

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

RETURN TO:

NE Dept. of Correctional Services
Attn: Diane Poppert
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#1
PO Box 94661 (68509-4661)
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SOLICITATION NUMBER	RELEASE DATE
RFP 93894-Z6	February 26, 2018
OPENING DATE AND TIME	PROCUREMENT CONTACT
March 28, 2018 2:00 p.m. Central Time	Diane Poppert

**PLEASE READ CAREFULLY!
SCOPE OF SERVICE**

The State of Nebraska (State), Department of Correctional, is issuing this Request for Proposal (RFP) Number 93894-Z6 for the purpose of selecting a qualified Bidder to provide Orthotics and Prosthetic Services. A more detailed description can be found in Section V. The resulting contract may not be an exclusive contract as the State reserves the right to contract for the same or similar services from other sources now or in the future.

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

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

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 RFP, and the successful bidder's proposal or response will be posted to a public website managed by DAS, which can be found at <http://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 RFP will be posted to the State Purchasing Bureau public website.

These postings will include the entire proposal or response. Bidders must request that proprietary information be excluded from the posting. The bidder 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 in black ink with the words "PROPRIETARY INFORMATION". The bidder 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 BIDDER MAY NOT ASSERT THAT THE ENTIRE PROPOSAL IS PROPRIETARY. COST PROPOSALS WILL NOT BE CONSIDERED PROPRIETARY AND ARE A PUBLIC RECORD IN THE STATE OF NEBRASKA. The State will then determine, in its discretion, if the interests served by nondisclosure outweighs any public purpose served by disclosure. (See Neb. Rev. Stat. § 84-712.05(3)) The Bidder 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 bidder will be informed. It will be the bidder's responsibility to defend the bidder's asserted interest in non-disclosure.

To facilitate such public postings, with the exception of proprietary information, the State of Nebraska reserves a royalty-free, nonexclusive, and irrevocable right to copy, reproduce, publish, post to a website, or otherwise use any contract, proposal, or response to this RFP 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 RFP, specifically waives any copyright or other protection the contract, proposal, or response to the RFP may have; and, acknowledges that they have the ability and authority to enter into such waiver. This reservation and waiver is a prerequisite for submitting a proposal or response to this RFP, and award of a contract. Failure to agree to the reservation and waiver will result in the proposal or response to the RFP being found non-responsive and rejected.

Any entity awarded a contract or submitting a proposal or response to the RFP 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 RFP, awards, and other documents.

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GLOSSARY OF TERMS

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

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

ADON: Assistant Director of Nursing

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

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

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

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

Amendment: A written correction or alteration to a document.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Contract Period: The duration of the contract.

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

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

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

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

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

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

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

DON: Director of Nursing

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

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

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

Facility: an organization or building offering supporting capability. A place provided for a particular purpose.

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

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

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

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

Interested Party: A person, acting in their personal capacity, or an entity entering into a contract or other agreement

creating a legal interest therein.

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

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

Mandatory/Must: Required, compulsory, or obligatory.

May: Discretionary, permitted; used to express possibility.

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

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

NDCS: Nebraska Department of Correctional Services

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

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

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

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

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

Pat Search: A search of the outside of a person's clothing, inside the shirt collar and pants waistband without the complete removal of the clothing. This will be accomplished by running the employee's hands inside the collar and waistband and over the exterior of the clothing surfaces and by separately inspecting hats, jackets, shoes and pockets.

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

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

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

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

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

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

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

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

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

Proposal: See Bid/Proposal.

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

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

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

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

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

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

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

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

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

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

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

Should: Expected; suggested, but not necessarily mandatory.

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

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

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

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

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

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

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

Termination: Occurs when either Party, pursuant to a power created by agreement or law, puts an end to the contract prior to the stated expiration date. All obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

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

or person who is an interested Party to the contract or agreement.

Tool Inventory: A systemic process for tool accountability.

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 or service.

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

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

Will: See Shall/Will/Must.

Work Day: See Business Day.

I. PROCUREMENT PROCEDURE

A. GENERAL INFORMATION

The RFP is designed to solicit proposals from qualified Bidders who will be responsible for providing Orthotics and Prosthetics Services at a competitive and reasonable cost.

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

B. PROCURING OFFICE AND COMMUNICATION WITH STATE STAFF AND EVALUATORS

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

Name: Diane Poppert
Agency: Nebraska Department of Correctional Services
Address: 801 W. Prospector Place, Bldg #1
Lincoln, NE 68522

OR

Address: P.O.Box 94661
Lincoln, NE 68509-4661

Telephone: (402)-479-5980
Fax: (402) 479-5663
E-Mail: diane.poppert@nebraska.gov

From the date the RFP is issued until the Intent to Award is issued, communication from the Bidder is limited to the POC listed above. After the Intent to Award is issued, the Bidder 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 RFP. The POC will issue any clarifications or opinions regarding this RFP in writing. Only the buyer can modify the RFP, answer questions, render opinions, and only the SPB or awarding agency can award a contract. Bidders shall not have any communication with, or attempt to communicate or influence any evaluator involved in this RFP.

The following exceptions to these restrictions are permitted:

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

The State reserves the right to reject a bidder'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 RFP	February 26, 2018
2.	Last day to submit written questions	March 9, 2018
3.	State responds to written questions through RFP "Addendum" and/or "Amendment" to be posted to the Internet at: http://das.nebraska.gov/materiel/purchasing.html	March 14, 2018
4.	Proposal opening Location: Department of Correctional Services Purchasing Division 801 W. Prospector Place, Bldg #1 Lincoln, NE 68522	March 28, 2018 2:00 PM Central Time
5.	Review for conformance to RFP requirements	March 28, 2018
6.	Evaluation period	March 28-29, 2018
7.	Post "Intent to Award" to Internet at: and/or http://das.nebraska.gov/materiel/purchasing.html	April 2, 2018
8.	Contract finalization period	
9.	Contract award	April 16, 2018
10.	Contractor start date	April 16, 2018

D. WRITTEN QUESTIONS AND ANSWERS

Questions regarding the meaning or interpretation of any RFP provision must be submitted in writing to the Nebraska Department of Correctional Services, Purchasing Division and clearly marked "RFP Number 93894-Z6; Orthotics and Prosthetics Services Questions". The POC is not obligated to respond to questions that are received late per the Schedule of Events.

Bidders should present, as questions, any assumptions upon which the Bidder's proposal is or might be developed. Proposals will be evaluated without consideration of any known or unknown assumptions of a bidder. The contract will not incorporate any known or unknown assumptions of a bidder.

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

RFP Reference	Section	RFP Number	Page	Question

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

E. PRICES

All prices, costs, terms and conditions outlined in the proposal shall remain fixed and valid commencing on the opening date of the proposal until an award is made (and for bidder receiving award prices shall remain as bid for the duration of the contract unless otherwise so stated in the contract) or the Request for Proposal is cancelled.

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

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

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.

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

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

G. ETHICS IN PUBLIC CONTRACTING

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

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

5. Collude with any person or entity to influence the bidding process, submit sham proposals, preclude bidding, fix pricing or costs, create an unfair advantage, subvert the bid, or prejudice the State.

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

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

H. DEVIATIONS FROM THE REQUEST FOR PROPOSAL

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

I. SUBMISSION OF PROPOSALS

Bidders should submit one proposal marked on the first page: "ORIGINAL". Bidder should submit one (1) original and two (2) copies of the entire proposal. In the event of any inconsistencies among the proposals, the language contained in the original proposal shall govern. Proposals must be submitted by the proposal due date and time. If multiple proposals are submitted, the State will retain one copy marked "ORIGINAL" and destroy the other copies. The Bidder is solely responsible for any variance between the copies submitted. Proposal responses should include the completed Form A, "Bidder Contact Sheet". Proposals must reference the RFP 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 bidder's bid response packet. If a recipient phone number is required for delivery purposes, 402-479-5980 should be used. The RFP number should be included in all correspondence.

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

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

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

The Technical and Cost Proposals should be packaged separately (loose-leaf binders are preferred) on standard 8 ½" by 11" paper, except that charts, diagrams and the like may be on fold-outs which, when folded, fit into the 8 ½" by 11" format. Pages may be consecutively numbered for the entire proposal, or may be numbered consecutively within sections. Figures and tables should be numbered and referenced in the text by that number. They should be placed as close as possible to the referencing text. The Technical Proposal should not contain any reference to dollar amounts. However, information such as data concerning labor hours and categories, materials, subcontracts and so forth, shall be considered in the Technical Proposal so that the bidder's understanding of the scope of work may be evaluated. The Technical Proposal shall disclose the bidder's technical approach in as much detail as possible, including, but not limited to, the information required by the Technical Proposal instructions.

J. BID PREPARATION COSTS

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

K. FAILURE TO COMPLY WITH REQUEST FOR PROPOSAL

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

1. Rejection of a bidder's proposal;
2. Withdrawal of the Intent to Award;
3. Withdrawal of the Award;
4. Termination of the resulting contract;
5. Legal action; and
6. Suspension of the bidder from further bidding with the State for the period of time relative to the seriousness of the violation, such period to be within the sole discretion of the State.

L. BID CORRECTIONS

A bidder may correct a mistake in a bid prior to the time of opening by giving written notice to the State of intent to withdraw the bid for modification or to withdraw the bid completely. Changes in a bid after opening are acceptable only 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.

M. 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 bidder and at bidder's expense. The State is not responsible for proposals that are late or lost regardless of cause or fault.

N. PROPOSAL OPENING

The opening of proposals will be public and the bidders will be announced. Proposals **WILL NOT** be available for viewing by those present at the proposal opening. Vendors may contact the State to schedule an appointment for viewing proposals after the Intent to Award has been posted to the website. Once proposals are opened, they become the property of the State of Nebraska and will not be returned.

O. REQUEST FOR PROPOSAL/PROPOSAL REQUIREMENTS

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

1. Original Request for Proposal for Contractual Services form signed using an indelible method;
2. Completed Sections II through VI;
3. Completed State Cost Proposal Template.

P. EVALUATION OF PROPOSALS

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

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

1. Cost Proposal

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

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

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

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 bidder from consideration of the preference.

Q. BEST AND FINAL OFFER

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

R. 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 RFP, the bidder grants to the State the right to contact or arrange a visit in person with any or all of the bidder's clients. Reference and credit checks may be grounds to reject a proposal, withdraw an intent to award, or rescind the award of a contract.

S. 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 RFP process, the State of Nebraska may take one or more of the following actions:

1. Amend the RFP;
2. Extend the time of or establish a new proposal opening time;
3. Waive deviations or errors in the State's RFP process and in bidder proposals that are not material, do not compromise the RFP process or a bidder's proposal, and do not improve a bidder's competitive position;
4. Accept or reject a portion of or all of a proposal;
5. Accept or reject all proposals;
6. Withdraw the RFP;
7. Elect to rebid the RFP;
8. Award single lines or multiple lines to one or more bidders; 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. Bidder qualifications and capabilities;
6. State contract management requirements and/or costs; and,
7. Lead time may be a consideration of award.

The RFP 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>

State of Nebraska Grievance and protest procedure is available on the Internet at:

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

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

NDCS Grievance and protest procedure:

1. Within ten (10) business days of the intent to award decision being issued, grievances or protests are to be expressed in writing to the NDCS Materiel Division Administrator via email dcs.purchasing@nebraska.gov or via U.S. Mail - P.O. Box 94661 Lincoln, NE 68509-4661. The notification should state the bid number and specific issues that are to be addressed.

2. A response will be made in writing by the NDCS Materiel Administrator, generally within ten (10) business days of receipt of the grievance/protest by the Materiel Division Administrator.
3. **If the response from the NDCS Materiel Division Administrator has not satisfied the grievance**, the vendor may make a written request for a meeting with the NDCS Materiel Division Administrator and the NDCS Deputy Director of Administration, Department of Correctional Services via U.S. Mail - P.O. Box 94661 Lincoln, NE 68509-4661. Such request shall: (1) reference the bid number; (2) include the specific issues disputed; (3) provide a point of contract and mailing address, and (4) must be received within ten (10) business days of the date of the Materiel Division Administrator's response in order to be considered a valid meeting request.
4. A meeting will be scheduled and held with the vendor, NDCS Materiel Division Administrator, and NDCS Director of Administrative Services for the vendor to present their issues.
5. A written final decision will be sent to the vendor, generally within ten (10) business days, unless additional time is necessary to fully examine the issues presented.
6. If desired, a vendor may opt to skip Steps 1 & 2, and grieve simultaneously to the NDCS Materiel Division Administrator and the NDCS Director of Administrative Services (begin with Step 3 above).

II. TERMS AND CONDITIONS

Bidders should complete Sections II through VI as part of their proposal. Bidder is expected to read the Terms and Conditions and should initial either accept, reject, or reject and provide alternative language for each clause. The bidder should also provide an explanation of why the bidder rejected the clause or rejected the clause and provided alternate language. By signing the RFP, bidder 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 bidder fail to agree on the final Terms and Conditions, the State reserves the right to reject the proposal. The State of Nebraska is soliciting proposals in response to this RFP. The State of Nebraska reserves the right to reject proposals that attempt to substitute the bidder's commercial contracts and/or documents for this RFP.

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

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

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

A. GENERAL

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

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

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

These documents constitute the entirety of the contract.

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

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

B. NOTIFICATION

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

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

Communications regarding the executed contract shall be in writing and shall be deemed to have been given if delivered personally or mailed, by U.S. Mail, postage prepaid, return receipt requested, to the parties at their respective addresses set forth below, or at such other addresses as may be specified in writing by either of the parties. All notices, requests, or communications shall be deemed effective upon personal delivery or three (3) calendar days following deposit in the mail.

Vendor Contract Manager	Diane Poppert
Vendor	Nebraska Dept of Correctional Services
Vendor Street Address	801 W. Prospector Place, Bldg #1
Vendor City, State, Zip	Lincoln, NE 68522

C. GOVERNING LAW (Statutory)

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

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

D. BEGINNING OF WORK

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

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

E. CHANGE ORDERS

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

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

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

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

F. NOTICE OF POTENTIAL CONTRACTOR BREACH

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

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

G. BREACH

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

Either Party may terminate the contract, in whole or in part, if the other Party breaches its duty to perform its obligations under the contract in a timely and proper manner. Termination requires written notice of default and a thirty (30) calendar day (or longer at the non-breaching Party's discretion considering the gravity and nature of the default) cure period. Said notice shall be delivered by Certified Mail, Return Receipt Requested, or in person with proof of delivery. Allowing time to cure a failure or breach of contract does not waive the right to immediately terminate the contract for the same or different contract breach which may occur at a different time. In case of default of the Contractor, the State may contract the service from other sources and hold the Contractor responsible for any excess cost occasioned thereby.

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

H. NON-WAIVER OF BREACH

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

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.

I. SEVERABILITY

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

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

J. INDEMNIFICATION

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

1. GENERAL

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

2. INTELLECTUAL PROPERTY

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

If a judgment or settlement is obtained or reasonably anticipated against the State’s use of any intellectual property for which the Contractor has indemnified the State, the Contractor shall, at the Contractor’s sole cost and expense, promptly modify the item or items which were determined to be infringing, acquire a license or licenses on the State’s behalf to provide the necessary rights to the State to eliminate the

infringement, or provide the State with a non-infringing substitute that provides the State the same functionality. At the State's election, the actual or anticipated judgment may be treated as a breach of warranty by the Contractor, and the State may receive the remedies provided under this RFP.

3. PERSONNEL

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

4. SELF-INSURANCE

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

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

K. ATTORNEY'S FEES

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

In the event of any litigation, appeal, or other legal action to enforce any provision of the contract, the Parties agree to pay all expenses of such action, as permitted by law and if order by the court, including attorney's fees and costs, if the other Party prevails.

L. ASSIGNMENT, SALE, OR MERGER

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

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

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

M. CONTRACTING WITH OTHER NEBRASKA POLITICAL SUB-DIVISIONS

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

		(Initial)	

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

N. FORCE MAJEURE

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

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

O. CONFIDENTIALITY

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

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

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

PRIVACY OF HEALTH INFORMATION (PHI)

PROVIDER agrees to:

- a. To use and disclose PHI only as permitted or required by this Agreement or as required by law.
- b. Use reasonable safeguards to prevent use or disclosure of PHI not otherwise provided for by this Agreement.
- c. Immediately report to AGENCY any unauthorized use or disclosure of PHI not otherwise provided for by this Agreement once PROVIDER becomes aware of such unauthorized use or disclosure, including any remedial action taken or proposed to be taken by PROVIDER with respect to such unauthorized use or disclosure. PROVIDER shall cooperate with AGENCY to mitigate any harmful effects of such unauthorized use or disclosure.
- d. To require any subcontractors and agents, to whom PROVIDER provides PHI obtained under this Agreement, to agree in writing to the same restrictions and conditions on the use and/or disclosure of

PHI that apply to PROVIDER. Such agreement shall include a provision requiring the subcontractor and/or agent to notify PROVIDER of any instances of unauthorized use or disclosure of PHI provided by PROVIDER.

- e. To disclose to PROVIDER's subcontractors, agents or other third parties only the minimum necessary PHI necessary to perform or fulfill their obligations under this Agreement.
- f. Comply with patient rights conferred by HIPAA, to include, allowing patient's access to their own PHI, making PHI available for amendment and incorporating any amendments to the PHI in accordance with HIPAA and accounting for disclosures of PHI as required under HIPAA.
- g. Make PROVIDER's internal practices, books and records relating to the use and disclosure of PHI received from or created or received by PROVIDER on behalf of AGENCY available to the Secretary of the Department of Health and Human Services (DHHS) for purposes of determining PROVIDER's compliance with HIPAA. PROVIDER shall immediately notify AGENCY upon receipt by PROVIDER of any such request, and shall provide AGENCY with copies of any such materials.
- h. At termination of this Agreement, return to AGENCY or destroy all PHI received from or created or received by PROVIDER on behalf of, AGENCY which PROVIDER or its subcontractor/agent still maintains in any form and retain no copies of such PHI. If PROVIDER is unable to return or destroy such PHI, the terms of this section shall apply to such PHI for as long as PROVIDER or his subcontractor/agent has possession or access to PHI.
- i. Notwithstanding any other provision of this Agreement, and in addition to any other remedies AGENCY may have, AGENCY may immediately terminate this Agreement without penalty or recourse to AGENCY if it determines, in its sole discretion that PROVIDER, its subcontractors or agents have violated a material term of this section. The parties agree to amend this Agreement as necessary to comply with HIPAA and any regulations that may be promulgated thereunder. The parties further agree to execute such other agreements as may be required by law. The parties' obligations and rights under this section shall survive termination of this Agreement.

P. EARLY TERMINATION

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

The contract may be terminated as follows:

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

Q. CONTRACT CLOSEOUT

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

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

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

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

III. CONTRACTOR DUTIES

A. INDEPENDENT CONTRACTOR / OBLIGATIONS

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

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

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

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

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

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

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

Contractor's personnel shall be subject to departmental security checks prior to their arrival on site, and will carry proper identification with them, at all times, while on facility grounds. The Contractor will require his/her personnel to comply with instructions pertaining to conduct, safety and security regulations, and all lawful instructions by NDCS facility personnel necessary to ensure the safety, security, and good order of the institution where the service is being performed.

Contractor's personnel may be subject to pat searches and tool inventory upon arrival and departure from NDCS facilities.

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

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

1. Any and all pay, benefits, and employment taxes and/or other payroll withholding;
2. Any and all vehicles used by the Contractor's employees, including all insurance required by state law;

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

If the Contractor intends to utilize any subcontractor, the subcontractor's level of effort, tasks, and time allocation should be clearly defined in the bidder's proposal. The Contractor shall agree that it will not utilize any subcontractors not specifically included in its proposal in the performance of the contract without the prior written authorization of the State.

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

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

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

B. EMPLOYEE WORK ELIGIBILITY STATUS

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

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

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

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

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

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

The Contractor shall comply with all applicable local, state, and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act prohibits Contractors of the State of Nebraska, and their Subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensation, or privileges of employment because of race, color, religion, sex, disability, marital status, or national origin (Neb. Rev. Stat. §48-1101 to 48-1125). The

Contractor guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The Contractor shall insert a similar provision in all Subcontracts for services to be covered by any contract resulting from this RFP.

D. COOPERATION WITH OTHER CONTRACTORS

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

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

E. PERMITS, REGULATIONS, LAWS

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

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

F. INSURANCE REQUIREMENTS

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

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

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

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

In the event that any policy written on a claims-made basis terminates or is canceled during the term of the contract or within one (1) years of termination or expiration of the contract, the contractor shall obtain an extended discovery

or reporting period, or a new insurance policy, providing coverage required by this contract for the term of the contract and one (1) years following termination or expiration of the contract.

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

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

1. WORKERS' COMPENSATION INSURANCE

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

2. COMMERCIAL GENERAL LIABILITY INSURANCE AND COMMERCIAL AUTOMOBILE LIABILITY INSURANCE

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

The Commercial General Liability Insurance shall be written on an **occurrence basis**, and provide Premises/Operations, Products/Completed Operations, Independent Contractors, Personal Injury, and Contractual Liability coverage. **The policy shall include the State, and others as required by the contract documents, as Additional Insured(s). This policy shall be primary, and any insurance or self-insurance carried by the State shall be considered secondary and non-contributory. The COI shall contain the mandatory COI liability waiver language found hereinafter.** The Commercial Automobile Liability Insurance shall be written to cover all Owned, Non-owned, and Hired vehicles.

Medical providers shall, at the time of award, be qualified and shall, for the duration of the contract, remain qualified under the Nebraska Hospital-Medical Liability Act. By submitting a proposal, bidders certify that they are so qualified." Such qualification will be confirmed with the Nebraska Department of Insurance. Any disqualification from the fund may result in disqualification of the bidder or immediate termination of an awarded contract.)

REQUIRED INSURANCE COVERAGE		
COMMERCIAL GENERAL LIABILITY		
General Aggregate		\$2,000,000
Products/Completed Operations Aggregate		\$2,000,000
Personal/Advertising Injury		\$1,000,000 per occurrence
Bodily Injury/Property Damage		\$1,000,000 per occurrence
Medical Payments		\$10,000 any one person
Damage to Rented Premises (Fire)		\$300,000 each occurrence
Contractual		Included
<i>If higher limits are required, the Umbrella/Excess Liability limits are allowed to satisfy the higher limit.</i>		
WORKER'S COMPENSATION		
Employers Liability Limits		\$500K/\$500K/\$500K
Statutory Limits- All States		Statutory - State of Nebraska
USL&H Endorsement		Statutory
Voluntary Compensation		Statutory
COMMERCIAL AUTOMOBILE LIABILITY		
Bodily Injury/Property Damage		\$1,000,000 combined single limit
Include All Owned, Hired & Non-Owned Automobile liability		Included
Motor Carrier Act Endorsement		Where Applicable
UMBRELLA/EXCESS LIABILITY		
Over Primary Insurance		\$5,000,000 per occurrence
PROFESSIONAL LIABILITY		
Professional liability (Medical Malpractice) Qualification Under Nebraska Excess Fund		Limits consistent with Nebraska Medical Malpractice Cap
All Other Professional Liability (Errors & Omissions)		\$1,000,000 Per Claim / Aggregate
MANDATORY COI SUBROGATION WAIVER LANGUAGE		
"Workers' Compensation policy shall include a waiver of subrogation in favor of the State of Nebraska."		
MANDATORY COI LIABILITY WAIVER LANGUAGE		
"Commercial General Liability & Commercial Automobile Liability policies shall name the State of Nebraska as an Additional Insured and the policies shall be primary and any insurance or self-insurance carried by the State shall be considered secondary and non-contributory as additionally insured."		

If the mandatory COI subrogation waiver language or mandatory COI liability waiver language on the COI states that the waiver is subject to, condition upon, or otherwise limit by the insurance policy, a copy of the relevant sections of the policy must be submitted with the COI so the State can review the limitations imposed by the insurance policy.

3. EVIDENCE OF COVERAGE

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

Nebraska Department of Correctional Services
 Attn: Contract Manager
 801 W. Prospector Place, Bldg #1
 Lincoln, NE 68522

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

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

4. DEVIATIONS

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

G. ANTITRUST

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

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

H. CONFLICT OF INTEREST

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

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

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

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

The Parties shall not knowingly, for a period of two years after execution of the contract, recruit or employ any employee or agent of the other Party who has worked on the RFP or project, or who had any influence on decisions affecting the RFP or project.

I. STATE PROPERTY

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

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

J. SITE RULES AND REGULATIONS

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

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

K. ADVERTISING

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

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

L. DISASTER RECOVERY/BACK UP PLAN

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

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

M. DRUG POLICY

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

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

IV. PAYMENT

A. PROHIBITION AGAINST ADVANCE PAYMENT (Statutory)

Neb. Rev. Stat. §73-501 through 73-509 says “payments shall be made when contractual deliverables are received or in accordance with specific contractual terms and conditions.” Standard term is to pay after deliverables and that any alteration of that standard term should be carefully considered and used only when absolutely necessary to accommodate certain critical exceptions, i.e. insurance premiums, etc. that must be paid in advance.) Payments shall not be made until contractual deliverable(s) are received and accepted by the State.

B. TAXES (Statutory)

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

C. INVOICES

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

Invoices for payments must be submitted by the Contractor to the agency requesting the services with sufficient detail to support payment. This includes but is not limited to inmate name and NDCS ID number, purchase order number referenced, facility location. The terms and conditions included in the Contractor’s invoice shall be deemed to be solely for the convenience of the parties. No terms or conditions of any such invoice shall be binding upon the State, and no action by the State, including without limitation the payment of any such invoice in whole or in part, shall be construed as binding or estopping the State with respect to any such term or condition, unless the invoice term or condition has been previously agreed to by the State as an amendment to the contract.

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

Or Via e-mail to: DCS.AccountsPayable@nebraska.gov

Accounts Payable Contact (402) 479-5715

D. INSPECTION AND APPROVAL

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

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

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

E. PAYMENT

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

State will render payment to Contractor when the terms and conditions of the contract and specifications have been satisfactorily completed on the part of the Contractor as solely determined by the State. (Neb. Rev. Stat. Section 73-506(1)) Payment will be made by the responsible agency in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2401 through 81-2408). The State may require the Contractor to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for any services provided by the Contractor prior to the Effective Date of the contract, and the Contractor hereby waives any claim or cause of action for any such services.

Contractor(s) will invoice per service provided at each location/facility with copy of original delivery ticket/quoted document attached. **A copy of each pre-authorized Order Request will be attached.**

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

F. LATE PAYMENT (Statutory)

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

G. SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS

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

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

H. RIGHT TO AUDIT (First Paragraph is Statutory)

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

The State shall have the right to audit the Contractor's performance of this contract upon a 30 days' written notice. Contractor shall utilize generally accepted accounting principles, and shall maintain the accounting records, and other records and information relevant to the contract (Information) to enable the State to audit the contract. The

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

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 one-half of one percent (.5%) of the total contract billings, or if fraud, material misrepresentations, or non-performance is discovered on the part of the Contractor, the Contractor shall reimburse the State for the total costs of the audit. Overpayments and audit costs owed to the State shall be paid within ninety days of written notice of the claim. The Contractor agrees to correct any material weaknesses or condition found as a result of the audit.

V. PROJECT DESCRIPTION AND SCOPE OF WORK

The bidder should provide the following information in response to this RFP.

A. SCOPE OF WORK

The State of Nebraska Department of Correctional Services provides medical care for over 5,300 inmates statewide in 10 facilities. NDCS expends approximately \$50,000 per year for Orthotics and Prosthetics. The State of Nebraska is self-insured and the corrections population is in the States' custody. The NDCS is required to provide a community standard of care for its clientele. At times NDCS needs access to Orthotics and Prosthetics, based on the medical needs of the population and referred by attending medical providers.

Contractor will furnish Orthotic and Prosthetic Services as approved by NDCS. Contractor's personnel will have the necessary education, training, certification, registration and/or licensure for each position to be filled. Any documentation (licenses, certificates, etc.) necessary to demonstrate fitness for position(s) being filled will be made available to the NDCS Associate Director of Nursing (ADON)/designee at each facility/location or NDCS Health Services Chief Operating Officer upon request.

Contractor will furnish proposed ordering and scheduling contact information.

During the period of the Contract, the Contractor shall serve the Department and perform the services required or requested, complying with all regulatory requirements to meet the standards required in the field of orthotic and prosthetic services. The Department shall pay to the Contractor, in consideration of his/her professional services utilizing the Durable Medical Equipment Regional Carrier (DMERCs), which CIGNA Government Services is the regional carrier for Region D, the western region.

All Orthotics and Prosthetics will serve every functionality versus a dynamic foot; flex foot (activity), running leg, etc. Providing what is necessary (activity level) and not the highest end of technology (community standard of care).

The Contractor shall devote such time as his/her duties hereunder shall require, and shall submit related reports as required by governmental/accreditation programs.

The Department shall make such arrangements as may be necessary to assure Contractor effective and actual control of related supplies and records pertaining thereto under the policies and procedures developed for applicable operations in the Department. The Contractor agrees to abide by all departmental and institutional policies and procedures, and all State Statutes, including those that relate to confidentiality of information and security of prisons.

The Contractor agrees that there will be no unlawful discrimination of any kind during the performance of duties under the contract, including discrimination because of race, color, sex, nationality, ancestry, religion, age or disability.

Departmental articles broken or damaged during the normal performance of the services under this contract shall be repaired or replaced at the Contractor's expense. This includes items of a personal nature, as well as state-owned property such as furniture, walls, office equipment, etc.

B. WORK PLAN

1. Vendor contacted for appointment to see specific inmate/patient at the NDCS facility site location. The intent is to have no inmate/patient travel orders for visits outside of the facility.
2. Fittings and exams performed at the NDCS facilities will be done for no extra charge.
3. All items and services ordered for a specific inmate/patient require a Purchase Order Number from Department of Correctional Services,
4. All services must have a Purchase Order prior to the services being provided.
5. Delivered products and/or services require a signature and date of receipt.
6. If services are delivered in clinic, it must have a nurse/designee provide signature.

IMPORTANT: A signature of receipt must be obtained for services or payment will not be made, with the exception of those items which were mailed directly to Diane Poppert. A packing slip should be included.

7. Contractor(s) will invoice per service provided at each location/facility with copy of original delivery ticket/quoted document attached. Invoice will reference inmate name and NDCS identifying number. **A copy of each pre-authorized Order Request will be attached.**

Submit original invoice to: NE Department of Correctional Services
Accounts Payable
P.O. Box 94661
Lincoln, NE 68509-4661

OR you may now send invoices via e-mail to the address below:
DCSAcctsPayable@dcs.state.ne.us

C. NDCS FACILITY HOSPITAL / CLINICS & ADONS

Lincoln, NE

Nebraska State Penitentiary (NSP) – Clinic & Hospital
4201 S. 14th Street.
Lincoln, NE 68502
Teena Lenger, DON

Diagnostic and Evaluation Center (DEC) – Clinic & Hospital
3220 West Van Dorn
Lincoln, NE 68522
Teresa Royer, DON

Lincoln Correctional Center (LCC) – Clinic Only
3216 West Van Dorn
Lincoln, NE 68522
John Wright, ADON

Community Corrections Center-Lincoln (CCC-L) – Clinic Only
2720 West Van Dorn
Lincoln, NE 68522
Janet Arauco, Nursing Supervisor

Omaha, NE

Omaha Correctional Center (OCC) – Clinic Only
2323 East Avenue J
Omaha, NE 68110
Christy Nielsen, ADON
*(Serves Also: Community Corrections, Omaha (CCC-O), 2320 East Avenue J, Omaha, NE 68110)

Nebraska Correctional Youth Facility (NCYF) – Clinic Only
2610 North 20th Street East
Omaha, NE 68110
Christy Nielsen, ADON

York, NE

Nebraska Correctional Center for Women (NCCW) – Clinic & Hospital
1107 Recharge Road
York, NE 68467
Tanita Taylor, ADON

Tecumseh, NE

Tecumseh State Correctional Institution (TSCI) – Clinic & Hospital
2725 N. Hwy 50
Tecumseh, NE 68450
Sara Allen, DON

McCook, NE

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

Shawn Gollehon, Nurse Supervisor

Additional facilities / locations to be added through amendment.

D. NDCS CONTACTS

Contractor shall establish a primary contact person within their proposal, including the contact's name, address, phone and fax numbers, and email address.

NDCS Contacts shall be the following:

Purchasing Contact:

Diane Poppert, Buyer III
NE Department of Correctional Services
P.O. Box 94661
Lincoln, NE 68509
(402) 479-5980

Medical Contacts:

Diana Tomek, Director of Nursing
NE Department of Correctional Services
P.O. Box 94661
Lincoln, NE 68509
(402) 479-5632

John Wilson, Chief Operating Officer
NE Department of Correctional Services
P.O. Box 94661
Lincoln, NE 68509
(402) 479-5637

Rebecca Fisher, Business Manager
NE Department of Correctional Services
P.O. Box 94661
Lincoln, NE 68509
(402) 479-5703

See list of facilities and ADONS above

Accounting Contact:

Patrick Trinh, Accounting Supervisor
NE Department of Correctional Services
P.O. Box 94661
Lincoln, NE 68509
(402) 479-5715

E. DELIVERABLES

I. Contractor must agree to that their personnel will be subject to background checks prior to commencing service inside NDCS facilities and locations.

II. Contractor must note within their proposal at which facilities/locations they can provide service (circle yes/no); if Contractor cannot provide orthotic and prosthetic services in every location, they must list those cities/locations where service would be available.

NSP	Yes	No
DEC	Yes	No
LCC	Yes	No
CCCL	Yes	No
NCCW	Yes	No
OCC	Yes	No
NCYF	Yes	No
WEC	Yes	No
TSCI	Yes	No

III. The summary cost shall present the total fixed price per requested item to perform all of the requirements of the Request for Proposal.

IV. No mileage, freight, shipping, trip charges, delivery or fuel surcharges will be allowed under this contract.

The State reserves the right to review all aspects of the Cost Proposal 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.

VI. COST PROPOSAL REQUIREMENTS

This section describes the requirements to be addressed by bidders in preparing the State's Cost Sheet. The bidder must use the State's Cost Sheet. The bidder should submit the State's Cost Sheet in accordance with Section I Submission of Proposal.

THE STATE'S COST SHEET AND ANY OTHER COST DOCUMENT SUBMITTED WITH THE PROPOSAL SHALL NOT BE CONSIDERED CONFIDENTIAL OR PROPRIETARY AND IS CONSIDERED A PUBLIC RECORD IN THE STATE OF NEBRASKA AND WILL BE POSTED TO A PUBLIC WEBSITE.

A. COST SHEET

This summary shall present the total fixed price to perform all of the requirements of the RFP. The bidder must include details in the State's Cost Sheet supporting any and all costs.

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.

B. PRICES

Prices quoted shall be net, including transportation and delivery charges fully prepaid by the bidder, F.O.B. destination named in the RFP. 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.

Describe how you will bill for all billable orthotic and prosthetics as posted on the CIGNA Government Services web site, (<http://cignamedicare.com>) Region D, utilizing the most current DMEPOS Fee Schedules for HCPCS Codes. Please provide a listing of all HCPCS codes available and pricing associated to each. Describe your pricing for those HCPCS codes not having a cost established, and any allowable discounts. All orthotics and prosthetic devices must be processed through the Department of Corrections, Purchasing, as per Work Plan.

Form A
Bidder Contact Sheet
Request for Proposal Number 93894-Z6 REVISED

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

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

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

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

REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES FORM

BIDDER MUST COMPLETE THE FOLLOWING

By signing this Request for Proposal for Contractual Services form, the bidder guarantees compliance with the procedures stated in this Request for Proposal, and agrees to the terms and conditions unless otherwise indicated in writing and certifies that bidder maintains a drug free work place.

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

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

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

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

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

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