

**State of Nebraska (Nebraska Department of Education)
REQUEST FOR PROPOSAL FOR
CONTRACTUAL SERVICES**

RETURN TO:
Name: Amy Rhone
Address: PO Box 94987
City/State/Zip: Lincoln, NE
68509
Phone: 531-207-9978

SOLICITATION NUMBER	RELEASE DATE
NDERFP2208	09/16/2022
OPENING DATE AND TIME	PROCUREMENT CONTACT
February 1, 2023 2:00 p.m. Central Time	Amy Rhone, Nebraska Department of Education

PLEASE READ CAREFULLY!

SCOPE OF SERVICE

The State of Nebraska (State), Department of Education (NDE), Office of Special Education, is issuing this Request for Proposal (RFP) Number NDERFP2208 for the purpose of selecting a qualified contractor to provide Office of Special Education a web application for collecting, storing, tracking, monitoring, reporting, and verifying federally required state-level, district level data, and complaint investigation data. A more detailed description can be found in Section VI. 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 (3) years commencing upon execution of the contract by the State and the Contractor. The Contract includes the option to renew for (2) additional (3) year periods upon mutual agreement of the Parties. State reserves the right to extend the period of this contract beyond the termination date when mutually agreeable to the Parties.

Questions regarding the content of this Request for Proposal are due no later than November 30, 2022 and should be submitted via e-mail to nde.SPEDRFP@nebraska.gov Email is to be titled: "NDERFP2208 RFP Questions".

Bidders should electronically submit one (1) original of the entire proposal (in PDF format) to nde.SPEDRFP@nebraska.gov. Proposals must be submitted by the proposal due date and time.

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

1. Proposals must be received in the Nebraska Department of Education by the date and time of proposal opening indicated above. No late proposals will be accepted. No fax, voice, or telephone proposals will be accepted.
2. The form "REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES" MUST be manually signed, in ink, and returned by the proposal opening date and time along with bidder's proposal and any other requirements as specified in the Request for Proposal in order to be considered for an award.
3. It is the responsibility of the bidder to check the website for all information relevant to this solicitation to include addenda and/or amendments issued prior to the opening date. Website address is as follows: <https://das.nebraska.gov/materiel/bidopps.html> and at <http://www.education.ne.gov/sped/>.

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

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

These postings will include the entire proposal or response. Contractor must request that proprietary information be excluded from the posting. The contractor must identify the proprietary information, mark the proprietary information

according to state law, and submit the proprietary information in a separate container or envelope marked conspicuously using an indelible method with the words "PROPRIETARY INFORMATION". The contractor must submit a detailed written document showing that the release of the proprietary information would give a business advantage to the 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 SUPPLIER 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 Contractor 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 contractor will be informed. It will be the contractor's responsibility to defend the contractor's asserted interest in non-disclosure.

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

Any entity awarded a contract or submitting a proposal or response to the solicitation agrees not to sue, file a claim, or make a demand of any kind, and will indemnify and hold harmless the State and its employees, volunteers, agents, and its elected and appointed officials from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses, sustained or asserted against the State, arising out of, resulting from, or attributable to the posting of the contract or the proposals and responses to the solicitation, awards, and other documents.

BIDDER MUST COMPLETE THE FOLLOWING

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

FIRM: _____

COMPLETE ADDRESS: _____

TELEPHONE NUMBER: _____ FAX: _____

SIGNATURE: _____ DATE: _____

TYPED NAME & TITLE OF SIGNER: _____

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GLOSSARY OF TERMS

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

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

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

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

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

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

Amendment: A written correction or alteration to a document.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Contract Period: The duration of the contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mandatory/Must: Required, compulsory, or obligatory.

May: Discretionary, permitted; used to express possibility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Program Error.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Should: Expected; suggested, but not necessarily mandatory.

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

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

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

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

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

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

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

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

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

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

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

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

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

Vendor: Inclusive term for any Bidder or Contractor

Will: See Mandatory/Shall/Will/Must.

Work Day: See Business Day.

ACRONYM LIST

ARO – After Receipt of Order

ACH – Automated Clearing House

BAFO – Best and Final Offer

COI – Certificate of Insurance

CPU – Central Processing Unit

DAS – Department of Administrative Services

F.O.B. – Free on Board

ITB – Invitation to Bid

NIGP – National Institute for Governmental Purchasing

PA – Participating Addendum

RFI – Request for Information

RFP – Request for Proposal

SPB – State Purchasing Bureau

I. SCOPE OF THE REQUEST FOR PROPOSAL

The State of Nebraska (State), Department of Education (NDE), Office of Special Education, is issuing this Request for Proposal (RFP) Number NDERFP2208 for the purpose of selecting a qualified Contractor to provide Office of Special Education a web application for collecting, storing, tracking, monitoring, reporting and verifying federally required state-level, district level data, and complaint investigation data. A more detailed description can be found in Section VI. 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 (3) year commencing upon execution of the contract by the State and the Contractor (Parties)/notice to proceed. The Contract includes the option to renew for (2) additional (3) year periods upon mutual agreement of the Parties. 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: <https://das.nebraska.gov/materiel/bidopps.html> and at <http://www.education.ne.gov/sped>**

A. SCHEDULE OF EVENTS

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

ACTIVITY	DATE/TIME
1. Create and Release RFP to https://das.nebraska.gov/materiel/bidopps.html	09/16/2022
2. Last day for potential vendors to submit questions pertaining to the RFP	11/30/2022
3. State responds to written questions posted to the internet at http://www.education.ne.gov/sped and https://das.nebraska.gov/materiel/bidopps.html	12/30/2022
4. PROPOSALS DUE – late proposals will not be accepted and will be returned unopened to Bidder.	02/01/2023 1:59 PM Central Time
5. Vendor Proposal opening: Proposals will be opened virtually via Zoom. Link will be posted on http://www.education.ne.gov/sped and https://das.nebraska.gov/materiel/bidopps.html	02/01/2023 2:00 PM Central Time
6. Evaluation period (depending on no. of bids received)	02/01/2023– 03/31/2023
7. Oral Interviews/Presentations and/or Demonstrations (if required)	03/31/2023 – 04/28/2023
8. Post “Letter of Intent to Contract” to Internet http://www.education.ne.gov/sped and https://das.nebraska.gov/materiel/bidopps.html	04/28/2023 – or when State Board approves
9. Contract finalization period	04/28/2023 - 07/05/2023
10. Contract award	07/05/2023
11. Expected Contractor start date	08/07/2023

II. PROCUREMENT PROCEDURES

A. PROCURING OFFICE AND CONTACT PERSON

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

Name: Amy Rhone
Agency: Nebraska Department of Education
Address: PO Box 94987
Telephone: 531-207-9978
E-Mail: nde.SPEDRFP@nebraska.gov

B. GENERAL INFORMATION

The Office of Special Education at the Nebraska Department of Education (NDE) is requesting responses from contractors who meet the specifications to provide a web-based system with the capability to collect, store, report, and track special education monitoring and improvement planning data. Proposals that do not conform to the mandatory items as indicated in the Request for Proposal will not be considered.

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

C. COMMUNICATION WITH STAFF

From the date the Request for Proposal is issued until a determination is announced regarding the selection of the contractor, contact regarding this project between potential contractors and individuals employed by the State is restricted to only written communication with the staff designated above as the point of contact for this Request for Proposal.

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

The following exceptions to these restrictions are permitted:

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

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

D. NOTIFICATION OF INTENT TO BID

Bidders should e-mail "Notification of Intent to Bid Form" that accompanies this document (see Form B) to the contact person shown on the cover page of the Request For Proposal Form. This form should be filled out in its entirety and returned no later than the date shown in the Schedule of Events. Email to be titled "Intent to Bid NDERFP2208" and sent to nde.SPEDRFP@nebraska.gov.

A list of contractors who submitted a Notification of Intent to Bid will be provided through an addendum to be posted on the internet at the website addresses below: <https://das.nebraska.gov/materiel/bidopps.html> on or after the date shown in the Schedule of Events. Proposals shall conform to all instructions, conditions, and requirements included in the Request for Proposal. Prospective bidders are expected to carefully examine all documentation, schedules and requirements stipulated in this Request for Proposal, and respond to each requirement in the format prescribed.

E. QUESTIONS AND ANSWERS

Questions regarding the meaning or interpretation of any Request for Proposal provision must be submitted via e-mail to nde.SPEDRFP@nebraska.gov at the Nebraska Department of Education and clearly titled "NDERFP2208 RFP Questions". The State is not obligated to respond to questions that are received late per the Schedule of Events. Answers will be provided through an addendum to be posted on the Internet at: <http://www.education.ne.gov/sped> and <https://das.nebraska.gov/materiel/bidopps.html>.

It is recommended that Contractors submit questions using the following format.

Solicitation Section Reference	Solicitation Page Number	Question

F. ORAL INTERVIEW AND/OR DEMONSTRATIONS

The Evaluation Committee(s) may conclude after the completion of the Technical and Cost Proposal evaluation that oral interviews/presentations and/or demonstrations are required in order to determine the successful bidder. Not all bidders may have an opportunity to interview/present and/or give demonstrations; the State reserves the right to select only the top scoring bidders to present/give oral interviews in its sole discretion. The scores from the oral interviews/presentations and/or demonstrations will be added to the scores from the Technical and Cost Proposals. The presentation process will allow the bidders to demonstrate their proposal offering, explaining and/or clarifying any unusual or significant elements related to their proposals. Bidders' key personnel may be requested to participate in a structured interview to determine their understanding of the requirements of this proposal, their authority and reporting relationships within their firm, and their management style and philosophy. Bidders shall not be allowed to alter or amend their proposals. Only representatives of the State and the presenting bidders will be permitted to attend the oral interviews/presentations and/or demonstrations.

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

Detailed notes of oral interviews/presentations and/or demonstrations may be recorded and supplemental information (such as briefing charts, etc.) may be accepted; however, such supplemental information shall not be considered an amendment to a bidders' proposal. Additional written information gathered in this manner shall not constitute replacement of proposal contents.

G. SUBMISSION OF PROPOSALS

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

To facilitate the proposal evaluation process, one (1) original, submitted in PDF format of the entire proposal should be submitted to nde.SPEDRFP@nebraska.gov on or before the date listed in the Schedule of Events. Proposal responses should include the completed **Form A, Bidder Contact Sheet**. Proposals must reference the request for proposal number and be sent to the specified email address. The request for proposal number must be included in all correspondence.

Emphasis should be on conformance to the Request for Proposal instructions, responsiveness to requirements, completeness, and clarity of content. If the bidder's proposal is presented in such a fashion that makes evaluation difficult or overly time consuming, it is likely that points will be lost in the evaluation process. Elaborate and lengthy proposals are neither necessary nor desired.

The total proposal package is not to exceed 10MB in size. Pages may be consecutively numbered for the entire proposal, or may be numbered consecutively within sections. Figures and tables must be numbered consecutively and referenced in the text by that number. They should be placed as close as possible to the referencing text.

H. PROPOSAL OPENINGS

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

I. LATE PROPOSALS

Proposals received after the time and date of the proposal opening will be considered late proposals. The State is not responsible for proposals that are late or lost due to technical difficulties.

J. REJECTION OF PROPOSALS

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

K. EVALUATION OF PROPOSALS

All responses to this Request for Proposal which fulfill all mandatory requirements will be evaluated. Each category will have a maximum possible 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 but not limited to:

1. Corporate Overview should include but is not limited to:
 - a. Understanding of the nature and scope of the work involved.
 - b. the ability, capacity, and skill of the contractor to deliver and implement the system or project that meets the requirements of the solicitation;
 - c. the character, integrity, reputation, judgment, experience, and efficiency of the contractor;
 - d. whether the contractor can perform the contract within the specified time frame;
 - e. the quality of vendor performance on prior contracts and successful experience providing similar services at a similar scale
 - f. such other information that may be secured and that has a bearing on the decision to award the contract;
 - g. execution plan for the requirements in this RFP document including Project Management strategies/methodologies.
2. Technical Approach:
 - a. Sufficient specificity for the Scope of Work to demonstrate understanding of the requirements and tasks involved.
 - b. Clear overview of proposed services.
 - c. Detailed capacity to reasonably meet all requirements within proposed timelines.
 - d. Efficient communication, management and operation of the system.
3. Cost Proposal.
 - a. Costs are clear and sufficiently detailed.
 - b. Costs are reasonable and justified.
 - c. Proposal provides maximum value for least cost.
 - d. Costs are provided for enhancements or optional activities
 - e. Cost Proposal must include analysis, implementation, training and post implementation support efforts

L. EVALUATION COMMITTEE

1. The Proposals will be independently evaluated by members of the Evaluation Committee. The committee will consist of evaluators with the appropriate expertise to conduct such proposal evaluations. Names of the Evaluation Committee will not become public information. Award shall be made in the best interest of the State as determined by the Evaluation Committee.
2. Prior to award, bidders are advised that only the point of contact indicated on the front cover of this Request For Proposal For Contractual Services Form can clarify issues or render any opinion regarding this Request for Proposal. No individual member of the State, employee of the State or member of the Evaluation Committee is empowered to make binding statements regarding this Request for Proposal.
3. The Committee reserves the right to accept or reject any or all proposals or part of a proposal; to waive any informalities or technicalities; clarify any ambiguities in proposals; modify any criteria in this RFP; and unless otherwise specified, to accept any item in a proposal.

M. MANDATORY REQUIREMENTS

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

1. Signed Request For Proposal For Contractual Services form;
2. Corporate Overview
3. Writing Sample
4. Cost Proposal

N. REFERENCE CHECKS

The State reserves the right to check any reference(s), regardless of the source of the reference information, including but not limited to, those that are identified by the company in the proposal, those indicated through the explicitly specified contacts,

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those that are identified during the review of the proposal, or those that result from communication with other entities involved with similar projects.

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

O. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS

All bidders are expected to comply with any statutory registration requirements. It is the responsibility of the bidder who is the recipient of an Intent to Award to comply with any statutory registration requirements pertaining to types of business entities (e.g., a foreign or Nebraska corporation, non-resident contractor, limited partnership, or other type of business entity). The bidder who is the recipient of Intent to Award will be required to certify that it has so complied and produce a true and exact copy of its registration certificate, or, in the case registration is not required, to provide the reason as to why none is required. This must be accomplished prior to the award of contract.

P. VIOLATION OF TERMS AND CONDITIONS

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

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

III. TERMS AND CONDITIONS

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

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

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

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

A. GENERAL

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

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

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

These documents constitute the entirety of the contract.

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

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

B. NOTIFICATION

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

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

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

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

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

C. NOTICE (POC)

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

D. GOVERNING LAW (Statutory)

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

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

E. BEGINNING OF WORK

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

F. AMENDMENT

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

G. CHANGE ORDERS OR SUBSTITUTIONS

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

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

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

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

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

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

H. VENDOR PERFORMANCE REPORT(S)

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

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

I. NOTICE OF POTENTIAL CONTRACTOR BREACH

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

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

J. BREACH

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

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

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

K. NON-WAIVER OF BREACH

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

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

L. SEVERABILITY

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

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

M. INDEMNIFICATION

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

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

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

3. PERSONNEL

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

4. SELF-INSURANCE

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

N. ATTORNEY'S FEES

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation 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 ordered by the court, including attorney's fees and costs, if the other Party prevails.

O. ASSIGNMENT, SALE, OR MERGER

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

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

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

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

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

The Contractor may, but shall not be required to, allow agencies, as defined in Neb. Rev. Stat. §81-145, to use this contract. The terms and conditions, including price, of the contract may not be amended. The State shall not be contractually obligated

or liable for any contract entered into pursuant to this clause. A listing of Nebraska political subdivisions may be found at the website of the Nebraska Auditor of Public Accounts.

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

Q. FORCE MAJEURE

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

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

R. CONFIDENTIALITY

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

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

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

S. EARLY TERMINATION

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

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The contract may be terminated as follows:

- a. The State and the Contractor, by mutual written agreement, may terminate the contract at any time.
- b. 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.
- c. The State may terminate the contract immediately for the following reasons:
 - i. if directed to do so by statute;
 - ii. 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;
 - iii. a trustee or receiver of the Contractor or of any substantial part of the Contractor's assets has been appointed by a court;
 - iv. fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the contract by its Contractor, its employees, officers, directors, or shareholders;
 - v. 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;
 - vi. a voluntary petition has been filed by the Contractor under any of the chapters of Title 11 of the United States Code;
 - vii. Contractor intentionally discloses confidential information;
 - viii. Contractor has or announces it will discontinue support of the deliverable; and,
 - ix. In the event funding is no longer available.

T. CONTRACT CLOSEOUT

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

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

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

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

IV. CONTRACTOR DUTIES

A. INDEPENDENT CONTRACTOR / OBLIGATIONS

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

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

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

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

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

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

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

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

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

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

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

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

B. EMPLOYEE WORK ELIGIBILITY STATUS

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

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

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

- 1) The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at <http://das.nebraska.gov/materiel/purchasing.html>
- 2) The completed United States Attestation Form should be submitted with the solicitation response.
- 3) If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
- 4) The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

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

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

D. COOPERATION WITH OTHER CONTRACTORS

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

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

E. DISCOUNTS

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

F. PRICES

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

All prices, costs, and terms and conditions submitted in the proposal shall remain fixed and valid commencing on the opening date of the proposal until the contract terminates or expires.

All prices, costs, and terms and conditions outlined in the proposal shall remain fixed and valid commencing on the opening date of the proposal until the contract terminates or expires. 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.

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.

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

G. COST CLARIFICATION

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

H. PERMITS, REGULATIONS, LAWS

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

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.

I. OWNERSHIP OF INFORMATION AND DATA / DELIVERABLES

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

		Solicitation Response (Initial)	

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

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

J. INSURANCE REQUIREMENTS

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

The contractor shall not commence work under this contract until he or she has obtained all the insurance required hereunder, and such insurance has been approved by the State. The contractor shall not allow any subcontractor to commence work on his or her subcontract until all similar insurance required of the subcontractor has been obtained and approved by the State (or contractor). Approval of the insurance by the State shall not limit, relieve or decrease the liability of the contractor hereunder.

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

1. WORKERS' COMPENSATION INSURANCE

The contractor shall take out and maintain during the life of this contract the statutory Workers' Compensation and Employer's Liability Insurance for all of the contractor's 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. This policy shall include a waiver of subrogation in favor of the State. The amounts of such insurance shall not be less than the limits stated hereinafter.

2. COMMERCIAL GENERAL LIABILITY INSURANCE AND COMMERCIAL AUTOMOBILE LIABILITY INSURANCE

The contractor shall take out and maintain during the life of this contract such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect the contractor and any 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 an Additional Insured. This policy shall be primary, and any insurance or self-insurance carried by the State shall be considered excess and non-contributory. The Commercial Automobile Liability Insurance shall be written to cover all Owned, Non-owned and Hired vehicles.

3. INSURANCE COVERAGE AMOUNTS REQUIRED

WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY

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

COMMERCIAL GENERAL LIABILITY

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

COMMERCIAL AUTOMOBILE LIABILITY

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

Over primary insurance	\$1,000,000 per occurrence
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4. EVIDENCE OF COVERAGE

The contractor shall furnish the State, with their proposal response, a certificate of insurance coverage complying with the above requirements, which shall be submitted to the Nebraska Department of Education, 500 S 84th St 2nd Floor, Lincoln, NE 68510 email nde.SPEDRFP@nebraska.gov. These certificates or the cover sheet shall reference the RFP number, and the certificates shall include the name of the company, policy numbers, effective dates, dates of expiration and amounts and types of coverage afforded. If the State is damaged by the failure of the contractor to maintain such insurance, then the contractor shall be responsible for all reasonable costs properly attributable thereto.

Notice of cancellation of any required insurance policy must be submitted to Administrative Services Risk Management when issued and a new coverage binder shall be submitted immediately to ensure no break in coverage.

K. NOTICE OF POTENTIAL CONTRACTOR BREACH

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

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

L. ANTITRUST

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

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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.

M. CONFLICT OF INTEREST

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

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

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

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

N. STATE PROPERTY

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

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

O. SITE RULES AND REGULATIONS

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

P. ADVERTISING

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

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

Q. NEBRASKA TECHNOLOGY ACCESS STANDARDS (Statutory)

Contractor shall review the Nebraska Technology Access Standards, found at <https://das.nebraska.gov/materiel/docs/pdf/Technology%20Access%20Clause%2020210608%20FINAL.pdf> and ensure that products and/or services provided under the contract are in compliance or will comply with the applicable standards to the greatest degree possible. In the event such standards change during the Contractor's performance, the State may create an amendment to the contract to request the contract comply with the changed standard at a cost mutually acceptable to the parties.

R. DISASTER RECOVERY/BACK UP PLAN

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

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

S. DRUG POLICY

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

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

T. WARRANTY

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

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

V. PAYMENT

A. PROHIBITION AGAINST ADVANCE PAYMENT (Statutory)

Payments shall not be made until contractual deliverable(s) are received and accepted by the State. Neb. Rev. Stat. §§81-2403 states, “[n]o goods or services shall be deemed to be received by an agency until all such goods or services are completely delivered and finally accepted by the agency.”

B. TAXES (Statutory)

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

C. INVOICES

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

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

D. INSPECTION AND APPROVAL

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

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

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Payment will be made by the responsible agency in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2403). The State may require the Contractor to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for any goods and services provided by the Contractor prior to the Effective Date of the contract, and the Contractor hereby waives any claim or cause of action for any such services.

F. LATE PAYMENT (Statutory)

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

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

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

H. RIGHT TO AUDIT (First Paragraph is Statutory)

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

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

The Parties shall pay their own costs of the audit unless the audit finds a previously undisclosed overpayment by the State. If a previously undisclosed overpayment exceeds one-half of one percent to three (3) percent (.5% to 3%) of the total contract billings, or if fraud, material misrepresentations, or non-performance is discovered on the part of the Contractor, the Contractor shall reimburse the State for the total costs of the audit. Overpayments and audit costs owed to the State shall be paid within ninety (90) days of written notice of the claim. The Contractor agrees to correct any material weaknesses or condition found as a result of the audit.

VI. PROJECT DESCRIPTION AND SCOPE OF WORK

A. PROJECT OVERVIEW

Pursuant to federal (34 C.F.R. § 300.600) and state special education regulations (92 Neb. Admin. Code § 51-004.14), NDE is required to monitor the implementation of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations and Nebraska special education statutes and implementing regulations. These statutes and their implementing regulations require the state of Nebraska to ensure that a free appropriate public education is provided to children with exceptionalities in the least restrictive environment, and that parents of children with exceptionalities, and certain other specified individuals or organizations, are afforded the rights specified in the statutes and implementing regulations. This RFP is to obtain the services of a qualified organization to create a web-based system with the capability to collect, store, report, and track special education monitoring and improvement planning data.

B. SCOPE OF WORK

Contractor shall develop and maintain a fully-functional web-based application capable of performing all necessary data collection, storing, verification, and compliance tracking functions necessary to meet the Office of Special Education's IDEA and Rule 51 and Rule 52 oversight responsibilities. The Contractor is to provide the customized software to be housed within the Nebraska Department of Education Portal. This web-based application must include:

- State-level interactive dashboard that allows NDE to filter by data element (each SPP/APR Part B indicators 1–17 and SPP/APR Part C indicators 1–11 separately), district, building, and identified demographic information.
- District-level interactive dashboard with similar capabilities of the state-level dashboard
- Modules for those listed and other data as deemed necessary:
 - Indicator 8
 - Indicator 11
 - Indicator 12
 - Indicator 13
 - Indicator 14
 - IDEA Application
 - Maintenance of Effort Compliance
 - State Complaint
 - Monitoring
 - Equity (Indicators 4, 9, and 10 and significant disproportionality)
 - District Performance Report and Determinations and the ability to run those calculations within the system
 - Targeted Improvement Plan (TIP)
- Each module must include:
 - Calendars, with built-in reminders that automatically send out notifications to identified recipients.
 - The ability to create, modify, and send letters.
 - The ability for NDE to set and modify timelines to open and close the module to district data entry.
 - The ability for NDE to set and edit questions.
 - The ability for districts to upload data in response to questions.
 - The ability for NDE to determine compliance for each question and provide comment to the district.
 - The ability for the district to upload additional information following NDE's comment.
 - When applicable, the ability to import data from an outside system.
 - The ability to run calculations on data within the system.
 - The ability to display data dashboards of data calculated within the system.

The source of various data sets lies with different groups within the Nebraska Department of Education (e.g., ADVISER), Nebraska school districts and approved cooperatives, the United State Department of Education, and other NDE-Authenticated third-party tools (e.g., TS Gold, Student Information Systems, Qualtrics, BOSR). The required web-based application must be able to import data from identified sources and create reports as specified by the Nebraska Department of Education while fulfilling legal and compliance requirements.

The Contractor shall, in addition to developing the web-based system, provide services to make necessary setups and configurations for the system to be implemented and integrated with NDE's system architecture, make the product fully functional and operational as per the requirements, and to provide necessary post implementation services.

C. DELIVERABLES

The contractor shall provide the following services:

1. Utilize their development environment including MSSQL database licenses, and tools to complete the web-based system development.
2. Provide for a test environment and test all code prior to submitting to NDE for installation in the NDE test environment.

3. Provide for a separate test environment which will serve as the test environment for the project and review code both on the development and testing environments prior to submitting to NDE's test environment.
4. Provide source code to NDE and NDE will own this code. Provide all components of code to NDE after each identified deliverable is completed.
5. NDE will scan all web-based system environments for security vulnerabilities prior to moving to production. Contractor is responsible for resolving any discovered security vulnerability prior to moving to production. The software is not considered accepted until the Contractor certification package is complete and all security issues have been resolved.
6. Encrypt all SQL data at rest and in transit.
7. Identify the person who will be responsible for overall security of the web-based system development, management, and update process throughout the contract period. The person identified, a single senior technical security specialist, is to be known as the project Security Lead. The Security Lead shall certify in writing the security of each deliverable.
8. Design, implement and maintain a web-application for tracking, monitoring, and verifying data from various sources.
9. The application should have the capability to consume the data from NDE authenticated third-party applications and interface with various data sources. (Refer to Section VII (B) above for list of applications and data sources)
10. The application should be developed using CI/CD practices, in Azure DevOps or Github Actions, and deployment should be fully automated.
11. The application should have the capability to generate reports in a variety of formats.
12. The application should have necessary capacity to store the data and reports for a period of 7 years.
13. The application should have capability to maintain business rules meeting compliance requirements.
14. Business rules that permit a state administrative user to change site features to respond to relevant changes to special education statutes and regulations.
15. Build data validations to be compliant with the legal requirements.
16. Integration into the state agency's Azure environment with single sign-on and ability to interface with other systems.
17. Design and implement a data model for the application. Data mapping and transformation rules (if necessary).
18. Provide sample database queries to extract data.
19. The application should have cross-browser compatibility and should be responsive to variety of devices
20. Conduct a gap analysis for integrations with multiple systems and make recommendations for the product specifications.
21. Outline, in clear detail, proposed methodology for the following application security verification techniques:
 - a. Dynamic vulnerability scanning
 - b. Malicious code analysis
 - c. Manual code review
 - d. Manual penetration testing
 - e. Security architecture review
 - f. Static analysis
 - g. Threat modeling
 - h. 508 compliance
22. Authentication and authorization, using a role based security model
23. Disaster Recovery Plan
24. Post-implementation support, including updating the software during the contract period and during any maintenance years to fix any bugs or issues that have been reported. This includes updating the software to accommodate changes NDE requests within the scope of this agreement.
25. Work with NDE staff to make them aware of updated programs and details as to what to update to the application once testing is finalized.
26. Promptly notify NDE of all minor and major modifications and upgrades. Advise and assist NDE as warranted with these modifications and upgrades.
27. Training for state and district staff in Nebraska once per calendar year, if NDE requests.
28. Provide training manuals and videos for state and district staff on how to use the system.
29. Project management tracking system that allows state users to report system issues, communicate with developers, and track in real time the tasks on which developers are working and the progress on those tasks.
30. Ongoing maintenance cost estimate after implementation (Subscription/ Licensing) (e.g., maintenance cost involved for next 3–5 years and staffing needs).
31. Access to technical support staff that can be reached during standard business hours by email or a toll free telephone number
32. Submit a timeline for implementing services with the bid.

A. SYSTEM REQUIREMENTS

Bidders must explain in sufficient detail how the bidder will satisfy the NDE's system requirements described below. If subcontractors will be used for any of the tasks, bidders must indicate what tasks and the percentage of time subcontractor(s) will spend on those tasks.

The successful bidder will have a common product set that does not overly complicate, and yet provides for efficient operations and minimizes total cost of ownership. The solution must be easily maintainable. Bidders are encouraged to offer software and related hardware products that accomplish the functionality objectives and align with the project goals and objectives.

Bidders must describe how their proposed solution aligns and physically implements the functionality as identified within the RFP. Where appropriate, bidders are encouraged to describe how their proposed solution provides added value to the requirements.

1. COMPUTING AND HOSTING PLATFORM

- a. NDE is currently a Microsoft .NET/.NET Core and C# centric environment. The proposed solution should target a .NET Core/Angular technology stack with MSSQL data storage running entirely in the Microsoft Azure cloud environment.

2. SYSTEM/APPLICATION SECURITY

- a. Existing Federal and State data sharing and security agreements will need to be followed. Role based access will need to be implemented for individual level secure access that will grant access to varying levels of data depending on the role of the person accessing the data.
- b. The vendor will be aware of and ensure compliance with state and federal privacy laws related to Personal Identification Security (PII and data masking).
- c. Securing and safeguarding sensitive information are essential requirements of the project. The solution must provide a means for establishing security roles based on functional responsibility and allow access to information when authorized. Sensitive information processed through the web and other external communications must be safeguarded and protected. All data must be encrypted in transit. The proposed solution should adhere to NITC standards and guidelines and NDE data security policies.
- d. Referring to the requirements identified in the RFP, describe the proposed solution's security features and capabilities. In addition to other pertinent content, bidders must include a description for the following:
 - Describe proposed general application security capability and features.
 - Explain how security roles are used to define application access and what capability exists for copying, modifying, and managing roles and assigned users or groups.
 - Describe how, when and what audit trail information is captured and what features are available to facilitate monitoring, reviewing and reporting.
 - Describe when and where proposed data encryption of information occurs. For example, is transmitted data encrypted?
 - Describe proposed techniques for managing and monitoring information and application access.

In addition to the system functionality described, the bidder's proposed solution must provide a technical architecture and environment that is secured, performs well, is maintainable and reliable, and is recoverable should a man-made or natural system disaster occur. Referring to the requirements identified within the RFP, describe how the proposed solution's technical features, functions, architectures, hardware and software components support and satisfy the overall stated functional and non-functional requirements.

3. SYSTEM SOFTWARE

- a. The bidder must include within their cost proposal all required system operations, database, security, and virtualization software, functional and interface software and all other third party and vendor software products required to properly design, develop, test, train, implement, interface, maintain, tune and operate the proposed solution and fully satisfy the State's requirements.
- b. Software releases and versions must be the most current required to correctly and properly operate the bidder's proposed solution.
- c. Any other software used within the system, for which the State would need to obtain licenses, must be defined by the bidder.
- d. The State reserves the right to purchase third party software through the vendor as part of the contract and/or through other available resources approved by the State.
- e. If the bidder's proposed solution requires desktop and/or other peripheral related software not already described in the State's current configurations, then the bidder must include costs in their cost proposal for all necessary desktop and peripheral software required to properly operate the proposed solution.

- f. If the application software is not public domain, a licensing strategy must be described to support the pre-production environment. Within the licensing strategy, describe how the State will defer paying for licenses until they are required and/or in full use.

4. SYSTEM HARDWARE

- a. The bidder must include within their proposal all server, data storage, virtualization, cables, cards, connectors and other hosting, imaging and server related equipment information necessary to fully satisfy the State's RFP requirements and properly operate the bidder's proposed solution. This includes equipment necessary for proof-of-concept, development, test, user acceptance/training, and final production processing environments. Equipment proposed by the bidder must be all mainstream computing equipment offered by leading computing equipment manufacturers.
- b. The State envisions using pre-production environments to facilitate test, user acceptance, and training project tasks. Each environment, either physical or virtual, must use mainstream industry-standard hardware, software and relational database management products. While the State requires each bidder to include their costs for all base components and third-party equipment, the State, at its sole option, reserves the right to procure any or all of the required components and equipment from another source, based upon specifications provided by the successful bidder. Bidders must provide a comprehensive equipment list including equipment make, model and primary configuration.

5. SYSTEM ARCHITECTURE

- a. Bidders must describe the system architecture degree of "openness" and adherence to industry standard hardware, software, security and communications protocols.
- b. Bidders must describe the hosting environment options.
- c. Bidders must describe how components of the proposed architecture will remain current and supported to avoid becoming obsolete.
- d. Bidders must provide an overview of how major hardware and software components are layered and used within the architecture.
- e. Bidders must identify and describe the primary underlying development programming language(s), integrated development environment (IDE), and component server environment used to produce tailored or customized components of the proposed solution.

6. DISASTER RECOVERY AND SYSTEM INTEGRITY

- a. The bidder must describe how their solution ensures system integrity and recovery.
- b. Include information regarding fault tolerance capability, if any, backup schedules and approach, data and system recovery, and offsite or alternate site requirements in case of disaster and other system continuity information.

7. SYSTEM PERFORMANCE, CAPACITY AND SCALABILITY

- a. The proposed system must provide necessary capacity to store, initial load and ongoing processing of the data, and be capable of scaling in size and performance. Describe system performance and capacity features of the proposed solution and how the proposed solution is able to scale up to meet increase in load and demand.

8. SYSTEM AVAILABILITY, RELIABILITY AND MAINTAINABILITY

- a. The solution must be accurate and reliable. Another objective of the implementation is to ensure that system components are maintainable.
- b. Describe how the proposed solution will meet system operational requirements.
- c. The proposed solution must reliably produce accurate, timely and consistent results when matching the data and/or generating reports. Describe how the bidder's solution achieves these requirements.
- d. Describe features and designs of the proposed solution that ensure component maintainability and ease of modification.

9. STATEWIDE SYSTEM SECURITY REQUIREMENTS

- a. All information technology services and systems developed or acquired by Nebraska State agencies shall have documented security specifications that include an analysis of security risks and recommended controls (including access control systems and contingency plans).
- b. Security requirements and evaluation/test procedures shall be included in all solicitation documents and/or acquisition specifications.
- c. Security considerations must be included in each phase of system development.

- d. Systems developed by either internal State or contracted system developers shall not include back doors, or other code that would cause or allow unauthorized access or manipulation of code or data.
- e. All approved information technology services and systems must address the security implications of any changes made to a particular service or system.
- f. The responsible agencies must authorize all changes.
- g. Application systems and information that become obsolete and no longer used must be disposed of by appropriate procedures. The application and associated information must be preserved, discarded, or destroyed.

B. TRAINING

- 1. Develop a training plan and approach, produce training manual and training materials, and conduct train-the-trainer, end-user and technical training. Training materials must reference appropriate system documentation and operating procedures. The vendor must coordinate with NDE project management to arrange all training timelines. The vendor shall ensure that sufficient training sessions are scheduled to train all staff identified in the use of the system in a hosted environment.
- 2. The vendor will work with the State to assess end-user training needs and arrange all training timelines and locations. The vendor must conduct and train project staff. User training must include report and data usage training for the end-user.
- 3. Technical transfer of knowledge must include system support and operational aspects such as, configuration of tools used in the project, system table maintenance, security administration, interface operation for the extract files, and other system specific operations including the use of all system/data-related tools required to use the system.

D. QUALIFICATIONS

The contractor must provide documentation showing it meets the following qualifications::

- 1. Narrative providing:
 - i. date established;
 - ii. ownership (public, private, subsidiary, etc.);
 - iii. number of personnel, full and part time, that would be assigned to this project, if awarded, by function and job title;
 - iv. resources assigned to this project, if awarded, and the extent they are also dedicated to other matters; and
 - v. organizational chart.
- 2. Expertise in special education software development.
- 3. Experience developing monitoring solutions for federal and state compliance and grants management.
- 4. Experience developing highly-customized systems.
- 5. Employ developers that are knowledgeable in all statutes and regulations for which the U.S. Department of Education is responsible as well as related data reporting requirements and changes to both law and reporting requirements.
- 6. Expertise in creating a seamless user experience.
- 7. Show the ability to problem solve, collaborate, and a track record of accountability.

E. STATE RESOURCES TO BE PROVIDED

NDE agrees to provide the following resources to the Contractor in support of the Contract:

- 1. Access to state and federal special education statutes and regulations.
- 2. Access to template letters and complaint investigation reports.
- 3. Access to "Special Education Connection," a web-based database which can be used to conduct research on legal questions, court cases, and administrative decisions and guidance.
- 4. Consultation with NDE's Office of Special Education personnel regarding complaint investigations and questions of law, as deemed necessary by NDE.
- 5. Continuing education opportunities in special education law and complaint investigations, as deemed necessary by NDE.

*For performing necessary job duties in the hybrid work environment, contractor should possess their own computer (Microsoft office installed), stable internet connection, email address, phone, headset, and driver's license. All necessary network, system and application permissions will be provided. No expense reimbursements are planned by the state agency for this position.

VII. PROPOSAL INSTRUCTIONS

This section documents the requirements that should be met by contractors in preparing the Proposal. Proposals are due by the date and time shown in the Schedule of Events.

A. PROPOSAL SUBMISSION

The contractor should submit a written proposal that includes the following sections:

1. CORPORATE OVERVIEW

- a. Understanding of and relevant previous experience with the services to be provided;
- b. How contractor meets requirements and preferred qualifications
- c. Proposed approach to providing services and;

2. COST PROPOSAL

Contractor must provide hourly rates estimates for services by year in the table below.

	Year 1	Year 2	Year 3
Hourly Rate for Services			

Form A
Contractor Proposal Point of Contact
Request for Proposal Number NDERFP2208

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

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

Each contractor should also designate a specific contact person who will be responsible for responding to the State if any clarifications of the contractor'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	
Contractor Name:	
Contractor Address:	
Contact Person & Title:	
E-mail Address:	
Telephone Number (Office):	
Telephone Number (Cellular):	
Fax Number:	

REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES FORM

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

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

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

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

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

FORM MUST BE SIGNED MANUALLY BY INK AND SCANNED OR ELECTRONICALLY AND SUBMITTED VIA EMAIL

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

Form B

Notification of Intent to Bid

Request for Proposal (NDERFP2208)

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

The "Notification of Intent to Bid" form must be submitted to the Nebraska Department of Education via e-mail to nde.SPEDRFP@nebraska.gov, by the date shown in the Schedule of Events.