

State of Nebraska - INVITATION TO BID CONTRACT

Date	7/28/21	Page	1 of 2
Solicitation Number	6568 OF		
Opening Date and Time	08/13/21	2:00 pm	
Buyer	ROBERT TAYLOR (AS)		

DESTINATION OF GOODS
DEPARTMENT OF MOTOR VEHICLES
301 CENTENNIAL MALL S FL 1
LINCOLN NE 68509

Per Nebraska's Transparency in Government Procurement Act, 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 ITB.

____ 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.

Contract to supply and deliver IFTA Decals to the State of Nebraska as per the attached specifications for a One (1) year period from date of award. The contract may be renewed for Four (4) additional One (1) year periods when mutually agreeable to the vendor and the State of Nebraska.

(MH 7/28/21)

INVITATION					
Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
1	2022 IFTA DECALS COLOR: BLUE 299C	62,000.0000	ST	\$0.905261451	\$56,126.21
2	2023 IFTA DECALS COLOR: GREEN 354C	62,000.0000	ST	\$0.905261451	\$56,126.21
3	2024 IFTA DECALS COLOR: RED 485C	62,000.0000	ST	\$0.905261451	\$56,126.21
4	2025 IFTA DECALS COLOR: BLUE 299C	62,000.0000	ST	\$0.905261451	\$56,126.21

BIDDER MUST COMPLETE THE FOLLOWING
 DISCOUNT PAYMENT TERMS: N30 % 30 DAYS
 By signing this Invitation to Bid form, the bidder guarantees compliance with the provisions stated in this Invitation to Bid, agrees to the terms and conditions unless otherwise agreed to and certifies that bidder maintains a drug free work place environment. Vendor will furnish the items requested within _____ days after receipt of order. Failure to enter Delivery Date may cause quotation to be REJECTED.
 25 working days after
 final proof approval.

Sign Here _____
 (Authorized Signature Mandatory – Form must be signed manually in ink or by DocuSign)

Enter Contact Information Below

VENDOR# 71-0188290
 VENDOR: Weldon, Williams & Lick, Inc.
 Address: 711 North A Street
 Fort Smith, AR 72901

Contact Philip Warren, BDM
 Telephone 479-783-4113
 Email sales@wwlinc.com

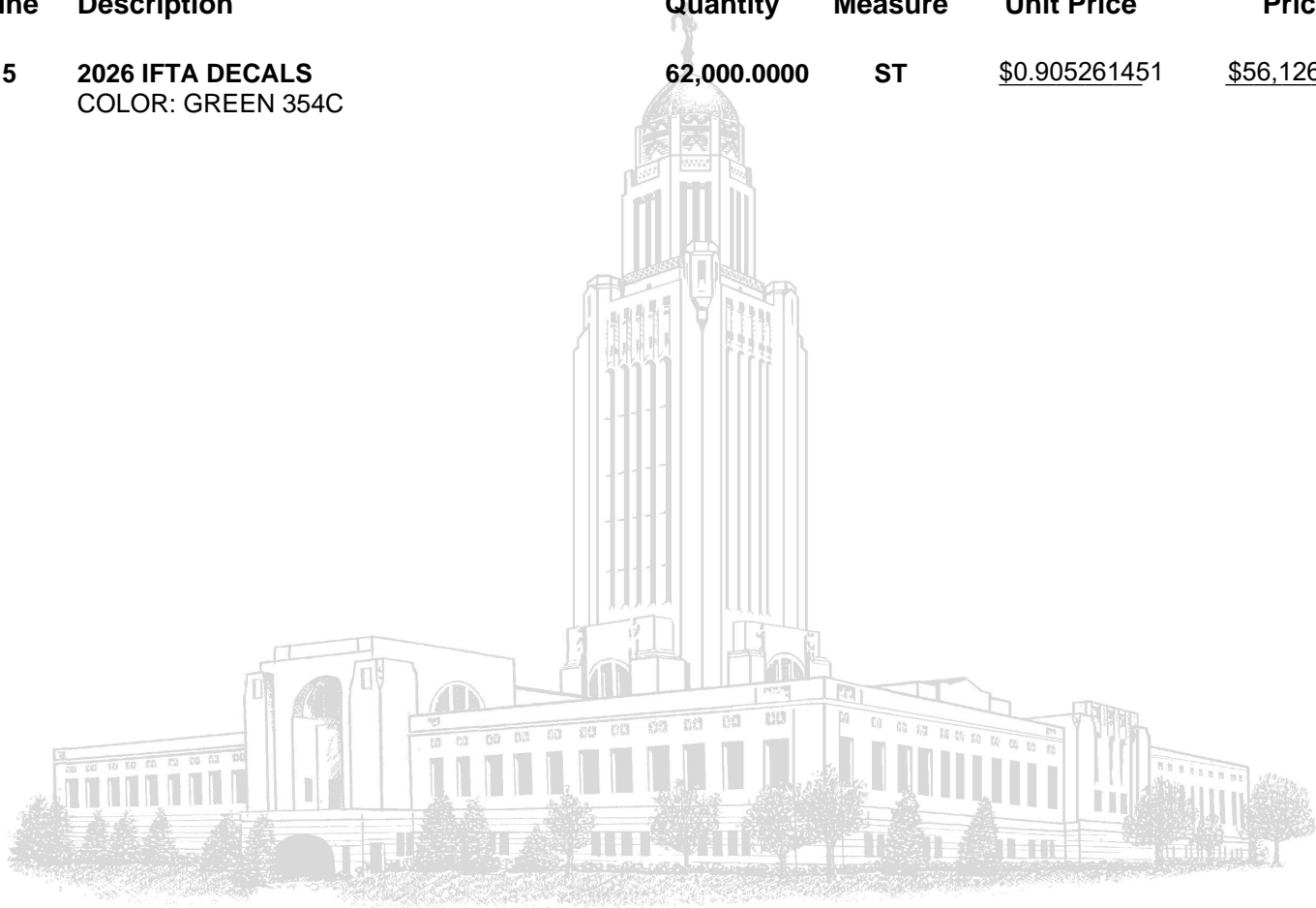
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301 CENTENNIAL MALL S FL 1
LINCOLN NE 68509

INVITATION

Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
5	2026 IFTA DECALS COLOR: GREEN 354C	62,000.0000	ST	<u>\$0.905261451</u>	<u>\$56,126.21</u>



**IFTA DECALS
STATE OF NEBRASKA**

**INVITATION TO BID
Number (6568) OF**

The State of Nebraska (State), Department of Administrative Services (DAS), Materiel Division, State Purchasing Bureau (SPB), is issuing this solicitation for a commodity contract, ITB Number (6568) OF for the purpose of selecting a qualified Vendor to provide IFTA Decals. A more detailed description can be found in Section V. and VI.. The resulting contract may not be an exclusive contract as the State reserves the right to contract for the same or similar goods from other sources now or in the future.

The term of the contract will be One (1) year commencing upon execution of the contract by the State and the Vendor (Parties) The Contract includes the option to renew for Four (4) additional one (1) 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.

INFORMATION PERTINENT TO THIS SOLICITATION CAN BE FOUND ON THE INTERNET AT:

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

IMPORTANT NOTICE: Pursuant to Neb. Rev. Stat. § 84-602.02, 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 Vendor's proposal or response will be posted to a public website managed by DAS, which can be found at:

<https://statecontracts.nebraska.gov>

In addition and in furtherance of the State's public records statute (Neb. Rev. Stat. § 84-712 et seq.) all proposals or responses received regarding this solicitation will be posted to the SPB website.

These postings will include the entire proposal or response. Vendor must request that proprietary information be excluded from the posting. The Vendor must identify the proprietary information, mark the proprietary information according to state law, and submit the proprietary information in a separate container or envelope marked conspicuously using an indelible method with the words "PROPRIETARY INFORMATION". The Vendor must 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 VENDOR MAY NOT ASSERT THAT THE ENTIRE BID OR RESPONSE IS PROPRIETARY. COST WILL NOT BE CONSIDERED PROPRIETARY AND IS A PUBLIC RECORD IN THE STATE OF NEBRASKA.** The State will then determine, in its discretion, if the interests served by nondisclosure outweighs any public purpose served by disclosure. (See Neb. Rev. Stat. § 84-712.05(3)) The Vendor will be notified of the agency's decision. Absent a State determination that information is proprietary, the State will consider all information a public record subject to release regardless of any assertion that the information is proprietary.

If the agency determines it is required to release proprietary information, the Vendor will be informed. It will be the Vendor's responsibility to defend the Vendor'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 are 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 or other sources of testing standards, for measuring the effectiveness of products or goods and the means used for testing such performance

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

Agency: Using agencies shall mean and include all officers of the state, departments, bureaus, boards, commissions, councils, and institutions receiving legislative appropriations

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: 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: In a competitive proposal, the final offer submitted which contains vendor'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 vendor will not withdraw the proposal

Bidder: A vendor who submits an offer 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 proposal, purchase order or contract without expectation of conducting or performing at a later time

Catalog/Non-Core: A printed or electronic list of products a vendor may provide at a discounted rate or discount off list price to the State. Initial contract award(s) is not based on Catalog/Non-Core items

Central Processing Unit: 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

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

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

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

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

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

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

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

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

Contract Period: The duration of the contract

Vendor: An individual or entity lawfully conducting business in the State, who seeks or agrees to provide goods or services under the terms of a written contract.

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

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

Core List: Items specifically listed on the solicitation upon which a proposal is evaluated for award

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 goods provided by a Vendor

Default: The omission or failure to perform a contractual duty

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

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

Evaluation Committee: Committee(s) appointed by the requesting agency that advises and assists the procuring office in the evaluation of proposal/s (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 Destination: The delivery charges are included in the quoted price and prepaid by the vendor. Vendor is responsible for all claims associated with damages during delivery of product

Free on Board 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 Vendor", 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

Invalid Bid: A proposal that does not meet the requirements of the solicitation or cannot be evaluated against the other proposals.

Invitation to Bid: A written solicitation utilized for obtaining competitive offers for Services or Goods

Late Bid: 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 Vendor 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: National Institute of Governmental Purchasing – Source used for assignment of universal commodity codes to goods and services

Non-core: See Catalog.

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 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 Vendor 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: The person designated to receive communications and to communicate

Pre-Bid 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 goods to be provided under the contract

Bid: An offer, bid, or quote submitted by a vendor/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 service 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 the solicitation or resultant contract, brought by a vendor 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 Bid 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

Quote: See Bid

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 Vendor.

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: A general invitation to vendor is requesting information for a potential future solicitation. The RFI is typically used as a research and information gathering tool for preparation of a solicitation

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

Responsive Vendor: A Vendor who has submitted a proposal which conforms to all requirements of the solicitation document

Shall: See Must

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 vendor, or market conditions

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

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

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

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

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

Termination: Occurs when the contract expires or 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 vendor to distinguish its product from those of others, registered with the U.S. Patent and Trademark Office

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

Vendor 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 Vendor.

Will: See Mandatory/Must/Shall

Work Day: See Business Day

ACRONYM LIST

ARO – After Receipt of Order

ACH – Automated Clearing House

BAFO – Best and Final Offer

COI – Certificate of Insurance

CPU – Central Processing Unit

DAS – Department of Administrative Services

F.O.B. – Free on Board

ITB – Invitation to Bid

NIGP – National Institute for Governmental Purchasing

PA – Participating Addendum

RFI – Request for Information

RFP – Request for Bid

SPB – State Purchasing Bureau

I. PROCUREMENT PROCEDURE

A. GENERAL INFORMATION

The solicitation is designed to solicit proposals from qualified Contractors who will be responsible for providing IFTA Decals at a competitive and reasonable cost. Terms and Conditions, Project Description and Scope of Work, Bid Instructions, and Cost Bid 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 SPB. The point of contact (POC) for the procurement is as follows:

ITB #: 6568 OF
Name: Robert Taylor
Agency: State Purchasing Bureau
Address: 1526 K Street, Suite 130
Lincoln, NE 68508

Telephone: 402-471-6500

E-Mail: as.materielpurchasing@nebraska.gov

From the date the solicitation is issued until the Intent to Award is issued, communication from the Vendor is limited to the POC listed above. After the Intent to Award is issued, the Vendor 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 POC; and
3. Contact required for negotiation and execution of the final contract.

The State reserves the right to reject a vendor'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	July 28 th , 2021
2.	Last day to submit written questions Upload electronic submissions via ShareFile to: https://nebraska.sharefile.com/r-rd1cf82b732704d89970fdcf320e86e20	August 4 th , 2021
3.	State responds to written questions through a solicitation "Addendum" and/or "Amendment" to be posted to the Internet at: http://das.nebraska.gov/materiel/purchasing.html	August 6 th , 2021
4.	Electronic Bid Opening Topic: 6568 OF IFTA Decals Time: August 13 th , 2021 02:00 PM Central Time (US and Canada) Join Zoom Meeting https://us02web.zoom.us/j/86334521276?pwd=dzF6SIY0Uzk1cm0yQ21iYlVKQTVtUT09 Meeting ID: 863 3452 1276 Passcode: 294591 Electronically submitted bids are being accepted due to the challenges of COVID-19. Upload electronic submissions via ShareFile to: https://nebraska.sharefile.com/r-r31814ea11b904c89ba8e1f6472960860	August 13 th , 2021 2:00 PM Central Time
5.	Post "Notification of Intent to Award" to Internet at: http://das.nebraska.gov/materiel/purchasing.html	August 17 th , 2021
6.	Contract award	September 1 st , 2021

D. WRITTEN QUESTIONS AND ANSWERS

Questions regarding the meaning or interpretation of any solicitation provision must be submitted in writing to SPB and clearly marked "ITB Number (6568) OF; IFTA Decals Questions". 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 Vendor's proposal is or might be developed. Proposals will be evaluated without consideration of any known or unknown assumptions of a Vendor. The contract will not incorporate any known or unknown assumptions of a Vendor.

It is preferred that questions be sent via e-mail to as.materielpurchasing@nebraska.gov, but may be delivered by hand or by U.S. Mail. It is recommended that Contractors submit questions using the following format.

Questions should be uploaded using the following ShareFile link:

<https://nebraska.sharefile.com/r-rd1cf82b732704d89970fdcf320e86e20>

Solicitation Section Reference	Solicitation Page Number	Question

Answers will be provided through an Addendum to be posted on the internet at <https://das.nebraska.gov/materiel/bidopps.html#> as shown in the "Schedule of Events".

E. RECYCLING (§ 81-15,159(d)(2))

Preference will be given to items which are manufactured or produced from recycled material or which can be readily reused or recycled after their normal use. Preference will also be given to purchases of corn-based biodegradable plastics and road deicers if available and suitable. No preference shall be given if such preference would result in the purchase of products, materials, or supplies that are of inadequate quality or of substantially higher cost.

The State also encourages the use of products utilizing soy or beets, however, the State cannot give a preference for using these products.

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

All Contractors must be authorized to transact business in the State and comply with all Nebraska Secretary of State Registration requirements. The Vendor who is the recipient of an Intent to Award will be required to certify that it has complied and produce a true and correct 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 the United States Citizenship Attestation Form, available on the DAS website at: <http://das.nebraska.gov/materiel/purchasing.html>. This must be accomplished prior to execution of the contract.

G. 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 Vendor 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;
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 Vendor shall include this clause in any subcontract entered into for the exclusive purpose of performing this contract.

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

H. DEVIATIONS FROM THE INVITATION TO BID

The requirements contained in the solicitation (Sections II through 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 Vendor 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, 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.

I. SUBMISSION OF PROPOSALS

*****ALL PROPOSALS MUST BE SUBMITTED IN A SEALED ENVELOPE OR CONTAINER!*****

Contractors should submit one proposal marked on the first page: "ORIGINAL". If multiple proposals are submitted, the State will retain one copy marked "ORIGINAL" and destroy the other copies. The Vendor is solely responsible for any variance between the copies submitted. Bid responses should include the completed Form A, "Vendor Bid Point of Contact". Proposals must reference the ITB number and be sent to the specified address. Please note that the address label should appear as specified in Section I B. on the face of each container or vendor's proposal response packet. If a recipient phone number is required for delivery purposes, 402-471-6500 should be used. The ITB number should be included in all correspondence. The State will not furnish packaging and sealing materials. It is the vendor's responsibility to ensure the ITB is received in a sealed envelope or container and submitted by the date and time indicated in the Schedule of Events. Sealed proposals must be received in the State Purchasing Bureau by the date and time of the proposal opening per the Schedule of Events. No late proposals will be accepted.

The Invitation to Bid form must be manually signed in an indelible manner and returned by the proposal opening date and time along with the vendor's Invitation to Bid along with any other requirements as stated in the Invitation to Bid document in order for the vendor's Invitation to Bid response to be evaluated.

It is the responsibility of the vendor to check the website for all information relevant to this Invitation to Bid 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 ITB instructions, responsiveness to requirements, completeness, and clarity of content. If the vendor'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 Invitation to Bid, the vendor guarantees compliance with the provisions stated in this ITB.

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

J. BID 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.

K. FAILURE TO COMPLY WITH INVITATION TO BID

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 Vendor'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; or,
7. Suspension of the Vendor 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.

L. SUBMISSION OF BIDS

The State is accepting only electronically submitted responses for this ITB.

It is the Bidders responsibility to ensure the bid is submitted and received by the date and time indicated in the Schedule of Events. All electronic bids must be received by the State Purchasing Bureau by the date and time of the bid opening per the Schedule of Events. **No late bids will be accepted.**

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

The Invitation to Bid form must be manually signed in an indelible manner or by DocuSign and returned by the bid opening date and time along with the bidder's Invitation to Bid and any other requirements as stated in the Invitation to Bid document in order for the bidder's Invitation to Bid response to be evaluated.

It is the responsibility of the bidder to check the website for all information relevant to this Invitation to Bid 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 ITB instructions, responsiveness to requirements, completeness, and clarity of content. If the bidder's bid is presented in such a fashion that makes evaluation difficult or overly time consuming the State reserves the right to reject the bid as non-responsive.

By signing the Invitation to Bid, the Bidder guarantees compliance with the provisions stated in this ITB.

BIDDERS SUBMITTING ELECTRONIC RESPONSES:

1. Bidders submitting electronically can upload the response via ShareFile here:

<https://nebraska.sharefile.com/r-r31814ea11b904c89ba8e1f6472960860>

ShareFile works with Firefox, Internet Explorer and Chrome. It does not work with Microsoft Edge. The ITB, Cost Sheet (if applicable), and Proprietary Information (if applicable) Should be uploaded as separate and distinct files. If multiple bids are submitted, the State Will retain only the most recently submitted response.

2. ELECTRONIC BID FILE NAMES

The Bidder Should clearly identify the uploaded ITB bid files. To assist in identification please use following naming convention:

- a. ITB 6568 OF ABC Company
- b. If multiple files are submitted for one ITB bid, add number of files to file names: ITB 6568 OF ABC Company File 1 of 2.
- c. If multiple ITB bids are submitted for the same ITB, add the bid number to the file names: ITB 6568 OF ABC Company Proposal 1 File 1 of 2.

The Invitation to Bid form must be manually signed in an indelible manner or by DocuSign and returned by the bid Opening Date and Time along with the Bidder's Invitation to Bid and any other requirements as stated in the Invitation to Bid document in order for the Bidder's Invitation to Bid response to be evaluated.

It is the responsibility of the Bidder to check the website often for all information relevant to this ITB to include Addenda and/or Amendments issued prior to the Opening Date and Time. The website address is: <https://das.nebraska.gov/materiel/bidopps.html>

Emphasis Should be concentrated on conformance to the ITB. Bids Should be clear and complete. If the bid is not presented clearly or is difficult to discern, in the sole opinion of the State, the State reserves the right to reject the bid.

By signing the Invitation to Bid, the Contractor guarantees compliance with the provisions stated in this ITB.

M. BID CORRECTIONS

A vendor may correct a mistake in a proposal prior to the time of opening by giving written notice to the State of intent to withdraw the proposal for modification or to withdraw the proposal completely. 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. Late proposals will be returned unopened, if requested by the Vendor and at Vendor's expense. The State is not responsible for proposals that are late or lost regardless of cause or fault.

O. BID OPENING

Anyone may attend the opening. It is considered a public opening. The Buyer will read the names of the respondents. Depending upon the complexity of the proposal for goods, the buyer may read the proposals aloud or allow proposals be available for viewing by the public during the proposal opening. Once the proposal opening has concluded, the proposals will not be available for viewing until the Intent to Award has been posted. An initial proposal tabulation will be posted to the website as soon as feasible. Information identified as proprietary by the submitting vendor, in accordance with the solicitation and state statute, will not be posted. If the state determines submitted information should not be withheld, in accordance with the [Public Records Act](#), or if ordered to release any withheld information, said information may then be released. The submitting vendor will be notified of the release and it shall be the obligation of the submitting vendor to take further action, if it believes the information should not be released.

P. INVITATION TO BID/BID 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 Commodity ITB form signed using an indelible method (electronic signatures are acceptable);
2. Clarity and responsiveness of the proposal;
3. Completed Sections II through VI;
4. Completed ITB Form or State's Cost Sheet.

Q. EVALUATION OF PROPOSALS

All proposals that are responsive to the solicitation will be evaluated based on the following:

1. Cost Bid

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 vendor, 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 vendor, 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 ITB cover page under "Vendor must complete the following" requesting priority/preference to be considered in the award of this contract, the following will need to be submitted by the vendor within ten (10) business days of request:

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 vendor from consideration of the preference.

R. BEST AND FINAL OFFER

If best and final offers (BAFO) are requested by the State and submitted by the vendor, they will be evaluated (using the stated BAFO criteria) and ranked by the Evaluation Committee. The State reserves the right to conduct more than one BAFO. The award will then be granted to the lowest responsible vendor. However, a vendor should provide its best offer in its original proposal. Contractors should not expect that the State will request a BAFO.

S. 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 vendor grants to the State the right to contact or arrange a visit in person with any or all of the vendor'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.

T. 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 vendor proposals that are not material, do not compromise the solicitation process or a vendor's proposal, and do not improve a vendor'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 State of Nebraska may consider, but is not limited to considering, one or more of the following award criteria:

1. Price;
2. Location;
3. Quality;
4. Delivery time;
5. Vendor qualifications and capabilities;
6. State contract management requirements and/or costs; and,

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 vendor within ten (10) business days after the intent to award decision is posted to the Internet. Grievance and protest procedure are available on the Internet at:

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

U. SPECIFICATIONS

Any manufacturer's names, trade names, brand names, information and/or catalog numbers listed in a specification are for reference and not intended to limit competition, but will be used as the standard by which equivalent material offered will be judged. The Materiel Administrator will be the sole judge of equivalency. The Vendor may offer any brands which meets or exceeds the specification. When a specific product is required, the solicitation will so state. Any item proposal is to be the latest current model under standard production at the time of order. No used or refurbished equipment will be accepted, unless otherwise stated.

V. SAMPLES

When requested, samples should be furnished at the Vendor's expense prior to the opening of the proposal, unless another time is specified. Each sample should be labeled clearly, and identify the Vendor's name, the ITB number, item number, and the brand and model number, if applicable. Samples submitted must be the commodities or equipment which would be delivered if awarded the proposal. The State reserves the right to request samples even though this may not have been set forth in the solicitation. Samples may be destroyed in testing. If a sample is not destroyed in testing and a Vendor wishes to have the sample returned, it will be returned at the Vendor's expense upon request. The sample will not be returned until thirty (30) calendar days after any proposal protest or, the execution of a contract. The Vendor shall have ten (10) calendar days to arrange for the return of the sample to the Vendor following any of the above dates. If no request from the Vendor is received within the above dates, the State reserves the right to use, donate, or surplus the samples in accordance with the State's policies.

W. ALTERNATE/EQUIVALENT PROPOSALS

Vendor 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. Vendor 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 Vendor shall be held liable therefore.

X. 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 Vendor declines to accept award on individual items; a "lump sum" proposal is one in which the Vendor 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.

Y. EMAIL SUBMISSIONS

SPB will not accept proposals by email, electronic, voice, or telephone proposals **except** for one-time purchases under \$50,000.00.

Z. BID TABULATIONS

Bid tabulations are available on the website at: <https://das.nebraska.gov/materiel/bidopps.html>

AA. 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.

BB. 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 Section II through VI as part of their proposal. Vendor is expected to read the Terms and Conditions and must initial either accept, reject, or reject and provide alternative language for each clause. The Vendor should also provide an explanation of why the Vendor rejected the clause or rejected the clause and provided alternate language using "Track Changes". Upon request an electronic copy of the proposal with "Track Changes" must be submitted in an editable Word format. By signing the solicitation, Vendor 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 Vendor fail to agree on the final Terms and Conditions, the State reserves the right to reject the proposal. The State is soliciting proposals in response to the solicitation. The State reserves the right to reject proposals that attempt to substitute the Vendor's commercial contracts and/or documents for this solicitation.

The Vendor should submit with their proposal any license, user agreement, service level agreement, or similar documents that the Vendor wants incorporated in the Contract. Upon notice of Intent to Award, the Vendor must submit a copy of these documents in an editable Word format. The State will not consider incorporation of any document not submitted with the Vendor's proposal. 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 addendums have been negotiated and agreed to, the addendums shall be interpreted as follows:

1. If only one (1) Party's document has a particular clause then that clause shall control;
2. If both Party's documents have a similar clause, but the clauses do not conflict, the clauses shall be read together;
3. If both Party's documents 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:
PW			

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

1. Invitation to Bid and Addenda;
2. Amendments to the solicitation;
3. Questions and Answers;
4. Vendor's proposal response;
5. The executed Contract and any Addenda, if applicable, and properly submitted documents; and,
6. Amendments 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 Vendor's submitted Bid.

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.

B. NOTIFICATION

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

Vendor 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, 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. NOTICE (POC)

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 Vendor 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 contract 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. AMENDMENT

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

F. CHANGE ORDERS OR SUBSTITUTIONS

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

The State and the Vendor, 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 Vendor may not claim forfeiture of the contract by reasons of such changes.

The Vendor 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 Vendor 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 Vendor's proposal, were foreseeable, or result from difficulties with or failure of the Vendor's proposal or performance.

No change shall be implemented by the Vendor 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.

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

G. VENDOR PERFORMANCE REPORT(S)

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

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.

H. NOTICE OF POTENTIAL VENDOR BREACH

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

If Vendor breaches the contract or anticipates breaching the contract, the Vendor 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.

I. BREACH

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

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 breach by the Vendor, 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 vendor. The State may recover from the Vendor 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 Vendor's breach. OR In case of default of the Vendor, the State may contract the service from other sources and hold the Vendor responsible for any excess cost occasioned thereby.

The State's failure to make payment shall not be a breach, and the Vendor shall retain all available statutory remedies. (See Indemnity - Self-Insurance and Payment)

J. NON-WAIVER OF BREACH

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

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.

K. SEVERABILITY

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

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.

L. INDEMNIFICATION

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
		PW	Please see exception listed below.

1. GENERAL

The Vendor 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 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 Vendor, its employees, Subcontractors, consultants, representatives, and agents, resulting from this contract, except to the extent such Vendor liability is attenuated by any action of the State which directly and proximately contributed to the claims.

In no event will WW&L's maximum liability hereunder exceed the amount actually paid to WW&L under this contract.

2. SELF-INSURANCE (Statutory)

The State 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 contract, Vendor may file a claim with the Office of Risk Management pursuant to Neb. Rev. Stat. §§ 81-8,829 through 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 contract to the extent provided by law.

M. ATTORNEY'S FEES

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

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.

N. ASSIGNMENT, SALE, OR MERGER

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

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

The Vendor retains the right to enter into a sale, merger, acquisition, internal reorganization, or similar transaction involving Vendor's business. Vendor 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 Vendor 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.

O. CONTRACTING WITH OTHER POLITICAL SUB-DIVISIONS OF THE STATE OR ANOTHER STATE

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

The Vendor 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.

The Vendor 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.

P. FORCE MAJEURE

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

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 man-made 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.

Q. CONFIDENTIALITY

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

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.

R. EARLY TERMINATION

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

The contract may be terminated as follows:

1. The State and the Vendor, by mutual written agreement, may terminate the contract at any time.
2. The State, at its sole discretion, may terminate the contract for any reason upon thirty (30) calendar day's written notice to the Vendor. Such termination shall not relieve the Vendor of warranty or other service obligations incurred under the terms of the contract. In the event of termination, the Vendor 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. Vendor 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 Vendor or of any substantial part of the Vendor'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 Vendor, its employees, officers, directors, or shareholders;
- e. an involuntary proceeding has been commenced by any party against the Vendor 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 Vendor has consented, either expressly or by operation of law, to the entry of an order for relief; or (iii) the Vendor has been decreed or adjudged a debtor;
- f. a voluntary petition has been filed by the Vendor under any of the chapters of Title 11 of the United States Code;
- g. Vendor intentionally discloses confidential information;
- h. Vendor has or announces it will discontinue support of the deliverable; and,
- i. In the event funding is no longer available.

S. CONTRACT CLOSEOUT

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

Upon termination of the contract for any reason the Vendor shall within thirty (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 Vendor is permitted to keep the information or data by contract or rule of law. Vendor 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 Vendor's routine back up procedures;
4. Cooperate with any successor contactor, person or entity in the assumption of any or all of the obligations of this contract;
5. Cooperate with any successor contactor, 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 Vendor to surrender intellectual property, real or person property, or information or data owned by the Vendor for which the State has no legal claim.

III. VENDOR DUTIES

A. INDEPENDENT VENDOR / OBLIGATIONS

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

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

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

The Vendor shall secure, at its own expense, all personnel required to perform the services under the contract. The personnel the Vendor 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 Vendor'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.

The Vendor warrants that all persons assigned to the project shall be employees of the Vendor, or a Subcontractor, and shall be fully qualified to perform the work required herein. Personnel employed by the Vendor or a subcontractor to fulfill the terms of the contract shall remain under the sole direction and control of the Vendor or the subcontractor respectively.

With respect to its employees, the Vendor 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 Vendor's employees, including all insurance required by state law;
3. Damages incurred by Vendor'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 Vendor'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 Vendor, its officers, agents, or subcontractors or subcontractor's employees).

If the Vendor intends to utilize any subcontractor, the Subcontractor's level of effort, tasks, and time allocation must be clearly defined in the Vendor's proposal. The Vendor 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 Vendor to reassign or remove from the project any Vendor or Subcontractor employee.

Vendor shall insure that the terms and conditions contained in any contract with a sub-vendor does not conflict with the terms and conditions of this contract.

The Vendor 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

The Vendor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of employees physically performing work within the State. 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 Vendor is an individual or sole proprietorship, the following applies:

1. The Vendor must complete the United States Citizenship Attestation Form, available on the DAS website at <http://das.nebraska.gov/materiel/purchasing.html>

The completed United States Attestation Form should be submitted with the solicitation response.

2. If the Vendor indicates on such attestation form that he or she is a qualified alien, the Vendor agrees to provide the U.S. Citizenship and Immigration Services documentation required to verify the Vendor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Vendor understands and agrees that lawful presence in the United States is required and the Vendor 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 Vendor 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, 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 through 48-1125). The Vendor guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The Vendor shall insert a similar provision in all Subcontracts for goods or 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:
PW			

Vendor may be required to work with or in close proximity to other contractors or individuals that may be working on the same or different projects. The Vendor 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 vendor or individual. Vendor is not required to compromise Vendor'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 vendor, 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, once accepted by the State, shall remain fixed for the first 180 days of the contract. Increases shall not be cumulative and will only apply to that period of the contract. The request for a price increase must be submitted in writing to the State Purchasing Bureau a minimum of thirty (30) 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. 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.

H. PERMITS, REGULATIONS, LAWS

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

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 Vendor shall obtain and pay for all royalties, licenses, and permits, and approvals necessary for the performance of the contract. The Vendor must guarantee that it has the full legal right to the materials, supplies, equipment, software, and other items used to execute this contract.

I. NOTICE OF POTENTIAL VENDOR BREACH

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

If Vendor breaches the contract or anticipates breaching the contract the Vendor shall immediately give written notice to the State. The notice shall explain the breach or potential breach, and may include a request for a waiver of the breach if so desired. The State may, at its discretion, temporarily or permanently waive the breach. By granting a temporary 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. ANTITRUST

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

The Vendor 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:
PW			

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 Bid 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. ADVERTISING

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

The Vendor 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 and 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.

M. DISASTER RECOVERY/BACK UP PLAN

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

The Vendor 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.

N. DRUG POLICY

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

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

O. WARRANTY

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

Despite any clause to the contrary, the Vendor 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 Contract. For any breach of this warranty, the Vendor shall, for a period of ninety (90) days from performance of the service, perform the services again, at no cost to Customer, or if Vendor is unable to perform the services as warranted, Vendor shall reimburse Customer the fees paid to Vendor 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 Vendor 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 Vendor's equipment which may be installed in a state-owned facility is the responsibility of the Vendor.

C. INVOICES

Invoices for payments must be submitted by the Vendor to the agency requesting the services with sufficient detail to support payment. An itemized invoice including the ordering agency name and individual, purchase order number, product description, unit cost, extension and total charges will be mailed to the bill to address on the purchase order. The terms and conditions included in the Vendor'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.

D. INSPECTION AND APPROVAL

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

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

The State and/or its authorized representatives shall have the right to enter any premises where the Vendor or Subcontractor duties under the contract are being performed, and to inspect, monitor or otherwise evaluate the work being performed. All inspections and evaluations shall be at reasonable times and in a manner that will not unreasonably delay work.

E. PAYMENT (Statutory)

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 Vendor 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 Vendor prior to the Effective Date of the contract, and the Vendor hereby waives any claim or cause of action for any such services.

F. LATE PAYMENT (Statutory)

The Vendor 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 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 Vendor 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 Vendor 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 Vendor 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 Vendor's performance of this contract upon a thirty (30) day written notice. Vendor 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 Vendor 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 Vendor shall make the Information available to the State at Vendor's place of business or a location acceptable to both Parties during normal business hours. If this is not practical or the Vendor so elects, the Vendor 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. In no circumstances will vendor be required to create or maintain documents not kept in the ordinary course of vendor's business operations, nor will vendor be required to disclose any information, including but not limited to product cost data, which is confidential or proprietary to vendor.

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

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 three percent (3%) of the total contract billings, or if fraud, material misrepresentations, or non-performance is discovered on the part of the Vendor, the Vendor 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 Vendor agrees to correct any material weaknesses or condition found as a result of the audit.

V. SCOPE OF WORK

The Vendor must provide the following information in response to this solicitation.

A. SCOPE

It is the intent of this proposal invitation to establish a contract to supply IFTA Decals per the attached specifications from date of award for a period of one (1) year with the option to renew for an additional Four (4) one-year periods when mutually agreeable to the vendor and the State. The State reserves the right to extend the period of this contract beyond the end date when mutually agreeable to the vendor and the State.

Vendor

VI. TECHNICAL SPECIFICATIONS

A. VENDOR INSTRUCTIONS

Vendor must respond to each of the following statements. Specifications listed are minimum conditions that must be met in order for a Vendor to qualify for the award.

“YES” response means the Vendor guarantees they can meet this condition.

“NO” response means the Vendor cannot meet this condition and will not be considered.

“NO & PROVIDE ALTERNATIVE” responses should be used only with a narrative response in the NOTES/COMMENTS section explaining in detail any deviation from the Vendor’s ability to meet the condition, and an explanation of how this would be determined to be an acceptable alternative to meeting the condition. Alternatives must be detailed in such a way that allows such deviations to be fully evaluated. The State shall determine at its sole discretion whether or not the Vendor’s alternative is an acceptable alternative.

B. NON-COMPLIANCE STATEMENT

YES	NO	NO & PROVIDE ALTERNATIVE	
PW			1. Read these specifications carefully. Any and all exceptions to these specifications must be written on or attached to solicitation response. Any noncompliance may void your proposal. Non-compliance to any single specification can void your proposal.
PW			2. It is the responsibility of Contractors to obtain information and clarifications as provided below. The State is not responsible for any erroneous or incomplete understandings or wrongful interpretations of this solicitation by any Vendor.
PW			3. No interpretation related to the meaning of solicitation specifications or other pre-proposal documents will be made orally to any Vendor by the State. Any solicitation interpretation must be put in writing by the Vendor to: the State Purchasing Bureau, E-mail questions to SPB. as.materielpurchasing@nebraska.gov by the last day to submit written questions per the Schedule of Events. (Inquiries received after the last day to submit written questions may not be addressed).
NOTES/COMMENTS:			

C. TECHNICAL SPECIFICATIONS: TITLE/DESCRIPTION OF GOODS

YES	NO	NO & PROVIDE ALTERNATIVE	
PW			1. Material is to be designed for use as annual decals on a smooth surface. The sheetings are to be precoated with pressure sensitive adhesive protected by a removable paper liner which, if packaged as single decals, will be scalloped or straight scored slit to facilitate removal and protection of stock from breakage. If packaged as two (2) decals per liner, the required slit to facilitate removal and protection of stock from breakage may be between the two decals on the front of the liner.
PW			2. Decals will be approximately 3 inches x 3 inches (7.5 centimeters x 7.5 centimeters)

YES	NO	NO & PROVIDE ALTERNATIVE	
		PW	3. Construction of Decals, i.e. properly color printed, clear coated, and all transparent ink colors shall have a shelf life of at least 18 months after receipt of delivery. The Pressure Sensitive adhesive using finger pressure shall form a durable, vandal resistant bond to clean, dry, properly painted or metal surface areas of the truck cabs and shall have a useful life of one (1) year.
PW			4. Material shall be reflective and have a counterfeit-deterrent mark integral in the sheeting, making unauthorized reproduction extremely difficult.
PW			5. The marks should be visible during daylight but disappear by reflected light at night
PW			6. The day and night color of the sheeting shall be similar and they shall be highly reflective when viewed at wide entrance angles (the angle formed by a light beam striking a surface at some point and a line perpendicular to the surface at the same point).
PW			7. The sheetings may be press printed with transparent ink color to produce the IFTA color and design combinations.
PW			8. Protective liner attached to the adhesive shall be removable by peeling without soaking in water or other solvents and shall be easily removed after storage of four (4) hours at 150° F (66° C) under a weight of 2.5 lbs. per square inch (.017 KG/CM squared).
NOTES/COMMENTS:			

D. TECHNICAL SPECIFICATION: Effective Performance Life

YES	NO	NO & PROVIDE ALTERNATIVE	
		PW	1. Properly color printed and applied, the decals will perform well for an 18-month period. All transparent ink colors and printing shall be guaranteed for a period of 18 months.
NOTES/COMMENTS: Please see guarantee attached.			

E. TECHNICAL SPECIFICATION: Application

YES	NO	NO & PROVIDE ALTERNATIVE	
PW			1. Pressure sensitive adhesive that is convenient to install, vandal resistant, while using finger pressure to areas that are properly prepared, i.e., smooth, dry and clean surfaces. Selection and use are dependent on temperature conditions existing at the time of application.

F. TECHNICAL SPECIFICATION: Fabrication

YES	NO	NO & PROVIDE ALTERNATIVE	
PW			1. Color and Print Processing The background color fields and IFTA logo will be processed by Offset, screen-print, flexography, rotogravure, digital, or other similar method of printing. Additionally, it is required that the decals be numbered consecutively.
		PW	2. Clear Coating All Decals must be clear coated with a Coating Clear U10Vor R101 or equivalent, which will guarantee surface exposure to the elements for a period of 18 months. A minimum dry thickness of .0004 inches (Amil) should be obtained.
PW			3. Adhesive The adhesive shall not exude from edges of the sheeting when processed into finished decals so as to cause stacked pieces to stick together during shearing, cutting, printing, handling, or packaged in shipment and distribution.
PW			4. Appearance Decal sets shall be free from ragged edges, crack, and blisters. Decals shall be moisture resistant.
PW			5. Border Decals are to have a white border approximatley 1/8 inch thick.

G. TECHNICAL SPECIFICATION: Cleaning

YES	NO	NO & PROVIDE ALTERNATIVE	
PW			1. The surface shall be sufficiently solvent resistant to permit cleaning with solvents such as VM&P naphtha, mineral spirits, turpentine or other solvents commonly used on vehicle finishes. Rinsed and dried, the surface shall show no appreciable change following cleaning when compared to a new clean decal.

H. TECHNICAL SPECIFICATION: Color

YES	NO	NO & PROVIDE ALTERNATIVE																			
PW			<div>1. The color of the background will be as follows and specified to match Sunfast inks.</div> <table><tr><th>Year</th><th>Color</th><th>Pantone Number</th></tr><tr><td>2022</td><td>Blue</td><td>299C</td></tr><tr><td>2023</td><td>Green</td><td>354C</td></tr><tr><td>2024</td><td>Red</td><td>485C</td></tr><tr><td>2025</td><td>Blue</td><td>299C</td></tr><tr><td>2026</td><td>Green</td><td>354C</td></tr></table>	Year	Color	Pantone Number	2022	Blue	299C	2023	Green	354C	2024	Red	485C	2025	Blue	299C	2026	Green	354C
Year	Color	Pantone Number																			
2022	Blue	299C																			
2023	Green	354C																			
2024	Red	485C																			
2025	Blue	299C																			
2026	Green	354C																			
PW			<div>2. The color of the border will be white.</div>																		
		PW	<div>3. Over lamination is not acceptable. All inks used must have a minimum life of 18 months without fading, peeling, or cracking.</div>																		

I. TECHNICAL SPECIFICATION: Copy

YES	NO	NO & PROVIDE ALTERNATIVE	
PW			1. The letters I F T A are to be printed in a minimum height of ¾" (1.88 centimeters) with the letter I located in the upper left hand corner, the letter A to be located in the lower right corner, with the letters F, T evenly spaced between to form a diagonal design from the upper left to lower right corner. The letters I F T A are to be printed in Arial Black 72 font in the color white.
PW			2. The two-letter jurisdiction (NE) shall be displayed in the lower left-hand corner and is to be printed in Arial Black 36 font in the color white.,
PW			3. The last two numbers of the appropriate year (22), (23), (24), (25), (26) are to be displayed in the upper right-hand corner and are to be printed in Arial Black 36 font in the color white.
PW			4. The geographical outline of Nebraska shall be centered behind the letters I F T A and the outline shall be white.
PW			5. The consecutive number shall be located on the bottom of the decal between the two-letter jurisdiction designation (NE) and the letter A .
PW			6. Decals shall be serialized using consecutive numbering machines. The serialized number of each decal shall be no less than 3/16" high (0.47625 centimeters) and shall be consecutively numbered using six (6) digits, beginning with 000001 through 062000 inclusive on the face of the decal and shall be located on the bottom between the two letter jurisdiction designation (NE) and the letter A of IFTA . There will be two decals in a set with identical numbers. There are to be no skips or duplication of numbers. Erasures, strikeouts and misprints are not acceptable.

J. TECHNICAL SPECIFICATION: Composition

YES	NO	NO & PROVIDE ALTERNATIVE	
PW			1. Successful bidder must use camera-ready copy provided by the Nebraska Department of Motor Vehicles. Sample decal provided is for reference only. Actual color and design for each year (2022, 2023, 2024, 2025 and 2026) will vary and will be provided to the successful vendor by the Nebraska Department of Motor Vehicles.

I. ANNUAL USAGE, ESTIMATED

YES	NO	NO & PROVIDE ALTERNATIVE	
PW			1. Annual usage figures provided are estimates and are not to be construed as either a minimum or maximum purchase quantity. The orders shall be for the actual quantities of each item ordered by or for any agency during the life of the contract. Vendor shall not impose minimum order requirements.
PW			2. IFTA Decals: 62,000 sets of two identical decals, yielding a total of 124,000 decals each year. The State of Nebraska reserves the right to increase the number of decals on or before August 1st of each year.
			3. Insert each Estimated Annual Usage component here

YES	NO	NO & PROVIDE ALTERNATIVE	
			4. Insert each Estimated Annual Usage component here
			5. Insert each Estimated Annual Usage component here
NOTES/COMMENTS:			

J. DELIVERY ARO

YES	NO	NO & PROVIDE ALTERNATIVE	
		PW	<p>1. Delivery desired within ten (10) calendar days after receipt of order(s).</p> <p>At the time of delivery, a designated State employee will sign the "invoice/packing slip." This signature will only indicate that the order has been received and that the items actually delivered agree with the delivery invoice. This signature does not indicate all items were received in good condition and/or that there is not possible hidden damage.</p>
NOTES/COMMENTS: WW&L can make shipment 25 working days after final proof approval.			

K. DELIVERY LOCATIONS / INSTRUCTIONS (VENDOR AGREES THAT THEY CAN MEET THE DELIVERY LOCATIONS/INSTRUCTIONS)

YES	NO	NO & PROVIDE ALTERNATIVE	
PW			<p>1. All decals are to be delivered and received FOB Destination, Inside and In Place, to the Nebraska Department of Motor Vehicles, Motor Carrier Services Division, Nebraska State Office Building Dock, 301 Centennial Mall South, Lincoln, Nebraska 68508. No later than the date specified on each Purchase Order (delivery is usually a date on or around the last week of September). The specific date for delivery will be referenced on each Purchase Order. The dock hours are Monday through Friday 8:00 a.m. – 5:00 p.m. (excluding State holidays and / or as otherwise directed).</p>
PW			<p>2. Delivery personnel will be required to deliver and off load all products to a specified area on the inside of the designated facility or dock. It will be the Vendor's responsibility to provide any equipment needed to complete the delivery process. Vendor's delivery personnel must wait for the order to be received, invoice(s)/packing slip(s) verified and signed with discrepancies (shortages, longs, etc.) documented on the delivery invoice. Deliveries must be clearly marked with the purchase order number</p>
NOTES/COMMENTS:			

L. PACKAGING & LABELING

YES	NO	NO & PROVIDE ALTERNATIVE	
PW			1. Cartons are to be clearly marked with size, weight, color, quantity, and the purchase order number. Cartons must be of suitable size and of sufficient strength to protect the contents during shipping, handling and storage.
PW			2. Each set of decals must consist of two identically serial numbered decals. They must be packaged together and in consecutive sets to allow for easy and accurate distribution.
PW			3. Decals shall be packaged in correct numerical sequence. The decals shall be packaged 500 to a box. Each box shall be sealed with security tape imprinted with the name of the manufacturer.
PW			4. Decals shall be shipped in containers of the same size and of sufficient strength to assure safe transportation by common carrier to the destination. All cartons must have sufficient protective covering to protect cartons from inclement weather conditions.
PW			5. The side of each carton shall be labeled with the quantity of the decal, decal name, and the beginning and ending serial numbers contained therein.
PW			6. Each carton must be marked for the Nebraska Department of Motor Vehicles, Motor Carrier Services Division, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, NE 68508.
NOTES/COMMENTS:			

M. ORDERS

YES	NO	NO & PROVIDE ALTERNATIVE	
PW			1. Orders will be placed either by, phone, e-mail or Internet (if available and not to the exclusion of the other methods).
PW			2. All orders must reference a purchase order number and the purchase order number must be referenced on the packing slip, and invoice. Invoices are to be sent to the "Invoice to" address on the purchase order.
NOTES/COMMENTS:			

N. QUALITY

YES	NO	NO & PROVIDE ALTERNATIVE	
PW			1. Product quality must meet specifications and be consistent for the term of the contract. A guarantee of satisfactory performance by the supplier and meeting delivery dates are considered to be an integral part of the purchase contract resulting from this bid invitation. All materials must be of first quality, under standard production by the manufacturer and be of standard design, complete as regularly advertised and marketed and be of proven performance. Products are to be fully guaranteed and may be returned for full credit or replacement (at the State's option) for any reason during the initial warranty period with no additional charges for shipping or restocking.
PW			2. Printing and construction of decals, should include but is not limited to: spot-on registration, properly color printed and clear coated. vendor
		PW	3. All transparent ink colors shall have a shelf life of at least 18 months after receipt of delivery.
		PW	4. The Pressure Sensitive adhesive using finger pressure shall form a durable, vandal resistant bond to clean, dry, properly painted or metal surface areas of truck cabs and shall have a useful life of 18 months. Decals are to be fully guaranteed and may be returned for full credit or replaced (at the State's option) for any reason with no additional charges for shipping or restocking. The State of Nebraska reserves the right to accept the Decals in deems to meet the specifications and approved proof. The vendor will not be compensated for rejected Decals Rejected Decals will not count toward the required quantity
NOTES/COMMENTS: Please see guarantee attached			

O. AUTHORIZED DEALER & WARRANTY

YES	NO	NO & PROVIDE ALTERNATIVE	
PW			1. To the extent required by the manufacturer, the Vendor shall be an authorized dealer. Vendor may be required to substantiate that he/she is an authorized dealer. Proof, if required, must be submitted to SPB within three (3) business days of the request and prior to the award of any contract.
PW			2. The terms of the original manufacturer's standard warranty shall apply to all equipment acquired from this solicitation for the entire warranty period.
NOTES/COMMENTS:			

P. WARRANTY

YES	NO	NO & PROVIDE ALTERNATIVE	
		PW	<p>1. The Vendor warrants for a period of one (18) months from the date of Acceptance that: (a) the Products perform according to all specific claims that the Vendor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the State has relied on the Vendor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects. Upon breach of the warranty, the Vendor will repair or replace (at no charge to the State) the Product whose nonconformance is discovered and made known to the Vendor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Vendor will refund the full amount of any payments that have been made. 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.</p>
NOTES/COMMENTS: Please see guarantee attached			

Q. SAMPLES

YES	NO	NO & PROVIDE ALTERNATIVE	
PW			<p>1. Samples of materials proposed may be required prior to an award, or at any time during the term of the contract.</p>
PW			<p>2. Samples are to be provided within five (5) business days of a written request.</p>
PW			<p>3. Failure to provide samples or samples not meeting the specifications may void the proposal or constitute a breach of the contract resulting from this proposal invitation.</p>
PW			<p>4. Samples of materials proposal may be required prior to an award. Samples may be included with the proposal. If samples are not included with proposal, Vendor will have five (5) business days to provide the samples upon the State's request. Failure to supply samples, and or samples that do not meet specification may be grounds to reject the proposal.</p>
NOTES/COMMENTS:			

R. PROOFS

YES	NO	NO & PROVIDE ALTERNATIVE	
PW			<p>1. A proof must be provided and approved by the Nebraska Department of Motor Vehicles prior to construction/printing of the forms.</p>

Form A
Vendor Contact Sheet
Invitation To Bid Number (6568) OF

Form A should be completed and submitted with each response to this solicitation. This is intended to provide the State with information on the Vendor's name and address, and the specific person(s) who are responsible for preparation of the Vendor's response.

Preparation of Solicitation Contact Information	
Vendor Name:	Weldon, Williams & Lick, Inc.
Vendor Address:	711 North A Street Fort Smith, AR 72901
Contact Person & Title:	Philip Warren, BDM
E-mail Address:	pwarren@wwlinc.com
Telephone Number (Office):	479-783-4113 Ext. 405
Telephone Number (Cellular):	479-652-5649
Fax Number:	479-783-7050

Each Vendor shall also designate a specific contact person who will be responsible for responding to the State if any clarifications of the Vendor's response should become necessary.

Communication with the State Contact Information	
Vendor Name:	Weldon, Williams & Lick, Inc.
Vendor Address:	711 North A Street Fort Smith, AR 72901
Contact Person & Title:	Philip Warren, BDM
E-mail Address:	pwarren@wwlinc.com
Telephone Number (Office):	479-783-4113 Ext. 405
Telephone Number (Cellular):	N/A
Fax Number:	479-783-7050



WW&L GUARANTEE

Weldon, Williams & Lick, Inc. prides itself on meticulous attention to quality, accuracy, and accountability. We guarantee:

There will be no missing or duplicate numbers.

Packaging will be in correct numerical sequence according to your specifications.

Stickers will adhere for a minimum of one year when properly applied.

Products will remain legible for a minimum of one year when printed with our fade-resistant inks.

Hangtags will maintain shape, with minimal curl, for a minimum of one year when hung from a rearview mirror.

WW&L has a department specifically for verifying the accuracy of your products.

Any breaks in continuous feed stock are noted on the boxes and a marker is placed inside the box at the position of the break. We have on-site department supervisors and plant managers to oversee every aspect of production and distribution.

All inside cartons are labeled with the quantity enclosed, the beginning and ending numbers, the name of the product, and other identifying data, such as month of permit or date of an event.

We ship your products in double-walled corrugated boxes securely sealed with security tape. This tape shows immediate evidence of tampering by means of a permanent adhesive and an identifiable printed mark on the tape, that would show evidence if taped over.

We ship using traceable means so that shipments can be tracked immediately.



ADDITIONAL WW&L PRICING INFORMATION

- Quoted prices include shipping charges.
- Pricing is based on the specifications as outlined in this quote. Changes in specifications will be documented in the change order process and may result in adjustments to quoted prices based on the new specification. Materials are allocated based on the quantity of each item in your price agreement. Prices will be adjusted for additional quantities. Pricing for lower quantities will be adjusted based on the quantity of items printed at the end of a project, plus any unused material cost allocated to your project, along with any completed processes.
- Artwork is required in an acceptable format: Adobe InDesign is the preferred software for design layout. WW&L recommends that Illustrator and Photoshop be used for support elements only and that these elements are placed into InDesign to build the production artwork.
- Price includes an initial proof and one proof revision. Additional proofs or art rework will incur alteration charges (currently \$175 per hour) and may also require adjustments in the comprehensive schedule.
- Quoted prices do not include any applicable taxes.
- Proofs will be provided in 7 to 10 working days after receipt of your complete order and artwork in acceptable format.
- Standard production time is 25 to 30 working days after final proof approval.
- NOTE: If a specific delivery date is required a detailed production schedule will be provided.
- If data is included in your specifications, prices include up to three transmissions. Additional data transmission will incur further charges.
- Delayed artwork, multiple proof revisions and delays in the approval process will require adjustments to production schedules.
- Cartons and Packages with lightweight contents are subject to dimensional weight adjustments by the carrier.
- Please note our attached Terms and Conditions; these will become effective upon our receipt of your orders, unless otherwise agreed upon.



WELDON, WILLIAMS & LICK, INC. STANDARD TERMS AND CONDITIONS

ACCEPTANCE OF YOUR ORDER IS CONDITIONED UPON THE FOLLOWING:

PURCHASE ORDERS: A purchase order is any communication from the Customer to WW&L requesting that WW&L manufacture or sell to the Customer products described therein or in a separate communication and a purchase order shall be effective upon acceptance by WW&L. Acceptance by WW&L may be either by notification to Customer or by commencing work on the goods or services ordered.

Acceptance of a purchase order is subject to credit approval. The work is to be performed according to the specifications expressly set forth in the agreement and in any of WW&L's specifications relating to portions of the work, as provided to the Customer. If for any reason, other than solely WW&L's error, all or any part of the work must be redone, an additional charge will be made at current rates. An additional charge at current rates may also be made for work requested by the Customer that is different from or in addition to the work, as specified in the estimate.

ESTIMATES: An estimate not accepted in writing within thirty (30) days may be changed. No discount will be allowed unless specifically set forth in the estimate itself. Estimates are based on WW&L's written understanding of the Customer's specifications and the accuracy of the specifications provided to WW&L by the Customer. WW&L has the option to re-estimate a project at the time of submission by Customer if the project does not conform to the information on which the original estimate was based.

Estimates are based on the cost of services, labor and materials on the date of the estimate. If changes occur in cost of materials, labor, or other costs prior to acceptance, or if the Customer requires changes in specification, quantities, designs, or the production schedule subsequent to acceptance, or in the event of foreign or domestic legislation enacted by any level of government, including tax legislation, which increases the cost of producing, warehousing, or selling the goods or services purchased hereunder, WW&L reserves the right to change the price estimated. Subsequent orders will be subject to price revision if required. Estimates do not include applicable taxes, shipping costs or deliveries unless specifically stated in the estimate.

If there is a change in specifications or instructions to the original estimate and these changes result in additional costs, WW&L will inform the Customer, in writing, what these additional costs will be. The work performed will be billed at the current rates as agreed, and the completion date may be delayed.

EXPERIMENTAL WORK: WW&L will charge a reasonable price for experimental or preliminary work performed at Customer's request. This work cannot be used without WW&L's written consent.

CREATIVE WORK: WW&L may provide examples of creative work in the form of creative briefs, ideas, concepts, demos, sketches, dummies, storyboards, comprehensive layouts, prototypes or by other means. Creative work may be communicated verbally, visually and/or electronically. This creative work is the sole property of WW&L and may not be used by the Customer in any form or derivation without WW&L's express written permission or without Customer's payment of compensation as determined by WW&L.

PREPRESS PROOFS: When requested by Customer, WW&L will submit prepress proofs for the Customer's review and approval. Corrections or revisions will be made by the Customer on the "master set" of prepress proofs and shall be returned to WW&L, marked "OK" or "OK with corrections" or "Revised Proof Required" and signed by the Customer. Until the master set is received, no additional work will be performed. WW&L will not be responsible for undetected production errors if: (1) proofs are not required by the Customer, (2) the work is printed per the Customer's OK of the signed master set, or (3) requests for changes are communicated orally and not verified as defined herein, by Customer on a "master set."



PRESS PROOFS: Press proofs will not be furnished unless they have been required in writing in WW&L's quotation. A press sheet can be submitted for the Customer's approval as long as the Customer is present at the press during make ready. WW&L may assess reasonable charges for any press time lost or alterations or corrections made because of the Customer's delay or change of mind.

COLOR PROOFING: A color proof is used to simulate how the printed piece will look. Due to differences in equipment, paper, inks, and other conditions between color proofing and production pressroom operations, a reasonable variation in color between color proofs and the completed job is to be expected. When a variation of this kind occurs, it will be considered acceptable performance by WW&L.

ELECTRONIC MANUSCRIPT OR IMAGE: It is the Customer's responsibility to maintain a copy of the original file. WW&L is not responsible for accidental damage to media supplied by the Customer or for the accuracy of furnished input or final output. Until digital input can be evaluated by WW&L, no claims or promises are made regarding WW&L's ability to work with jobs submitted in digital format, and no liability is assumed for problems that may arise. Any additional translating, editing, or programming needed to utilize Customer-supplied files will be charged at prevailing rates.

PREPARATORY MATERIALS: Artwork, type, plates, negatives, positives, tapes, disks, and all other items supplied by WW&L remain WW&L's exclusive property.

ALTERATIONS/CORRECTIONS: Prices estimated herein are based upon WW&L's written understanding of the Customer specifications. No handwritten alterations to the printed portions of this agreement are valid unless initialed by WW&L and the Customer. Changes to original specifications of this agreement after acceptance by WW&L will be billed as extra charges at WW&L's usual rates. Notwithstanding the foregoing and recognizing both the frequency of change orders and press deadlines, WW&L's written change order sent to Customer by email, postal mail or facsimile shall amend the terms of the specific job it is pertinent to without the countersignature of Customer, if Customer does not controvert the change order within 24 hours of receipt thereof.

CANCELLATION OR DEVIATION: Customer shall be liable for all costs incurred by WW&L resulting from cancellation or deviation that are not otherwise avoidable by WW&L through reasonable commercial efforts, including, without limitation, down press and bindery time, materials ordered or inventoried on Customer's behalf and not otherwise usable by WW&L in the ordinary course of its business within a reasonable period of time and related obligations.

TELECOMMUNICATIONS: Unless otherwise agreed, the Customer will pay for all telecommunication transmission charges. WW&L is not responsible for any errors, omissions, or extra costs resulting from faults in the transmission.

INSURANCE AND RISK OF LOSS: All stock and materials belonging to a Customer will be held and stored only at the Customer's risk, and the Customer shall be responsible for insurance on their material. Customer retains title to and the insurable interest in its materials. Because of this, WW&L is held harmless for acts not of its doing that create losses. All files, software, programs, paper, film, plates, or other materials not supplied by Customer but used to perform the services hereunder shall remain the exclusive property of WW&L unless otherwise agreed in writing. WW&L shall carry insurance to protect against acts or negligence on the part of its employees in the normal course of business. If specific additional insurance coverage is desired, such coverage must be specified by agreement or by separate insurance rider and premium. In such instances, the liability for losses will be limited to the agreed upon insurance amount. Moreover, WW&L will only maintain fire and extended coverage on property belonging to the Customer while the property is in WW&L's possession. WW&L's liability for this property will not exceed the amount recoverable from the insurance. Additional insurance coverage may be obtained if it is requested in writing, and if the premium is paid to WW&L.

Customer shall bear all risk of loss to finished work upon delivery of the work by WW&L or its subcontractor, as applicable, to a common or contract carrier or to the U.S. Postal Service mail unit, F.O.B. WW&L's plant or its subcontractor's shipping dock. The risk of loss for property furnished and/or owned by Customer and for partially-finished work before or after the manufacturing process and while in transit to or from WW&L's premises shall be borne by Customer. Title to finished and partially-finished work shall pass at the same time the risk of loss for such work passes to Customer.



SHIPPING AND DELIVERY: Unless otherwise specified, the price quoted is for a single shipment, without storage, F.O.B. WW&L's plant. Proposals are based on continuous and uninterrupted delivery of the complete order. If the specifications state otherwise, WW&L will charge accordingly at current rates. Charges for delivery of materials and supplies from the Customer to WW&L, or from the Customer's representative to WW&L are not included in quotations unless specified. Title for finished work passes to the Customer upon delivery to the carrier at shipping point, or upon mailing of invoices for the finished work or its segments, whichever occurs first.

DELIVERY CHARGES FOR DISTRIBUTION SERVICES: Estimates do not include delivery charges. WW&L will notify the Customer in writing including by facsimile or by delivery-confirmed e-mail of the required charges as soon as this amount is known and will notify the Customer of the date when these charges are needed in order to complete the fulfillment prior to the agreed upon fulfillment date. While WW&L will make every effort to provide the Customer with an accurate estimate of required delivery charges, WW&L is not responsible for reasons beyond WW&L's control. Payment of delivery charges in advance is required on all orders and is the responsibility of the Customer. WW&L reserves the right to hold product for which sufficient delivery charges have not been paid or until payment has been verified. The Customer will provide the payment in adequate time for WW&L to complete the fulfillment prior to the previously agreed upon fulfillment date.

PRODUCTION SCHEDULES & FORCE MAJEURE: Production schedules will be established and followed by both the Customer and WW&L. There will be no liability or penalty assessed against WW&L for delays due to Customer delays, state of war, riot, civil disorder, flood, fire, strikes, accidents, action of government or Page 3 of 4 Standard Terms and Conditions 01/14 civil authority, acts of God, terrorism, unavailability or shortages of materials, equipment failures, acts or defaults of the work of a subcontractor, delays in transportation or other causes beyond the control of WW&L. In such cases, schedules will be extended by an amount of time equal to delay incurred. The prices in this agreement are based upon full compliance with said schedule and any deviation from the agreed upon schedule on the part of the Customer may result in a revised delivery date or additional charges for downtime or overtime incurred by WW&L due to said deviation from the schedule. In any case, no additional work will be performed by WW&L until such revised schedule and/or pricing is approved by the Customer.

CUSTOMER FURNISHED MATERIALS: Materials furnished by Customers or their representatives are verified by delivery tickets. WW&L bears no responsibility for discrepancies between delivery tickets and actual counts. Customer-supplied paper must be delivered according to specifications furnished by WW&L. These specifications will include correct weight, thickness, pick resistance, and other technical requirements. Artwork, film, color separations, special dies, electronic files, disks, data, or other materials furnished by the Customer must be usable by WW&L without alteration or repair. Items not meeting this requirement will be repaired by Customer or by WW&L with no WW&L liability for said repair and may result in additional reasonable charges and delivery delay.

OVER-RUNS OR UNDER-RUNS: Over-runs or under-runs will not exceed the percentage specified in the contract. WW&L will bill for actual quantity delivered within this tolerance. If Customer requires a guaranteed quantity, the percentage of tolerance must be stated at the time of quotation.

OUTSIDE PURCHASES: Unless otherwise agreed in writing, all outside purchases as requested or authorized by the Customer, are chargeable. Customer is responsible for payment for any outside purchases which WW&L has been authorized by the Customer to purchase, including outside purchases remaining on hand as the result of Customer changing suppliers, discontinuing publication, or changing paper requirements. WW&L reserves the right to substitute comparable paper of a manufacturer different than that designated unless specified otherwise in the agreement.

PAYMENT TERMS: Open account payment terms are net cash in 30 calendar days from date of invoice as specified. A monthly service charge may apply on all past due balances. Credit Cards Accepted without a surcharge if paid within ten (10) days of the invoice date. If paying after the specified time a 2.5% surcharge will be applied to the total charge. ALL PAYMENTS AND REMITTANCE MUST BE MADE DIRECT TO WELDON, WILLIAMS & LICK, INC., P.O. Box 168, Fort Smith, AR 72902-0168, U.S.A

LIENS: As security for payment of any sum due under the terms hereof, WW&L retains a lien on all Customer property in WW&L's



possession. This right applies even if credit has been extended, notes have been accepted, trade acceptances have been made, or payment has been guaranteed. If payment is not made, the Customer is liable for all collection costs incurred, including reasonable attorneys' fees.

CLAIMS: Claims for defects, damages, or shortages must be made by the Customer in writing no later than five (5) calendar days after delivery. If no claim is made within the specified time period, WW&L and the Customer will have mutually acknowledged that the job has been accepted by the Customer and WW&L's performance has fully satisfied all terms, conditions, and specifications of the purchase agreement.

TIME IS OF THE ESSENCE: WW&L and Customer mutually agree that time is of the essence in this agreement, and if Customer defaults in the payment of any part hereof the entire amount of the agreement shall immediately become due and payable without notice at the option of WW&L together with all costs of collection, including reasonable attorney's fees if collected by law or through an attorney. In the event Customer defaults in making any payment under this or any other agreement currently being performed for Customer by WW&L, then WW&L may suspend performance under this agreement.

DAMAGES AND LIMITATIONS OF LIABILITY: WW&L's maximum liability, whether by negligence, contract, or otherwise, for any claim whatsoever of any kind and nature arising out of this agreement, or fraction affected, shall not exceed the amount paid by the Customer. It is further mutually agreed that replacing the work (including any services) or re-mailing or re-shipping a correction or corrected job as soon as possible to rectify a mistake that is the subject of this agreement shall satisfy any and all claims whatsoever of any kind and nature arising out of this agreement. Under no circumstances will WW&L be liable for specific, incidental or consequential damages, including, but not limited to lost profits and lost postal discounts, however proximate or foreseeable. Customer agrees that the prices in this agreement for the work (including any goods or services) that is the subject of this agreement are consideration for limiting WW&L's liability hereunder.

INDEMNIFICATION: Customer represents and warrants that neither the execution, delivery or performance, nor consummation of the transactions contemplated by this agreement will result in actual or alleged infringement of any proprietary right (including, but not limited to, trademark, trade secret, patent or copyright rights), or any actual or alleged misuse of personally identifiable information, or violation of any other laws and regulations applicable, or a violation or breach of, or default under any provision of the charter, by-laws or any material agreement to which it is a party. At all times Customer's performance under this agreement will be in compliance with any and all other rights arising from or in connection with the products or services produced by WW&L at the direction of the Customer. Customer agrees to indemnify and save WW&L harmless from any and all losses, claims, or damages (including legal costs and reasonable attorney fees) that WW&L may suffer in connection with a claim related to any actual or alleged breach of the representations and warranties described above.

WAIVER: No waiver by either party of any default by the other in the performance of or compliance with any provision, condition, or requirement herein shall be deemed to be a waiver of, or any manner release such other party from compliance with any provision, condition, or requirement in the future, nor shall any delay or omission of either party to exercise any right hereunder in any manner impair the exercise of any such right accruing to it thereafter. Any matter arising under this agreement that creates a right of action in either party against the other party, or the enforcement of any obligation or undertaking by one party against the other, shall survive any termination or expiration of this agreement.

COPYRIGHTS: The Customer warrants that it has the right to produce the subject matter to be printed, duplicated, or distributed and that the subject matter to be printed is not copyrighted by a third party. If the subject matter is copyrighted, the Customer warrants that it owns the copyright or has express permission of the owner to reproduce the copyrighted subject matter. The Customer also recognizes that because subject matter does not have to bear a copyright notice in order to be protected by copyright law, absence of such notice does not necessarily assure a right to reproduce. The Customer further warrants that no copyright notice has been removed from any material used in preparing the subject matter for reproduction. To support these warranties, the Customer agrees to indemnify and hold WW&L harmless for all liability, damages, and attorney fees that may be incurred in any legal action connected with copyright infringement involving the work produced or provided.



PERSONAL OR ECONOMIC RIGHTS: The Customer also warrants that the work does not contain anything that is libelous or scandalous, or anything that threatens any person's right to privacy or other personal or economic rights. WW&L, when not acting in an illegal discriminatory manner, reserves the right at his or her discretion to reject any job tendered based on illegal, libelous, scandalous, improper, or unsubstantiated content based on copyright, trademark, trade name or service mark infringement related to any elements of the job. Furthermore, the Customer will, at the Customer's sole expense, promptly and thoroughly defend WW&L in all legal actions arising from such claims as long as WW&L promptly notifies the Customer of the legal action and gives the Customer reasonable time to undertake and conduct a defense. WW&L reserves the right to use its sole discretion in refusing to print anything it deems illegal, libelous, scandalous, improper, or infringing upon copyright law.

STORAGE: WW&L will retain intermediate materials until the related end product has been accepted by the Customer. If requested by the Customer, intermediate materials will be stored for an additional period at an additional reasonable charge. WW&L is not liable for any loss or damage to stored material beyond what is recoverable by WW&L's fire and extended insurance coverage.

LIMITED WARRANTY: All goods are warranted to be manufactured correctly according to the Customer's written specifications as provided to WW&L, or as modified by a written mutual agreement. It is expressly agreed and understood that WW&L's liability for any breach of warranty is limited to replacement or refund of the purchase price of any defective goods unless agreed in writing. This Limited Warranty is in lieu of any other warranty, expressed, or implied, and there are no other warranties that apply to the goods provided or services rendered, or this agreement, including, without limitation, any implied warranty of merchantability, or warranty of fitness for purpose.

TAXES: All taxes and assessments levied by any governmental authority are the responsibility of the Customer. All amounts due for taxes and assessments will be added to the Customer's invoice. No tax exemption will be granted unless official proof of the Customer's exemption is on file with WW&L or such documentation accompanies the order. If, after the Customer has paid the invoice, it is determined that more tax is due, the Customer must promptly remit the required taxes to the taxing authority or immediately reimburse WW&L for any additional taxes paid.

SUBSEQUENT WORK: To facilitate and expedite the parties' dealings on future printing jobs, it is agreed that the terms set forth in this agreement shall apply to all future printing jobs unless amended or contradicted in writing signed by both parties.

CHOICE OF LAW AND FORUM SELECTION: This agreement is made pursuant to and shall be governed by the laws of the state of Arkansas. Customer agrees that any dispute or claim arising under or in connection with agreement or related to any matter which is the subject of this agreement shall be subject to the exclusive jurisdiction of the state and federal courts located in the state of Arkansas, and Customer waives any objection to jurisdiction or venue or any defense claiming a lack of jurisdiction or improper venue, in any action brought in such courts.

COST AND EXPENSE OF LEGAL ACTION: The prevailing party in any legal action or proceeding brought to enforce this agreement shall be entitled to recover from the other reasonable attorneys' fees, costs and expenses arising out of such legal action brought before a court, mediator, arbitration or private settlement.

INTEGRATION: This agreement contains the entire agreement of the parties and no inducements, representations, promises, agreements, or understandings, oral or in writing between the parties, not embodied herein or subsequently made a part hereof by a properly executed addendum or amendment hereto as herein provided, shall be of any force or effect. No addendum to or amendment in the provisions of this agreement shall be effective or binding upon a party hereto unless embodied in a written instrument executed on behalf of such party by an authorized representative.

ASSIGNMENT: WW&L may, in its sole discretion, assign this estimate and/or subcontract all of the work hereunder. This agreement shall be binding upon and shall inure to the benefit of the successors, and assigns of the Customer and WW&L, provided, however, that Customer may not assign or transfer this agreement, in whole or in part, except on the prior written consent of WW&L.

SEVERABILITY: If any provision of this agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.