessary wiring ("Cross-Connect") for Customer to connect to COGENT's service at the indicated demarcation point. COGENT will provide such Cross-Connect for the fee set forth on the Order Form.

Within a third-party data center: If Service delivery takes place within a third party data center (i.e. that is not owned and/or operated by COGENT), COGENT will deliver the Service at a demarcation point situated on the COGENT equipment. Unless otherwise agreed, Customer will at its own cost provide, maintain and operate the necessary wiring ("Cross-Connect") to connect to COGENT's service at the indicated demarcation point. If Customer and COGENT agree that COGENT shall provide such Cross-Connect, then COGENT will provide such Cross-Connect against fees such as indicated on the Order Form and the Service demarcation point will remain on the COGENT equipment.

Within an On-Net corporate building: If Service delivery takes place within an On-Net corporate building, COGENT will deliver the Service at a demarcation point situated on the COGENT equipment within the Customer's suite. COGENT will provide, maintain and operate the necessary wiring ("Riser") between the building entry and the indicated demarcation point.

At an Off-Net Customer Location: Off-Net Services are being delivered to the Customer Location indicated in the Order Form through a third-party local loop to be provisioned by COGENT on behalf of Customer. As such, the Customer and COGENT agree that the charges set forth in the Order Form for such Service assumes that such Service will be terminated at a pre-established demarcation point or minimum point of entry (MPOE) in the building housing the Customer Location, as determined by the local access provider. COGENT may charge Customer additional nonrecurring charges not otherwise set forth herein for such Service where the Customer or local access provider determines that it is necessary to extend the demarcation point or MPOE through the provision of additional infrastructure, cabling, electronics or other materials necessary to reach the Customer Location. It shall be the Customer's responsibility to allow access to the facility for the local access provider, as well as to facilitate or coordinate with the property owner at the Customer Location, all additional space and electricity determined by the local access provider to be necessary to provide the Service. COGENT will notify Customer of any additional non-recurring charges, if any, as soon as practicable after COGENT is notified by the local access provider of the amount of such charges. From time to time, COGENT may provide, and Customer may accept, budgetary estimates for the extension of the demarcation point to the Customer Location along with the initial Order Form. These estimated costs may be based on certain known costs or typical installations that do not require extraordinary efforts by the provider to extend the service. In the event actual costs exceed the budgetary estimate, Cogent will notify the Customer as outlined above.

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In addition, the charges and the Term set forth in the Order Form for the Service assumes that such Service can be provisioned by COGENT through the local access provider selected by COGENT (and/or Customer) for the stated Term .In the event COGENT is unable to provision such Service through the selected local access provider or the selected local access provider requires a higher cost or longer Service Term than that set forth in the Order Form, COGENT reserves the right, regardless of whether COGENT has accepted the Order Form, to suspend provisioning of the Service hereunder and notify Customer in writing of any additional non-recurring charges, monthly recurring charges and/or Term that may apply, or to cancel the Service set forth on the Order Form. Upon receipt of such notice, Customer will have five (5) business days to accept or reject such changes. If Customer does not respond to COGENT within the five (5) business day period, such changes will be deemed rejected by Customer. In the event Customer rejects the changes (whether affirmatively or through the expiration of the five (5) business day period) or if COGENT elects to cancel the Service ordered herein, the affected Service will be cancelled without cancellation or termination liability of either party.

Accepted and agreed to:

CUSTOMER: Brenda L. Decker
By: State of Nebraska
Title: Acting CIO
Date: 3-31-2015

COGENT COMMUNICATIONS
By:
Title: Dave Schaeffer, CEO
Date: 3/27/15

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NETWORK SERVICES SERVICE LEVEL AGREEMENT GLOBAL

This Service Level Agreement (SLA) is a part of the customer subscriber agreement (CSA or Agreement) between Customer and COGENT. Capitalized terms used herein that are not defined in this SLA shall have the meaning attributed to them in the CSA.

1. SERVICE COMMITMENT.

COGENT is committed to providing a reliable, high-quality network to support its high-speed network services (Service). As part of this commitment, COGENT is pleased to offer eligible Customers the following guarantees as concerns the Service in North America, Europe and Asia:

- Installation Guarantee
- Network Availability and Notification Guarantee
- Network Latency Guarantee
- Packet Delivery Guarantee

Ethernet "Off-Net Basic" Services Customers are not eligible for any of the guarantees under the SLA. The Notification Guarantee, Latency Guarantee and Packet Delivery Guarantee apply to Cogent Dedicated Internet Access Customers only. If COGENT fails to meet any of these guarantees, it will provide eligible Customers with a Service Credit, as set forth below in this Service Level Agreement.

2. GUARANTEES.

A. INSTALLATION GUARANTEE.

For each of the Services listed below, Cogent guarantees connectivity for Customers will be installed within the corresponding timeframe, as measured from the date an order has been validated and entered into Cogent's provisioning system by its Account Coordination team.

- On-Net: 17 business days
- T1 / EI: 40 business days
- T3 / E3: 60 business days
- Colo: 17 business days
- Ocx/ STMx: 90 business days
- Ethernet Loop: 90 business days

An order will not be validated until a signed Order Form and CSA and any other required documentation specified by COGENT, has been received, validated, approved and entered into COGENT's provisioning system by its Account Coordination team. Additional required documentation may include a completed credit application and a completed questionnaire for IP Allocation as well as completed questionnaires for BGP, SMTP and DNS configurations when requested by the customer on the IP Allocation Questionnaire.

The Installation guarantee for Cogent colocation services does not apply to third-party data centers. For Ethernet services, the port with the longest install time governs the entire order, e.g., if one port is On-Net and another port requires an Ethernet Loop, the longer install time corresponding to the Ethernet Loop applies to both orders.

If COGENT fails to meet these commitments, Customer will receive, at Customer's request, 500.00 per day, until the deliverables are accepted; provided that such penalties shall not begin to accrue unless the Service(s) is not installed by August 1, 2015, and then, only to the extent that the failure to perform is not due to the fault or actions of the Customer and/or data center operator. Notwithstanding the preceding, to extent Customer orders additional Service(s) after July 1, 2015, Customers sole remedy for COGENT's failure to meet the Installation guarantee for that Service(s) shall be one (1) month Service Credit. Customer may obtain no more than one (1) month Service Credit for any given month. COGENT's Installation Guarantee is subject to the following conditions:

- Customer or its representative must cooperate with COGENT in the installation process, which includes accurate completion of an Order Form containing detailed demarcation information and other onsite contact listings. Changes in an Order Form made by or on behalf of Customer or the occurrence of events outside the reasonable control of COGENT, such as Force Majeure (as defined in the CSA), may result in delays for which COGENT is not responsible hereunder.
- Customer or its representative must be physically present at the time of installation and must provide access to the designated building's phone closet(s) on the date(s) agreed to by COGENT's Installation Coordination Department. Such building access and escort must also be provided to other necessary personnel to perform the installation of the connection.
- This Installation Guarantee applies to the interval between the original order date and original Installation Guarantee date. If Customer requests a change to an order date during implementation of Service, the Installation Guarantee date shall, at COGENT's sole discretion, begin again upon change acceptance.
- The Service Credit for failure to meet the Installation Guarantee is not available to Customers for whom installation charges have been waived or reduced.

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B. NETWORK AVAILABILITY AND NOTIFICATION GUARANTEE.

COGENT's network is designed for 100% availability.

On-Net Service. If Customer experiences Network Unavailability for an On-Net Service for more than 15 consecutive minutes, Customer will receive, at Customer's request, one (1) day Service Credit for each cumulative hour of Network Unavailability in any calendar month. Provided the COGENT Network experiences at least one (1) hour of Network Unavailability in any given calendar month, additional Network Unavailability of less than one (1) hour will result in a proportional Service Credit. (Example: 2 hours, 15 minutes of Network Unavailability will result in 2.25 days Service Credits.) Customer may obtain no more than one (1) month Service Credit for any given month.

Off-Net Service. If Customer experiences Network Unavailability for an Off-Net Service for more than 15 consecutive minutes, Customer will receive, at Customer's request, one (1) hour Service Credit for each cumulative hour of Network Unavailability in such calendar month. Provided the COGENT Network experiences at least two (2) hours of Network Unavailability in any given calendar month, additional Network Unavailability of less than one (1) hour will result in a proportional Service Credit. (Example: 2 hours, 15 minutes of Network Unavailability will result in 2.25 hours Service Credits.) Customer may obtain no more than one (1) month Service Credit for any given month.

COGENT's Outage Notification Guarantee is to proactively notify a Dedicated Internet Access Customer within 15 minutes after COGENT determines that Customer's Service is unavailable. COGENT's standard procedure is to ping the Customer's router every minute. If Customer's router does not respond after ten consecutive ping cycles, COGENT will deem the Service unavailable and will contact Customer's designated point of contact by a method elected by COGENT (telephone, email, fax, or pager).

If COGENT fails to meet this Outage Notification Guarantee, Customer will receive, at Customer's request, one (1) day Service Credit for the Service with respect to which this Guarantee has not been met. Customer may obtain no more than one day Service Credit per day, regardless of how often in that day COGENT failed to meet the Customer Reporting Guarantee. Customer may obtain no more than one (1) month Service Credit for any given month.

If a Dedicated Internet Access Customer elects to bundle several Services using the Link Aggregation (LAG) option, then such LAG-bundle shall be deemed to represent one single Service for the purpose of the Network Availability and Outage Notification Guarantee. Consequently, Customer shall be eligible to receive Service Credits under this Section 2B if and only if Customer experiences Network Unavailability for all of the Services bundled in the LAG-bundle. The unavailability of any subset of the Services bundled in the LAG-bundle shall not constitute Network Unavailability and Customer shall not be eligible for any Service Credits with respect to such unavailability. Customer may choose to administratively configure the LAG-bundle to drop if any individual Service within LAG-bundle becomes unavailable; however, this will not constitute Network Unavailability unless all Services included in the LAG-bundle experience Network Unavailability.

C. NETWORK LATENCY GUARANTEE.

For Dedicated Internet Access customers only, the monthly average Network Latency for packets carried over the COGENT Network between Backbone Hubs for the following regions is as specified below:

Intra-North America:	45 milliseconds or less
Intra-Europe:	35 milliseconds or less
New York to London (Transatlantic):	85 milliseconds or less
Los Angeles to Tokyo (Transpacific):	120 milliseconds or less

Network Latency (or Round trip time) is defined as the average time taken for an IP packet to make a round trip between Backbone Hubs within the regions specified above on the COGENT Network. COGENT monitors aggregate latency within the COGENT Network by monitoring round-trip times between a sample of Backbone Hubs on an ongoing basis.

After being notified by Customer of Network Latency in excess of the rates specified above, COGENT will use commercially reasonable efforts to determine the source of such excess Network Latency and to correct such problem to the extent that the source of the problem is on the COGENT Network.

If COGENT fails to remedy such Network Latency within two (2) hours of being notified of any excess Network Latency and average Network Latency for the preceding 30 days has exceeded the rates specified above, Customer will receive, at Customer's request, a Service Credit for the period from the time of notification by the Customer until the average Network Latency for the preceding 30 days is less than the rates specified above. Customer may obtain no more than one (1) month Service Credit for any given month.

D. PACKET DELIVERY GUARANTEE.

For Dedicated Internet Access customers only, the COGENT Network has an average monthly Packet Loss no greater than 0.1% (or successful delivery of 99.9% of packets). Packet Loss is defined as the percentage of packets that are dropped between Backbone Hubs on the COGENT Network. COGENT monitors this aggregate packet loss on an ongoing basis, and compiles the collected data into a monthly average packet loss measurement for the COGENT Network.

After being notified by Customer of Packet Loss in excess of 0.1%, COGENT will use commercially reasonable efforts to determine the source of such excess Packet Loss and to correct such problem to the extent that the source of the problem is on the COGENT Network.

If COGENT fails to remedy such excess Packet Loss within two (2) hours of being notified of any excess Packet Loss on the COGENT Network and average Packet Loss for the preceding 30 days exceeds 0.1%, Customer will receive, at Customer's request, a Service Credit for the period from the time of notification by the Customer until the average Packet Loss for the preceding 30 days is less than 0.1%. Customer may obtain no more than one (1) month Service Credit for any given month.

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3. ADDITIONAL DEFINITIONS.

Dedicated Internet Access or Internet Transit refers to Cogent's Layer 3 service that provides customers access to the public Internet.

Backbone Hub means a major network facility owned, operated, or controlled by COGENT which is directly connected to the COGENT fiber backbone network and which contains at least one core router. In larger metropolitan markets containing more than one such facility, one facility in that market will be designated as a Backbone Hub for the purpose of calculating the monthly average Network Latency and Packet Loss statistics.

Off-Net means buildings that are directly connected to the COGENT Network using other carriers' facilities and services to provide the last mile portion of the link from the Service Location to the COGENT Network.

On-Net means buildings that are directly connected to the COGENT Network and, as such, do not require COGENT to lease a third-party local loop in order to provide connectivity.

COGENT Network means the telecommunications/data communications network and network components owned, operated or controlled by COGENT, including COGENT's national fiber backbone, its metropolitan fiber networks, any equipment connected to such fiber, and the software, data and know-how used by COGENT in the provision of the Services. Where COGENT provides Service to a building through its own facilities, the COGENT Network includes those facilities. The COGENT Network does not include customer premises equipment, customer-ordered telephony circuits, and any networks or network equipment not operated and controlled by COGENT.

Monthly Recurring Charge means the fixed, recurring charge invoiced by COGENT to Customer on a monthly basis for the Service, exclusive of any variable charges based upon Customer usage. In case of bundled Services using the Link Aggregation (LAG) option, then the Monthly Recurring Charge of such LAG-bundle means the sum of the Monthly Recurring Charges of all Services involved in such LAG-bundle.

Network Unavailability means the number of minutes that the COGENT Network was not available to Customer, including the number of minutes that the COGENT Network was not available associated with any non-Scheduled Maintenance to the COGENT Network. Network Unavailability will not include Scheduled Maintenance, or any unavailability resulting from: (a) problems with or maintenance on Customer's applications, equipment or facilities; (b) acts or omissions of Customer or an authorized user; (c) unavailability caused by companies other than COGENT, except COGENT-ordered third-party local loops; or (d) Force Majeure.

Scheduled Maintenance means any maintenance of the COGENT Network (or portion thereof) to which Customer's router is connected that is performed during a standard maintenance window from 00:00am to 06:00am (local time of the COGENT Hub to which Customer's circuit is connected). Customers will be notified via Email at least two (2) business days in advance of any scheduled maintenance that is likely to affect their service. In most cases, maintenance performed will not take the full configuration window, however, COGENT will inform Customer as to anticipated duration in the maintenance notification E-mail.

Service Credit means

- *One (1) day Service Credit* = 1/30th of Customer's Monthly Recurring Charges.
- *One (1) week Service Credit* = 7/30^{ths} of Customer's Monthly Recurring Charges.
- *One (1) month Service Credit* = Full amount of Customer's Monthly Recurring Charges.

If COGENT approves a claim for Service Credit for failure to comply with the Installation Guarantee, Service Credit shall mean the Monthly Recurring Charge for Customer's first full month of the Service, not including installation charges or other start-up fees.

4. SERVICE CREDIT CLAIM PROCESS.

In order to initiate a claim for Service Credit, Customer must contact COGENT's customer service group within seven (7) business days after the end of the month for which credit is requested. The Service Credit request must provide: (a) the Customer name and contact information; (b) the date and beginning/end time of the claimed outage or failed metric; and (c) a brief description of the characteristics of the claimed outage or failed metric.

Customer will be notified via e-mail upon resolution of the request. Cogent will not unreasonably reject a claim for credit AND will, in good faith, work with the State of Nebraska to resolve such claims before rejection. If rejected, the notification will specify the basis for rejection. If approved, COGENT will issue Service Credit to Customer's account, appearing on the next invoice issued. Multiple Service Credits will not be given for the same period of time, *i.e.*, failure to meet multiple criteria during a period of time generates only a single Service Credit. The total number of all Service Credits for all failures to meet Guarantees occurring in a given month may not exceed the total Monthly Recurring charge actually paid by Customer for Service during that month. Service Credits will be credited against a Customer's monthly payment for Monthly Recurring Charges and may not be received in the form of a refund.

The Guarantees and Service Credits provided for in this SLA assume compliance by Customer with the terms and conditions of its CSA with COGENT, and the failure of Customer to comply with those terms and conditions may invalidate COGENT's guarantees provided herein. No credit is available for a Customer (a) that is blocking COGENT from monitoring Customer's premises router; (b) that does not provide the necessary access to personnel and facilities at the Customer's premises to enable COGENT to perform comprehensive troubleshooting; or (c) whose account is not in good financial standing with COGENT. COGENT is not liable for failure to fulfill its obligations hereunder if such failure is due to Customer's use of bandwidth in excess of the maximum amount specified in Customer's CSA, Customer's tampering with any equipment, or acts beyond COGENT's reasonable control, such as Force Majeure.

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Cogent Communications, Inc.

www.cogentco.com
See website for full contact information by country

Acceptable Use Policy

This Acceptable Use Policy applies to all persons and entities (collectively, "customers") using the products and services of Cogent Communications, Inc., ("Cogent") including Internet service. The policy is designed to protect the security, integrity, reliability, and privacy of both the Cogent network and the products and services Cogent offers to its customers. Cogent reserves the right to modify this policy at any time, effective immediately upon posting of the modification. Your use of Cogent's products and services constitutes your acceptance of the Acceptable Use Policy in effect at the time of your use. You are solely responsible for any and all acts and omissions that occur during or relating to your use of the service, and you agree not to engage in any unacceptable use of the service.

What Uses are Prohibited?

Unacceptable use includes, but is not limited to, any of the following:

1. Posting, transmission, re-transmission, or storing material on or through any of Cogent's products or services, if in the sole judgment of Cogent such posting, transmission, re-transmission or storage is: (a) in violation of any local, state, federal, or non-United States law or regulation (including rights protected by copyright, trade secret, patent or other intellectual property or similar laws or regulations); (b) threatening or abusive; (c) obscene; (d) indecent; or (e) defamatory. Each customer shall be responsible for determining what laws or regulations are applicable to his or her use of the products and services.

2. Installation or distribution of "pirated" or other software products that are not appropriately licensed for use by customer.

3. Resale of Cogent's products and services without the express prior written consent of Cogent (unless you are an authorized wholesaler).

4. Deceptive marketing practices.

5. Actions that restrict or inhibit anyone - whether a customer of Cogent or otherwise - in his or her use or enjoyment of Cogent's products and services, or that generate excessive network traffic through the use of automated or manual routines that are not related to ordinary personal or business use of Internet services.

6. Introduction of malicious programs into the Cogent network or servers or other products and services of Cogent (e.g., viruses, trojan horses and worms).

7. Causing or attempting to cause security breaches or disruptions of Internet communications. Examples of security breaches include but are not limited to accessing data of which the customer is not an intended recipient, or logging into a server or account that the customer is not expressly authorized to access. Examples of disruptions include but are not limited to port scans, flood pings, packet spoofing and forged routing information.

8. Executing any form of network monitoring that will intercept data not intended for the customer.

9. Circumventing user authentication or security of any host, network or account.

10. Interfering with or denying service to any user other than the customer's host (e.g., denial of service attack).

11. Using any program/script/command, or sending messages of any kind, designed to interfere with, or to disable a user's terminal session.

12. Failing to comply with Cogent's procedures relating to the activities of customers on Cogent-owned facilities.

13. Furnishing false or incorrect data on the order form contract (electronic or paper) including fraudulent use of credit card numbers or attempting to circumvent or alter the processes or procedures to measure time, bandwidth utilization or other methods to document "use" of Cogent's products or services.

14. Sending unsolicited mail messages, including the sending of "junk mail" or other advertising material to individuals who did not specifically request such material, who were not previous customers of the customer or with whom the customer does not have an existing business relationship (e.g., E-mail "spam"); or distributing, advertising or promoting software or services that have the primary purpose of encouraging or facilitating unsolicited commercial E-mail or spam.

15. Harassment, whether through language, frequency, or size of messages.

16. Unauthorized use or forging of mail header information.

17. Solicitations of mail or any other E-mail address other than that of the poster's account or service, with the intent to harass or collect replies.

18. Creating or forwarding "chain letters" or other "pyramid schemes" of any type.

19. Use of unsolicited E-mail originating from within the Cogent network or networks of other Internet Service Providers on behalf of or to advertise any service hosted by Cogent or connected via the Cogent network.

20. Exporting, re-exporting, or permitting downloads of any content in violation of the export or import laws of the United States or without all required approvals, licenses and exemptions.

No failure or delay in exercising or enforcing this policy shall constitute a waiver of the policy or of any other right or remedy. If any provision of this policy is deemed unenforceable due to law or change in law, such a provision shall be disregarded and the balance of the policy shall remain in effect.

Abusable Resources

Upon notification of the existence of an abusable resource (e.g., open news server, unsecured mail relay, or smurf amplifier), the customer shall immediately take all necessary steps to avoid any further abuse of such resource. Any abuse of an open resource that occurs after the customer has received such notification shall be considered a violation of this policy and enforced as such.

Enforcement

Cogent may immediately suspend and/or terminate the customer's service for violation of any provision of this policy upon verbal or written notice, which notice may be provided by voicemail or E-mail. Prior to suspension or termination, Cogent attempts to work with our customers to cure violations of this policy and ensure that there is no re-occurrence; however, Cogent reserves the right to suspend or terminate based on a first offense

Electronic Communications Privacy Act Notice

Cogent makes no guarantee of confidentiality or privacy of any information transmitted through or stored upon Cogent technology, and makes no guarantee that any other entity or group of users will be included or excluded from Cogent's network. In addition, Cogent may periodically monitor transmissions over its network for maintenance, service quality assurance or any other purpose permitted by the Electronic Communications Privacy Act, P.L. No. 99-508, as amended.

For public information purposes only; not part of contract.

Request for Proposal Number 4862 Z1
Contract Number _____ O4
Proposal Opening: January 02, 2015

In accordance with Nebraska Revised Statutes §84.712.05(3), the following material(s) has not been included due to it being marked proprietary.

Cogent Communications Inc.
1. None

In accordance with Federal U.S. Copyright Law Title 17 U.S.C. Section 101 et seq., Title 18 U.S.C. 2319, the following material(s) has not been included due to them being copyrighted.

Cogent Communications Inc.
1. Network Service Agreements and Rider

cogent COMMUNICATIONS

Optical Internet

Appendix A ~ Cost Sheet
4862Z1
Internet Access for 1623 Farnam, Suite 300A, Omaha, Nebraska

Bidder: Cogent Communications Inc

Bandwidth (Gbps)	Non-recurring Charge	Monthly Recurring Charge (per Gbps/month)
1	$ 550.00/XC	$750.00/GB XC:200.00
2		$750.00/GB XC:200.00
3		$750.00/GB XC:200.00
4		$750.00/GB XC:200.00
5		$750.00/GB XC:200.00
6		$700.00/GB XC:200.00
7		$700.00/GB XC:200.00
8		$700.00/GB XC:200.00
9		$700.00/GB XC:200.00
10		$650.00/GB XC:200.00
11	$ 1,100.00/XC	$650.00/GB XC:400.00
12		$650.00/GB XC:400.00
13		$650.00/GB XC:400.00
14		$650.00/GB XC:400.00
15		$650.00/GB XC:400.00
16		$650.00/GB XC:400.00
17		$650.00/GB XC:400.00
18		$650.00/GB XC:400.00
19		$650.00/GB XC:400.00
20		$600.00/GB XC:400.00
21	$ 1,650.00/XC	$600.00/GB XC:600.00
22		$600.00/GB XC:600.00
23		$600.00/GB XC:600.00
24		$600.00/GB XC:600.00
25		$600.00/GB XC:600.00
26		$600.00/GB XC:600.00
27		$600.00/GB XC:600.00
28		$600.00/GB XC:600.00
29		$600.00/GB XC:600.00
30		$550.00/GB XC:600.00
31	$ 2,200.00/XC	$550.00/GB XC:800.00
32		$550.00/GB XC:800.00
33		$550.00/GB XC:800.00
34		$550.00/GB XC:800.00
35		$550.00/GB XC:800.00
36		$550.00/GB XC:800.00
37		$550.00/GB XC:800.00
38		$550.00/GB XC:800.00
39		$550.00/GB XC:800.00
40		$550.00/GB XC:800.00

State of Nebraska (State Purchasing Bureau)

REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES FORM

RETURN TO:
State Purchasing Bureau
1526 K Street, Suite 130
Lincoln, Nebraska 68508
OR
P.O. Box 94847
Lincoln, Nebraska 68509-4847
Phone: 402-471-6500
Fax: 402-471-2089

SOLICITATION NUMBER	RELEASE DATE
4862Z1	**December 5, 2014**
OPENING DATE AND TIME	PROCUREMENT CONTACT
January 2, 2015 2:00 p.m. Central Time	**Robert Thompson / Michelle Thompson**

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, Administrative Services (AS), Materiel Division, State Purchasing Bureau, is issuing this Request for Proposal, RFP Number 4862Z1 for the purpose of selecting a qualified contractor to provide Statewide Internet service for participants of Network Nebraska - Education.

Written questions are due no later than December 17, 2014, and should be submitted via e-mail to as.materielpurchasing@nebraska.gov Written questions may also be sent by facsimile to (402) 471-2089.

Bidder should submit one (1) original 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 State Purchasing Bureau 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 bidder's 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: Cogent Communications Inc.

COMPLETE ADDRESS: 1015 31st Street, NW , Washington, DC 20007

TELEPHONE NUMBER: (202) 295-4294 FAX NUMBER: (202) 338-8798

SIGNATURE: _____ DATE: 12/29/2014

TYPED NAME & TITLE OF SIGNER: John Chang, Deputy General Counsel and Vice President

State of Nebraska (the "State")
Request for Proposal ("RFP") – Solicitation Number: 4862Z1

Cogent Communications ("Cogent") is a leading facilities-based provider of low-cost, high-speed Internet access and Internet Protocol, or IP, communications services. Cogent offers broadband Internet services over a fiber-optic network with over 41,000 customer connections in North America and Europe. Cogent provides customers with dedicated internet access, Ethernet point-to-point connections and colocation services. Cogent is in receipt of the State's RFP.

In response to the RFP, Cogent takes exception or provides clarification to the following terms and conditions enumerated below. Cogent's response is contingent upon acknowledgment of all exceptions, provided, however, Cogent is willing to negotiate a contract for service mutually acceptable to both parties if selected.

EXCEPTIONS; CLARIFICATIONS:

I. Scope of the Request for Proposal - The terms and conditions of the CSA contain an auto-renew provision that provides the agreement will automatically renew for a period equal in length to the initial term of the agreement unless the State provides thirty (30) days' prior written notice to Cogent. Notwithstanding the preceding, Cogent may agree to a unique or more flexible term (i.e. month-to-month) after the initial term to allow the State to satisfy its contracting term requirements; provided that Cogent can arrange for such service from the local loop provider, if any.

II. B. General Information - Cogent agrees to utilize the terms and conditions of the final agreement between the parties in fulfilling future orders from the participants of Network Nebraska, however, service prices and available service terms for each service location may vary. The cost to provide service is unique to each service location, particularly to the extent the provision of service requires a third party loop to be incorporated. Any difference in the underlying cost of providing service to a particular location or the flexibility with regard to service term will result in a variation from the quoted prices and available terms contained in this response.

III. Terms and Conditions - Cogent requires all customers to sign its Customer Subscriber Agreement ("CSA") which includes Cogent's Standard Terms and Conditions, Order Form(s), Product Rider (s) and Service Level Agreement (SLA), however, Cogent will negotiate the terms therein, including incorporation of mutually acceptable terms and conditions from the RFP. The CSA and any amendments negotiated thereto by the parties will serve as the contract for the requested services.

III. A. General - The CSA and any amendments negotiated thereto by the parties, including the incorporation of some of the terms and conditions of the RFP, will serve as the contract for the requested services.

III. F. Insurance - Cogent currently maintains insurance in excess of the amounts required in the RFP. Cogent will provide proof of its insurance, but will not obtain/maintain any insurance in excess of the amounts currently maintained. The State may be named as an additional insured, however, the insurance companies will not provide prior written notice of any policy cancellation, termination, expiry or amendment to the State. Please see the attached certificate of insurance for the amounts and types of insurance currently maintained by Cogent.

III. K. State of Nebraska Personnel Requirement - Cogent will not knowing recruit or employee any State employee or agent who worked on the Request for Proposal or project or who had an influence on decisions affecting the Request for Proposal or projects. To the extent any such employee or agent

applies to a posted position with Cogent and does not disclose their involvement with the Request for Proposal, Cogent may employ such an individual.

III. Q. Assignment by the Contractor - Any restrictions on assignment must allow for assignment of the contract to an entity that acquires substantially all of the assets of Cogent. Cogent will agree to add the following assignment language to the CSA:

"Neither party shall assign this CSA without other party's prior written consent, which consent shall not unreasonably be withheld; provided, however, that such consent is not required in the event of a sale or merger of all or substantially all of stock or assets of the business. Any such assignment (requiring consent) without the non-assigning party's prior written consent shall be void."

III. R. Deviations from the Request for Proposal - Cogent requires all customers to sign its CSA, however, Cogent will negotiate the terms therein, including incorporation of mutually acceptable terms and conditions from the RFP. The CSA and any amendments negotiated thereto by the parties will serve as the contract for the requested services.

III. T. Attorney's Fees – Cogent will to allow the CSA to remain silent on the recovery of attorney's fees.

III. Y. Early Termination –

Termination for Convenience - The State may terminate the CSA, or an order thereunder, in-term upon 30 days' notice for convenience (i.e. lack of funding/appropriations); however, termination charges will apply. The termination charges shall be equal to any third-party cancellation or termination charges incurred by COGENT as a result of a termination of Service, if any.

III. Z. Funding Out Clause or Loss of Appropriations - The State may terminate the CSA, or an order thereunder, in-term upon 30 days' notice for convenience (i.e. lack of funding/appropriations); however, termination charges will apply. The termination charges shall be equal to any third-party cancellation or termination charges incurred by COGENT as a result of a termination of Service, if any.

III. AA Breach by Contractor - Cogent will not agree to pay any excess amounts incurred by the State in obtaining alternative service.

III. DD. Penalty – The State's sole remedy for Cogent's failure to meet the installation, quality and availability guarantees set forth in the SLA shall be service credits issued as set forth therein.

III. FF. Prohibition Against Advance Payment - Cogent invoices customers in advance at the beginning of each month for services to be provided that month. Payment is due within thirty (30) days of the date of the invoice.

III. GG. Payment - Cogent invoices customers in advance at the beginning of each month for services to be provided that month. Payment is due within thirty (30) days of the date of the invoice.

III. NN. Confidentiality - Cogent will not have access to any personally identifiable information. Any information merely transmitted over Cogent's network in any internal State communication(s), or between the State and a third party, will not be considered to be received by Cogent and would not give rise to any obligations contained in a confidentiality agreement.

III. RR. Prices - Cogent agrees to utilize the terms and conditions of the final agreement between the parties in fulfilling future orders from the participants of Network Nebraska, however, service prices and

available service terms for each service location may vary. The cost to provide service is unique to each service location, particularly to the extent the provision of service requires a third party loop to be incorporated. Any difference in the underlying cost of providing service to a particular location or the flexibility with regard to service term will result in a variation from the quoted prices and available terms contained in this response.

III. UU. Indemnification - Cogent will indemnify the State for bodily injury, property damage and patent infringement pursuant to the following additional provision that can be added to the CSA.

"COGENT will indemnify, defend and hold harmless Customer and its directors, officers, employees, affiliates, and its agents and subcontractors from and against any Losses resulting from or arising out of any third-party claims, suits, actions, and proceedings brought against Customer alleging (a) bodily injury and damage to tangible personal property to the extent such Losses are caused by COGENT's gross negligence or willful misconduct; or (b) that the Services infringe a third party's valid and enforceable US patent issued as of the Initial Term (but excluding any infringement contributorily caused by Customer). The foregoing indemnity, defense and hold harmless obligations of COGENT shall not apply to the extent that any Losses are caused by or arise a result of the negligence or willful misconduct of, or a breach of this CSA by, Customer or its directors, officers, employees, affiliates, and its agents and subcontractors. Customer shall notify COGENT of any claim, suit, action or proceeding for which Customer is seeking to enforce its rights under this Section promptly after Customer learns of the same, shall tender defense of the same to COGENT and shall provide COGENT with information and assistance, at COGENT's expense, as reasonably requested by COGENT. Customer shall not settle or otherwise compromise any such claim, suit, action or proceeding for which it is seeking indemnification without COGENT's consent, which consent shall not unreasonably be withheld. Notwithstanding any other provision of this Section 6.2, COGENT will have no liability for any patent infringement claim of any kind to the extent it is based on (i) a modifications of the Services other than those provided to Customer by COGENT; (ii) the use of the Services in combination with any service or equipment provided by Customer; or (iii) the use of the Services not in accordance with the documentation. The foregoing states COGENT's sole obligation, and Customer's sole remedy, for any claim of patent infringement by the Services, and COGENT shall have no additional liability with respect to any alleged or proven infringement."

III. DDD. Political Subdivisions - Cogent agrees to utilize the terms and conditions of the final agreement between the parties in fulfilling future orders from the State's political subdivisions, however, service prices and available service terms for each service location may vary. The cost to provide service is unique to each service location, particularly to the extent the provision of service requires a third party loop to be incorporated. Any difference in the underlying cost of providing service to a particular location or the flexibility with regard to service term will result in a variation from the quoted prices and available terms contained in this response.

IV. J. Service Level Agreement – Please see Cogent's Service Level Agreement for Cogent's installation, quality and availability guarantees and the remedies available to the State for Cogent's failure to meet those guarantees.

IV. M. Certification - Cogent is an Internet Service Provider and is therefore not required to be certificated by the Public Service Commission.

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, and (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 should include completed Section III with their proposal response.

A. GENERAL

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
			"Cogent agrees to incorporate the below listed documents in the final contract; provided that, Cogent reserves the right to negotiate an Amendment to the Contract Award to include certain terms from its CSA."

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:
			Accept

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 an 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 available on the Internet at: http://das.nebraska.gov/materiel/purchase_bureau/docs/vendors/protest/ProtestGrievanceProcedureForVendors.pdf

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:
			Accept

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 subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensation, 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:
			Accept

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:
			Accept

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 the 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 the 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:
			Cogent currently maintains insurance in excess of the amounts required in the RFP. Cogent will provide proof of its insurance, but will not obtain/maintain any insurance in excess of the amounts currently maintained. The State may be named as an additional insured.

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 subcontractors, the contractor is responsible for obtaining the certificate(s) of insurance required herein under from any and all subcontractor(s). The contractor is also responsible for ensuring subcontractor(s) maintain the insurance required until completion of the contract requirements. The contractor shall not allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor 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 the contract the statutory Workers' Compensation and Employer's Liability Insurance for all of the contactors' employees to be engaged in work on the project under the contract and, in case any such work is sublet, the contractor shall require the subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the subcontractor'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 the contract such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect contractor and any subcontractor performing work covered by the contract from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under the contract, whether such operation be by the contractor or by any subcontractor 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, as Additional Insured(s). 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

d. **UMBRELLA/EXCESS LIABILITY**
Over Primary Insurance — $1,000,000 per occurrence

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 to the attention of the Buyer at 402-471-2089 (fax)

Administrative Services
State Purchasing Bureau
1526 K Street, Suite 130
Lincoln, NE 68508

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 Administrative Services State Purchasing Bureau 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:
			Accept

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:
			Accept

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:
			Accept

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 subcontractor's services, the subcontractor'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 subcontractors 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:
			Accept

The contractor warrants that all persons assigned to the project shall be employees of the contractor or specified subcontractors, 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 subcontractor selected to perform work on the project.

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.

The State reserves the right to require the contractor to reassign or remove from the project any contractor or subcontractor 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 the 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:
			Cogent will not knowing recruit or employee any State employee or agent who worked on the Request for Proposal or project or who had an influence on decisions affecting the Request for Proposal or projects. To the extent any such employee or agent applies to a posted position with Cogent and does not disclose their involvement with the Request for Proposal, Cogent may employ such an individual.

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:
			Accept

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:
			Accept

The State shall not incur any liability for any costs incurred by bidders in replying to this Request for Proposal, in the demonstrations and/or oral presentations, 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:
			Accept

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:
			Accept

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:
			Accept

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:
			"Neither party shall assign this CSA without other party's prior written consent, which consent shall not unreasonably be withheld; provided, however, that such consent is not required in the event of a sale or merger of all or substantially all of stock or assets of the business. Any such assignment (requiring consent) without the non-assigning party's prior written consent shall be void."

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:
			"Cogent agrees to incorporate the below listed documents in the final contract; provided that, Cogent reserves the right to negotiate an Amendment to the Contract Award to include certain terms from its CSA."

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:
			Accept

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:
			Cogent will to allow the CSA to remain silent on the recovery of attorney's fees.

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:
			Accept

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:
			Accept

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:
			Accept

The contractor shall use its best efforts to ensure that its employees, agents, and subcontractors 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:
			Accept

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 State may terminate the CSA, or an order thereunder, in-term upon 30 days' notice for convenience (i.e. lack of funding/appropriations) for circuits in this contract. However, in regards to the addition of any Off-Net circuits termination charges shall be equal to any third-party cancellation or termination charges incurred by COGENT as a result of a termination of Service, if any.

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 days 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 cancellation 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 State Purchasing Bureau; or

j. contractor engaged in collusion or ones 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 CSA, or an order thereunder, in-term upon 30 days' notice for convenience (i.e. lack of funding/appropriations) for circuits in this contract. However, in regards to the addition of any Off-Net circuits termination charges shall be equal to any third-party cancellation or termination charges incurred by COGENT as a result of a termination of Service, if any.

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:
			Cogent only takes exception to this sentence, "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."

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:
			Accept

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:
			Accept

1. Contractor must provide confirmation that upon contract termination all deliverables prepares in accordance with this agreement shall become the property of the State of Nebraska, subject to the ownership provision (section E) contained herein, and be 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, Bidder 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 Bidder's routine back up procedures.

DD. PENALTY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
			Cogent provides a penalty for failure to meet installation timeline guarantees within our SLA. This provision will govern the terms of any penalties due to the State.

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. Failure to meet the dates for the deliverables as agreed upon by the parties may result in an assessment of penalty due the State of $500.00 dollars per day, until the deliverables are approved and accepted. Contractor will be notified in writing when penalty will commence.

EE. FORCE MAJEURE

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

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:
			Cogent invoices customers in advance at the beginning of each month for services to be provided that month. Payment is due within thirty (30) days of the date of the invoice.

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:
			Cogent invoices customers in advance at the beginning of each month for services to be provided that month. Payment is due within thirty (30) days of the date of the invoice.

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:
			Accept

Invoices for payments must be submitted by the contractor to the agency requesting the services with sufficient detail to support payment. Invoices for statewide Internet access will be issued to the Office of the Chief Information Officer, State of Nebraska. Additional invoices for other eligible political subdivisions or higher education entities may be issued to those entities. 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.

II. RIGHT TO AUDIT

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

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 subcontractors. 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 subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Contractor and any subcontractors to the extent that those subcontracts 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:
NP			Accept

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:
			Accept

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 subcontractor 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:
			Accept

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:
			Accept

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:
			Cogent will not have access to any personally identifiable information. Any information merely transmitted over Cogent's network in any internal State communication(s), or between the State and a third party, will not be considered to be received by Cogent and would not give rise to any obligations contained in a confidentiality agreement.

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:
			Accept

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:
			Accept

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:
			Accept

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:
			"Cogent agrees to incorporate the below listed documents in the final contract; provided that, Cogent reserves the right to negotiate an Amendment to the Contract Award to include certain terms from its CSA."

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.

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:
			Accept

The State will tabulate the bid cost for each proposal. The award may be granted to the lowest bid cost. Alternatively, the lowest cost bidder or bidders may be requested to submit best and final offer. If best and final offers are requested by the State and submitted by the bidder, they will be tabulated (using the stated criteria) by the Evaluation Committee. The award will then be granted to the lowest bid cost. 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:
			Accept

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:
			Cogent will indemnify the State for bodily injury, property damage and patent infringement. Please refer to the attached exceptions for Indemnification language

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, subcontractors, 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, subcontractors, 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:
			Accept

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 that 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:
			Accept

The contractor hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with the 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:
			Accept

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 these specifications 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:
			Accept

Time is of the essence in the 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:
			Accept

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:
			Accept

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:
			Accept

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:
			Accept

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 subcontracts 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:
			Cogent agrees to utilize the terms and conditions of the final agreement between the parties in fulfilling future orders from the State's political subdivisions, however, service prices and available service terms for each service location may vary.

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:
			Accept

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:
			Accept

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.

IV. PROJECT DESCRIPTION AND SCOPE OF WORK

This RFP is for Internet connectivity from the listed Network Nebraska core location to the Internet Provider. Any award made for Internet connectivity to a core location will be based on lowest full duplex per gigabit pricing. Final determination of actual purchased capacity will be based on need, factoring in Network Nebraska's backbone capacity and the aggregate amount of Internet bandwidth required by Network Nebraska participants. Appendix A identifies the bandwidths to be bid.

The objective of this RFP is to update and expand the network that is currently in place to serve the eligible education entities of Network Nebraska as defined by Neb. Rev. Stat. 79-1201.01(3). Network Nebraska is defined in Neb. Rev. Stat. 86-5,100 (LB1208, 2006). Network Nebraska shall consist of contractual arrangements with providers to meet the demand of state agencies, local governments, and educational entities. Such network shall provide access to a reliable and affordable infrastructure capable of carrying a spectrum of services and applications, including distance education across the state. Only E-rate eligible entities will apply for E-rate discounts.

The State of Nebraska bids this service on behalf of numerous E-rate eligible education entities across the State. Each entity must be allowed a reasonable duration to hold a public meeting of its administrative board to approve its purchase from the resulting state contract and to file its E-rate Form 471 prior to the national deadline of mid-March annually. Once Intent to Award has been announced by the State, the contractor must work expeditiously toward a signed contract in order to allow enough time for the local approval process. Failure to reach a signed contract for the initial year of the initial contract period with the State prior to January 30, 2015, may risk negation of purchases for the July 1, 2015 through June 30, 2016 performance year.

The bidder may present supplemental text for any of the sections following the "Yes/No/Other" section. If a bidder must state noncompliance on any Technical Requirement, they must complete the "Comments/Other" field in the table immediately following such section. "Comments/Other" responses should be used only with a narrative response explaining in detail any deviation from the bidder's ability to meet the condition, and an explanation of how this would be determined to be an acceptable alternative to meeting the condition. Alternatives must be detailed in such a way that allows such deviations to be fully understood. The State of Nebraska shall determine in its sole discretion whether or not the bidder's alternative is an acceptable alternative.

A. E-RATE

The originating FCC Form 470 number for this RFP is 427490001257650.

Each Bidder must have a Service Provider Identification Number (SPIN) from the Universal Service Administrative Company (USAC) and be eligible to participate in the Universal Service Fund (USF) discount program for telecommunications services provided to the E-rate eligible entities. Bidder agrees to provide any discounts, including any accrued credits, for which the entity is eligible under the USF for school telecommunications services. Bidder will, at its expense, prepare and file all carrier documents and reports required for the eligible entities to receive the benefit of such discounts and credits. The Bidder's SPIN issued to bidder by the USAC must be included in the proposal response.

As required by federal law, providers of eligible services must comply with the Lowest Corresponding Price (LCP) rule:

1. 47 CFR § 54.500(f)

Lowest corresponding price is the lowest price that a service provider charges to non-residential customers who are similarly situated to a particular school, library, or library consortium for similar services. ("Similarly situated" means the "geographic service

area" in which a service provider is seeking to serve customers with any of its E-rate services.)

2. **47 CFR § 54.511(b)**
Providers of eligible services shall not charge schools, school districts, libraries, library consortia, or consortia including any of these entities a price above the lowest corresponding price for supported services, unless the Federal Communications Commission, with respect to interstate services or the state commission with respect to intrastate services, finds that the lowest corresponding price is not compensatory.

The Billed Entity Applicant Reimbursement (BEAR) FCC Form 472 is filed by the applicant and approved by the service provider after the applicant has paid for services in full. The Service Provider Invoice (SPI) FCC Form 474 is filed by the service provider after the applicant has been billed for the non-discount portion of the cost of eligible services. Note: Applicants can choose their method of invoicing; service providers cannot force applicants to use a particular method.

As required by USAC policy, the contractor must retain documents from the bidding process through ten (10) years past the last date of service. Documents may be retained in electronic format or paper. The document list includes, but is not limited to, copies of bids, signed contracts, proof of service delivery, invoices, documentation of any service down time, and any other document retention required by the FCC.

NOTES:

a. All services bid will be offered to Schools and Libraries and therefore must meet E-rate guidelines for eligible services, products, service providers and contracts.

b. All State agencies, the University of Nebraska, political subdivisions and other "eligible participants" will be allowed to purchase off of this contract.

c. There is no guarantee that any or all of the locations listed will purchase any or all of the services requested in this RFP.

d. Although Network Nebraska has five (5) major network node locations that are used as core aggregation points, only the following core location is being bid

i. NCC Carrier "Hotel"/NCC Co-location Centers, LLC.
1623 Farnam Street, Suite 300A
Omaha, NE 68102

The bidder has read, understands, and agrees to comply. _X_YES ___NO ___OTHER

Comments/Other: _____

_____

_____

Service Provider Identification Number (SPIN): SPI Billing 143035907
BEAR Billing 143025258

B. BID FOR INTERNET ACCESS

The objective is to identify a Contractor that will provide the complete delivery of Internet services in Omaha, Nebraska. The principle intent of this Internet service will be to support K-12 E-rate eligible institutions. Other eligible educational entities and political subdivisions may purchase off of this contract. The service must be provided at the Network Nebraska core location below:

1. NCC Carrier "Hotel"/NCC Co-location Centers, LLC.
   1623 Farnam Street, Suite 300A
   Omaha, NE 68102

Eligible entities may include colleges, universities, state government, political subdivisions and K-12 institutions.

All proposals must meet the technical requirements as stated in the RFP. All Bidders must bid on the services as listed in Appendix A.

C. PROJECT OVERVIEW

Current Internet service is provided at the Network Nebraska core location in Suite 300A of the NCC Carrier "Hotel" at 1623 Farnam Street in Omaha, Nebraska and at Nebraska Hall Room 230 at 901 N. 17th, in Lincoln, Nebraska. Current Internet capacity is utilized primarily by K-12 and higher education institutions, with current bandwidth at nearly 13Gbps at each location, and approximate total capacity of 25Gbps. Internet usage has experienced considerable growth over the previous few years, and additional growth is expected over the life of the contract.

Many rural school districts utilizing Network Nebraska connectivity aggregate their Internet access with a specific Educational Service Unit (ESU) or consortium of ESUs for purchasing, management and filtering. These aggregations include: GNENC (ESUs 10, 11, 13, 15, 16), NNNC (ESUs 1, 2, 7, 8, 17), and CNDEC (ESU 9). In addition, larger school districts will have the Office of the CIO purchase Internet access on their behalf from the resulting contract: Lincoln Public Schools (ESU 18), Omaha Public Schools (ESU 19), Grand Island Public Schools (ESU 10), Lexington Public Schools (ESU 10) as primary examples.

Network Nebraska will aggregate all Internet capacity purchased by participants and will be responsible for transport from Network Nebraska equipment at the core location bid to the individual participant locations.

The bidder has read, understands, and agrees to comply. X YES ___NO ___OTHER

Comments/Other: _____

_____

_____

D. PROJECT ENVIRONMENT

Network Nebraska participants have authorized the State of Nebraska to solicit proposals for Internet services on their behalf as participants of Network Nebraska. Five of these ESUs act as Internet aggregation and purchasing points for approximately 200 school districts and approximately 200,000 students, demanding significant connectivity. Network Nebraska has created an MPLS-based data communications backbone with high-speed connectivity to multiple aggregation points that, in turn, interconnect the Wide Area Network (WAN) circuits from all participating K-12 school districts and colleges on the network. As more schools and colleges connect to Network Nebraska along with increased classroom-related consumption, the demand for Internet access continues to grow. For this reason, the contractor must have the ability to meet the current needs of the initial amount purchased and also be able to provide additional capacity for the future growth over the life of the contract.

The State Office of the CIO commits to purchase, and file E-rate reimbursement, on behalf of the eligible entities for the following year's Internet capacity at the time of the Form 471 filing date of mid- to late March. This enables the contractor approximately four (4) months to make adjustments to their facilities and architecture to meet the Internet bandwidth demand.

E. PROJECT REQUIREMENTS

The bid service must be converted between July 1, 2015 and August 1, 2015. The service should be installed and tested by July 1, 2015, however neither the State nor the participating eligible entities can incur charges on the service until after July 1 due to E-rate. The cutover to Network Nebraska must be complete by August 1, 2015. Any existing service must remain active until the final cutover. The State of Nebraska is cognizant of a growing demand for bandwidth. The State is interested in identifying a contractor who will meet the current and future telecommunications needs over the term of the contract. The contractor will provide a cost-effective, scalable, and flexible transport service that will be able to meet the demands of the network participants and it is expected the service would meet any future needs of other eligible participants as deemed appropriate.

The bidder has read, understands, and agrees to comply. _X_YES ___NO ___OTHER

Comments/Other: _____

_____

_____

F. TECHNOLOGY REFRESH

The State and the Contractor will work in partnership to ensure the services provided under this contract will be continuously refreshed as technologies evolve and user needs grow. The Chief Information Officer, in conjunction with, or on behalf of, all other participants, will assume the primary role in seeking and proposing new technologies and enhancements. This technology refreshment clause will be a required condition of the contract.

The State and the Contractor will conduct periodic reviews of the contract at specific milestones during the term of the contract to review service offerings and pricing. These reviews may result in expanding the services offered by the Contractor to include new pricing elements or pricing modifications associated with improved economies of scale and/or technological innovations. Changes in the industry related to regulation and/or pricing mechanisms may also result in modification of rates identified in the services offered by the Contractor. These review periods will commence when the State feels an improvement in economies of scale or technological innovation has occurred.

The bidder has read, understands, and agrees to comply. X **YES** ___ **NO** ___ **OTHER**

Comments/Other: _____

G. SCOPE OF WORK

The Contractor shall provide a flexible, reliable, cost effective connection to the commodity Internet (Internet 1). The service is expected to be delivered using one or more 10Gigabit fiber-based Ethernet connections, or higher, to Network Nebraska equipment. For service bandwidths higher than 10Gigabit, an aggregated connection must be provided in a IEEE 802.1AX-2008 LACP standards-based configuration, or a mutually agreed upon connection type and speed. The Bidder must bid on the following Network Nebraska Internet aggregation point below:

NCC Carrier "Hotel"/NCC Co-location Centers, LLC.
1623 Farnam Street, Suite 300A
Omaha, NE 68102

The Internet Service provided must be a turnkey offering, with the intent that the entire installation be completed for the quoted price. Therefore, any items omitted but reasonably necessary to accomplish the project must be furnished and installed by the contractor at no additional cost to the State of Nebraska. The contractor must provide for the complete installation of equipment to include connectivity to the state- owned or University of Nebraska-owned peer routing equipment at the aggregation location.

An Internet service that supports IPv4 use, to include full IPv4 BGP route peering is required. It is highly desirable that the Internet service also directly supports native IPv6 use.

Appendix A specifically identifies the Network Nebraska core location where Internet transport must be handed off related to the Internet Service bid.

The State of Nebraska anticipates the Bidder to be a "Tier 1" Internet provider. A "Tier 1" provider is any provider who can reach any network on the Internet without purchasing IP transit.

The final amount of capacity to be purchased for each location will be determined prior to the State's E-rate filing in March 2015 and each subsequent March thereafter.

The bidder has read, understands, and agrees to comply. X **YES** ___ **NO** ___ **OTHER**

Comments/Other: Cogent has included cross-connect fees (as a pass through charge); which are necessary for extending service from the MMR to Nebraska Colocation in suite 300A

H. TECHNICAL REQUIREMENTS

Internet Address Routing:
Network Nebraska manages several IPv4 "/16" CIDR blocks (aka traditional Class "B" classful ranges). Additional addresses in various class sizes are in use by some members of the educational community that may also be using this service. By responding to this proposal,

the bidder understands and agrees that the resulting contractor will route all requested Network Nebraska related addresses.

Network Nebraska will maintain one or more routers that will be required to carry a complete set of internet routing tables. The contactor must agree to provide full BGP routing feeds to the Network Nebraska equipment.

If requested by Network Nebraska, the provider agrees to restrict the set of addresses that can communicate through the contracted connection. For example, to help balance traffic, Network Nebraska may request that the provider route and/or advertise only a subset of addresses through this link.

An IPv6-ready service is required. The ability to directly support native IPv6 traffic and BGP routing with full IPv6 routing table feeds is desired. Any service that requires the tunneling of IPv6 traffic through an IPv4 path will be considered only IPv6 ready. Any service not capable of routing IPv6 traffic will not be considered IPv6 ready. Any service that is not, at a minimum, IPv6 ready will be classified as an unacceptable bid.

The contractor must provide a service that meets the following requirements:

1. Ethernet frames containing a 1500 byte payload (for a total minimum supported Ethernet frame size of 1542 bytes), must be allowed and flow as a single complete frame without any fragmentation by the provider's equipment. Reference: http://en.wikipedia.org/wiki/Ethernet_frame
2. The network interface to the customer's CPE must be an Ethernet-based fiber handover connection.
3. The network interface handover must be a 10G fiber connection, or in the case of higher than 10G of bandwidth bid, multiple 10G fiber connections must be provided in a IEEE 802.1AX-2008 LACP standards-based configuration, or a mutually agreed upon connection type and speed.
4. Performance metrics on contracted circuits must be provided to Network Nebraska staff within 24 hours of request.
5. The Network Nebraska NOC must be notified within 24 hours of performing QoS changes, network monitoring changes or any other network changes that may have a positive or negative effect on performance as outlined in the RFP.
6. The provided connection must be tested to prove performance before it will be considered complete and usable. Testing according to ITU-T Y.156sam or RFC-2544 for performance, frame-loss and latency is preferred but detailed performance, frame-loss, latency and QOS test disclosure is also acceptable. Testing must validate the minimum frame size specified is supported.
7. Every connection's receive AND transmit capacity must each meet or exceed the bandwidth amount that is bid. Testing must validate that capacity meets the amount purchased before the connection will be considered complete and usable.

The bidder has read, understands, and agrees to comply. ___YES ___NO X OTHER

Comments/Other: Cogent is compliant with requirements 1-5, 7, and takes exceptions to requirement 6. Cogent's standard procedure is to ping the customer's router every minute. This Test does not account for frame-loss, latency or QoS.

I. PROJECT PLANNING AND MANAGEMENT

The State of Nebraska acknowledges that project management and implementation procedures will require alignment and adjustment of work processes for the Contractor , the

educational entities, and the State of Nebraska. The bidder will respond to this RFP assuming the following responsibilities.

1. **STATE OF NEBRASKA AND EDUCATIONAL ENTITY MANAGEMENT STAFF**
The State of Nebraska and educational entity management staff will:

   a. Provide overall project direction and management.
   b. Review and approve all project plans and deliverables.
   c. Ensure that technical assistance and support are provided during the Contractor's implementation phases and ongoing upgrade design of this project.
   d. Establish project management guidelines by meeting with the Contractor's project management team as needed.
   e. Review and approve all project specific documentation standards and requirements for the various types of reports, technical/procedural documentation, and management materials that will be produced during the project.
   f. Coordinate other resources as needed to support the implementation process.
   g. Provide on-site assistance, as needed during the implementation phases of the project.
   h. Assist the Contractor in identifying eligible participants in the network as well as establishing guidelines with the Contractor for ordering, moving, adding or changing services.
   i. On or about February 1 annually compile the total amount of Internet to be purchased off of the resulting contract.
   j. On or about March 15 annually file the E-rate Form 471 indicating the total amount of Internet to be purchased on the following July 1.
   k. Not later than March 31 annually official orders for an exact quantity of Internet will be placed to the Contractor for a service start date of the following July 1.

2. **CONTRACTOR**
The Contractor will:

   a. Coordinate and administer the requirements of the network service(s) that are proposed.
   b. Maintain toll free lines for voice and facsimile from the State to operational facilities for order entry and after hours help desk. Installation and maintenance may be subcontracted to one or more third parties to adequately cover the locations of the core transport backbone sites and to provide for rapid response in the event of a service disruption. The Contractor will provide information regarding intent to maintain its facilities after project implementation has been completed.
   c. Maintain toll free voice lines for after-hours helpdesk support for the duration of the contract. This point of contact will serve as the single point of contact for all services and equipment provided by the contract, including services and equipment subcontracted to another vendor.
   d. Within thirty (30) days after contract award, the contractor will provide network diagrams and drawings that clearly illustrate the network configuration and the functional relationships, as they are associated with the proposed services. These network diagrams will be available to the State electronically in a format agreed upon by the Contractor and the State to allow for import into various computer programs.

The bidder has read, understands, and agrees to comply. _X_ YES ___ NO ___ OTHER

Comments/Other: In some cases, network information may be subject to Non-Disclosure Agreements.

J. SERVICE LEVEL GUARANTEES

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.

1. PERFORMANCE SPECIFICATIONS

When planned network maintenance activities are conducted by the contractor which entails the risk of interrupting or diminishing service to Network Nebraska, the Network Nebraska Operation Center(s) must be notified at least three (3) business days in advance of the maintenance planned. Additionally, the contractor must agree to work with Network Nebraska to find an alternate date and time of maintenance, if the proposed time would be particularly detrimental to Network Nebraska business needs. Mutually agreed upon maintenance activities are not considered a service violation and will not incur a service penalty.

The contractor must have in inventory the necessary spare equipment capable of restoring service in the event of contractor equipment failure. Maintenance contracts specifying next-day replacement or longer will not be considered an acceptable substitute for carrying inventory of appropriate replacement equipment.

The contractor must operate its own Network Operations Center(s) and provide a centralized trouble reporting and maintenance system that is staffed 24 hours a day, seven days a week. The contractor shall provide sufficient staff for peak and critical hours. The contractor shall provide Network Nebraska with a local and toll-free number for trouble reporting.

The contractor must respond to trouble reports within one (1) hour of notification. The Contractor must also provide an escalation procedure and contact list to be used for unresolved issues, including names, titles and phone numbers of contact persons in the escalation chain. Major service-affecting problems that are not resolved within two (2) hours of time after the notification of trouble shall constitute a prolonged outage and must be escalated.

Access to performance service metrics is required, with a preference toward live metrics.

The contract expectation is for a service that, at a minimum, will meet required specifications 99.955% of the year - equivalent to a maximum of 4 total hours of downtime/service non-compliance per year. Any service not meeting contract specifications to include violation of QoS parameters will incur a contract performance penalty according to the following formula:

For every hour and fraction of an hour of service violation, the customer will be refunded one day of service credit. Repeated violations of service performance agreements during any single calendar day will be considered a continuous event from the beginning of the original violation until the last violation. Violations on consecutive days will be considered continuous from the initial violation until the service has been restored. The service will be considered restored when no violation has occurred for 24 continuous hours (the 24 hour validation period is not considered part of the penalty). Penalty duration will round up to the next whole hour.

Example: Intermittent connectivity from 9:15a-2:20p on the same day; Duration of the actual service violation would be 5 hours and 5 minutes. Violation assessment is rounded up to the next whole hour, so the duration is considered as 6 total hours. A yearly downtime credit of 4 hours can be applied to account for the 99.955% performance expectation yielding a 2 hour penalty violation and 2 days of service credit due. The 4 hour credit can only be applied in one hour whole increments with a total of 4 hours of remission during any given calendar year.

The bidder has read, understands, and agrees to comply. ___YES ___NO _X_OTHER

Comments/Other: Cogent's Service Level Guarantees meet or exceed the State's provisions. However, it is important to note that the credits, definitions, and penalties for failure to meet performance guarantees will be governed by Cogent's SLA. Please refer to a copy included within this proposal.

K. IMPLEMENTATION PLAN

Within thirty (30) days after the contract award, the contractor must submit to the State of Nebraska an implementation plan for the deployment of the services. The plan must clearly represent the constraints of time, scope and cost. At a minimum the implementation plan must include the project approach, scope of work, schedule, deliverables, resource planning and communication plans.

The Contractor will adhere to the implementation plan for deployment of services submitted as a requirement of this RFP. The required date for Internet Service implementation is July 1, 2015.

The bidder has read, understands, and agrees to comply. _X_YES ___NO ___OTHER

Comments/Other: _____

L. BILLING

Billing for Internet service must comply with the following specific requirements:

1. The contractor must bill according to the established cost structure and report the total purchased bandwidth to the State on a monthly basis.

2. The Office of the CIO will file Form 471 for E-rate eligible services. Other eligible participants may submit orders for service through the State of Nebraska.
3. It is anticipated that all E-rate eligible Internet orders and purchases will be made by the State of Nebraska Office of the CIO.
4. It is anticipated that all higher education or other non-E-rate eligible orders and purchases will be made by the University of Nebraska Computing Services Network.

The bidder has read, understands, and agrees to comply. _X_YES ___NO ___OTHER

Comments/Other: _____

_____

_____

M. CERTIFICATION

The State requires that the Bidder be certificated or permitted by, or registered with, the Public Service Commission (PSC) to provide the services outlined in this Section of this RFP (Neb.Rev.Stat. 81-1120.19). The Bidder must be willing to file Tariffs with the PSC specific to the network proposed in their bid. The Bidder must be willing to accept direct payment for USF and NUSF contributions to their proposed network. The bidder must include these contributions in their bid prices.

The bidder has read, understands, and agrees to comply. ___YES _X_NO ___OTHER

Comments/Other: Cogent is an Internet Service Provider and is therefore not required to be certificated by the Public Service Commission.

N. COST

Bid proposals will address the impact of normal growth, as well as planned and unplanned network expansion or service enhancement. All prices shall be proposed as an individual location cost on a recurring or non-recurring basis. **All bidder costs must be reflected in either the monthly recurring or non-recurring charges. All fees, taxes and pass-through charges such as NUSF must also be included in the cost. No additional charges will be accepted.** The State shall not be required to purchase any specific service or minimum quantities of network services. The quantities provided are for the sole purpose of assisting the Bidders in preparation of their proposals and for the State to consider the feasibility of the proposed network solutions. The State shall not be responsible for any cost that is not identified in the Bidder's proposal. The State will not consider bids that offer discounts based upon the number of network locations that join the network.

In order to assist bidders with inclusion of the Nebraska Universal Service Fund (NUSF) charge and other pass-through charges in their bid, a history of NUSF rates is shown below:

July 1, 1999-September 30, 2005	6.95 %
October 1, 2005-March 31, 2007	5.75 %
April 1, 2007-present	6.95 %

Please display costs in the format provided in Appendix A. Simply placing a cost number in the appropriate cell is all that is needed. The bid prices listed in Appendix A must include the cost of doing business as indicated below.

1. **NETWORK EQUIPMENT AND HARDWARE COSTS**
(Non-CPE) Network equipment and hardware (non-CPE) will be part of and included in the itemized circuit costs. Circuit costs will be bundled costs and must include all necessary components needed to utilize the circuit at the bandwidth level bid.

2. **INSTALLATION COSTS**
If non-recurring installation/set-up charges are applicable, these rates shall be delineated in the cost portion of the proposal. This cost for the circuit installation shall include all one-time costs associated with termination to the demarcation point from the network side and/or fees associated with interconnection to local exchange carriers.

   a. All fees that would be incurred for a fully functioning end-to-end connection, whether recurring or non-recurring, must be included in the cost. All cross-connect, and facilities-related charges that would be incurred to physically connect the circuit to Network Nebraska equipment on both ends must be included in the cost.

3. **SOFTWARE, WARRANTY, AND MAINTENANCE COSTS**
The Bidder will include costs for software, warranty, and maintenance of the provided circuits in the service rates.

   a. Software includes any initial or upgraded software required by each item of equipment proposed for the network to perform as a fully functional, integrated part of the Bidder's network and associated service rates. The software costs shall include all of the following applicable costs:

      i. Initial purchase and installation costs.
      ii. Use and licensing fees.
      iii. Software maintenance costs, including upgrades.
      iv. All other costs relative to the network such as acquiring and using the software for the life of the network.
      v. Costs and procedures related to the transfer of the software from damaged or out of service equipment to new equipment and the reprogramming of the software to place equipment spares into service and to meet changing network needs.

4. **QUANTITY**
The State reserves the right to purchase any quantity of services in any increment proposed. There will be no minimum or maximum quantities imposed as a result of any contract. All State agencies, the University of Nebraska, political subdivisions and other "eligible participants" will be allowed to purchase off of this contract.

5. **COST AND SERVICE OFFERING REVIEWS**
During the Contract, the State and the Contractor will conduct periodic reviews of the contract at specific milestones during the term of the contract to review service offerings and pricing as specified under item F. Technology Refresh.

6. **PROPOSAL COST TABULATION**
The proposal cost will be tabulated with an intent to award made based on the monthly recurring costs multiplied by the applicable length of service in months (36), not to include renewals, plus the one-time non-recurring costs. At the bid opening, a single

bandwidth increment (XX Gbps) will be disclosed that provides the basis of the cost tabulation.

The State of Nebraska recognizes that the contractor may incur additional costs for facility and infrastructure upgrades at particular bandwidth thresholds, particularly at the higher levels (e.g. 20Gbps, 30Gbps, 40Gbps). The State recognizes that the contractor may incur additional costs for facility and infrastructure upgrades at particular bandwidth thresholds, particularly at the higher levels (e.g. 20Gbps, 30Gbps, 40Gbps). The State of Nebraska will require bidders to enter those facility upgrade costs as one-time, non-recurring charges that are applicable to the onset of the respective bandwidth intervals at which those facility upgrade costs occur.

Example:

Bandwidth	Non-recurring Charge	Monthly Recurring Charge (per Gbps/month)
5 Gbps	$500	$1,500
10 Gbps	$500	$1,250
15Gbps	$500	$1,100
20Gbps	$1,000	$1,000
25Gbps	$1,000	$ 900
30Gbps	$5,000	$ 800

The bidder has read, understands, and agrees to comply. _X_YES ___NO ___OTHER

Comments/Other: _____

_____

_____

Form A

Bidder Contact Sheet

Request for Proposal Number 4862Z1

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:	Cogent Communications Inc.
Bidder Address:	1015 31st Street, NW, Washington, DC 20007
Contact Person & Title:	Stacy Baxter, Proposal Coordinator
E-mail Address:	SBAXTER@COGENTCO.COM
Telephone Number (Office):	(202) 295-4294
Telephone Number (Cellular):	N/A
Fax Number:	(202) 338-8798

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:	Cogent Communications Inc.
Bidder Address:	1015 31st Street, NW, Washington, DC 20007
Contact Person & Title:	Stacy Baxter, Proposal Coordinator
E-mail Address:	SBAXTER@COGENTCO.COM
Telephone Number (Office):	(202) 295-4294
Telephone Number (Cellular):	N/A
Fax Number:	(202) 338-8798

NEBRASKA
AdministrativeServices

Gerry A. Oligmueller
Acting Director

Dave Heineman, Governor

ADDENDUM ONE

QUESTIONS AND ANSWERS

DATE: December 19, 2014

TO: All Bidders

FROM: Robert Thompson/Michelle Thompson, Buyers
State Purchasing Bureau

RE: Addendum for RFP Number 4862Z1
to be opened January 2, 2015 at 2:00 p.m. Central Time

QUESTIONS AND ANSWERS

Following are the questions submitted and answers provided for the above mentioned Request For Proposal. The questions and answers are to be considered as part of the Request For Proposal. It is the Bidder's responsibility to check the State Purchasing Bureau website for all addenda or amendments.

	QUESTIONS	ANSWERS
1.	I wished to confirm that the only opportunity to bid on this RFP is for DIA delivered in Omaha.	Correct; only the Omaha Farnam NCC site is being bid. The DIA service connection must be handed over to Network Nebraska equipment at that location.
2.	Under the "Confidential Information" section, [redacted] questions if all pricing provided on Appendix A would need to be shared if the RFP is awarded or if [redacted] would only need to supply the initial order for public/competitor view? For example, if the award went to [redacted] for 12G we would prefer not sharing the rest of the pricing on Appendix A for the remaining bandwidths up to 40G.	Per Section III. OO. Proprietary Information; the "…Bidder's cost proposals may not be marked as proprietary information…" All submitted costs may be posted and are subject to public record request. Any awarded contractor's entire cost proposal will be posted in its entirety.

QUESTIONS	ANSWERS
3. In regards to the equipment upgrades for requested bandwidths, [redacted] would like to inquire what equipment the State will be using initially and then at the key levels of 20G, 30G and 40G to interface with [redacted] equipment?	Currently Arista Networks switches (model 7150S-24) are used for the Network Nebraska layer-2 handover equipment. That equipment is also connected to Juniper MX equipment that provides Layer-3 IP and BGP routing for the service. Higher bandwidths exceeding 20 Gigabits may require newer or different equipment for the Layer-2 interface handover. LACP will be used to aggregate multiple 10-Gigabit Ethernet interfaces unless another interface and connectivity type is mutually agreed upon.
4. Please define "Tier 1" carrier. Tier 1 can mean many different things to different carriers.	Refer to the Wikipedia definition: http://en.wikipedia.org/wiki/Tier_1_network The term *tier 1 network* is used in the industry to mean a network that may reach every other network on the Internet without purchasing IP transit or paying overt settlements. An overt settlement is a monetary charge for the amount, direction, or type of traffic sent between networks. *Regional* tier 1 providers are also acceptable. A regional tier 1 network is a network which is not transit free globally, but which maintains many of the classic behaviors and characteristics of a tier 1 network within a specific region. For the purposes of the RFP 4862Z1 bid, the region would be the continental U.S. **Bids from Tier 2 providers will be considered.** A *tier 2 network* is an Internet service provider that engages in the practice of peering with other networks, but that also may purchase IP transit to reach some portion of the Internet. **Bids from Tier 3 providers will not be considered.** Tier 3 network providers are defined as those networks that solely purchase transit from other networks to reach the Internet.
5. Will the State of NE consider any other aggregation point during the term of this agreement, other than 1623 Farnam, Omaha?	RFP 4862Z1 deals only with the NCC location, 1623 Farnam, in Omaha, Nebraska.

QUESTIONS	ANSWERS
6. Are there any additional transport needs that may arise from this RFP?	The DIA service must be handed over to the Network Nebraska equipment located within the Omaha Farnam NCC facility. The contractor is responsible for transport including all cross-connect charges to the Network Nebraska NCC equipment rack.
7. Your requirement that any bidder for this RFP "can reach any network on the Internet without purchasing IP transit." eliminates any and all IP providers worldwide today. There are NO ISPs today that do not in some way trade something of value or purchase IP transit to reach SOME other network on the internet. I would ask that this requirement be removed, as any award is impossible with it as currently defined.	See page 38, RFP 4862Z1: "The State of Nebraska anticipates the Bidder to be a "Tier 1" Internet provider." Refer to answer #4. Refer to the Wikipedia definition: http://en.wikipedia.org/wiki/Internet_transit The goal of the RFP is to select a provider with considerable peering relationships and one that would be considered a responsible, reliable and cost-effective Internet service provider.

This addendum will become part of the proposal and should be acknowledged with the RFP.

© Cogent Communications, Inc. 2013

cogent COMMUNICATIONS

Optical Internet

NETWORK SERVICES SERVICE LEVEL AGREEMENT GLOBAL

This Service Level Agreement (SLA) is a part of the customer subscriber agreement (CSA or Agreement) between Customer and COGENT. Capitalized terms used herein that are not defined in this SLA shall have the meaning attributed to them in the CSA.

1. SERVICE COMMITMENT.

COGENT is committed to providing a reliable, high-quality network to support its high-speed network services (Service). As part of this commitment, COGENT is pleased to offer eligible Customers the following guarantees as concerns the Service in North America, Europe and Asia:

- Installation Guarantee
- Network Availability and Notification Guarantee
- Network Latency Guarantee
- Packet Delivery Guarantee

Ethernet Point to Point "Off-Net Basic" Services Customers are not eligible for any of the guarantees under the SLA. The Notification Guarantee, Latency Guarantee and Packet Delivery Guarantee apply to Cogent Dedicated Internet Access Customers only. If COGENT fails to meet any of these guarantees, it will provide eligible Customers with a Service Credit, as set forth below in this Service Level Agreement.

2. GUARANTEES.

A. INSTALLATION GUARANTEE.

For each of the Services listed below, Cogent guarantees connectivity for Customers will be installed within the corresponding timeframe, as measured from the date an order has been validated and entered into Cogent's provisioning system by its Account Coordination team.

- On-Net: 17 business days
- T1 / EI: 40 business days
- T3 / E3: 60 business days
- Colo: 17 business days
- Ocx/ STMx: 90 business days
- Ethernet Loop: 90 business days

An order will not be validated until a signed Order Form and CSA and any other required documentation specified by COGENT, has been received, validated, approved and entered into COGENT's provisioning system by its Account Coordination team. Additional required documentation may include a completed credit application and a completed questionnaire for IP Allocation as well as completed questionnaires for BGP, SMTP and DNS configurations when requested by the customer on the IP Allocation Questionnaire.

The Installation guarantee for Cogent colocation services does not apply to third-party data centers. For Ethernet Point to Point connections, the port with the longest install time governs the entire order, e.g., if one port is On-Net and the other port requires an Ethernet Loop, the longer install time corresponding to the Ethernet Loop applies to both orders.

If COGENT fails to meet these commitments, Customer will receive, at Customer's request, one (1) month Service Credit. Customer may obtain no more than one (1) month Service Credit for any given month. COGENT's Installation Guarantee is subject to the following conditions:

- Customer or its representative must cooperate with COGENT in the installation process, which includes accurate completion of an Order Form containing detailed demarcation information and other onsite contact listings. Changes in an Order Form made by or on behalf of Customer or the occurrence of events outside the reasonable control of COGENT, such as Force Majeure (as defined in the CSA), may result in delays for which COGENT is not responsible hereunder.
- Customer or its representative must be physically present at the time of installation and must provide access to the designated building's phone closet(s) on the date(s) agreed to by COGENT's Installation Coordination Department. Such building access and escort must also be provided to other necessary personnel to perform the installation of the connection.
- This Installation Guarantee applies to the interval between the original order date and original Installation Guarantee date. If Customer requests a change to an order date during implementation of Service, the Installation Guarantee date shall, at COGENT's sole discretion, begin again upon change acceptance.
- The Service Credit for failure to meet the Installation Guarantee is not available to Customers for whom installation charges have been waived or reduced.

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B. NETWORK AVAILABILITY AND NOTIFICATION GUARANTEE.

COGENT's network is designed for 100% availability.

On-Net Service. If Customer experiences Network Unavailability for an On-Net Service for more than 15 consecutive minutes, Customer will receive, at Customer's request, one (1) day Service Credit for each cumulative hour of Network Unavailability in any calendar month. Provided the COGENT Network experiences at least one (1) hour of Network Unavailability in any given calendar month, additional Network Unavailability of less than one (1) hour will result in a proportional Service Credit. (Example: 2 hours, 15 minutes of Network Unavailability will result in 2.25 days Service Credits.) Customer may obtain no more than one (1) month Service Credit for any given month.

Off-Net Service. If Customer experiences Network Unavailability for an Off-Net Service for more than 15 consecutive minutes, Customer will receive, at Customer's request, one (1) hour Service Credit for each cumulative hour of Network Unavailability in such calendar month. Provided the COGENT Network experiences at least two (2) hours of Network Unavailability in any given calendar month, additional Network Unavailability of less than one (1) hour will result in a proportional Service Credit. (Example: 2 hours, 15 minutes of Network Unavailability will result in 2.25 hours Service Credits.) Customer may obtain no more than one (1) month Service Credit for any given month.

COGENT's Outage Notification Guarantee is to proactively notify a Dedicated Internet Access Customer within 15 minutes after COGENT determines that Customer's Service is unavailable. COGENT's standard procedure is to ping the Customer's router every minute. If Customer's router does not respond after ten consecutive ping cycles, COGENT will deem the Service unavailable and will contact Customer's designated point of contact by a method elected by COGENT (telephone, email, fax, or pager).

If COGENT fails to meet this Outage Notification Guarantee, Customer will receive, at Customer's request, one (1) day Service Credit for the Service with respect to which this Guarantee has not been met. Customer may obtain no more than one day Service Credit per day, regardless of how often in that day COGENT failed to meet the Customer Reporting Guarantee. Customer may obtain no more than one (1) month Service Credit for any given month.

If a Dedicated Internet Access Customer elects to bundle several Services using the Link Aggregation (LAG) option, then such LAG-bundle shall be deemed to represent one single Service for the purpose of the Network Availability and Outage Notification Guarantee. Consequently, Customer shall be eligible to receive Service Credits under this Section 2B if and only if Customer experiences Network Unavailability for all of the Services bundled in the LAG-bundle. The unavailability of any subset of the Services bundled in the LAG-bundle shall not constitute Network Unavailability and Customer shall not be eligible for any Service Credits with respect to such unavailability. Customer may choose to administratively configure the LAG-bundle to drop if any individual Service within LAG-bundle becomes unavailable; however, this will not constitute Network Unavailability unless all Services included in the LAG-bundle experience Network Unavailability.

C. NETWORK LATENCY GUARANTEE.

For Dedicated Internet Access customers only, the monthly average Network Latency for packets carried over the COGENT Network between Backbone Hubs for the following regions is as specified below:

Intra-North America:	45 milliseconds or less
Intra-Europe:	35 milliseconds or less
New York to London (Transatlantic):	85 milliseconds or less
Los Angeles to Tokyo (Transpacific):	120 milliseconds or less

Network Latency (or Round trip time) is defined as the average time taken for an IP packet to make a round trip between Backbone Hubs within the regions specified above on the COGENT Network. COGENT monitors aggregate latency within the COGENT Network by monitoring round-trip times between a sample of Backbone Hubs on an ongoing basis.

After being notified by Customer of Network Latency in excess of the rates specified above, COGENT will use commercially reasonable efforts to determine the source of such excess Network Latency and to correct such problem to the extent that the source of the problem is on the COGENT Network.

If COGENT fails to remedy such Network Latency within two (2) hours of being notified of any excess Network Latency and average Network Latency for the preceding 30 days has exceeded the rates specified above, Customer will receive, at Customer's request, a Service Credit for the period from the time of notification by the Customer until the average Network Latency for the preceding 30 days is less than the rates specified above. Customer may obtain no more than one (1) month Service Credit for any given month.

D. PACKET DELIVERY GUARANTEE.

For Dedicated Internet Access customers only, the COGENT Network has an average monthly Packet Loss no greater than 0.1% (or successful delivery of 99.9% of packets). Packet Loss is defined as the percentage of packets that are dropped between Backbone Hubs on the COGENT Network. COGENT monitors this aggregate packet loss on an ongoing basis, and compiles the collected data into a monthly average packet loss measurement for the COGENT Network.

After being notified by Customer of Packet Loss in excess of 0.1%, COGENT will use commercially reasonable efforts to determine the source of such excess Packet Loss and to correct such problem to the extent that the source of the problem is on the COGENT Network.

If COGENT fails to remedy such excess Packet Loss within two (2) hours of being notified of any excess Packet Loss on the COGENT Network and average Packet Loss for the preceding 30 days exceeds 0.1%, Customer will receive, at Customer's request, a Service Credit for the period from the time of notification by the Customer until the average Packet Loss for the preceding 30 days is less than 0.1%. Customer may obtain no more than one (1) month Service Credit for any given month.

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3. ADDITIONAL DEFINITIONS.

Dedicated Internet Access or Internet Transit refers to Cogent's Layer 3 service that provides customers access to the public Internet.

Backbone Hub means a major network facility owned, operated, or controlled by COGENT which is directly connected to the COGENT fiber backbone network and which contains at least one core router. In larger metropolitan markets containing more than one such facility, one facility in that market will be designated as a Backbone Hub for the purpose of calculating the monthly average Network Latency and Packet Loss statistics.

Off-Net means buildings that are directly connected to the COGENT Network using other carriers' facilities and services to provide the last mile portion of the link from the Service Location to the COGENT Network.

On-Net means buildings that are directly connected to the COGENT Network and, as such, do not require COGENT to lease a third-party local loop in order to provide connectivity.

COGENT Network means the telecommunications/data communications network and network components owned, operated or controlled by COGENT, including COGENT's national fiber backbone, its metropolitan fiber networks, any equipment connected to such fiber, and the software, data and know-how used by COGENT in the provision of the Services. Where COGENT provides Service to a building through its own facilities, the COGENT Network includes those facilities. The COGENT Network does not include customer premises equipment, customer-ordered telephony circuits, and any networks or network equipment not operated and controlled by COGENT.

Monthly Recurring Charge means the fixed, recurring charge invoiced by COGENT to Customer on a monthly basis for the Service, exclusive of any variable charges based upon Customer usage. In case of bundled Services using the Link Aggregation (LAG) option, then the Monthly Recurring Charge of such LAG-bundle means the sum of the Monthly Recurring Charges of all Services involved in such LAG-bundle.

Network Unavailability means the number of minutes that the COGENT Network was not available to Customer, including the number of minutes that the COGENT Network was not available associated with any non-Scheduled Maintenance to the COGENT Network. Network Unavailability will not include Scheduled Maintenance, or any unavailability resulting from: (a) problems with or maintenance on Customer's applications, equipment or facilities; (b) acts or omissions of Customer or an authorized user; (c) unavailability caused by companies other than COGENT, except COGENT-ordered third-party local loops; or (d) Force Majeure.

Scheduled Maintenance means any maintenance of the COGENT Network (or portion thereof) to which Customer's router is connected that is performed during a standard maintenance window from 00:00am to 06:00am (local time of the COGENT Hub to which Customer's circuit is connected). Customers will be notified via Email at least two (2) business days in advance of any scheduled maintenance that is likely to affect their service. In most cases, maintenance performed will not take the full configuration window, however, COGENT will inform Customer as to anticipated duration in the maintenance notification E-mail.

Service Credit means

- *One (1) day Service Credit* = $1/30^{th}$ of Customer's Monthly Recurring Charges.
- *One (1) week Service Credit* = $7/30^{ths}$ of Customer's Monthly Recurring Charges.
- *One (1) month Service Credit* = Full amount of Customer's Monthly Recurring Charges.

If COGENT approves a claim for Service Credit for failure to comply with the Installation Guarantee, Service Credit shall mean the Monthly Recurring Charge for Customer's first full month of the Service, not including installation charges or other start-up fees.

4. SERVICE CREDIT CLAIM PROCESS.

In order to initiate a claim for Service Credit, Customer must contact COGENT's customer service group within seven (7) business days after the end of the month for which credit is requested. The Service Credit request must provide: (a) the Customer name and contact information; (b) the date and beginning/end time of the claimed outage or failed metric; and (c) a brief description of the characteristics of the claimed outage or failed metric.

Customer will be notified via e-mail upon resolution of the request. If rejected, the notification will specify the basis for rejection. If approved, COGENT will issue Service Credit to Customer's account, appearing on the next invoice issued. Multiple Service Credits will not be given for the same period of time, *i.e.*, failure to meet multiple criteria during a period of time generates only a single Service Credit. The total number of all Service Credits for all failures to meet Guarantees occurring in a given month may not exceed the total Monthly Recurring charge actually paid by Customer for Service during that month. Service Credits will be credited against a Customer's monthly payment for Monthly Recurring Charges and may not be received in the form of a refund.

The Guarantees and Service Credits provided for in this SLA assume compliance by Customer with the terms and conditions of its CSA with COGENT, and the failure of Customer to comply with those terms and conditions may invalidate COGENT's guarantees provided herein. No credit is available for a Customer (a) that is blocking COGENT from monitoring Customer's premises router; (b) that does not provide the necessary access to personnel and facilities at the Customer's premises to enable COGENT to perform comprehensive troubleshooting; or (c) whose account is not in good financial standing with COGENT. COGENT is not liable for failure to fulfill its obligations hereunder if such failure is due to Customer's use of bandwidth in excess of the maximum amount specified in Customer's CSA, Customer's tampering with any equipment, or acts beyond COGENT's reasonable control, such as Force Majeure.

****

Cogent Communications, Inc.

www.cogentco.com
See website for full contact information by country

ADDENDUM TWO

DATE: January 07, 2015

TO: All Bidders

FROM: Robert Thompson/Michelle Thompson, Buyers
State Purchasing Bureau

RE: Revised Schedule of Events

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.

	ACTIVITY	DATE/TIME
7.	Post "Letter of Intent to Contract" to Internet at: http://das.nebraska.gov/materiel/purchasing.html	~~January 7, 2015~~ **To Be Determined**
8.	Contract finalization period	~~January 8, 2015 – January 16, 2015~~ **To Be Determined**
9.	Contract award	~~January 20, 2015~~ **To Be Determined**
10.	Contractor start date	~~January 20, 2015~~ **To Be Determined**

ADDENDUM ONE

QUESTIONS AND ANSWERS

DATE: December 19, 2014

TO: All Bidders

FROM: Robert Thompson/Michelle Thompson, Buyers
State Purchasing Bureau

RE: Addendum for RFP Number 4862Z1
to be opened January 2, 2015 at 2:00 p.m. Central Time

QUESTIONS AND ANSWERS

Following are the questions submitted and answers provided for the above mentioned Request For Proposal. The questions and answers are to be considered as part of the Request For Proposal. It is the Bidder's responsibility to check the State Purchasing Bureau website for all addenda or amendments.

QUESTIONS	ANSWERS
1. I wished to confirm that the only opportunity to bid on this RFP is for DIA delivered in Omaha.	Correct; only the Omaha Farnam NCC site is being bid. The DIA service connection must be handed over to Network Nebraska equipment at that location.
2. Under the "Confidential Information" section, [redacted] questions if <u>all</u> pricing provided on Appendix A would need to be shared if the RFP is awarded or if [redacted] would only need to supply the initial order for public/competitor view? For example, if the award went to [redacted] for 12G we would prefer not sharing the rest of the pricing on Appendix A for the remaining bandwidths up to 40G.	Per Section III. OO. Proprietary Information; the "…Bidder's cost proposals may not be marked as proprietary information…" All submitted costs may be posted and are subject to public record request. Any awarded contractor's entire cost proposal will be posted in its entirety.

QUESTIONS	ANSWERS
3. In regards to the equipment upgrades for requested bandwidths, [redacted] would like to inquire what equipment the State will be using initially and then at the key levels of 20G, 30G and 40G to interface with [redacted] equipment?	Currently Arista Networks switches (model 7150S-24) are used for the Network Nebraska layer-2 handover equipment. That equipment is also connected to Juniper MX equipment that provides Layer-3 IP and BGP routing for the service. Higher bandwidths exceeding 20 Gigabits may require newer or different equipment for the Layer-2 interface handover. LACP will be used to aggregate multiple 10-Gigabit Ethernet interfaces unless another interface and connectivity type is mutually agreed upon.
4. Please define "Tier 1" carrier. Tier 1 can mean many different things to different carriers.	Refer to the Wikipedia definition: http://en.wikipedia.org/wiki/Tier_1_network The term *tier 1 network* is used in the industry to mean a network that may reach every other network on the Internet without purchasing IP transit or paying overt settlements. An overt settlement is a monetary charge for the amount, direction, or type of traffic sent between networks. *Regional* tier 1 providers are also acceptable. A regional tier 1 network is a network which is not transit free globally, but which maintains many of the classic behaviors and characteristics of a tier 1 network within a specific region. For the purposes of the RFP 4862Z1 bid, the region would be the continental U.S. **Bids from Tier 2 providers will be considered.** A *tier 2 network* is an Internet service provider that engages in the practice of peering with other networks, but that also may purchase IP transit to reach some portion of the Internet. **Bids from Tier 3 providers will not be considered.** Tier 3 network providers are defined as those networks that solely purchase transit from other networks to reach the Internet.
5. Will the State of NE consider any other aggregation point during the term of this agreement, other than 1623 Farnam, Omaha?	RFP 4862Z1 deals only with the NCC location, 1623 Farnam, in Omaha, Nebraska.

QUESTIONS	ANSWERS
6. Are there any additional transport needs that may arise from this RFP?	The DIA service must be handed over to the Network Nebraska equipment located within the Omaha Farnam NCC facility. The contractor is responsible for transport including all cross-connect charges to the Network Nebraska NCC equipment rack.
7. Your requirement that any bidder for this RFP "can reach any network on the Internet without purchasing IP transit." eliminates any and all IP providers worldwide today. There are NO ISPs today that do not in some way trade something of value or purchase IP transit to reach SOME other network on the internet. I would ask that this requirement be removed, as any award is impossible with it as currently defined.	See page 38, RFP 4862Z1: "The State of Nebraska anticipates the Bidder to be a "Tier 1" Internet provider." Refer to answer #4. Refer to the Wikipedia definition: http://en.wikipedia.org/wiki/Internet_transit The goal of the RFP is to select a provider with considerable peering relationships and one that would be considered a responsible, reliable and cost-effective Internet service provider.

This addendum will become part of the proposal and should be acknowledged with the RFP.

State of Nebraska (State Purchasing Bureau)

REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES FORM

RETURN TO:
State Purchasing Bureau
1526 K Street, Suite 130
Lincoln, Nebraska 68508
OR
P.O. Box 94847
Lincoln, Nebraska 68509-4847
Phone: 402-471-6500
Fax: 402-471-2089

SOLICITATION NUMBER	RELEASE DATE
4862Z1	**December 5, 2014**
OPENING DATE AND TIME	PROCUREMENT CONTACT
January 2, 2015 2:00 p.m. Central Time	**Robert Thompson / Michelle Thompson**

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, Administrative Services (AS), Materiel Division, State Purchasing Bureau, is issuing this Request for Proposal, RFP Number 4862Z1 for the purpose of selecting a qualified contractor to provide Statewide Internet service for participants of Network Nebraska - Education.

Written questions are due no later than December 17, 2014, and should be submitted via e-mail to as.materielpurchasing@nebraska.gov Written questions may also be sent by facsimile to (402) 471-2089.

Bidder should submit one (1) original 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 State Purchasing Bureau 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 bidder's 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

802.1ad: Is an Ethernet networking standard informally known as IEEE 802.1QinQ and is an amendment to IEEE standard IEEE 802.1Q-1998. The technique is also known as provider bridging, Stacked VLANs or simply QinQ or Q-in-Q. The original 802.1Q specification allows a single VLAN header to be inserted into an Ethernet frame. QinQ allows multiple VLAN headers to be inserted into a single frame, an essential capability for implementing Metro Ethernet network topologies. Just as QinQ extends 802.1Q, QinQ itself is extended by other Metro Ethernet protocols.

Acceptance: Acceptance of circuit, system, or service, as solely tested and determined by the State of Nebraska and/or authorized agent of the State of Nebraska, is when the circuit, system, or service is free of defect and reliably transporting data at, or in excess of, the ordered bandwidth or speed capacity. (See Section III.KK. Inspection and Approval)

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.

Border Gateway Protocol (BGP): An Exterior Gateway Protocol defined in RFC 1267 and RFC

1268.

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.

Core Site: The term refers to the high capacity communication facilities that connect primary nodes. Core sites provide paths for the exchange of information between different sub-networks. Core sites are the communication aggregation locations for regional sub-networks.

CoS: The QoS technique developed by the working group, also known as class of service (CoS), is a 3-bit field called the Priority Code Point (PCP) within an Ethernet frame header when using VLAN tagged frames as defined by IEEE 802.1Q

CPE: Customer-premises equipment or customer-provided equipment (CPE) is any terminal and associated equipment located at a subscriber's premises and connected with a carrier's telecommunication channel(s) at the demarcation point ("demarc").

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.

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.

Education Entity: Education entity, for the purposes of this RFP, is defined by N.R.S. 79-1201.01 (3) as a school district, a private, denominational, or parochial school, an educational service unit, a community college, a state college, the University of Nebraska, or a nonprofit private postsecondary educational institution.

ESU: Educational Service Unit, one of 17 intermediate service agencies in Nebraska, serving K-12 school districts.

E-rate: The Schools and Libraries Program of the Universal Service Fund, commonly known as "E-Rate," is administered by the Universal Service Administrative Company (USAC) under the direction of the Federal Communications Commission (FCC), and provides discounts to assist most schools and libraries in the United States to obtain affordable telecommunications and Internet access.

Ethernet Frame: A data packet on an Ethernet link is called an Ethernet frame. See also http://en.wikipedia.org/wiki/Ethernet_frame

Ethernet Hand-off: A standard Ethernet handoff to the facility means there is no need for a CSU/DSU and protocol conversion equipment. The connection to the customer is a copper or fiber connection that connects directly to the customers Ethernet based equipment and supports Ethernet Frame transmission between the provided and the customer.

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.

Link Aggregation Control Protocol (LACP): The vendor-independent standard Link Aggregation Control Protocol (LACP) for Ethernet defined in IEEE 802.1AX and IEEE 802.1aq or the previous IEEE 802.3ad.

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.

Multiprotocol Label Switching (MPLS): A mechanism in high-performance telecommunications networks that directs data from one network node to the next based on short path labels rather than long network addresses, avoiding complex lookups in a routing table.

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.

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.

Packet: A packet is a formatted unit of data carried by a communication network. It consists of two kinds of data: control information and user data (also known as payload). The control information provides data the network needs to deliver the user data, for example: source and destination addresses, error detection codes like checksums, and sequencing information.

Payload: Is the cargo of a data transmission. It is the part of the transmitted data which is the fundamental purpose of the transmission, to the exclusion of information sent with it (such as headers or metadata, sometimes referred to as overhead data) solely to facilitate delivery.

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.

QoS: Quality of Service; Quality of service is the ability to provide different priority to different applications, users, or data flows, or to guarantee a certain level of performance to a data flow.

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.

RFC-2544: IETF RFC defines Benchmarking Methodology for Network Interconnect Devices. See also http://www.ietf.org/rfc/rfc2544

Service Provider Invoice (SPI) FCC Form 474: The form filed by the service provider after the applicant has been billed for the non-discount portion of the cost of eligible services.

Service Provider Identification Number (SPIN): Assigned by the Universal Service Administrative Company and is unique to each telecommunications provider.

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 us 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.

USF: Federal Universal Service Fund. A variable surcharge ranging between 15% and 20% levied against interstate telecommunications services as authorized by the Federal Communications Commission in 1997.

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 vendor/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 vendor/contractor regarding any such report. The vendor performance report will become a part of the permanent record for the vendor/contractor. The State may require vendor to cure. Two such reports may be cause for immediate termination.

Wide Area Network (WAN): Unless otherwise specified, WAN refers to a high bandwidth (e.g. >10Mbps) wide area data network using IP communication and routing protocols for the purposes of interconnecting numerous Local Area Networks (LANs).

Will: See Shall/Will/Must.

Work Day: See Business Day.

I. SCOPE OF THE REQUEST FOR PROPOSAL

The State of Nebraska, Administrative Services (AS), Materiel Division, Purchasing Bureau (hereafter known as State Purchasing Bureau), is issuing this Request for Proposal, RFP Number 4862Z1 for the purpose of selecting a qualified contractor to provide Statewide Internet service for participants of Network Nebraska - Education.

A contract resulting from this Request for Proposal will be issued from the date of award through June 30, 2018. The contract has the option to renew for one (1) additional one (1) year period as mutually agreed upon by all parties.

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.

	ACTIVITY	DATE/TIME
1.	Release Request for Proposal	December 5, 2014
2.	Last day to submit written questions	December 17, 2014
3.	State responds to written questions through Request for Proposal "Addendum" and/or "Amendment" to be posted to the Internet at: http://das.nebraska.gov/materiel/purchasing.html	December 19, 2014
4.	Proposal Opening Location: State Purchasing Bureau 1526 K Street, Suite 130 Lincoln, NE 68508	January 2, 2015 2:00 PM Central Time
5.	Review for conformance of mandatory requirements	January 2, 2015
6.	Evaluation period	January 5, 2015 – January 6, 2015
7.	Post "Letter of Intent to Contract" to Internet at: http://das.nebraska.gov/materiel/purchasing.html	January 7, 2015
8.	Contract finalization period	January 8, 2015 – January 16, 2015
9.	Contract award	January 20, 2015
10.	Contractor start date	January 20, 2015

II. PROCUREMENT PROCEDURES

A. PROCURING OFFICE AND CONTACT PERSON

Procurement responsibilities related to this Request for Proposal reside with the State Purchasing Bureau. The point of contact for the procurement is as follows:

Name: Robert Thompson / Michelle Thompson
Agency: State Purchasing Bureau
Address: 1526 K Street, Suite 130
Lincoln, NE 68508

OR

Address: P.O. Box 94847
Lincoln, NE 68509
Telephone: 402-471-6500
Facsimile: 402-471-2089
E-Mail: as.materielpurchasing@nebraska.gov

B. GENERAL INFORMATION

The Request for Proposal is designed to solicit proposals from qualified vendors who will be responsible for providing Statewide Internet service for participants of Network Nebraska - Education 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. 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 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.

D. 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 State Purchasing Bureau and clearly marked "RFP Number 4862Z1; Statewide Internet service for participants of Network Nebraska-Education Questions". It is preferred that questions be sent via e-mail to as.materielpurchasing@nebraska.gov Questions may also be sent by facsimile to 402-471-2089, but must include a cover sheet clearly indicating that the transmission is to the attention of Robert Thompson / Michelle Thompson, showing the total number of pages transmitted, and clearly marked "RFP Number 4862Z1; Statewide Internet service for participants of Network Nebraska-Education Questions".

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

Question Number	RFP Section Reference	RFP Page Number	Question

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

E. 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 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. Container(s) utilized for original documents should be clearly marked "ORIGINAL DOCUMENTS". Please note that the address label should appear as specified in Section II part A 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, 402-471-6500 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. Elaborate and lengthy proposals are neither necessary nor desired.

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.**

F. 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 at the proposal opening. Vendors may also contact the State to schedule an appointment for viewing proposals after the Intent to Award has been posted to the website.

G. 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).

H. REJECTION OF PROPOSALS

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.

I. 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;
2. Cost Proposal.

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.

J. 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.

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.

K. 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 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.

L. 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, and (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 should 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 an 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 available on the Internet at: http://das.nebraska.gov/materiel/purchase_bureau/docs/vendors/protest/ProtestGrievanceProcedureForVendors.pdf

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 subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensation, 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 the 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 the 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 subcontractors, the contractor is responsible for obtaining the certificate(s) of insurance required herein under from any and all subcontractor(s). The contractor is also responsible for ensuring subcontractor(s) maintain the insurance required until completion of the contract requirements. The contractor shall not allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor 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 the contract the statutory Workers' Compensation and Employer's Liability Insurance for all of the contactors' employees to be engaged in work on the project under the contract and, in case any such work is sublet, the contractor shall require the subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the subcontractor'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 the contract such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect contractor and any subcontractor performing work covered by the contract from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under the contract, whether such operation be by the contractor or by any subcontractor 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, as Additional Insured(s). 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

d. UMBRELLA/EXCESS LIABILITY
Over Primary Insurance $1,000,000 per occurrence

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 to the attention of the Buyer at 402-471-2089 (fax)

Administrative Services
State Purchasing Bureau
1526 K Street, Suite 130
Lincoln, NE 68508

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 Administrative Services State Purchasing Bureau 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 subcontractor's services, the subcontractor'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 subcontractors 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 subcontractors, 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 subcontractor selected to perform work on the project.

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.

The State reserves the right to require the contractor to reassign or remove from the project any contractor or subcontractor 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 the 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, in the demonstrations and/or oral presentations, 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 subcontractors 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 days 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 cancellation 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 State Purchasing Bureau; or

j. contractor engaged in collusion or ones 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 prepares in accordance with this agreement shall become the property of the State of Nebraska, subject to the ownership provision (section E) contained herein, and be 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, Bidder 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 Bidder'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. Failure to meet the dates for the deliverables as agreed upon by the parties may result in an assessment of penalty due the State of $500.00 dollars per day, until the deliverables are approved and accepted. Contractor will be notified in writing when penalty will commence.

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. Invoices for statewide Internet access will be issued to the Office of the Chief Information Officer, State of Nebraska. Additional invoices for other eligible political subdivisions or higher education entities may be issued to those entities. 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.

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 subcontractors. 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 subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Contractor and any subcontractors to the extent that those subcontracts 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 subcontractor 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.

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 tabulate the bid cost for each proposal. The award may be granted to the lowest bid cost. Alternatively, the lowest cost bidder or bidders may be requested to submit best and final offer. If best and final offers are requested by the State and submitted by the bidder, they will be tabulated (using the stated criteria) by the Evaluation Committee. The award will then be granted to the lowest bid cost. 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, subcontractors, 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, subcontractors, 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 that 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 the 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 these specifications 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 the 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 subcontracts 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.

IV. PROJECT DESCRIPTION AND SCOPE OF WORK

This RFP is for Internet connectivity from the listed Network Nebraska core location to the Internet Provider. Any award made for Internet connectivity to a core location will be based on lowest full duplex per gigabit pricing. Final determination of actual purchased capacity will be based on need, factoring in Network Nebraska's backbone capacity and the aggregate amount of Internet bandwidth required by Network Nebraska participants. Appendix A identifies the bandwidths to be bid.

The objective of this RFP is to update and expand the network that is currently in place to serve the eligible education entities of Network Nebraska as defined by Neb. Rev. Stat. 79-1201.01(3). Network Nebraska is defined in Neb. Rev. Stat. 86-5,100 (LB1208, 2006). Network Nebraska shall consist of contractual arrangements with providers to meet the demand of state agencies, local governments, and educational entities. Such network shall provide access to a reliable and affordable infrastructure capable of carrying a spectrum of services and applications, including distance education across the state. Only E-rate eligible entities will apply for E-rate discounts.

The State of Nebraska bids this service on behalf of numerous E-rate eligible education entities across the State. Each entity must be allowed a reasonable duration to hold a public meeting of its administrative board to approve its purchase from the resulting state contract and to file its E-rate Form 471 prior to the national deadline of mid-March annually. Once Intent to Award has been announced by the State, the contractor must work expeditiously toward a signed contract in order to allow enough time for the local approval process. Failure to reach a signed contract for the initial year of the initial contract period with the State prior to January 30, 2015, may risk negation of purchases for the July 1, 2015 through June 30, 2016 performance year.

The bidder may present supplemental text for any of the sections following the "Yes/No/Other" section. If a bidder must state noncompliance on any Technical Requirement, they must complete the "Comments/Other" field in the table immediately following such section. "Comments/Other" responses should be used only with a narrative response explaining in detail any deviation from the bidder's ability to meet the condition, and an explanation of how this would be determined to be an acceptable alternative to meeting the condition. Alternatives must be detailed in such a way that allows such deviations to be fully understood. The State of Nebraska shall determine in its sole discretion whether or not the bidder's alternative is an acceptable alternative.

A. E-RATE

The originating FCC Form 470 number for this RFP is 427490001257650.

Each Bidder must have a Service Provider Identification Number (SPIN) from the Universal Service Administrative Company (USAC) and be eligible to participate in the Universal Service Fund (USF) discount program for telecommunications services provided to the E-rate eligible entities. Bidder agrees to provide any discounts, including any accrued credits, for which the entity is eligible under the USF for school telecommunications services. Bidder will, at its expense, prepare and file all carrier documents and reports required for the eligible entities to receive the benefit of such discounts and credits. The Bidder's SPIN issued to bidder by the USAC must be included in the proposal response.

As required by federal law, providers of eligible services must comply with the Lowest Corresponding Price (LCP) rule:

1. 47 CFR § 54.500(f)

Lowest corresponding price is the lowest price that a service provider charges to non-residential customers who are similarly situated to a particular school, library, or library consortium for similar services. ("Similarly situated" means the "geographic service

area" in which a service provider is seeking to serve customers with any of its E-rate services.)

2. 47 CFR § 54.511(b)
Providers of eligible services shall not charge schools, school districts, libraries, library consortia, or consortia including any of these entities a price above the lowest corresponding price for supported services, unless the Federal Communications Commission, with respect to interstate services or the state commission with respect to intrastate services, finds that the lowest corresponding price is not compensatory.

The Billed Entity Applicant Reimbursement (BEAR) FCC Form 472 is filed by the applicant and approved by the service provider after the applicant has paid for services in full. The Service Provider Invoice (SPI) FCC Form 474 is filed by the service provider after the applicant has been billed for the non-discount portion of the cost of eligible services. Note: Applicants can choose their method of invoicing; service providers cannot force applicants to use a particular method.

As required by USAC policy, the contractor must retain documents from the bidding process through ten (10) years past the last date of service. Documents may be retained in electronic format or paper. The document list includes, but is not limited to, copies of bids, signed contracts, proof of service delivery, invoices, documentation of any service down time, and any other document retention required by the FCC.

NOTES:

a. All services bid will be offered to Schools and Libraries and therefore must meet E-rate guidelines for eligible services, products, service providers and contracts.

b. All State agencies, the University of Nebraska, political subdivisions and other "eligible participants" will be allowed to purchase off of this contract.

c. There is no guarantee that any or all of the locations listed will purchase any or all of the services requested in this RFP.

d. Although Network Nebraska has five (5) major network node locations that are used as core aggregation points, only the following core location is being bid

i. NCC Carrier "Hotel"/NCC Co-location Centers, LLC.
1623 Farnam Street, Suite 300A
Omaha, NE 68102

The bidder has read, understands, and agrees to comply. ___YES ___NO ___OTHER

Comments/Other: _____
_____
_____

Service Provider Identification Number (SPIN): _____

B. BID FOR INTERNET ACCESS

The objective is to identify a Contractor that will provide the complete delivery of Internet services in Omaha, Nebraska. The principle intent of this Internet service will be to support K-12 E-rate eligible institutions. Other eligible educational entities and political subdivisions may purchase off of this contract. The service must be provided at the Network Nebraska core location below:

1. NCC Carrier "Hotel"/NCC Co-location Centers, LLC.
1623 Farnam Street, Suite 300A
Omaha, NE 68102

Eligible entities may include colleges, universities, state government, political subdivisions and K-12 institutions.

All proposals must meet the technical requirements as stated in the RFP. All Bidders must bid on the services as listed in Appendix A.

C. PROJECT OVERVIEW

Current Internet service is provided at the Network Nebraska core location in Suite 300A of the NCC Carrier "Hotel" at 1623 Farnam Street in Omaha, Nebraska and at Nebraska Hall Room 230 at 901 N. 17th, in Lincoln, Nebraska. Current Internet capacity is utilized primarily by K-12 and higher education institutions, with current bandwidth at nearly 13Gbps at each location, and approximate total capacity of 25Gbps. Internet usage has experienced considerable growth over the previous few years, and additional growth is expected over the life of the contract.

Many rural school districts utilizing Network Nebraska connectivity aggregate their Internet access with a specific Educational Service Unit (ESU) or consortium of ESUs for purchasing, management and filtering. These aggregations include: GNENC (ESUs 10, 11, 13, 15, 16), NNNC (ESUs 1, 2, 7, 8, 17), and CNDEC (ESU 9). In addition, larger school districts will have the Office of the CIO purchase Internet access on their behalf from the resulting contract: Lincoln Public Schools (ESU 18), Omaha Public Schools (ESU 19), Grand Island Public Schools (ESU 10), Lexington Public Schools (ESU 10) as primary examples.

Network Nebraska will aggregate all Internet capacity purchased by participants and will be responsible for transport from Network Nebraska equipment at the core location bid to the individual participant locations.

The bidder has read, understands, and agrees to comply. ___YES ___NO ___OTHER

Comments/Other: _____
_____
_____

D. PROJECT ENVIRONMENT

Network Nebraska participants have authorized the State of Nebraska to solicit proposals for Internet services on their behalf as participants of Network Nebraska. Five of these ESUs act as Internet aggregation and purchasing points for approximately 200 school districts and approximately 200,000 students, demanding significant connectivity. Network Nebraska has created an MPLS-based data communications backbone with high-speed connectivity to multiple aggregation points that, in turn, interconnect the Wide Area Network (WAN) circuits from all participating K-12 school districts and colleges on the network. As more schools and colleges connect to Network Nebraska along with increased classroom-related consumption, the demand for Internet access continues to grow. For this reason, the contractor must have the ability to meet the current needs of the initial amount purchased and also be able to provide additional capacity for the future growth over the life of the contract.

The State Office of the CIO commits to purchase, and file E-rate reimbursement, on behalf of the eligible entities for the following year's Internet capacity at the time of the Form 471 filing date of mid- to late March. This enables the contractor approximately four (4) months to make adjustments to their facilities and architecture to meet the Internet bandwidth demand.

E. PROJECT REQUIREMENTS

The bid service must be converted between July 1, 2015 and August 1, 2015. The service should be installed and tested by July 1, 2015, however neither the State nor the participating eligible entities can incur charges on the service until after July 1 due to E-rate. The cutover to Network Nebraska must be complete by August 1, 2015. Any existing service must remain active until the final cutover. The State of Nebraska is cognizant of a growing demand for bandwidth. The State is interested in identifying a contractor who will meet the current and future telecommunications needs over the term of the contract. The contractor will provide a cost-effective, scalable, and flexible transport service that will be able to meet the demands of the network participants and it is expected the service would meet any future needs of other eligible participants as deemed appropriate.

The bidder has read, understands, and agrees to comply. ___YES ___NO ___OTHER

Comments/Other: _____

_____

_____

F. TECHNOLOGY REFRESH

The State and the Contractor will work in partnership to ensure the services provided under this contract will be continuously refreshed as technologies evolve and user needs grow. The Chief Information Officer, in conjunction with, or on behalf of, all other participants, will assume the primary role in seeking and proposing new technologies and enhancements. This technology refreshment clause will be a required condition of the contract.

The State and the Contractor will conduct periodic reviews of the contract at specific milestones during the term of the contract to review service offerings and pricing. These reviews may result in expanding the services offered by the Contractor to include new pricing elements or pricing modifications associated with improved economies of scale and/or technological innovations. Changes in the industry related to regulation and/or pricing mechanisms may also result in modification of rates identified in the services offered by the Contractor. These review periods will commence when the State feels an improvement in economies of scale or technological innovation has occurred.

The bidder has read, understands, and agrees to comply. ___YES ___NO ___OTHER

Comments/Other: _____
_____
_____

G. SCOPE OF WORK

The Contractor shall provide a flexible, reliable, cost effective connection to the commodity Internet (Internet 1). The service is expected to be delivered using one or more 10Gigabit fiber-based Ethernet connections, or higher, to Network Nebraska equipment. For service bandwidths higher than 10Gigabit, an aggregated connection must be provided in a IEEE 802.1AX-2008 LACP standards-based configuration, or a mutually agreed upon connection type and speed. The Bidder must bid on the following Network Nebraska Internet aggregation point below:

NCC Carrier "Hotel"/NCC Co-location Centers, LLC.
1623 Farnam Street, Suite 300A
Omaha, NE 68102

The Internet Service provided must be a turnkey offering, with the intent that the entire installation be completed for the quoted price. Therefore, any items omitted but reasonably necessary to accomplish the project must be furnished and installed by the contractor at no additional cost to the State of Nebraska. The contractor must provide for the complete installation of equipment to include connectivity to the state- owned or University of Nebraska-owned peer routing equipment at the aggregation location.

An Internet service that supports IPv4 use, to include full IPv4 BGP route peering is required. It is highly desirable that the Internet service also directly supports native IPv6 use.

Appendix A specifically identifies the Network Nebraska core location where Internet transport must be handed off related to the Internet Service bid.

The State of Nebraska anticipates the Bidder to be a "Tier 1" Internet provider. A "Tier 1" provider is any provider who can reach any network on the Internet without purchasing IP transit.

The final amount of capacity to be purchased for each location will be determined prior to the State's E-rate filing in March 2015 and each subsequent March thereafter.

The bidder has read, understands, and agrees to comply. ___YES ___NO ___OTHER

Comments/Other: _____
_____
_____

H. TECHNICAL REQUIREMENTS

Internet Address Routing:
Network Nebraska manages several IPv4 "/16" CIDR blocks (aka traditional Class "B" classful ranges). Additional addresses in various class sizes are in use by some members of the educational community that may also be using this service. By responding to this proposal,

the bidder understands and agrees that the resulting contractor will route all requested Network Nebraska related addresses.

Network Nebraska will maintain one or more routers that will be required to carry a complete set of internet routing tables. The contactor must agree to provide full BGP routing feeds to the Network Nebraska equipment.

If requested by Network Nebraska, the provider agrees to restrict the set of addresses that can communicate through the contracted connection. For example, to help balance traffic, Network Nebraska may request that the provider route and/or advertise only a subset of addresses through this link.

An IPv6-ready service is required. The ability to directly support native IPv6 traffic and BGP routing with full IPv6 routing table feeds is desired. Any service that requires the tunneling of IPv6 traffic through an IPv4 path will be considered only IPv6 ready. Any service not capable of routing IPv6 traffic will not be considered IPv6 ready. Any service that is not, at a minimum, IPv6 ready will be classified as an unacceptable bid.

The contractor must provide a service that meets the following requirements:

1. Ethernet frames containing a 1500 byte payload (for a total minimum supported Ethernet frame size of 1542 bytes), must be allowed and flow as a single complete frame without any fragmentation by the provider's equipment. Reference: http://en.wikipedia.org/wiki/Ethernet_frame

2. The network interface to the customer's CPE must be an Ethernet-based fiber handover connection.

3. The network interface handover must be a 10G fiber connection, or in the case of higher than 10G of bandwidth bid, multiple 10G fiber connections must be provided in a IEEE 802.1AX-2008 LACP standards-based configuration, or a mutually agreed upon connection type and speed.

4. Performance metrics on contracted circuits must be provided to Network Nebraska staff within 24 hours of request.

5. The Network Nebraska NOC must be notified within 24 hours of performing QoS changes, network monitoring changes or any other network changes that may have a positive or negative effect on performance as outlined in the RFP.

6. The provided connection must be tested to prove performance before it will be considered complete and usable. Testing according to ITU-T Y.156sam or RFC-2544 for performance, frame-loss and latency is preferred but detailed performance, frame-loss, latency and QOS test disclosure is also acceptable. Testing must validate the minimum frame size specified is supported.

7. Every connection's receive AND transmit capacity must each meet or exceed the bandwidth amount that is bid. Testing must validate that capacity meets the amount purchased before the connection will be considered complete and usable.

The bidder has read, understands, and agrees to comply. ___YES ___NO ___OTHER

Comments/Other: _____
_____
_____

I. PROJECT PLANNING AND MANAGEMENT

The State of Nebraska acknowledges that project management and implementation procedures will require alignment and adjustment of work processes for the Contractor , the

educational entities, and the State of Nebraska. The bidder will respond to this RFP assuming the following responsibilities.

1. STATE OF NEBRASKA AND EDUCATIONAL ENTITY MANAGEMENT STAFF

The State of Nebraska and educational entity management staff will:

a. Provide overall project direction and management.
b. Review and approve all project plans and deliverables.
c. Ensure that technical assistance and support are provided during the Contractor's implementation phases and ongoing upgrade design of this project.
d. Establish project management guidelines by meeting with the Contractor's project management team as needed.
e. Review and approve all project specific documentation standards and requirements for the various types of reports, technical/procedural documentation, and management materials that will be produced during the project.
f. Coordinate other resources as needed to support the implementation process.
g. Provide on-site assistance, as needed during the implementation phases of the project.
h. Assist the Contractor in identifying eligible participants in the network as well as establishing guidelines with the Contractor for ordering, moving, adding or changing services.
i. On or about February 1 annually compile the total amount of Internet to be purchased off of the resulting contract.
j. On or about March 15 annually file the E-rate Form 471 indicating the total amount of Internet to be purchased on the following July 1.
k. Not later than March 31 annually official orders for an exact quantity of Internet will be placed to the Contractor for a service start date of the following July 1.

2. CONTRACTOR

The Contractor will:

a. Coordinate and administer the requirements of the network service(s) that are proposed.
b. Maintain toll free lines for voice and facsimile from the State to operational facilities for order entry and after hours help desk. Installation and maintenance may be subcontracted to one or more third parties to adequately cover the locations of the core transport backbone sites and to provide for rapid response in the event of a service disruption. The Contractor will provide information regarding intent to maintain its facilities after project implementation has been completed.
c. Maintain toll free voice lines for after-hours helpdesk support for the duration of the contract. This point of contact will serve as the single point of contact for all services and equipment provided by the contract, including services and equipment subcontracted to another vendor.
d. Within thirty (30) days after contract award, the contractor will provide network diagrams and drawings that clearly illustrate the network configuration and the functional relationships, as they are associated with the proposed services. These network diagrams will be available to the State electronically in a format agreed upon by the Contractor and the State to allow for import into various computer programs.

The bidder has read, understands, and agrees to comply. ___YES ___NO ___OTHER

Comments/Other: _____
_____
_____

J. SERVICE LEVEL GUARANTEES

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.

1. PERFORMANCE SPECIFICATIONS

When planned network maintenance activities are conducted by the contractor which entails the risk of interrupting or diminishing service to Network Nebraska, the Network Nebraska Operation Center(s) must be notified at least three (3) business days in advance of the maintenance planned. Additionally, the contractor must agree to work with Network Nebraska to find an alternate date and time of maintenance, if the proposed time would be particularly detrimental to Network Nebraska business needs. Mutually agreed upon maintenance activities are not considered a service violation and will not incur a service penalty.

The contractor must have in inventory the necessary spare equipment capable of restoring service in the event of contractor equipment failure. Maintenance contracts specifying next-day replacement or longer will not be considered an acceptable substitute for carrying inventory of appropriate replacement equipment.

The contractor must operate its own Network Operations Center(s) and provide a centralized trouble reporting and maintenance system that is staffed 24 hours a day, seven days a week. The contractor shall provide sufficient staff for peak and critical hours. The contractor shall provide Network Nebraska with a local and toll-free number for trouble reporting.

The contractor must respond to trouble reports within one (1) hour of notification. The Contractor must also provide an escalation procedure and contact list to be used for unresolved issues, including names, titles and phone numbers of contact persons in the escalation chain. Major service-affecting problems that are not resolved within two (2) hours of time after the notification of trouble shall constitute a prolonged outage and must be escalated.

Access to performance service metrics is required, with a preference toward live metrics.

The contract expectation is for a service that, at a minimum, will meet required specifications 99.955% of the year - equivalent to a maximum of 4 total hours of downtime/service non-compliance per year. Any service not meeting contract specifications to include violation of QoS parameters will incur a contract performance penalty according to the following formula:

For every hour and fraction of an hour of service violation, the customer will be refunded one day of service credit. Repeated violations of service performance agreements during any single calendar day will be considered a continuous event from the beginning of the original violation until the last violation. Violations on consecutive days will be considered continuous from the initial violation until the service has been restored. The service will be considered restored when no violation has occurred for 24 continuous hours (the 24 hour validation period is not considered part of the penalty). Penalty duration will round up to the next whole hour.

Example: Intermittent connectivity from 9:15a-2:20p on the same day; Duration of the actual service violation would be 5 hours and 5 minutes. Violation assessment is rounded up to the next whole hour, so the duration is considered as 6 total hours. A yearly downtime credit of 4 hours can be applied to account for the 99.955% performance expectation yielding a 2 hour penalty violation and 2 days of service credit due. The 4 hour credit can only be applied in one hour whole increments with a total of 4 hours of remission during any given calendar year.

The bidder has read, understands, and agrees to comply. ___YES ___NO ___OTHER

Comments/Other: _____
_____
_____

K. IMPLEMENTATION PLAN

Within thirty (30) days after the contract award, the contractor must submit to the State of Nebraska an implementation plan for the deployment of the services. The plan must clearly represent the constraints of time, scope and cost. At a minimum the implementation plan must include the project approach, scope of work, schedule, deliverables, resource planning and communication plans.

The Contractor will adhere to the implementation plan for deployment of services submitted as a requirement of this RFP. The required date for Internet Service implementation is July 1, 2015.

The bidder has read, understands, and agrees to comply. ___YES ___NO ___OTHER

Comments/Other: _____
_____
_____

L. BILLING

Billing for Internet service must comply with the following specific requirements:

1. The contractor must bill according to the established cost structure and report the total purchased bandwidth to the State on a monthly basis.

2. The Office of the CIO will file Form 471 for E-rate eligible services. Other eligible participants may submit orders for service through the State of Nebraska.
3. It is anticipated that all E-rate eligible Internet orders and purchases will be made by the State of Nebraska Office of the CIO.
4. It is anticipated that all higher education or other non-E-rate eligible orders and purchases will be made by the University of Nebraska Computing Services Network.

The bidder has read, understands, and agrees to comply. ___YES ___NO ___OTHER

Comments/Other: _____
_____
_____

M. CERTIFICATION

The State requires that the Bidder be certificated or permitted by, or registered with, the Public Service Commission (PSC) to provide the services outlined in this Section of this RFP (Neb.Rev.Stat. 81-1120.19). The Bidder must be willing to file Tariffs with the PSC specific to the network proposed in their bid. The Bidder must be willing to accept direct payment for USF and NUSF contributions to their proposed network. The bidder must include these contributions in their bid prices.

The bidder has read, understands, and agrees to comply. ___YES ___NO ___OTHER

Comments/Other: _____
_____
_____

N. COST

Bid proposals will address the impact of normal growth, as well as planned and unplanned network expansion or service enhancement. All prices shall be proposed as an individual location cost on a recurring or non-recurring basis. **All bidder costs must be reflected in either the monthly recurring or non-recurring charges. All fees, taxes and pass-through charges such as NUSF must also be included in the cost. No additional charges will be accepted.** The State shall not be required to purchase any specific service or minimum quantities of network services. The quantities provided are for the sole purpose of assisting the Bidders in preparation of their proposals and for the State to consider the feasibility of the proposed network solutions. The State shall not be responsible for any cost that is not identified in the Bidder's proposal. The State will not consider bids that offer discounts based upon the number of network locations that join the network.

In order to assist bidders with inclusion of the Nebraska Universal Service Fund (NUSF) charge and other pass-through charges in their bid, a history of NUSF rates is shown below:

July 1, 1999-September 30, 2005	6.95 %
October 1, 2005-March 31, 2007	5.75 %
April 1, 2007-present	6.95 %

Please display costs in the format provided in Appendix A. Simply placing a cost number in the appropriate cell is all that is needed. The bid prices listed in Appendix A must include the cost of doing business as indicated below.

1. NETWORK EQUIPMENT AND HARDWARE COSTS

(Non-CPE) Network equipment and hardware (non-CPE) will be part of and included in the itemized circuit costs. Circuit costs will be bundled costs and must include all necessary components needed to utilize the circuit at the bandwidth level bid.

2. INSTALLATION COSTS

If non-recurring installation/set-up charges are applicable, these rates shall be delineated in the cost portion of the proposal. This cost for the circuit installation shall include all one-time costs associated with termination to the demarcation point from the network side and/or fees associated with interconnection to local exchange carriers.

a. All fees that would be incurred for a fully functioning end-to-end connection, whether recurring or non-recurring, must be included in the cost. All cross-connect, and facilities-related charges that would be incurred to physically connect the circuit to Network Nebraska equipment on both ends must be included in the cost.

3. SOFTWARE, WARRANTY, AND MAINTENANCE COSTS

The Bidder will include costs for software, warranty, and maintenance of the provided circuits in the service rates.

a. Software includes any initial or upgraded software required by each item of equipment proposed for the network to perform as a fully functional, integrated part of the Bidder's network and associated service rates. The software costs shall include all of the following applicable costs:

i. Initial purchase and installation costs.
ii. Use and licensing fees.
iii. Software maintenance costs, including upgrades.
iv. All other costs relative to the network such as acquiring and using the software for the life of the network.
v. Costs and procedures related to the transfer of the software from damaged or out of service equipment to new equipment and the reprogramming of the software to place equipment spares into service and to meet changing network needs.

4. QUANTITY

The State reserves the right to purchase any quantity of services in any increment proposed. There will be no minimum or maximum quantities imposed as a result of any contract. All State agencies, the University of Nebraska, political subdivisions and other "eligible participants" will be allowed to purchase off of this contract.

5. COST AND SERVICE OFFERING REVIEWS

During the Contract, the State and the Contractor will conduct periodic reviews of the contract at specific milestones during the term of the contract to review service offerings and pricing as specified under item F. Technology Refresh.

6. PROPOSAL COST TABULATION

The proposal cost will be tabulated with an intent to award made based on the monthly recurring costs multiplied by the applicable length of service in months (36), not to include renewals, plus the one-time non-recurring costs. At the bid opening, a single

bandwidth increment (XX Gbps) will be disclosed that provides the basis of the cost tabulation.

The State of Nebraska recognizes that the contractor may incur additional costs for facility and infrastructure upgrades at particular bandwidth thresholds, particularly at the higher levels (e.g. 20Gbps, 30Gbps, 40Gbps). The State recognizes that the contractor may incur additional costs for facility and infrastructure upgrades at particular bandwidth thresholds, particularly at the higher levels (e.g. 20Gbps, 30Gbps, 40Gbps). The State of Nebraska will require bidders to enter those facility upgrade costs as one-time, non-recurring charges that are applicable to the onset of the respective bandwidth intervals at which those facility upgrade costs occur.

Example:

Bandwidth	Non-recurring Charge	Monthly Recurring Charge (per Gbps/month)
5 Gbps	$500	$1,500
10 Gbps	$500	$1,250
15Gbps	$500	$1,100
20Gbps	$1,000	$1,000
25Gbps	$1,000	$ 900
30Gbps	$5,000	$ 800

The bidder has read, understands, and agrees to comply. ___YES ___NO ___OTHER

Comments/Other: _____
_____
_____

Form A

Bidder Contact Sheet

Request for Proposal Number 4862Z1

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:	

Appendix A ~ Cost Sheet
4862Z1
Internet Access for 1623 Farnam, Suite 300A, Omaha, Nebraska

Bidder: _____

Bandwidth (Gbps)	Non-recurring Charge	Monthly Recurring Charge (per Gbps/month)
1	$_____	$
2		$
3		$
4		$
5		$
6		$
7		$
8		$
9		$
10		$
11	$_____	$
12		$
13		$
14		$
15		$
16		$
17		$
18		$
19		$
20		$
21	$_____	$
22		$
23		$
24		$
25		$
26		$
27		$
28		$
29		$
30		$
31	$_____	$
32		$
33		$
34		$
35		$
36		$
37		$
38		$
39		$
40		$