

**State of Nebraska NE Department of Correctional Services  
REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES**

<b>SOLICITATION NUMBER</b>	<b>RELEASE DATE</b>
RFP 107474 O3 Canteen Sales & Inventory System Software and Implementation	January 28, 2021
<b>OPENING DATE AND TIME</b>	<b>PROCUREMENT CONTACT</b>
March 17, 2021 2:00 P.M. Central Time	Kate Severin/Keith Houfek

**PLEASE READ CAREFULLY!  
SCOPE OF SERVICE**

The State of Nebraska (State), Department of Correctional Services, is issuing this Request for Proposal (RFP) Number 107474 O3 for the purpose of selecting a qualified Contractor to provide a **Canteen Sales and Inventory System Software and Implementation**. A more detailed description can be found in Section V. The resulting contract may not be an exclusive contract as the State reserves the right to contract for the same or similar services from other sources now or in the future.

The term of the contract will be three (3) years commencing upon execution of the contract by the State and the Contractor. The Contract includes the option to renew for three (3) additional two (2) year periods upon mutual agreement of the Parties. The State reserves the right to extend the period of this contract beyond the termination date when mutually agreeable to the Parties.

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

A **mandatory** Pre-Proposal Conference will be held via WebEx on **February 17, 2021** at 1:00 PM Standard Time. Vendors must notify the POC of their intent to attend by submitting a "Notification of Intent to Attend the Pre-Proposal Conference Form" (see Form B) via email to [dcs.purchasing@nebraska.gov](mailto:dcs.purchasing@nebraska.gov) by February 12, 2021 to receive a Pre-Proposal Conference invitation.

**IMPORTANT NOTICE:** Pursuant to Neb. Rev. Stat. § 84-602.04, State contracts in effect as of January 1, 2014, and contracts entered into thereafter, must be posted to a public website. The resulting contract, the solicitation, and the successful contractor's proposal or response will be posted to a public website managed by DAS, which can be found at <http://statecontracts.nebraska.gov>.

These postings will include the entire proposal and response. If the Bidder wishes to withhold proprietary or other commercial information from disclosure, the Bidder must identify the proprietary information, mark the proprietary information according to state law, and submit only the proprietary information in a separate file named conspicuously the words "PROPRIETARY INFORMATION" or if submitting the proposal or response electronically, as a separate electronic file that is named "PROPRIETARY INFORMATION". The Bidder may submit a detailed written document showing that the release of the proprietary information would give a business advantage to named business competitor(s) and explain how the named business competitor(s) will gain an actual business advantage by disclosure of information. The mere assertion that information is proprietary or that a speculative business advantage might be gained is not sufficient. (See Attorney General Opinion No. 92068, April 27, 1992) **THE BIDDER MAY NOT ASSERT THAT THE ENTIRE PROPOSAL IS PROPRIETARY. COST PROPOSALS WILL NOT BE CONSIDERED PROPRIETARY AND ARE A PUBLIC RECORD IN THE STATE OF NEBRASKA.** The State will then determine, in its sole discretion, if the disclosure of the information designated by the Bidder as proprietary would 1) give advantage to business competitors and 2) serve no public purpose. The Bidder will be notified of the State's decision. Absent a determination by the State that the information may be withheld pursuant to Neb. Rev. Stat. § 84-712.05, the State will consider all information a public record subject to disclosure. If the State determines it is required to release proprietary information, the Bidder will be informed. It will be the Bidder's responsibility to defend the Bidder's asserted interest in non-disclosure.

If the agency determines it is required to release proprietary information, the **Bidder** will be informed. It will be the **Bidder's** responsibility to defend the **Bidder's** asserted interest in non-disclosure.

To facilitate such public postings, with the exception of proprietary information, the State of Nebraska reserves a royalty-free, nonexclusive, and irrevocable right to copy, reproduce, publish, post to a website, or otherwise use any contract, proposal, or response to this solicitation for any purpose, and to authorize others to use the documents. Any individual or entity awarded a contract, or who submits a proposal or response to this solicitation, specifically waives any copyright or other protection the contract, proposal, or response to the solicitation may have; and, acknowledges that they have the ability and authority to enter into such waiver. This reservation and waiver is a prerequisite for submitting a proposal or response to this solicitation, and

award of a contract. Failure to agree to the reservation and waiver will result in the proposal or response to the solicitation being found non-responsive and rejected.

Any entity awarded a contract or submitting a proposal or response to the solicitation agrees not to sue, file a claim, or make a demand of any kind, and will indemnify and hold harmless the State and its employees, volunteers, agents, and its elected and appointed officials 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, sustained or asserted against the State, arising out of, resulting from, or attributable to the posting of the contract or the proposals and responses to the solicitation, awards, and other documents.

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## GLOSSARY OF TERMS

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

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

**After Receipt of Order (ARO):** After Receipt of Order

**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.

**Automated Clearing House: (ACH)** Electronic network for financial transactions in the United States

**Award:** All purchases, leases, or contracts which are based on competitive proposals will be awarded according to the provisions in the solicitation.

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

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

**Bidder:** A contractor who submits a proposal in response to a written solicitation.

**Breach:** Violation of a contractual obligation by failing to perform or repudiation of one's own promise.

**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.

**Central Processing Unit (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.

**Change Order:** Document that provides amendments to an executed purchase order or contract.

**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 Award:** Occurs upon execution of the State document titled "Service Contract Award" by the proper authority.

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

**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.

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

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

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

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

**Evaluation:** The process of examining an offer after opening to determine the contractor'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 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 contractor. Contractor 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 solicitation, or contract, are completed.

**Interested Party:** A person, acting in their personal capacity, or an entity entering into a contract or other agreement creating a legal interest therein.

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

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

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

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

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

**Must:** See Mandatory/Must and 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.

**Non-Responsive Proposal:** Any proposal that does not comply with the requirements of the RFP.

**Open Market Purchase:** Authorization may be given to an agency to purchase items above direct purchase authority due to the unique nature, price, quantity, location of the using agency, or time limitations by the AS Materiel Division, State Purchasing Bureau.

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

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

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

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

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

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

**Point of Contact (POC):** The person designated to receive communications and to communicate.

**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 solicitation, 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:** An offer, bid, or quote submitted by a contractor/vendor in a response to a written solicitation

**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 serves 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) advantaged by release of the information and the demonstrated advantage the named competitor(s) would gain by the release of information.



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

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

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

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

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

**Request for Information (RFI):** A general invitation to contractor's 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 Contractor:** A contractor who has the capability in all respects to perform fully and lawfully all requirements with integrity and reliability to assure good faith performance.

**Responsive Contractor:** A contractor who has submitted a proposal which conforms to all requirements of the solicitation document.

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

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

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

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

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

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

**Statutory:** These clauses are controlled by state law and are not subject to negotiation.

**Subcontractor:** Individual or entity with whom the contractor enters a contract to perform a portion of the work awarded to the contractor.

**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.

**Third Party:** Any person or entity, including but not limited to fiduciaries, shareholders, owners, officers, managers, employees, legally disinterested persons, and sub-contractors or agents, and their employees. It shall not include any entity or person who is an interested Party to the contract or agreement.

**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 contractor 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 or service.

**Vendor Performance Report:** A report completed by the using agency and submitted to State Purchasing Bureau documenting products or services delivered or performed which exceed or fail to meet the terms of the purchase order, contract, and/or solicitation specifications.

**Vendor:** Inclusive term for any Bidder or Contractor

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

**Work Day:** See Business Day.

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**ACRONYM LIST**

**ARO** – After Receipt of Order

**ACH** – Automated Clearing House

**BAFO** – Best and Final Offer

**COI** – Certificate of Insurance

**CSI** – Cornhusker State Industries, a program of the NE Department of Correctional Services

**CPU** – Central Processing Unit

**DAS** – Department of Administrative Services

**F.O.B.** – Free on Board

**ITB** – Invitation to Bid

**NDCS** – NE Department of Correctional Services

**NIGP** – National Institute for Governmental Purchasing

**PA** – Participating Addendum

**RFI** – Request for Information

**RFP** – Request for Proposal

**SPB** – State Purchasing Bureau

## I. PROCUREMENT PROCEDURE

### A. GENERAL INFORMATION

The solicitation is designed to solicit proposals from qualified bidder who will be responsible for providing Canteen and Inventory Software and Implementation a competitive and reasonable cost. Terms and Conditions, Project Description and Scope of Work, Proposal instructions, and Cost Proposal Requirements may be found in Sections II through VI.

Proposals shall conform to all instructions, conditions, and requirements included in the solicitation. Prospective contractors are expected to carefully examine all documents, schedules, and requirements in this solicitation, and respond to each requirement in the format prescribed. Proposals may be found non-responsive if they do not conform to the solicitation.

### B. PROCURING OFFICE AND COMMUNICATION WITH STATE STAFF AND EVALUATORS

Procurement responsibilities related to this solicitation reside with the Nebraska Department of Correctional Services (NDCS). The point of contact (POC) for the procurement is as follows:

Name: Kate Severin/Keith Houfek  
Agency: NDCS Central Office  
Address: 801 West Prospector Place, Building #1  
Lincoln, NE 68522

Telephone: 402-479-5717

E-Mail: [dcs.purchasing@nebraska.gov](mailto:dcs.purchasing@nebraska.gov)

From the date the solicitation is issued until the Intent to Award is issued, communication from the Contractor is limited to the POC listed above. After the Intent to Award is issued, the Contractor may communicate with individuals the State has designated as responsible for negotiating the contract on behalf of the State. No member of the State Government, employee of the State, or member of the Evaluation Committee is empowered to make binding statements regarding this solicitation. The POC will issue any answers, clarifications or amendments regarding this solicitation in writing. Only the SPB or awarding agency can award a contract. Contractors shall not have any communication with, or attempt to communicate or influence any evaluator involved in this solicitation.

The following exceptions to these restrictions are permitted:

1. Contact made pursuant to pre-existing contracts or obligations;
2. Contact required by the schedule of events or an event scheduled later by the solicitation POC; and
3. Contact required for negotiation and execution of the final contract.

*The State reserves the right to reject a contractor's proposal, withdraw an Intent to Award, or terminate a contract if the State determines there has been a violation of these procurement procedures.*

C. **SCHEDULE OF EVENTS**

The State expects to adhere to the procurement schedule shown below, but all dates are approximate and subject to change.

ACTIVITY	DATE/TIME	
1.	Release Solicitation	January 28, 2021
2.	Last day to submit "Notification of Intent to Attend Pre-Proposal Conference"	February 12, 2021
3.	Last day to submit written questions <b>prior to</b> Pre-Proposal Conference	February 12,2021
4.	<b>Mandatory</b> Pre-Proposal Conference; 1:00 PM CST, Wednesday, February 17, 2021	
4.	A WebEx Invitation Will Be Sent to All Who Return Notification of Intent to Attend Pre-Proposal Conference	February 17, 2021
5.	Last day to submit written questions <b>after</b> Pre-Proposal Conference	February 19, 2021
6.	State responds to written questions through Solicitation "Addendum" and/or "Amendment" to be posted to the Internet at: <a href="http://das.nebraska.gov/materiel/purchasing.html">http://das.nebraska.gov/materiel/purchasing.html</a>	February 24, 2021
7.	Proposal Opening Electronic RFP opening: Upload electronic submissions via ShareFile.  IT IS THE RESPONDENT'S RESPONSIBILITY TO UPLOAD ELECTRONIC FILES WITH SUFFICIENT AMOUNT OF TIME IN THE EVENT OF USER/SOFTWARE ISSUE OR DOCUMENT UPLOAD TIME.  <a href="https://nebraska.sharefile.com/r-r146e05bc94b448ff805e5dcd5be82479">https://nebraska.sharefile.com/r-r146e05bc94b448ff805e5dcd5be82479</a>	March 17, 2021 2:00 PM Central Standard Time
8.	Review for conformance to solicitation requirements	March 17, 2021
9.	Evaluation period	March 18,-31, 2021
10.	"Oral Interviews/Presentations and/or Demonstrations" (if required)	If necessary, week of April 5, 2021
11.	Post "Notification of Intent to Award" to Internet at: <a href="http://das.nebraska.gov/materiel/purchasing.html">http://das.nebraska.gov/materiel/purchasing.html</a>	April 15, 2021
12.	Contract finalization period	April 19 -23, 2021
13.	Contract award	May 1, 2021
14.	Contractor start date	May 15, 2021

**D. WRITTEN QUESTIONS AND ANSWERS**

Questions regarding the meaning or interpretation of any solicitation provision must be submitted in writing to NDCS and clearly marked "RFP Number 107474 O3; Canteen Sales and Inventory Software and Implementation Questions". The POC is not obligated to respond to questions that are received late per the Schedule of Events.

Contractors should present, as questions, any assumptions upon which the Contractor's proposal is or might be developed. Any proposal containing assumptions may be deemed non-responsive. Non-responsive proposals may be rejected by the State. Proposals will be evaluated without consideration of any known or unknown assumptions of a contractor. The contract will not incorporate any known or unknown assumptions of a contractor.

Questions are to be sent via e-mail to [dcs.purchasing@nebraska.gov](mailto:dcs.purchasing@nebraska.gov)  
It is recommended that Contractors submit questions using the following format.

Solicitation Section Reference	Solicitation Page Number	Question

Written answers will be posted at <http://das.nebraska.gov/materiel/purchasing.html> per the Schedule of Events.

**E. PRE-PROPOSAL CONFERENCE**

A pre-proposal conference will be held per the Schedule of Events. Attendance at the pre-proposal conference is mandatory. Vendors will have an opportunity to ask questions at the conference to assist in the clarification and understanding of the solicitation requirements. Questions that have a material impact on the solicitation or process, and questions that are relevant to all vendors, will be answered in writing and posted at <http://das.nebraska.gov/materiel/purchasing.html>. An answer must be posted to be binding on the State. The State will attempt to provide verbal answers to questions that do not impact the solicitation or process, and are only of interest to an individual contractor during the conference. If a vendor feels it necessary to have a binding answer to a question that was answered verbally, the question should be submitted in writing per the Schedule of Events.

The pre-proposal conference will be held via virtual meeting and invitations will be sent only to those individuals or firms who complete and return the Notice of Intent to Attend as described below.

**F. NOTICE OF INTENT TO ATTEND MANDATORY PRE-PROPOSAL CONFERENCE**

Vendors must notify the POC of their intent to attend by submitting a "Notification of Intent to Attend the Pre-Proposal Conference Form" (see Form B) via email [todcs.purchasing@nebraska.gov](mailto:todcs.purchasing@nebraska.gov) by February 12, 2021 to receive a Pre-Proposal Conference invitation.

**G. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS (Statutory)**

All contractors must be authorized to transact business in the State of Nebraska and comply with all Nebraska Secretary of State Registration requirements. The contractor who is the recipient of an Intent to Award will be required to certify that it has complied and produce a true and exact copy of its current (within ninety (90) calendar days of the intent to award) Certificate or Letter of Good Standing, or in the case of a sole proprietorship, provide written documentation of sole proprietorship and complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at <http://das.nebraska.gov/materiel/purchasing.html>. This must be accomplished prior to execution of the contract.

**H. ETHICS IN PUBLIC CONTRACTING**

The State reserves the right to reject proposals, withdraw an intent to award or award, or terminate a contract if a contractor commits or has committed ethical violations, which include, but are not limited to:

1. Offering or giving, directly or indirectly, a bribe, fee, commission, compensation, gift, gratuity, or anything of value to any person or entity in an attempt to influence the bidding process;
2. Utilize the services of lobbyists, attorneys, political activists, or consultants to influence or subvert the bidding process;
3. Being considered for, presently being, or becoming debarred, suspended, ineligible, or excluded from contracting with any state or federal entity;
4. Submitting a proposal on behalf of another Party or entity; and
5. Collude with any person or entity to influence the bidding process, submit sham proposals, preclude bidding, fix pricing or costs, create an unfair advantage, subvert the proposal, or prejudice the State.

The Contractor shall include this clause in any subcontract entered into for the exclusive purpose of performing this contract.

Contractor shall have an affirmative duty to report any violations of this clause by the Contractor throughout the bidding process, and throughout the term of this contract for the successful Contractor and their subcontractors.

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

The requirements contained in the solicitation (Sections II thru VI) become a part of the terms and conditions of the contract resulting from this solicitation. Any deviations from the solicitation in Sections II through VI must be clearly defined by the contractor 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 solicitation, requirements, or applicable state or federal laws or statutes. "Deviation", for the purposes of this solicitation, means any proposed changes or alterations to either the contractual language or deliverables within the scope of this solicitation. The State discourages deviations and reserves the right to reject proposed deviations.

**J. SUBMISSION OF PROPOSALS**

The State is accepting electronic submitted responses only.

**ELECTRONICALLY UPLOADING TO SHAREFILE**

Bidders can upload the response via Share File

<https://nebraska.sharefile.com/r-r146e05bc94b448ff805e5dcd5be82479>

Not all browsers are compatible with ShareFile. Chrome, Internet Explorer and Firefox are compatible but Microsoft Edge is not.

In order for the bidder to receive confirmation from ShareFile that all files submitted have been received, the bidder must enter contact information after clicking on the link provided.

**OTHER DOCUMENTS TO UPLOAD TO SHAREFILE**

The Technical, Cost Proposal, and Proprietary information should be uploaded as **multiple separate and distinct files**. If multiple proposals are submitted, the State will retain only the most recently submitted response. It is the bidder's responsibility to submit the proposal by the date and time indicated in the Schedule of Events. The electronic proposals must be received by SPB by the date and time of the proposal opening per the Schedule of Events. No late proposals will be accepted.

**ELECTRONIC PROPSAL FILE NAMES**

The bidder should clearly identify the uploaded RFP proposal files.

RFP 107474 O3 Company Name & Description of Service;

If multiple files are submitted for one RFP proposal, add number of files to file names: RFP 107474 O3 Company Name & Description of Service File 1 of 2.

If multiple RFP proposals are submitted for the same RFP, the file names should be identified as RFP 107474 O3 Proposal #1 Company Name; RFP 107474 O3 Proposal #2 Company Name, etc.

It is the bidder's responsibility to ensure the RFP is electronically received by the date and time indicated in the Schedule of Events. **IT IS THE BIDDER'S RESPONSIBILITY TO UPLOAD ELECTRONIC FILES WITH ENOUGH AMOUNT OF TIME IN CASE OF USER ISSUE OR SOFTWARE ISSUE.** No late proposals will be accepted.

The Request for Proposal form must be manually signed in an indelible manner or by DocuSign and uploaded by the proposal opening date and time along with the bidder's proposal.

It is the responsibility of the bidder to check the website for all information relevant to this Request for Proposal to include addenda and/or amendments issued prior to the opening date. Website address is as follows: <http://das.nebraska.gov/materiel/purchasing.html>.

Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to requirements, completeness, and clarity of content. If the bidder's proposal is presented in such a fashion that makes evaluation difficult or overly time consuming the State reserves the right to reject the proposal as non-conforming.

By signing the "Request for Proposal for Contractual Services" form, the bidder guarantees compliance with the provisions stated in this Request for Proposal.

The State shall not incur any liability for any costs incurred by bidders in replying to this RFP, in the demonstrations and/or presentations, or in any other activity related to bidding on this RFP.

The Cost Proposal and any Proprietary Information should be submitted as separate electronic files and identified as such.

### **PROPOSAL FILE CORRECTIONS**

A bidder may correct a mistake in a proposal prior to the Proposal Opening Date and Time by uploading a revised and completed RFP proposal.

If a corrected RFP proposal is submitted, at RFP proposal opening time, the file name(s) date/time stamped with the latest date/time stamp will be accepted as final proposal. The corrected RFP file name(s) should be identified as Corrected Proposal #1, Corrected Proposal #2, etc.

Changing a proposal after opening may be permitted if the change is made to correct a minor error that does not affect price, quantity, quality, delivery, or contractual conditions. In case of a mathematical error in extension of price, unit price shall govern.

The Request for Proposal form must be signed using an indelible method or via DocuSign and returned by the proposal opening date and time along with the contractor's Request for Proposal along with any other requirements as stated in the Request for Proposal document in order for the contractor's Request for Proposal response to be evaluated.

It is the responsibility of the contractor to check the website for all information relevant to this Request for Proposal to include addenda and/or amendments issued prior to the opening date. Website address is as follows: <http://das.nebraska.gov/materiel/purchasing.html>.

Emphasis should be concentrated on conformance to the solicitation instructions, responsiveness to requirements, completeness, and clarity of content. If the contractor's proposal is presented in such a fashion that makes evaluation difficult or overly time consuming the State reserves the right to reject the proposal as non-conforming.

By signing the "Request for Proposal for Contractual Services" form, the contractor guarantees compliance with the provisions stated in this solicitation.

The State shall not incur any liability for any costs incurred by contractors in replying to this solicitation, in the demonstrations and/or oral presentations, or in any other activity related to bidding on this solicitation.

The Technical and Cost Proposals Template should be presented in separate sections. Pages may be consecutively numbered for the entire proposal, or may be numbered consecutively within sections. Figures and tables should be numbered consecutively within sections. Figures and tables should be numbered and referenced in the text by that number. They should be placed as close as possible to the referencing text.

### **K. PROPOSAL PREPARATION COSTS**

The State shall not incur any liability for any costs incurred by Contractors in replying to this solicitation, including any activity related to bidding on this solicitation.

### **L. FAILURE TO COMPLY WITH REQUEST FOR PROPOSAL**

Violation of the terms and conditions contained in this solicitation 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 contractor's proposal;
2. Withdrawal of the Intent to Award;
3. Withdrawal of the Award;
4. Negative Vendor Performance Report(s)
5. Termination of the resulting contract;
6. Legal action; and
7. Suspension of the contractor 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.



M. **PROPOSAL CORRECTIONS**

A bidder may correct a mistake in a proposal prior to the time of opening by uploading a revised and completed proposal if the original proposal was electronically submitted.

1. If a corrected electronic proposal is submitted, the file name(s) date/time stamped with latest date/time stamp will be accepted. The corrected proposal file name(s) should be identified as Corrected RFP 107474 O3 Company Name Proposal #1, Corrected RFP 107474 O3 Company Name Proposal #2, etc.

Changing a proposal after opening may be permitted if the change is made to correct a minor error that does not affect price, quantity, quality, delivery, or contractual conditions. In case of a mathematical error in extension of price, unit price shall govern.

N. **LATE PROPOSALS**

Proposals received after the time and date of the proposal opening will be considered late proposals. The State is not responsible for proposals that are late or lost regardless of cause or fault.

O. **ELECTRONIC PROPOSAL OPENING**

The opening of proposals will be public and the contractors will be announced. Proposals **WILL NOT** be available for viewing by those present at the proposal opening. Proposals will be posted to the State Purchasing Bureau website once an Intent to Award has been posted to the website

P. **REQUEST FOR PROPOSAL/PROPOSAL REQUIREMENTS**

The proposals will first be examined to determine if all requirements listed below have been addressed and whether further evaluation is warranted. Proposals not meeting the requirements may be rejected as non-responsive. The requirements are:

1. Original Request for Proposal for Contractual Services form signed using an indelible method or via DocuSign;
2. Clarity and responsiveness of the proposal;
3. Completed Corporate Overview; Completed Sections II through VI;
4. Completed Technical Approach; and Completed State Cost Proposal Template.

Q. **EVALUATION COMMITTEE**

Proposals are evaluated by members of an Evaluation Committee(s). The Evaluation Committee(s) will consist of individuals selected at the discretion of the State. Names of the members of the Evaluation Committee(s) will not be published prior to the intent to award.

Any contact, attempted contact, or attempt to influence an evaluator that is involved with this solicitation may result in the rejection of this proposal and further administrative actions.

R. **EVALUATION OF PROPOSALS**

All proposals that are responsive to the solicitation will be evaluated. Each evaluation category will have a maximum point potential. The State will conduct a fair, impartial, and comprehensive evaluation of all proposals in accordance with the criteria set forth below. Areas that will be addressed and scored during the evaluation include:

1. Corporate Overview should include but is not limited to:
  - a. the ability, capacity, and skill of the contractor to deliver and implement the system or project that meets the requirements of the solicitation;
  - b. the character, integrity, reputation, judgment, experience, and efficiency of the contractor;
  - c. whether the contractor can perform the contract within the specified time frame;
  - d. the quality of vendor performance on prior contracts;
  - e. such other information that may be secured and that has a bearing on the decision to award the contract;
2. Technical Approach;
3. Cost Proposal; and
4. Oral demonstrations, if necessary.

**Neb. Rev. Stat. §81-161 allows the quality of performance of previous contracts to be considered when evaluating responses to competitively bid solicitations in determining the lowest responsible bidder.** Information obtained from any Vendor Performance Report (See Terms & Conditions, Section H) may be used in evaluating responses to solicitations for goods and services to determine the best value for the State.

**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 contractor, 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 contractor, 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 proposal in accordance with Neb. Rev. Stat. §73-107 and has so indicated on the solicitation cover page under “Contractor 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 contractor within ten (10) business days of request:

1. Documentation from the United States Armed Forces confirming service;
2. Documentation of discharge or otherwise separated characterization of honorable or general (under honorable conditions);
3. 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
4. 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 contractor from consideration of the preference.

Evaluation criteria weighting will be released with the solicitation.

**S. COST CLARIFICATION**

The State reserves the right to review all aspects of cost for reasonableness and to request clarification of any proposal where the cost component shows significant and unsupported deviation from industry standards or in areas where detailed pricing is required.

**T. ORAL INTERVIEWS/PRESENTATIONS AND/OR DEMONSTRATIONS**

The State may determine after the completion of the Technical and Cost Proposal evaluation that oral interviews/presentations and/or demonstrations are required. Every contractor may not be given an opportunity to interview/present and/or give demonstrations; the State reserves the right, in its discretion, to select only the top scoring contractors to present/give oral interviews. The scores from the oral interviews/presentations and/or demonstrations will be added to the scores from the Technical and Cost Proposals. The presentation process will allow the contractors to demonstrate their proposal offering, explaining and/or clarifying any unusual or significant elements related to their proposals. Contractors’ key personnel, identified in their proposal, may be requested to participate in a structured interview to determine their understanding of the requirements of this proposal, their authority and reporting relationships within their firm, and their management style and philosophy. Only representatives of the State and the presenting contractor will be permitted to attend the oral interviews/presentations and/or demonstrations. A written copy or summary of the presentation, and demonstrative information (such as briefing charts, et cetera) may be offered by the contractor, but the State reserves the right to refuse or not consider the offered materials. Contractors shall not be allowed to alter or amend their proposals.

Once the oral interviews/presentations and/or demonstrations have been completed, the State reserves the right to make an award without any further discussion with the contractors regarding the proposals received.

Any cost incidental to the oral interviews/presentations and/or demonstrations shall be borne entirely by the contractor and will not be compensated by the State.

**U. BEST AND FINAL OFFER**

If best and final offers (BAFO) are requested by the State and submitted by the contractor, they will be evaluated (using the stated BAFO criteria), scored, and ranked by the Evaluation Committee. The State reserves the right to

conduct more than one Best and Final Offer. The award will then be granted to the highest scoring contractor. However, a contractor should provide its best offer in its original proposal. Contractors should not expect that the State will request a best and final offer.

V. **REFERENCE AND CREDIT CHECKS**

The State reserves the right to conduct and consider reference and credit checks. The State reserves the right to use third parties to conduct reference and credit checks. By submitting a proposal in response to this solicitation, the contractor grants to the State the right to contact or arrange a visit in person with any or all of the contractor's clients. Reference and credit checks may be grounds to reject a proposal, withdraw an intent to award, or rescind the award of a contract.

W. **AWARD**

The State reserves the right to evaluate proposals and award contracts in a manner utilizing criteria selected at the State's discretion and in the State's best interest. After evaluation of the proposals, or at any point in the solicitation process, the State of Nebraska may take one or more of the following actions:

1. Amend the solicitation;
2. Extend the time of or establish a new proposal opening time;
3. Waive deviations or errors in the State's solicitation process and in contractor proposals that are not material, do not compromise the solicitation process or a contractor's proposal, and do not improve a contractor's competitive position;
4. Accept or reject a portion of or all of a proposal;
5. Accept or reject all proposals;
6. Withdraw the solicitation;
7. Elect to rebid the solicitation;
8. Award single lines or multiple lines to one or more contractors; or,
9. Award one or more all-inclusive contracts.

The solicitation does not commit the State to award a contract. Once intent to award decision has been determined, it will be posted to the Internet at:

<http://das.nebraska.gov/materiel/purchasing.html>

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

1. Within ten (10) business days of the intent to award decision being issued, grievances or protests are to be expressed in writing to the attention of the NDCS Materiel Division Administrator via email at [dcs.purchasing@nebraska.gov](mailto:dcs.purchasing@nebraska.gov) or via U.S. Mail - P.O. Box 94661 Lincoln, NE 68509-4661. The notification should state the bid number and specific issues that are to be addressed.
2. A response will be made in writing by the NDCS Materiel Administrator or Designee, generally within ten (10) business days of receipt of the grievance/protest by the Materiel Division Administrator.
3. **If the response from the NDCS Materiel Division Administrator or Designee has not satisfied the grievance**, the vendor may make a written request for a meeting with the NDCS Materiel Division Administrator and the NDCS Deputy Director of Administration, Department of Correctional Services via U.S. Mail - P.O. Box 94661 Lincoln, NE 68509-4661. Such request shall:
  - a. reference the bid number;
  - b. include the specific issues disputed;
  - c. provide a point of contract and mailing address, and
  - d. must be received within ten (10) business days of the date of the Materiel Division Administrator's response in order to be considered a valid meeting request.
4. A meeting will be scheduled and held with the vendor, NDCS Materiel Division Administrator, and NDCS Director of Administrative Services for the vendor to present their issues.
5. A written final decision will be sent to the vendor, generally within ten (10) business days, unless additional time is necessary to fully examine the issues presented.
6. If desired, a vendor may opt to skip Steps 1 & 2, and grieve simultaneously to the NDCS Materiel Division Administrator and the NDCS Director of Administrative Services (begin with Step 3 above).

**X. ALTERNATE/EQUIVALENT PROPOSALS**

Contractor may offer proposals which are at variance from the express specifications of the solicitation. The State reserves the right to consider and accept such proposals if, in the judgment of the Materiel Administrator, the proposal will result in goods and/or services equivalent to or better than those which would be supplied in the original proposal specifications. Contractor must indicate on the solicitation the manufacturer's name, number and shall submit with their proposal, sketches, descriptive literature and/or complete specifications. Reference to literature submitted with a previous proposal will not satisfy this provision. Proposals which do not comply with these requirements are subject to rejection. In the absence of any stated deviation or exception, the proposal will be accepted as in strict compliance with all terms, conditions and specification, and the Contractor shall be held liable therefore.

**Y. LUMP SUM OR "ALL OR NONE" PROPOSALS**

The State reserves the right to purchase item-by-item, by groups or as a total when the State may benefit by so doing. Contractors may submit a proposal on an "all or none" or "lump sum" basis, but should also submit a proposal on an item-by-item basis. The term "all or none" means a conditional proposal which requires the purchase of all items on which proposals are offered and Contractor declines to accept award on individual items; a "lump sum" proposal is one in which the Contractor offers a lower price than the sum of the individual proposals if all items are purchased, but agrees to deliver individual items at the prices quoted.

**Z. REJECTION OF PROPOSALS**

The State reserves the right to reject any or all proposals, wholly or in part, in the best interest of the State.

**AA. RESIDENT BIDDER**

Pursuant to Neb. Rev. Stat. §§ 73-101.01 through 73-101.02, a Resident Bidder shall be allowed a preference against a Non-resident Bidder from a state which gives or requires a preference to Bidders from that state. The preference shall be equal to the preference given or required by the state of the Nonresident Bidders. Where the lowest responsible bid from a resident Bidder is equal in all respects to one from a nonresident Bidder from a state which has no preference law, the resident Bidder shall be awarded the contract. The provision of this preference shall not apply to any contract for any project upon which federal funds would be withheld because of the provisions of this preference.

**II. TERMS AND CONDITIONS**

**Contractors should complete Sections II through VI as part of their proposal.** Contractor is expected to read the Terms and Conditions and should initial either accept, reject, or reject and provide alternative language for each clause. The contractor should also provide an explanation of why the contractor rejected the clause or rejected the clause and provided alternate language. By signing the solicitation, contractor is agreeing to be legally bound by all the accepted terms and conditions, and any proposed alternative terms and conditions submitted with the proposal. The State reserves the right to negotiate rejected or proposed alternative language. If the State and contractor fail to agree on the final Terms and Conditions, the State reserves the right to reject the proposal. The State of Nebraska is soliciting proposals in response to this solicitation. The State of Nebraska reserves the right to reject proposals that attempt to substitute the contractor’s commercial contracts and/or documents for this solicitation.

The contractors should submit with their proposal any license, user agreement, service level agreement, or similar documents that the contractor wants incorporated in the Contract. The State will not consider incorporation of any document not submitted with the contractor’s proposal as the document will not have been included in the evaluation process. These documents shall be subject to negotiation and will be incorporated as addendums if agreed to by the Parties.

If a conflict or ambiguity arises after the Addendum to Contract Award have been negotiated and agreed to, the Addendum to Contract Award shall be interpreted as follows:

1. If only one Party has a particular clause then that clause shall control;
2. If both Parties have a similar clause, but the clauses do not conflict, the clauses shall be read together;
3. If both Parties have a similar clause, but the clauses conflict, the State’s clause shall control.

**A. GENERAL**

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

The contract resulting from this solicitation shall incorporate the following documents:

1. Request for Proposal and Addenda;
2. Amendments to the solicitation;
3. Questions and Answers;
4. Contractor’s proposal (Solicitation and properly submitted documents);
5. The executed Contract and Addendum One to Contract, if applicable; and,
6. Amendments/Addendums to the Contract.

These documents constitute the entirety of the contract.

Unless otherwise specifically stated in a future 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 the executed Contract with the most recent dated amendment having the highest priority, 2) executed Contract and any attached Addenda, 3) Amendments to solicitation and any Questions and Answers, 4) the original solicitation document and any Addenda, and 5) the Contractor’s submitted Proposal.

Any ambiguity or conflict in the contract discovered after its execution, not otherwise addressed herein, shall be resolved in accordance with the rules of contract interpretation as established in the State of Nebraska.

**B. NOTIFICATION**

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

Contractor and State shall identify the contract manager who shall serve as the point of contact for the executed contract.

Communications regarding the executed contract 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 below, 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 five (5) calendar days following deposit in the mail.

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.

**C. BUYER'S REPRESENTATIVE**

The State reserves the right to appoint a Buyer's Representative to manage [or assist the Buyer in managing] the contract on behalf of the State. The Buyer's Representative will be appointed in writing, and the appointment document will specify the extent of the Buyer's Representative authority and responsibilities. If a Buyer's Representative is appointed, the Contractor will be provided a copy of the appointment document, and is expected to cooperate accordingly with the Buyer's Representative. The Buyer's Representative has no authority to bind the State to a contract, amendment, addendum, or other change or addition to the contract.

**D. GOVERNING LAW (Statutory)**

Notwithstanding any other provision of this contract, or any amendment or addendum(s) entered into contemporaneously or at a later time, the parties understand and agree that, (1) the State of Nebraska is a sovereign state and its authority to contract is therefore subject to limitation by the State's Constitution, statutes, common law, and regulation; (2) this contract will be interpreted and enforced under the laws of the State of Nebraska; (3) any action to enforce the provisions of this agreement must be brought in the State of Nebraska per state law; (4) the person signing this contract on behalf of the State of Nebraska does not have the authority to waive the State's sovereign immunity, statutes, common law, or regulations; (5) the indemnity, limitation of liability, remedy, and other similar provisions of the final contract, if any, are entered into subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity; and, (6) all terms and conditions of the final contract, including but not limited to the clauses concerning third party use, licenses, warranties, limitations of liability, governing law and venue, usage verification, indemnity, liability, remedy or other similar provisions of the final contract are entered into specifically subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity.

The Parties must comply with all applicable local, state and federal laws, ordinances, rules, orders, and regulations.

**E. BEGINNING OF WORK**

The contractor 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.

**F. AMENDMENT**

This Contract may be amended in writing, within scope, upon the agreement of both parties.

**G. CHANGE ORDERS OR SUBSTITUTIONS**

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

The State and the Contractor, upon the written agreement, may make changes to the contract within the general scope of the solicitation. Changes may involve specifications, the quantity of work, or such other items as the State may find necessary or desirable. Corrections of any deliverable, service, or work required pursuant to the contract shall not be deemed a change. The Contractor may not claim forfeiture of the contract by reasons of such changes.

The Contractor shall prepare a written description of the work required due to the change and an itemized cost sheet for the change. 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, a pro-rated value, or through negotiations. The State shall not incur a price increase for changes that should have been included in the Contractor's proposal, were foreseeable, or result from difficulties with or failure of the Contractor's proposal or performance.

No change shall be implemented by the Contractor until approved by the State, and the Contract is amended to reflect the change and associated costs, if any. If there is a dispute regarding the cost, but both parties agree that immediate implementation is necessary, the change may be implemented, and cost negotiations may continue with both Parties retaining all remedies under the contract and law.

In the event any product is discontinued or replaced upon mutual consent during the contract period or prior to delivery, the State reserves the right to amend the contract or purchase order to include the alternate product at the same price.

**\*\*\*Contractor will not substitute any item that has been awarded without prior written approval of SPB\*\*\***

**H. VENDOR PERFORMANCE REPORT(S)**

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

The State may document any instance(s) of products or services delivered or performed which exceed or fail to meet the terms of the purchase order, contract, and/or solicitation specifications. The State Purchasing Bureau may contact the Vendor regarding any such report. Vendor performance report(s) will become a part of the permanent record of the Vendor.

**I. NOTICE OF POTENTIAL CONTRACTOR BREACH**

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

If Contractor breaches the contract or anticipates breaching the contract, the Contractor shall immediately give written notice to the State. The notice shall explain the breach or potential breach, a proposed cure, and may include a request for a waiver of the breach if so desired. The State may, in its discretion, temporarily or permanently waive the breach. By granting a waiver, the State does not forfeit any rights or remedies to which the State is entitled by

law or equity, or pursuant to the provisions of the contract. Failure to give immediate notice, however, may be grounds for denial of any request for a waiver of a breach.

**J. BREACH**

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

Either Party may terminate the contract, in whole or in part, if the other Party breaches its duty to perform its obligations under the contract in a timely and proper manner. Termination requires written notice of default and a thirty (30) calendar day (or longer at the non-breaching Party's discretion considering the gravity and nature of the default) cure period. Said notice shall be delivered by Certified Mail, Return Receipt Requested, or in person with proof of delivery. Allowing time to cure a failure or breach of contract does not waive the 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. OR In case of breach by the Contractor, the State may, without unreasonable delay, make a good faith effort to make a reasonable purchase or contract to purchased goods in substitution of those due from the contractor. The State may recover from the Contractor as damages the difference between the costs of covering the breach. Notwithstanding any clause to the contrary, the State may also recover the contract price together with any incidental or consequential damages defined in UCC Section 2-715, but less expenses saved in consequence of Contractor's breach.

The State's failure to make payment shall not be a breach, and the Contractor shall retain all available statutory remedies and protections.

**K. NON-WAIVER OF BREACH**

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

The acceptance of late performance with or without objection or reservation by a Party shall not waive any rights of the Party nor constitute a waiver of the requirement of timely performance of any obligations remaining to be performed.

**L. SEVERABILITY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation 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 provision held to be invalid or illegal.

**M. INDEMNIFICATION**

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



		<b>Solicitation Response (Initial)</b>	

1. **GENERAL**

The Contractor agrees to defend, indemnify, and hold 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 for personal injury, death, or property loss or damage, 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 from this contract, 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 (Optional)**

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 solicitation.

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, including subcontractor’s and their employees, provided by the Contractor.

4. **SELF-INSURANCE**

The State of Nebraska is self-insured for any loss and purchases excess insurance coverage pursuant to Neb. Rev. Stat. § 81-8,239.01 (Reissue 2008). If there is a presumed loss under the provisions of this agreement, Contractor may file a claim with the Office of Risk Management pursuant to Neb. Rev. Stat. §§ 81-8,829 – 81-8,306 for review by the State Claims Board. The State retains all rights and immunities under the State Miscellaneous (Section 81-8,294), Tort (Section 81-8,209), and Contract Claim Acts (Section 81-8,302), as outlined in Neb. Rev. Stat. § 81-8,209 et seq. and under any other provisions of law and accepts liability under this agreement to the extent provided by law.

5. The Parties acknowledge that Attorney General for the State of Nebraska is required by statute to represent the legal interests of the State, and that any provision of this indemnity clause is subject to the statutory authority of the Attorney General.

N. **ATTORNEY’S FEES**

<b>Accept (Initial)</b>	<b>Reject (Initial)</b>	<b>Reject &amp; Provide Alternative within Solicitation Response (Initial)</b>	<b>NOTES/COMMENTS:</b>
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In the event of any litigation, appeal, or other legal action to enforce any provision of the contract, the Parties agree to pay all expenses of such action, as permitted by law and if ordered by the court, including attorney's fees and costs, if the other Party prevails.

**O. PERFORMANCE BOND**

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

The Contractor maybe required to supply a cashier's check or a bond executed by a corporation authorized to contract surety in the State of Nebraska, payable to the State of Nebraska, which shall be valid from contract award through final implementation and acceptance (projected Milestone 5) plus twelve (12) months. The amount of the cashier's check or bond \$50,000. The check or bond, if required, will guarantee that the Contractor will faithfully perform all requirements, terms and conditions of the contract. If the Contractor chooses to provide a cashier's check, the check must show an expiration date on the check. Cashier's checks will only be allowed for contracts for three (3) years or less, including all renewal options. Failure to comply shall be grounds for forfeiture of the check or bond as liquidated damages. Amount of forfeiture will be determined by the agency based on loss to the State. The bond or cashier's check will be returned when the contract has been satisfactorily completed as solely determined by the State, after termination or expiration of the contract.

**P. RETAINAGE**

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

The State may withhold twenty percent (20%) of each payment due as retainage. The entire retainage amount will be payable upon successful completion of the project. Upon completion of the project, the Contractor will invoice the State for any outstanding work and for the retainage. The State may reject the final invoice by identifying the specific reasons for such rejection in writing to the Contractor within forty-five (45) calendar days of receipt of the final invoice. Otherwise, the project will be deemed accepted and the State will release the final payment and retainage in accordance with the contract payment terms.

**Q. ASSIGNMENT, SALE, OR MERGER**

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

Either Party may assign the contract upon mutual written agreement of the other Party. Such agreement shall not be unreasonably withheld.

The Contractor retains the right to enter into a sale, merger, acquisition, internal reorganization, or similar transaction involving Contractor's business. Contractor agrees to cooperate with the State in executing amendments to the contract to allow for the transaction. If a third party or entity is involved in the transaction, the Contractor will remain responsible for performance of the contract until such time as the person or entity involved in the transaction agrees in writing to be contractually bound by this contract and perform all obligations of the contract.

**R. CONTRACTING WITH OTHER NEBRASKA POLITICAL SUB-DIVISIONS OF THE STATE OR ANOTHER STATE**

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

The Contractor may, but shall not be required to, allow agencies, as defined in Neb. Rev. Stat. §81-145, to use this contract. The terms and conditions, including price, of the contract may not be amended. The State shall not be contractually obligated or liable for any contract entered into pursuant to this clause. A listing of Nebraska political subdivisions may be found at the website of the Nebraska Auditor of Public Accounts.

The Contractor may, but shall not be required to, allow other states, agencies or divisions of other states, or political subdivisions of other states to use this contract. The terms and conditions, including price, of this contract shall apply to any such contract, but may be amended upon mutual consent of the Parties. The State of Nebraska shall not be contractually or otherwise obligated or liable under any contract entered into pursuant to this clause. The State shall be notified if a contract is executed based upon this contract.

**S. FORCE MAJEURE**

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

Neither Party shall be liable for any costs or damages, or for default resulting from its inability to perform any of its obligations under the contract due to a natural or manmade event outside the control and not the fault of the affected Party ("Force Majeure Event"). The Party so affected shall immediately make a written request for relief to the other Party, and shall have the burden of proof to justify the request. The other Party may grant the relief requested; relief may not be unreasonably withheld. Labor disputes with the impacted Party's own employees will not be considered a Force Majeure Event.

**T. CONFIDENTIALITY**

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

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

It is incumbent upon the Parties to inform their 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 by 5 U.S.C. 552a (m)(1), provides that any officer or employee, 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.

**U. EARLY TERMINATION**

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

The contract may be terminated as follows:

1. The State and the Contractor, by mutual written agreement, may terminate the contract at any time.
2. The State, in its sole discretion, may terminate the contract for any reason upon thirty (30) calendar day's written notice to the Contractor. Such termination shall not relieve the Contractor of warranty or other service obligations incurred under the terms of the contract. In the event of termination the Contractor shall be entitled to payment, determined on a pro rata basis, for products or services satisfactorily performed or provided.
3. The State may terminate the contract immediately for the following reasons:
  - a. if directed to do so by statute;
  - b. Contractor has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business;
  - c. a trustee or receiver of the Contractor or of any substantial part of the Contractor's assets has been appointed by a court;
  - d. fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the contract by its Contractor, its employees, officers, directors, or shareholders;
  - e. an involuntary proceeding has been commenced by any Party against the Contractor under any one of the chapters of Title 11 of the United States Code and (i) the proceeding has been pending for at least sixty (60) calendar days; or (ii) the Contractor has consented, either expressly or by operation of law, to the entry of an order for relief; or (iii) the Contractor has been decreed or adjudged a debtor;
  - f. a voluntary petition has been filed by the Contractor under any of the chapters of Title 11 of the United States Code;
  - g. Contractor intentionally discloses confidential information;
  - h. Contractor has or announces it will discontinue support of the deliverable; and,
  - i. In the event funding is no longer available.

**V. CONTRACT CLOSEOUT**

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

Upon contract closeout for any reason the Contractor shall within 30 days, unless stated otherwise herein:

1. Transfer all completed or partially completed deliverables to the State;
2. Transfer ownership and title to all completed or partially completed deliverables to the State;
3. Return to the State all information and data, unless the Contractor is permitted to keep the information or data by contract or rule of law. Contractor may retain one copy of any information or data as required to comply with applicable work product documentation standards or as are automatically retained in the course of Contractor's routine back up procedures;
4. Cooperate with any successor Contractor, person or entity in the assumption of any or all of the obligations of this contract;
5. Cooperate with any successor Contractor, person or entity with the transfer of information or data related to this contract;
6. Return or vacate any state owned real or personal property; and,
7. Return all data in a mutually acceptable format and manner.

Nothing in this Section should be construed to require the Contractor to surrender intellectual property, real or personal property, or information or data owned by the Contractor for which the State has no legal claim.

**III. CONTRACTOR DUTIES**

**A. INDEPENDENT CONTRACTOR / OBLIGATIONS**

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

It is agreed that the Contractor is an independent contractor and that nothing contained herein is intended or should be construed as creating or establishing a relationship of employment, agency, or a partnership.

The Contractor is solely responsible for fulfilling the contract. The Contractor or the Contractor's representative shall be the sole point of contact regarding all contractual matters.

The Contractor shall secure, at its own expense, all personnel required to perform the services under the contract. The personnel the Contractor uses to fulfill the contract shall have no contractual or other legal relationship with the State; they shall not be considered employees of the State and shall not be entitled to any compensation, rights or benefits from the State, including but not limited to, tenure rights, medical and hospital care, sick and vacation leave, severance pay, or retirement benefits.

By-name personnel commitments made in the Contractor's proposal shall not be changed without the prior written approval of the State. Replacement of these personnel, if approved by the State, shall be with personnel of equal or greater ability and qualifications.

All personnel assigned by the Contractor to the contract shall be employees of the Contractor or a subcontractor, and shall be fully qualified to perform the work required herein. Personnel employed by the Contractor or a subcontractor to fulfill the terms of the contract shall remain under the sole direction and control of the Contractor or the subcontractor respectively.

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

1. Any and all pay, benefits, and employment taxes and/or other payroll withholding;
2. Any and all vehicles used by the Contractor's employees, including all insurance required by state law;
3. Damages incurred by Contractor's employees within the scope of their duties under the contract;
4. Maintaining Workers' Compensation and health insurance that complies with state and federal law and submitting any reports on such insurance to the extent required by governing law;
5. Determining the hours to be worked and the duties to be performed by the Contractor's employees; and,
6. All claims on behalf of any person arising out of employment or alleged employment (including without limit claims of discrimination alleged against the Contractor, its officers, agents, or subcontractors or subcontractor's employees)

If the Contractor intends to utilize any subcontractor, the subcontractor's level of effort, tasks, and time allocation should 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.

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

Contractor shall insure that the terms and conditions contained in any contract with a subcontractor does not conflict with the terms and conditions of this contract.

The Contractor shall include a similar provision, for the protection of the State, in the contract with any subcontractor engaged to perform work on this contract.

**B. EMPLOYEE WORK ELIGIBILITY STATUS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation 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>
2. The completed United States Attestation Form should be submitted with the solicitation response.
3. 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.
4. 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.

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

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 goods and services to be covered by any contract resulting from this solicitation.

**D. COOPERATION WITH OTHER CONTRACTORS**

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

Contractor may be required to work with or in close proximity to other contractors or individuals that may be working on same or different projects. The Contractor shall agree to cooperate with such other contractors or individuals, and shall not commit or permit any act which may interfere with the performance of work by any other contractor or individual. Contractor is not required to compromise Contractor's intellectual property or proprietary information unless expressly required to do so by this contract.

**E. DISCOUNTS**

Prices quoted shall be inclusive of ALL trade discounts. Cash discount terms of less than thirty (30) days will not be considered as part of the proposal. Cash discount periods will be computed from the date of receipt of a properly executed claim voucher or the date of completion of delivery of all items in a satisfactory condition, whichever is later.

**F. PRICES**

Prices quoted shall be net, including transportation and delivery charges fully prepaid by the contractor, F.O.B. destination named in the solicitation. No additional charges will be allowed for packing, packages, or partial delivery costs. When an arithmetic error has been made in the extended total, the unit price will govern.

Prices submitted on the cost proposal form shall remain fixed for the first three (3) years of the contract. Any request for a price increase subsequent to the first three (3) years of the contract shall not exceed ten percent (10%) of the previous Contract period. Increases will be cumulative across the remaining periods of the contract. Requests for an increase must be submitted in writing to the NE Department of Correctional Services a minimum of 120 days prior to the end of the current contract period. Documentation may be required by the State to support the price increase.

**The State reserves the right to deny any requested price increase. No price increases are to be billed to any State Agencies prior to written amendment of the contract by the parties.**

**The State will be given full proportionate benefit of any decreases for the term of the contract.**

**G. PERMITS, REGULATIONS, LAWS**

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

The contract price shall include the cost of all royalties, licenses, permits, and approvals, whether arising from patents, trademarks, copyrights or otherwise, that are in any way involved in the contract. The Contractor shall obtain and pay for all royalties, licenses, and permits, and approvals necessary for the execution of the contract. The Contractor must guarantee that it has the full legal right to the materials, supplies, equipment, software, and other items used to execute this contract.

**H. OWNERSHIP OF INFORMATION AND DATA / DELIVERABLES**

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

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

The State shall own and hold exclusive title to any deliverable developed as a result of this contract. Contractor shall have no ownership interest or title, and shall not patent, license, or copyright, duplicate, transfer, sell, or exchange, the design, specifications, concept, or deliverable.

**I. INSURANCE REQUIREMENTS**

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



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The Contractor shall throughout the term of the contract maintain insurance as specified herein and provide the State a current Certificate of Insurance/Acord Form (COI) verifying the coverage. The Contractor shall not commence work on the contract until the insurance is in place. If Contractor subcontracts any portion of the Contract the Contractor must, throughout the term of the contract, either:

1. Provide equivalent insurance for each subcontractor and provide a COI verifying the coverage for the subcontractor;
2. Require each subcontractor to have equivalent insurance and provide written notice to the State that the Contractor has verified that each subcontractor has the required coverage; or,
3. Provide the State with copies of each subcontractor's Certificate of Insurance evidencing the required coverage.

The Contractor shall not allow any Subcontractor to commence work until the Subcontractor has equivalent insurance. The failure of the State to require a COI, or the failure of the Contractor to provide a COI or require subcontractor insurance shall not limit, relieve, or decrease the liability of the Contractor hereunder.

In the event that any policy written on a claims-made basis terminates or is canceled during the term of the contract or within five (5) years of termination or expiration of the contract, the contractor shall obtain an extended discovery or reporting period, or a new insurance policy, providing coverage required by this contract for the term of the contract and five (5) years following termination or expiration of the contract.

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.

Notwithstanding any other clause in this Contract, the State may recover up to the liability limits of the insurance policies required herein.

1. **WORKERS' COMPENSATION INSURANCE**

The Contractor shall take out and maintain during the life of this contract the statutory Workers' Compensation and Employer's Liability Insurance for all of the contactors' employees to be engaged in work on the project under this contract and, in case any such work is sublet, the Contractor shall require the 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. **The policy shall include a waiver of subrogation in favor of the State. The COI shall contain the mandatory COI subrogation waiver language found hereinafter.** The amounts of such insurance shall not be less than the limits stated hereinafter. For employees working in the State of Nebraska, the policy must be written by an entity authorized by the State of Nebraska Department of Insurance to write Workers' Compensation and Employer's Liability Insurance for Nebraska employees.

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

The Contractor shall take out and maintain during the life of this contract such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect Contractor and any Subcontractor performing work covered by this contract from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this contract, whether such operation be by the Contractor or by any 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 secondary and non-contributory. The COI shall contain the mandatory COI liability waiver language found hereinafter.** The Commercial Automobile Liability Insurance shall be written to cover all Owned, Non-owned, and Hired vehicles.

<b>REQUIRED INSURANCE COVERAGE</b>	
<b>COMMERCIAL GENERAL LIABILITY</b>	
General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal/Advertising Injury	\$1,000,000 per occurrence
Bodily Injury/Property Damage	\$1,000,000 per occurrence
Medical Payments	\$10,000 any one person
Damage to Rented Premises (Fire)	\$300,000 each occurrence
Contractual	Included
XCU Liability (Explosion, Collapse, and Underground Damage)	Included
Independent Contractors	Included
Abuse & Molestation	Included
<i>If higher limits are required, the Umbrella/Excess Liability limits are allowed to satisfy the higher limit.</i>	
<b>WORKER'S COMPENSATION</b>	
Employers Liability Limits	\$500K/\$500K/\$500K
Statutory Limits- All States	Statutory - State of Nebraska
USL&H Endorsement	Statutory
Voluntary Compensation	Statutory
<b>COMMERCIAL AUTOMOBILE LIABILITY</b>	
Bodily Injury/Property Damage	\$1,000,000 combined single limit
Include All Owned, Hired & Non-Owned Automobile liability	Included
Motor Carrier Act Endorsement	Where Applicable
<b>UMBRELLA/EXCESS LIABILITY</b>	
Over Primary Insurance	\$5,000,000 per occurrence
<b>COMMERCIAL CRIME</b>	
Crime/Employee Dishonesty Including 3rd Party Fidelity	\$1,000,000
<b>CYBER LIABILITY</b>	
Breach of Privacy, Security Breach, Denial of Service, Remediation, Fines and Penalties	\$10,000,000
<b>MANDATORY COI SUBROGATION WAIVER LANGUAGE</b>	
"Workers' Compensation policy shall include a waiver of subrogation in favor of the State of Nebraska."	
<b>MANDATORY COI LIABILITY WAIVER LANGUAGE</b>	
"Commercial General Liability & Commercial Automobile Liability policies shall name the State of Nebraska as an Additional Insured and the policies shall be primary and any insurance or self-insurance carried by the State shall be considered secondary and non-contributory as additionally insured."	

3. **EVIDENCE OF COVERAGE**

The Contractor shall furnish the Contract Manager, with a certificate of insurance coverage complying with the above requirements prior to beginning work at:

NDCS/CSI  
 Attn: Contract Manager  
 800 Pioneers Blvd.  
 Lincoln, NE 68502

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.

Reasonable notice of cancellation of any required insurance policy must be submitted to the contract manager as listed above when issued and a new coverage binder shall be submitted immediately to ensure no break in coverage.

4. **DEVIATIONS**

The insurance requirements are subject to limited negotiation. Negotiation typically includes, but is not necessarily limited to, the correct type of coverage, necessity for Workers' Compensation, and the type of automobile coverage carried by the Contractor.

**J. ANTITRUST**

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

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

**K. CONFLICT OF INTEREST**

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

By submitting a proposal, bidder certifies that no relationship exists between the bidder and any person or entity which either is, or gives the appearance of, a conflict of interest related to this Request for Proposal or project.

Bidder further certifies that bidder will not employ any individual known by bidder to have a conflict of interest nor shall bidder take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its contractual obligations hereunder or which creates an actual or appearance of conflict of interest.

If there is an actual or perceived conflict of interest, bidder shall provide with its proposal a full disclosure of the facts describing such actual or perceived conflict of interest and a proposed mitigation plan for consideration. The State will then consider such disclosure and proposed mitigation plan and either approve or reject as part of the overall bid evaluation.

**L. STATE PROPERTY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation 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.

**M. SITE RULES AND REGULATIONS**

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

		<b>Solicitation Response (Initial)</b>	

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 in writing between the State and the Contractor.

**NDCS SECURITY**

1. CONTRACTOR'S personnel shall be subject to Nebraska Department of Correctional Services' (NDCS) background security checks prior to their arrival on site, and will carry proper identification with them at all times while on facility grounds.
2. CONTRACTOR shall make its employees aware of the provisions of Neb. Rev. Stat. § 28-322.01, which state that a person commits the offense of sexual abuse of an inmate or parolee if such person subjects an inmate or parolee to sexual penetration or sexual contact, because an inmate or parolee is not legally capable of giving consent to any such relationship. Neb. Rev. Stat. § 28-322 states that individuals "working under contract with the department" are included in the list of persons prohibited from having sexual relations with one or more of NDCS' inmates. CONTRACTOR will promptly notify NDCS if allegations of sexual abuse or contact become known.
3. CONTRACTOR shall make his/her employees aware of the Nebraska Department of Correctional Services, Policy 112.31 (Code of Ethics and Conduct), Attachment B. After contract award, CONTRACTOR may be required to sign and return documentation showing receipt of NDCS Policy 112.31 (Code of Ethics and Conduct).
4. CONTRACTOR shall inform his/her personnel of the Nebraska Department of Correctional Services Tobacco Policy, which states that tobacco and tobacco-related products are contraband and must not be carried into any NDCS-owned or controlled property. Such products must remain in CONTRACTOR'S locked vehicle while on NDCS-owned or controlled property.
5. CONTRACTOR and his/her personnel may be subject to pat searches and tool inventory upon arrival and departure from NDCS facilities.
6. Wireless devices and/or cellular phones are prohibited at NDCS facilities unless prior approval is given. If wireless devices are necessary for use on site at NDCS, CONTRACTOR will seek prior approval to carry such devices by requesting the Cellular Device Institutional Use Report form. All persons are prohibited from providing a cellphone/electronic communication device to an inmate of any facility, per NDCS Policy Directive 104.06.

**N. ADVERTISING**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation 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 goods or services are endorsed or preferred by the State. Any publicity releases pertaining to the project shall not be issued without prior written approval from the State.

**O. NEBRASKA TECHNOLOGY ACCESS STANDARDS (Statutory)**

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

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

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

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

**Q. DRUG POLICY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation 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.

**R. WARRANTY**

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

Despite any clause to the contrary, the Contractor represents and warrants that its services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such services and shall comply in all respects with the requirements of this Agreement. For any breach of this warranty, the Contractor shall, for a period of ninety (90) days from performance of the service, perform the services again, at no cost to the State or if Contractor is unable to perform the services as warranted, Contractor shall reimburse the State all the fees paid to Contractor for the unsatisfactory services. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

**IV. PAYMENT**

**A. PROHIBITION AGAINST ADVANCE PAYMENT (Statutory)**

Neb. Rev. Stat. §§81-2403 states, “[n]o goods or services shall be deemed to be received by an agency until all such goods or services are completely delivered and finally accepted by the agency.”

**B. TAXES (Statutory)**

The State is not required to pay taxes and assumes no such liability as a result of this solicitation. The Contractor may request a copy of the Nebraska Department of Revenue, Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption, Form 13 for their records. Any property tax payable on the Contractor's equipment which may be installed in a state-owned facility is the responsibility of the Contractor

**C. INVOICES**

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

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

Itemized invoices shall be submitted to:

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

Accounts Payable Contact: (402) 479-5715  
 Invoices may be emailed to: DCS.AccountsPayable@nebraska.gov

**D. INSPECTION AND APPROVAL**

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

Final inspection, acceptance and approval of all work, including integrations, required under the contract shall be performed by the designated State officials.

**E. PAYMENT (Statutory)**

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

Payment will be made by the responsible agency in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2403). 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 goods and services provided by the Contractor prior to the Effective Date of the contract, and the Contractor hereby waives any claim or cause of action for any such services.

**F. LATE PAYMENT (Statutory)**

The Contractor may charge the responsible agency interest for late payment in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2401 through 81-2408).

**G. SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS (Statutory)**

The State's obligation to pay amounts due on the Contract for a fiscal years following the current fiscal year is contingent upon legislative appropriation of funds. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal year(s) 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 termination. All obligations of the State to make payments after the termination date will cease. 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.

**H. RIGHT TO AUDIT (First Paragraph is Statutory)**

The State shall have the right to audit the Contractor's performance of this contract upon a thirty (30) days' written notice. Contractor shall utilize generally accepted accounting principles, and shall maintain the accounting records, and other records and information relevant to the contract (Information) to enable the State to audit the contract. (Neb. Rev. Stat. §84-304 et seq.) The State may audit and the Contractor shall maintain, the Information during the term of the contract and for a period of five (5) years after the completion of this contract or until all issues or litigation are resolved, whichever is later. The Contractor shall make the Information available to the State at Contractor's place of business or a location acceptable to both Parties during normal business hours. If this is not practical or the Contractor so elects, the Contractor may provide electronic or paper copies of the Information. The State reserves the right to examine, make copies of, and take notes on any Information relevant to this contract, regardless of the form or the Information, how it is stored, or who possesses the Information. Under no circumstance will the Contractor be required to create or maintain documents not kept in the ordinary course of contractor's business operations, nor will contractor be required to disclose any information, including but not limited to product cost data, which is confidential or proprietary to contractor.

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

The Parties shall pay their own costs of the audit unless the audit finds a previously undisclosed overpayment by the State. If a previously undisclosed overpayment exceeds two (2) percent (2%) of the total contract billings, or if fraud, material misrepresentations, or non-performance is discovered on the part of the Contractor, the Contractor shall reimburse the State for the total costs of the audit. Overpayments and audit costs owed to the State shall be paid within ninety (90) days of written notice of the claim. The Contractor agrees to correct any material weaknesses or condition found as a result of the audit.

## V. PROJECT DESCRIPTION AND SCOPE OF WORK

The contractor should provide the following information in response to this solicitation.

### A. PROJECT OVERVIEW – PURPOSE AND OBJECTIVE

The Nebraska Department of Correctional Services (NDCS), Cornhusker State Industries (CSI) is seeking proposals to install a canteen and inventory system (Canteen System) to enable the incarcerated population to place canteen orders. Orders will be packaged and fulfilled by a centralized correctional industry operation using the Canteen System.

### B. BACKGROUND

NDCS currently utilizes multiple contracts for the purchase of canteen items from qualified vendors. NDCS intends to procure a Canteen System independent of the procurement of canteen inventory items. Current canteens operate largely independently across ten (10) NDCS facilities, as listed below

Lincoln Correctional Center (LCC)  
3216 West Van Dorn Street  
Lincoln, NE 68522

Nebraska State Penitentiary (NSP)  
4201 S. 14th Street  
Lincoln, NE 68502

Community Correctional Center – Lincoln (CCC-L)  
2720 West Van Dorn Street  
Lincoln, NE 68522

Omaha Correctional Center (OCC)  
2323 E Avenue J  
Omaha, NE 68110

Community Correctional Center – Omaha (CCC-O)  
2320 E Avenue J  
Omaha, NE 68110

Nebraska Correctional Youth Facility (NCYF)  
2610 N. 20th Street East  
Omaha, NE 68110

Tecumseh State Correctional Institution (TSCI)  
2725 N. Hwy 50  
Tecumseh, NE 68450

Nebraska Correctional Center for Women (NCCW)  
1107 Recharge Road  
York, NE 68467

Work Ethic Camp (WEC)  
2309 N Hwy 83  
McCook, NE 69001

The new Canteen System will be a significant resource in standardizing canteen operations. The Canteen System will require integration to existing NDCS systems. Several inmate management functions, including canteen are currently processed in mainframe databases. Subsequent to the upgrade of the Canteen System, additional functions will be evaluated for modernization. An optional section has been included in the RFP to collect information for future improvements.

NDCS inmates are not permitted to have access to the Internet. The Canteen System will provide secure inmate access for ordering and inventory functions. Any network or computer-related security risks will be sufficiently mitigated. Existing devices offer possibility for placing individual inmate orders. Currently inmates are provided GTL tablets for telephone functions and JPay tablets for media.



**C. PROJECT ENVIRONMENT AND CURRENT TRANSACTIONAL INFORMATION**

For calendar year 2019, the NDCS average daily incarcerated population was 5661 people across ten (10) institutions statewide. Canteen annual gross sales are approximately \$5,000,000. Each inmate will have the opportunity to place one canteen order per week unless restricted by living location or disciplinary sanctions. Ordering deadlines will be assigned for each facility. Approximately 500 items are currently offered as stocked canteen items with additional items available as direct orders.

**D. CURRENT SYSTEMS AND INTEGRATION**

Please see the table below and information that follows for current systems and notes about integration.

	<b>Current Environment &amp; Systems</b>	<b>Relationship to a new Canteen System</b>
1.	Correctional Tracking System (CTS)	Interface with new Canteen System as necessary. Would provide inmate location data.
2.	CIT (Accounting System used for both Inmate Accounting and Canteens )	New Canteen System will replace canteen functions. In the long-term, Inmate Accounting functions will be modernized.
3.	OBIEE	Internal query function
4.	NiCAMS (SQL Server) NE Inmate Case Management System	NiCAMS remains as is. In the long-term, CTS would be converted into NiCAMS.
5.	JPay	Inmate media, email and photo system. Inmate account balance is available on facility kiosks.
6.	GTL	Inmate phone use. Interface between GTL and new Canteen System required for the purchase of Phone Time.
7.	US Bank	Community custody level inmates use debit card File transfers must occur between NDCS system and US Bank. Would be involved in future accounting modernization, not expected to be required for Canteen System.
8.	PFC-Payroll & Financial Center	State of Nebraska ERP system for purchasing, accounting, inventory, manufacturing and sales functions. Available, but not expected to be integrated. NDCS anticipates some additional or duplicated processing (by NDCS employees) will be required to maintain required inventory and financial practices.

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Additional detail concerning the primary applications that support Inmate Case Management and Inmate Accounting include:

1. **CTS – Corrections Tracking System:** This application is the oldest application and was rewritten on a relational database on the mainframe around the year 2000. This version runs on DB2/CICS today and is the initial 'starting point' for entry of an inmate. CTS is not under consideration for replacement. Any new system would be required to integrate with CTS.

2. **CIT – Corrections Information and Tracking system (CIT):** This system was developed and then implemented on May 1, 1997. This system is crucial to the stability of maintaining accurate financial records for the inmate population. CIT is tightly integrated with, and highly dependent on, CTS. Inmates are not entered in CIT, they are entered in CTS and passed to CIT, which currently triggers all Inmate Accounts to be set up. This is a mainframe system that has reporting limitations from the start the system. Certain reports and data can only be obtained through Structured Query Language (SQL) which runs against the live production system. Since being developed almost 20 years ago, the advancement of technology and platforms has given us the opportunity to develop a more efficient, effective and supportable application.

\*NOTE: Canteen functionality is considered to be part of the CIT system. We are looking to replace that functionality in CIT.

3.. **An Oracle Business Intelligence and Reporting product (OBIEE)** that runs on the web platform is used for all the majority of NDCS's reporting. Extensive dashboards of canned reports spanning a half a dozen business areas have been built in this tool. It also is used for ad hoc reporting as well. In order to include data that originates on the mainframe (in DB2), that data must be passed down to SQL Server tables.

The three systems are tightly dependent on each other, but require nightly downloads from the mainframe to the SQL Server platform to keep them synchronized. As a result, data that originates on the mainframe could be 24 hours behind when viewed from the NICaMS screens or when reported on through OBIEE.

In 2010, all Adult Parole data NDCS moved off the mainframe into NICaMS, to a subsystem called PIMS. Then in March of 2015, the first large-scale effort to move significant modules from CTS on the mainframe to NICaMS was initiated. That project – the Sentence Calculation Rewrite Project (SCRCP) moved all inmate sentence calculation functions from the mainframe to NICaMS. This NICaMS subsystem went live on 9/24/2016.

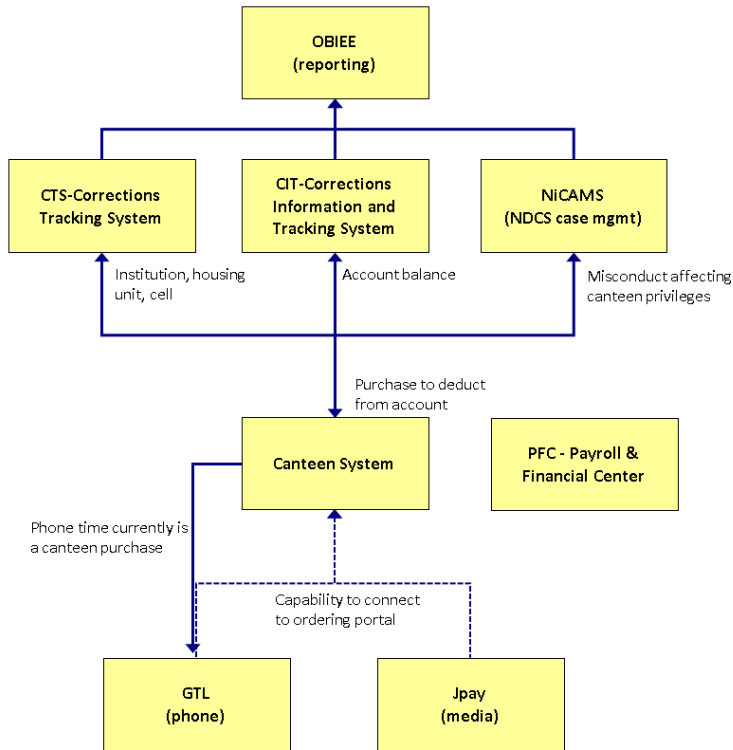
What remains on the mainframe are portions of CTS and all of CIT. The admission process and all inmate movement tracking remain in CTS and will eventually need to be moved to NICaMS.

4. **NICaMS (previously 'Websuite')** – the Nebraska Inmate Case Management System (NICaMS) was developed to replace applications developed by NDCS on the IBMs VM platform that was being 'sunsetting'. These applications are web-based, written in Java and use a SQL-Server back-end. As this platform is more flexible, accessible and maintainable, all new application development was to be done on this platform. The platform has grown to over 200 screens and subsystems. Sentence Calculation was moved from CTS to NICaMS in 2016.

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**E. EXPECTED INTEGRATIONS**

The following diagram summarizes expected integrations required for the new Canteen System.



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**G. BUSINESS REQUIREMENTS**

The State is not required to pay taxes and assumes no such liability as a result of this solicitation. The Contractor may request a copy of the Nebraska Department of Revenue, Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption, Form 13 for their records. Any property tax payable on the Contractor's equipment which may be installed in a state-owned facility is the responsibility of the Contractor.

**H. SCOPE OF WORK**

To obtain a canteen inventory and sales platform and all required integrations with existing NDCS platforms necessary to allow a centralized canteen operation to make sales, track inventory, and functionality as described within Technical Requirements.

**I. WORK PLAN – SCHEDULE OF SOFTWARE AND EQUIPMENT**

Vendor will provide software and equipment to meet technical requirements. Canteen System software will either be cloud based and hosted by the vendor or installed on site on a virtual server on State of Nebraska equipment. Indicate for the proposed solution:

Cloud Based	On Site	If Cloud Based, Describe Data Backup & Recovery

At a minimum the following equipment is required. If additional equipment is provided as part of the proposed solution (no additional cost) or additional optional equipment is available for purchase, include below.

Item	Description	Quantity Provided
Check out stations	Bar code scanner(s), monitor and functional hardware to efficiently confirm order picking in a standard 8-10 hour work day; largest daily volume will be 1300 person facility	
Staff PCs	Computer used by NDCS Staff for order processing	Provided by NDCS unless vendor equipment is required
Inmate PCs	Computer device used by inmate clerk for order processing	Provided by NDCS unless vendor equipment is required
Additional Equipment Provided		
Optional Equipment Available		

**J. TECHNICAL REQUIREMENTS**

Each item below is considered a mandatory requirement and requires marking the **Yes** or **No** box or providing a narrative explanation in the **Other** box. A **No** response or a **non-response** on any requested specification may cause the answer to be considered non-responsive

Where a requirement asks the Bidder to **describe** the system’s functionality in additional detail, use the **Describe/Bidder Response** field to respond. Lack of **Describe/Bidder Response** on any requested specification may cause the answer to be considered non-responsive.

**Order Process**

1. Describe how the bidder’s Canteen System is able to create a weekly order schedule by institution and optionally by institution & housing unit. Each institution would be scheduled for a pick date. Prior to the pick date, an order deadline determines which orders are included in the picking. (eg. NSP order deadline Monday 11:59 pm, NSP orders picked Wednesday)

Yes	No	Other
<b>Describe/Bidder Response:</b>		

2. Describe how bidder’s system can limit orders by total dollar amount of purchase.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

3. Currently NDCS restricts some items at certain institutions and uses quantity limits for certain categories of items (e.g. limited to ordering 5 bags of chips or less). Describe the Canteen System’s ability to restrict item selection and quantities.

<b>Describe/Bidder Response to Restriction By Item Selection &amp; Quantities</b>

4. NDCS may find it necessary to restrict canteen purchases by facility, housing unit, individual misconduct sanctions, and/or other restrictions. Describe the proposed Canteen System’s ability to support the following:

Restriction Type	Describe/Bidder Response
Facility	
Housing Unit	
Misconduct Sanctions	
Other	

5. Please describe how the proposed system would accommodate inmate orders being entered and transmitted electronically using **existing NDCS infrastructure** (tablets, kiosks or phones). If additional infrastructure is required, please describe in "Other" box. The successful vendor must be able to coordinate and work with existing NDCS contractors (kiosk, tablet, etc.) Please describe in detail below how this would be accomplished by your team.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

6. How does the proposed accommodate establish a secondary or backup method that can be used for individuals who do not have access to an ordering device (tablet, kiosk or phone)? Describe the backup method below and steps to process orders using the backup method.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

7. The Canteen System will be integrated to the NDCS CIT system to place a hold on the individual's account. Does the proposed system have an automated process to confirm sufficient funds are available for the requested order? Please describe the process when sufficient funds are not available to accept the entire order. Describe whether the entire order is rejected or if the system can prioritize items. For example, if sufficient funds were available to pay for high priority (personal hygiene) items, can they be accepted and lower priority items causing insufficient funds be rejected?

Yes	No	Other
<b>Describe/Bidder Response:</b>		

8. Describe how the Canteen System will be integrated to the NDCS CIT system to decrement the individual's account at the point when the order is finalized.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

9. Describe if the Canteen System includes functionality for dealing with backorders in the event an item is out of stock. Not allowing items to be backordered is acceptable provided the system can identify back orders and provide



reporting or alerts on items that could not be filled. Please describe how back orders can be handled in your system and how staff can be alerted to item shortages. Also, indicate if the Canteen System has capability for substitute items if a requested item is not available.

Yes	No	Other
<b>Describe/Bidder Response:</b> 		

10. Describe how the Canteen System produces a pick ticket and how the Canteen System protects the individual identities until after the order has been picked.

Yes	No	Other
<b>Describe/Bidder Response:</b> 		

11. Describe how the printed pick ticket can be grouped by product type, commodity code or inventory location to correspond with how items are physically stored.

Yes	No	Other
<b>Describe/Bidder Response:</b> 		

12. All bar coded items are electronically scanned to confirm picking. Small items that are not bar coded (e.g. pencils) can be hand keyed to confirm picking. A suitable number of scanners are provided to support processing orders in an 8-10 hour work day. The largest facility planned to be picked in one day currently houses approximately 1300

people. Please describe below how many scanners are included and the estimated number of daily orders that could be processed.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

13. Describe how the Canteen System verifies that items scanned match pick ticket. Describe how the rework process is triggered if items were incorrectly picked.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

14. Describe how the Canteen System creates a paper and/or electronic receipt that can be used to confirm that all items have been delivered when distributing to the individual who placed the order.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

15. Describe how the Canteen system creates a manifest for orders to be shipped on daily truck(s).

Yes	No	Other
<b>Describe/Bidder Response:</b>		

16. Describe how the Canteen system processes product returns for inmate orders.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

**Item Master/Costing/Pricing Functionality**

17. Describe how the Canteen System creates and stores item master data.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

18. Describe how Item master includes defining a unique item number.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

19. Describe how the Canteen System's Item master includes one or more commodity codes, category codes or general ledger codes that can be used to classify the item type. Examples of current commodity code descriptions: food, beverages, school supplies, personal hygiene, dental, beauty. Briefly describe commodity code, category code or general ledger code functionality that could be used for this purpose.

Yes	No	Other

<b>Describe/Bidder Response:</b>
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20. Describe how the Canteen System applies markup. For example, are Commodity codes, category codes or general ledger codes used to determine item pricing (e.g. personal hygiene marked up 2%, beauty marked up 10%)

Yes	No	Other
<b>Describe/Bidder Response:</b>		

21. Can the Canteen System Item numbers cross-reference to UPC codes? Describe.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

**Inventory Functions**

22. Describe how the Canteen System maintains real time perpetual inventory levels.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

23. Describe how NDCS Inventory can be stored/accounted for by institution/business unit or location (eg. Tecumseh State Correctional Institution).

Yes	No	Other
<b>Describe/Bidder Response:</b>		

24. Describe how within the business unit, inventory is stored by inventory sub-locations. At a minimum, inventory is stored with one tier of sub-locations (eg. Store 1, Store 2, etc). Preferably, inventory sub-locations would have multiple tiers (eg. Store 1, Bin 2, Row 1). Describe the levels of inventory sub-locations offered in your system.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

25. Describe how UPC bar codes can be electronically scanned for inventory transactions.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

26. Describe the Canteen System's cycle count and physical inventory functions.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

27. Describe how Cycle count and physical inventories functions can produce a blank count sheet that does not list inventory quantities for recording physical counts of on hand quantities.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

28. Describe how far Cycle count and physical inventories can be created in advance. When the count is ready to be entered, how can the count be reset to account for any inventory transactions that have occurred in the meantime?

Yes	No	Other
<b>Describe/Bidder Response:</b>		

29. Describe the Canteen System's inventory planning capabilities, including but not limited to, min/max quantities, safety stocks and reorder points.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

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30. Describe how the creation of purchase order reports for inventory replenishment by an individual supplier is achieved. For example, can each item be assigned a supplier number that drives the creation of purchase order reports for inventory replenishment based on inventory planning data (min,max, reorder points, etc.)?

Yes	No	Other
<b>Describe/Bidder Response:</b>		

31. Describe how the Canteen System flags expiration dates.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

32. Describe the Canteen System's reporting for stock status, inventory turns, usage, vendor lead-time and other typical reports. Provide a list of all available reports & ad hoc reporting capability.

Yes	No	Other
<b>Describe/Bidder Response:</b>		
<b>Reports/ Reporting</b>		

33. Describe the Canteen System's inventory adjustment functionality to process item inventory transactions to account for expired or damaged items.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

**Security**

NDCS intends for incarcerated workers to process transactions in the new Canteen System. At a minimum, incarcerated workers will scan items to confirm the correct inventory has been pulled for each order. Any transactions involving incarcerated workers must be adequately secured to provide sufficient application and network security.

34. Describe functions that can be transacted in the Canteen System by incarcerated workers.

<b>Describe/Bidder Response, Including Types of Transactions:</b>

35. Describe how Roles are assigned to provide security for staff and incarcerated users.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

36. Network access for incarcerated users is limited to the Canteen System. Describe security used to mitigate network security risks.

Yes	No	Other
<b>Describe/Bidder Response:</b>		



37. Describe security features which will prevent Incarcerated users from seeing or accessing account balance information for other inmates.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

**Optional Functionality**

These requirements are not mandatory but are desirable or may impact future needs. Please indicate if these functions are available and describe as indicated.

1. Canteen System provides electronic receipting. Such as when an inmate physically verifies that their order has been received, an electronic signature can be collected and maintained as a record. Describe process and equipment provided.

Included	Available	Not Available
<b>Describe/Bidder Response:</b>		

This area deliberately left blank

2. Describe if the bidder's system also includes a process for point-of-sale items that can be sold at individual canteen windows, in addition to planned orders.

Included	Available	Not Available
<p><b>Describe/Bidder Response:</b></p>		

3. Canteen items can be sold via vending machines. Please describe any capabilities for vending service including if you offer vending solutions items that can't be readily transported from a centralized canteen such as frozen items.

Included	Available	Not Available
<p><b>Describe/Bidder Response:</b></p>		

4. Currently NDCS utilizes tokens (coins) for vending pop. Pop sales are through a separate contractual service and **not** included in the current solicitation. However, it is desirable to eliminate tokens and provide an alternative means such as linking an inmate identification card to an inmate account to be used as similar to a debit card for NDCS vending transaction. Describe if your Canteen System or related functionality could implement a solution that would meet this need.

Yes	No	Other
<p><b>Describe/Bidder Response:</b></p>		

5. Modernization of the NDCS accounting system is a planned future project. Please indicate if you can offer accounting system functionality that is integrated with the Canteen System. If so, indicate below and describe accordingly.

Yes	No	Other
<p><b>Describe/Bidder Response:</b></p>		

**K. REQUIRED PROJECT PLANNING AND MANAGEMENT**

1. Contractor will provide dedicated technical support and expertise to assist Cornhusker State Industries and NDCS team members in set-up of solution and integrations with existing platforms. This function will also include training of DCS/CSI staff. Describe below the bidder's process for technical support to NDCS in set up and integrations with existing platforms. Also describe bidder's training processes for CSI/NDCS staff members.

Yes	No	Other
<b>Describe/Bidder Response:</b>		

**L. DRAFT IMPLEMENTATION PLAN /PERFORM IMPLEMENTATION**

The proposal shall include a timeline of milestones (or phases) for implementation and integration progress along the pathway toward full implementation, training of DCS/CSI staff and roll-out. If additional milestones or phases are necessary, please include a similar Implementation Milestone Chart within the proposal.

Integration, Implementation and Support Milestones will be tied to deliverable payments.

Provide a draft implementation plan based the milestones below:

Milestone	Description	Estimated Completion Time	Progress Markers, Key Actions Within Each Period
Milestone 1	Final Approval of Implementation Plan		
Milestone 2	Delivery of Equipment		
Milestone 3	Implementation/Integration with DCS Platforms		
Milestone 4	Testing/Training		
Milestone 5	Final Implementation Acceptance/Go Live		
Milestone 6	Post Implementation Support		

**M. PROVIDE POST IMPLEMENTATION SUPPORT**

List within proposal Service Level Agreement (SLA) terms and conditions that explain how updates to the software are pushed out, the response time for issue resolution, and available SLA levels.

Yes	No	Other
<b>Describe/Bidder Response</b>		

**N. DELIVERABLES**

1. Software/ Barcode Scanners and other equipment as described with Contractor's proposal.
2. Required Project Planning and Management, including Implementation Assistance including Integration as required with existing NDCS Platforms and training of NDCS/CSI staff.
3. Implementation Plan
4. Post-Implementation Service and Support.

CSI's timeline for roll-out of a centralized canteen ordering and inventory system is mid-September 2021.

This area deliberately left blank

## PROPOSAL INSTRUCTIONS

This section documents the requirements that should be met by bidders in preparing the Technical and Cost Proposal. Bidders should identify the subdivisions of "Project Description and Scope of Work" clearly in their proposals; failure to do so may result in disqualification. Failure to respond to a specific requirement may be the basis for elimination from consideration during the State's comparative evaluation.

Proposals are due by the date and time shown in the Schedule of Events. Content requirements for the Technical and Cost Proposal are presented separately in the following subdivisions; format and order:

### A. PROPOSAL SUBMISSION

#### 5. CORPORATE OVERVIEW

The Corporate Overview section of the Technical Proposal should consist of the following subdivisions:

##### a. BIDDER IDENTIFICATION AND INFORMATION

The bidder should provide the full company or corporate name, address of the company's headquarters, entity organization (corporation, partnership, proprietorship), state in which the bidder is incorporated or otherwise organized to do business, year in which the bidder first organized to do business and whether the name and form of organization has changed since first organized.

##### b. FINANCIAL STATEMENTS

The bidder should provide financial statements applicable to the firm. If publicly held, the bidder should provide a copy of the corporation's most recent audited financial reports and statements, and the name, address, and telephone number of the fiscally responsible representative of the bidder's financial or banking organization.

If the bidder is not a publicly held corporation, either the reports and statements required of a publicly held corporation, or a description of the organization, including size, longevity, client base, areas of specialization and expertise, and any other pertinent information, should be submitted in such a manner that proposal evaluators may reasonably formulate a determination about the stability and financial strength of the organization. Additionally, a non-publicly held firm should provide a banking reference.

The bidder must disclose any and all judgments, pending or expected litigation, or other real or potential financial reversals, which might materially affect the viability or stability of the organization, or state that no such condition is known to exist.

The State may elect to use a third party to conduct credit checks as part of the corporate overview evaluation.

##### c. CHANGE OF OWNERSHIP

If any change in ownership or control of the company is anticipated during the twelve (12) months following the proposal due date, the bidder should describe the circumstances of such change and indicate when the change will likely occur. Any change of ownership to an awarded bidder(s) will require notification to the State.

##### d. OFFICE LOCATION

The bidder's office location responsible for performance pursuant to an award of a contract with the State of Nebraska should be identified.

##### e. RELATIONSHIPS WITH THE STATE

The bidder should describe any dealings with the State over the previous three (3) years. If the organization, its predecessor, or any Party named in the bidder's proposal response has contracted with the State, the bidder should identify the contract number(s) and/or any other information available to identify such contract(s). If no such contracts exist, so declare.

##### f. BIDDER'S EMPLOYEE RELATIONS TO STATE

If any Party named in the bidder's proposal response is or was an employee of the State within the past twelve (12) months, identify the individual(s) by name, State agency with whom employed, job title or position held with the State, and separation date. If no such relationship exists or has existed, so declare.

If any employee of any agency of the State of Nebraska is employed by the bidder or is a subcontractor to the contractor, as of the due date for proposal submission, identify all such persons by name, position held with the bidder, and position held with the State (including job title and agency). Describe the responsibilities of such persons within the proposing organization. If, after review of this information by the State, it is determined that a conflict of interest exists or may exist, the bidder may be disqualified from further consideration in this proposal. If no such relationship exists, so declare.

**g. CONTRACT PERFORMANCE**

If the bidder or any proposed subcontractor has had a contract terminated for default during the past five (5) years, all such instances must be described as required below. Termination for default is defined as a notice to stop performance delivery due to the bidder's non-performance or poor performance, and the issue was either not litigated due to inaction on the part of the bidder or litigated and such litigation determined the bidder to be in default.

It is mandatory that the bidder submit full details of all termination for default experienced during the past five (5) years, including the other Party's name, address, and telephone number. The response to this section must present the bidder's position on the matter. The State will evaluate the facts and will score the bidder's proposal accordingly. If no such termination for default has been experienced by the bidder in the past five (5) years, so declare.

If at any time during the past five (5) years, the bidder has had a contract terminated for convenience, non-performance, non-allocation of funds, or any other reason, describe fully all circumstances surrounding such termination, including the name and address of the other contracting Party.

**h. SUMMARY OF BIDDER'S CORPORATE EXPERIENCE**

The bidder should provide a summary matrix listing the bidder's previous projects similar to this solicitation in size, scope, and complexity. The State will use no more than three (3) narrative project descriptions submitted by the bidder during its evaluation of the proposal. *Narrative descriptions should focus on project experience in correctional settings, and note how specific security concerns were addressed.*

The bidder should address the following:

- i. Provide narrative descriptions to highlight the similarities between the bidder's experience and this solicitation. These descriptions should include:
  - a) The time period of the project;
  - b) The scheduled and actual completion dates;
  - c) The Contractor's responsibilities;
  - d) For reference purposes, a customer name (including the name of a contact person, a current telephone number, a facsimile number, and e-mail address); and
  - e) Each project description should identify whether the work was performed as the prime Contractor or as a subcontractor. If a contractor performed as the prime Contractor, the description should provide the originally scheduled completion date and budget, as well as the actual (or currently planned) completion date and actual (or currently planned) budget.
- ii. Contractor and subcontractor(s) experience should be listed separately. Narrative descriptions submitted for subcontractors should be specifically identified as subcontractor projects.
- iii. If the work was performed as a subcontractor, the narrative description should identify the same information as requested for the Contractors above. In addition, subcontractors should identify what share of contract costs, project responsibilities, and time period were performed as a subcontractor.

**i. SUMMARY OF BIDDER'S PROPOSED PERSONNEL/MANAGEMENT APPROACH**

The bidder should present a detailed description of its proposed approach to the management of the project.

The bidder should identify the specific professionals who will work on the State's project if their company is awarded the contract resulting from this solicitation. The names and titles of the team proposed for assignment to the State project should be identified in full, with a description of the team leadership, interface and support functions, and reporting relationships. The primary work assigned to each person should also be identified.

The bidder should provide resumes for all personnel proposed by the bidder to work on the project. The State will consider the resumes as a key indicator of the bidder's understanding of the skill mixes required to carry out the requirements of the solicitation in addition to assessing the experience of specific individuals.

Resumes should not be longer than three (3) pages. Resumes should include, at a minimum, academic background and degrees, professional certifications, understanding of the process, and at least three (3) references (name, address, and telephone number) who can attest to the competence and skill level of the individual. Any changes in proposed personnel shall only be implemented after written approval from the State.

**j. SUBCONTRACTORS**

If the contractor intends to subcontract any part of its performance hereunder, the bidder should provide:

- i. name, address, and telephone number of the subcontractor(s);
- ii. specific tasks for each subcontractor(s);
- iii. percentage of performance hours intended for each subcontract; and
- iv. total percentage of subcontractor(s) performance hours.

**6. TECHNICAL APPROACH**

The technical approach section of the Technical Proposal should consist of the following subsections:

- a. Technical Requirements
- b. Required Project Planning and Management
- c. Draft Implementation Plan/Perform Implementation; and
- d. Deliverables and due dates.



**Form A**  
**Bidder Proposal Point of Contact**  
**Request for Proposal Number 107474 O3**

Form A should be completed and submitted with each response to this solicitation. 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.

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

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

**Form B**  
**Notification of Intent to Attend Pre-Proposal Conference**  
**Submit Form by February 12, 2021**  
**Request for Proposal Number 107474 O3**

Bidder Name:	
Bidder Address:	
Contact Person:	
E-mail Address:	
Telephone Number:	
Fax Number:	
Number of Attendees:	

The "Notification of Intent to Attend Pre-Proposal Conference" form should be submitted to the Procurement Contact via e-mail to [dcspurchasing@nebraska.gov](mailto:dcspurchasing@nebraska.gov)

**REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES FORM**

By signing this Request for Proposal for Contractual Services form, the bidder guarantees compliance

**BIDDER MUST COMPLETE THE FOLLOWING**

with the procedures stated in this Solicitation, and agrees to the terms and conditions unless otherwise indicated in writing and certifies that bidder maintains a drug free work place.

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 Solicitation.

\_\_\_\_\_ 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.

\_\_\_\_\_ I hereby certify that I am a blind person licensed by the Commission for the Blind & Visually Impaired in accordance with Neb. Rev. Stat. §71-8611 and wish to have preference considered in the award of this contract.

**FORM MUST BE SIGNED USING AN INDELIBLE METHOD (NOT ELECTRONICALLY)**

FIRM:	
COMPLETE ADDRESS:	
TELEPHONE NUMBER:	
FAX NUMBER:	
DATE:	
SIGNATURE:	
TYPED NAME & TITLE OF SIGNER:	