

 <b>UNIVERSITY OF SOUTH CAROLINA</b>	<b>BEST VALUE BID</b>	Solicitation Number Date Printed Date Issued Procurement Officer Phone E-Mail Address	<b>USC-BVB-1732-CJ</b> <b>June 7, 2010</b> <b>June 7, 2010</b> <b>Charles Johnson</b> <b>803-777-2020</b> <b>Charles.Johnson@sc.edu</b>
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DESCRIPTION: Furnish all Labor, Materials and Equipment Necessary to Provide BigFix Software Support for the University of South Carolina Technology Services.

USING GOVERNMENT AGENCY: UNIVERSITY OF SOUTH CAROLINA

*The Term "Offer" Means Your "Bid" or "Proposal".*

SUBMIT OFFER BY: (Opening Date/Time): **6/23/2010 11:00 AM** See "Deadline for Submission of Offer" provision

QUESTIONS MUST BE RECEIVED BY: **6/15/2010 12:00 PM** See "Questions From Offerors" provision

NUMBER OF COPIES TO BE SUBMITTED: **One (1) Original in Hardcopy and three (3) copies marked 'Copy' plus one (1) Electronic Copy (Original Hardcopy Shall Prevail)**

**Offers must be submitted in a sealed package. Solicitation Number & Opening Date must appear on package exterior.**

SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:

<b>MAILING ADDRESS:</b> University of South Carolina – Purchasing Dept. 1600 Hampton St., Suite 606 Columbia, SC 29208	<b>PHYSICAL ADDRESS:</b> University of South Carolina – Purchasing Dept. 1600 Hampton St., Suite 606 Columbia, SC 29208
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See "Submitting Your Offer" provision

<b>CONFERENCE TYPE:</b> N/A  As appropriate, see "Conferences-Pre-Bid/Proposal" & "Site Visit" provisions	<b>LOCATION:</b>
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<b>AWARD &amp; AMENDMENTS</b>	Award will be posted at the Physical Address stated above on <b>07/01/2010</b> . The award, this solicitation, and any amendments will be posted at the following web address: <a href="http://purchasing.sc.edu">http://purchasing.sc.edu</a>
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You must submit a signed copy of this form with Your Offer. By submitting a bid or proposal, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of thirty (30) calendar days after the Opening Date.

<b>NAME OF OFFEROR</b> (Full legal name of business submitting the offer)	<b>OFFEROR'S TYPE OF ENTITY:</b> (Check one) <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporate entity (not tax-exempt) <input type="checkbox"/> Tax –exempt corporate entity <input type="checkbox"/> Government entity (federal, state, or local) <input type="checkbox"/> Other _____ (See "Signing Your Offer" provision.)
<b>AUTHORIZED SIGNATURE</b>  (Person signing must be authorized to submit binding offer to enter contract on behalf of Offeror named above.)	
<b>TITLE</b> (Business title of person signing above)	
<b>PRINTED NAME</b> (Printed name of person signing above) <b>DATE SIGNED</b>	

Instructions regarding Offeror's name: Any award issued will be issued to, and the contract will be formed with, the entity identified as the offeror above. An offer may be submitted by only one legal entity. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, *i.e.*, a separate corporation, partnership, sole proprietorship, etc.

<b>STATE OF INCORPORATION</b>	(If offeror is a corporation, identify the state of Incorporation.)
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<b>TAXPAYER IDENTIFICATION NO.</b>  (See "Taxpayer Identification Number" provision)	
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**PAGE TWO**

**(Return Page Two with Your Offer)**

<p><b>HOME OFFICE ADDRESS</b> (Address for offeror's home office / principal place of business)</p>          	<p><b>NOTICE ADDRESS</b> (Address to which all procurement and contract related notices should be sent.) (See "Notice" clause)</p>          <p>_____</p> <p>Area Code - Number - Extension                      Facsimile</p> <p>_____</p> <p>E-mail Address</p>
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<p><b>PAYMENT ADDRESS</b> (Address to which payments will be sent.) (See "Payment" clause)</p>          <p>_____ Payment Address same as Home Office Address</p> <p>_____ Payment Address same as Notice Address    <b>(check only one)</b></p>	<p><b>ORDER ADDRESS</b> (Address to which purchase orders will be sent) (See "Purchase Orders and "Contract Documents" clauses)</p>          <p>_____ Order Address same as Home Office Address</p> <p>_____ Order Address same as Notice Address    <b>(check only one)</b></p>
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**ACKNOWLEDGMENT OF AMENDMENTS**  
 Offerors acknowledges receipt of amendments by indicating amendment number and its date of issue. (See "Amendments to Solicitation" Provision)

Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date

<p><b>DISCOUNT FOR PROMPT PAYMENT</b>          (See "Discount for Prompt Payment" clause)</p>	<p>10 Calendar Days (%)</p>	<p>20 Calendar Days (%)</p>	<p>30 Calendar Days (%)</p>	<p>_____ Calendar Days (%)</p>
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**PREFERENCES - A NOTICE TO VENDORS (SEP. 2009):** On June 16, 2009, the South Carolina General Assembly rewrote the law governing preferences available to in-state vendors, vendors using in-state subcontractors, and vendors selling in-state or US end products. This law appears in Section 11-35-1524 of the South Carolina Code of Laws. A summary of the new preferences is available at [www.procurement.sc.gov/preferences](http://www.procurement.sc.gov/preferences). **ALL THE PREFERENCES MUST BE CLAIMED AND ARE APPLIED BY LINE ITEM, REGARDLESS OF WHETHER AWARD IS MADE BY ITEM OR LOT. VENDORS ARE CAUTIONED TO CAREFULLY REVIEW THE STATUTE BEFORE CLAIMING ANY PREFERENCES. THE REQUIREMENTS TO QUALIFY HAVE CHANGED. IF YOU REQUEST A PREFERENCE, YOU ARE CERTIFYING THAT YOUR OFFER QUALIFIES FOR THE PREFERENCE YOU'VE CLAIMED. IMPROPERLY REQUESTING A PREFERENCE CAN HAVE SERIOUS CONSEQUENCES.** [11-35-1524(E)(4)&(6)]

**PREFERENCES - ADDRESS AND PHONE OF IN-STATE OFFICE:** Please provide the address and phone number for your in-state office in the space provided below. An in-state office is necessary to claim either the Resident Vendor Preference (11-35-1524(C)(1)(i)&(ii)) or the Resident Contractor Preference (11-35-1524(C)(1)(iii)). Accordingly, you must provide this information to qualify for the preference. An in-state office is not required, but can be beneficial, if you are claiming the Resident Subcontractor Preference (11-35-1524(D)).

  
  
  
  
  
  
  
  
  
  

\_\_\_\_\_ In-State Office Address same as Home Office Address

\_\_\_\_\_ In-State Office Address same as Notice Address    (check only one)

## **Solicitation Outline**

- I. Scope of Solicitation
- II. Instructions to Offerors
  - A. General Instructions
  - B. Special Instructions
- III. Scope of Work / Specifications  
May be blank if Bidding Schedule / Cost Proposal attached
- IV. Information for Offerors to Submit
- V. Qualifications
- VI. Award Criteria
- VII. Terms and Conditions
  - A. General
  - B. Special
- VIII. Bidding Schedule / Cost Proposal
- IX. Attachments to Solicitation

### **I. Scope Of Solicitation**

ACQUIRE SERVICES & SUPPLIES / EQUIPMENT (JAN 2006): The purpose of this solicitation is to acquire services and supplies or equipment complying with the enclosed description and/or specifications and conditions.

It is the intent of the University of South Carolina to solicit proposals from qualified sources of supply to provide BigFix software support for the University of South Carolina Technology Services in accordance with all the requirements stated herein.

MAXIMUM CONTRACT PERIOD — ESTIMATED (January 2006): **From July 1, 2010 to June 30, 2015.** Dates provided are estimates only. Any resulting contract will begin on the date specified in the notice of award. See clause entitled "Term of Contract – Effective Date / Initial Contract Period".

### **II. Instructions To Offerors - A. General Instructions**

DEFINITIONS (JANUARY 2006) EXCEPT AS OTHERWISE PROVIDED HEREIN, THE FOLLOWING DEFINITIONS ARE APPLICABLE TO ALL PARTS OF THE SOLICITATION.

AMENDMENT – means a document issued to supplement the original solicitation document.

BUYER – means the Procurement Officer.

CHANGE ORDER - means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

CONTRACT - See clause entitled "Contract Documents & Order of Precedence."

CONTRACT MODIFICATION – means a written order signed by the Procurement Officer, directing the contractor to make changes which the changes clause of the contract authorizes the Procurement Officer to order without the consent of the contractor.

CONTRACTOR - means the Offeror receiving an award as a result of this solicitation.

COVER PAGE – means the top page of the original solicitation on which the solicitation is identified by number. Offerors are cautioned that Amendments may modify information provided on the Cover Page.

OFFER – means the bid or proposal submitted in response this solicitation. The terms “Bid” and “Proposal” are used interchangeably with the term “Offer.”

OFFEROR – means the single legal entity submitting the offer. The term “Bidder” is used interchangeably with the term “Offeror.” See bidding provisions entitled “Signing Your Offer” and “Bid/Proposal As Offer To Contract.”

ORDERING ENTITY - Using Governmental Unit that has submitted a Purchase Order.

PAGE TWO – means the second page of the original solicitation, which is labeled Page Two.

PROCUREMENT OFFICER – means the person, or his successor, identified as such on the Cover Page.

YOU and YOUR – means Offeror.

SOLICITATION – means this document, including all its parts, attachments, and any Amendments.

STATE – means the Using Governmental Unit(s) identified on the Cover Page.

SUBCONTRACTOR – means any person having a contract to perform work or render service to Contractor as a part of the Contractor’s agreement arising from this solicitation.

USING GOVERNMENTAL UNIT – means the unit(s) of government identified as such on the Cover Page. If the Cover Page names a “Statewide Term Contract” as the Using Governmental Unit, the Solicitation seeks to establish a Term Contract [11-35-310(35)] open for use by all South Carolina Public Procurement Units [11-35-4610(5)].

WORK - means all labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations under the Contract.

AMENDMENTS TO SOLICITATION (JANUARY 2006) (a) The Solicitation may be amended at any time prior to opening. All actual and prospective Offerors should monitor the following web site for the issuance of Amendments: <http://purchasing.sc.edu>. (b) Offerors shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on Page Two, (3) by letter, or (4) by submitting a bid that indicates in some way that the bidder received the amendment. (c) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

AWARD NOTIFICATION (NOV 2007): Notice regarding any award or cancellation of award will be posted at the location specified on the Cover Page. If the contract resulting from this Solicitation has a total or potential value of fifty thousand dollars or more, such notice will be sent to all Offerors responding to the Solicitation. Should the contract resulting from this Solicitation have a total or potential value of one hundred thousand dollars or more, such notice will be sent to all Offerors responding to the Solicitation and any award will not be effective until the eleventh day after such notice is given. [02-2A010-1]

BID / PROPOSAL AS OFFER TO CONTRACT (JANUARY 2006) By submitting Your Bid or Proposal, You are offering to enter into a contract with the Using Governmental Unit(s). Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page. An Offer may be submitted by only one legal entity; “joint bids” are not allowed.

BID ACCEPTANCE PERIOD (JANUARY 2006) In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing.

BID IN ENGLISH & DOLLARS (JANUARY 2006) Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation.

CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS  
(JANUARY 2006)

(a)(1) By submitting an Offer, Offeror certifies, to the best of its knowledge and belief, that-

(i) Offeror and/or any of its Principals-

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;

(B) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

(b) Offeror shall provide immediate written notice to the Procurement Officer if, at any time prior to contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) If Offeror is unable to certify the representations stated in paragraphs (a)(1), Offer must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure of the Offeror to furnish additional information as requested by the Procurement Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, the Procurement Officer may terminate the contract resulting from this solicitation for default.

CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (MAY 2008)

GIVING FALSE, MISLEADING, OR INCOMPLETE INFORMATION ON THIS

CERTIFICATION MAY RENDER YOU SUBJECT TO PROSECUTION UNDER SECTION 16-9-10 OF THE SOUTH CAROLINA CODE OF LAWS AND OTHER APPLICABLE LAWS.

(a) By submitting an offer, the offeror certifies that-

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to-

(i) Those prices;

(ii) The intention to submit an offer; or

(iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory-

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; or

(2)(i) Has been authorized, in writing, to act as agent for the offeror's principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification [As used in this subdivision (b)(2)(i), the term "principals" means the person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal];

(ii) As an authorized agent, does certify that the principals referenced in subdivision (b)(2)(i) of this certification have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification.

**CLARIFICATION (NOV 2007):** Pursuant to Section 11-35-1520(8), the Procurement Officer may elect to communicate with you after opening for the purpose of clarifying either your offer or the requirements of the solicitation. Such communications may be conducted only with offerors who have submitted an offer which obviously conforms in all material aspects to the solicitation. Clarification of an offer must be documented in writing and included with the offer. Clarifications may not be used to revise an offer or the solicitation. [Section 11-35-1520(8); R.19-445.2080] [02-2B055-1]

**CODE OF LAWS AVAILABLE (JAN 2006):** The South Carolina Code of Laws, including the Consolidated Procurement Code, is available at <http://www.scstatehouse.net/code/statmast.htm>. The South Carolina Regulations are available at: <http://www.scstatehouse.net/coderegs/statmast.htm>.

**COMPLETION OF FORMS / CORRECTION OF ERRORS (JAN 2006):** All prices and notations should be printed in ink or typewritten. Errors should be crossed out, corrections entered and initialed by the person signing the bid. Do not modify the solicitation document itself (including bid schedule). (Applicable only to offers submitted on paper.)

**DEADLINE FOR SUBMISSION OF OFFER (JANUARY 2006)** Any offer received after the Procurement Officer of the governmental body or his designee has declared that the time set for opening has arrived, shall be rejected unless the offer has been delivered to the designated purchasing office or the governmental bodies' mail room which services that purchasing office prior to the bid opening. [R.19-445.2070(H)]

**DISCUSSIONS and NEGOTIATIONS (NOV 2007):** Submit your best terms from a cost or price and from a technical standpoint. Your proposal may be evaluated and your offer accepted without any discussions, negotiations, or prior notice. Ordinarily, nonresponsive proposals will be rejected outright. Nevertheless, the State may elect to conduct discussions, including the possibility of limited proposal revisions, but only for those proposals reasonably susceptible of being selected for award. If improper revisions are submitted, the State may elect to consider only your unrevised initial proposal. [11-35-1530(6); R.19-445.2095(I)] The State may also elect to conduct negotiations, beginning with the highest ranked offeror, or seek best and final offers, as provided in Section 11-35-1530(8). If negotiations are conducted, the State may elect to disregard the negotiations and accept your original proposal. [02-2B060-1]

**DRUG FREE WORK PLACE CERTIFICATION (JANUARY 2006)** By submitting an Offer, Contractor certifies that, if awarded a contract, Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.

**DUTY TO INQUIRE (JANUARY 2006)** Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror's risk. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the State's attention.

**ETHICS CERTIFICATE (May 2008):** By submitting an offer, the offeror certifies that the offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The state may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the procurement officer at the same time the law requires the statement to be filed. [02-2A075-2]

#### **ILLEGAL IMMIGRATION CLAUSES (2008)**

Procurement Code Transactions: Non-Construction

**ILLEGAL IMMIGRATION (NOV. 2008):** (An overview is available at [www.procurement.sc.gov](http://www.procurement.sc.gov)) By signing your offer, you certify that you will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to the State upon request any

documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to you and your subcontractors or sub-subcontractors; or (b) that you and your subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." You agree to include in any contracts with your subcontractors language requiring your subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14. [07-7B097-1]

#### Procurement Code Transactions: Construction

By signing its bid or proposal, Contractor certifies that it will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agrees to provide to the State upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable both to Contractor and its subcontractors or sub-subcontractors; or (b) that Contractor and its subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." Contractor agrees to include in any contracts with its subcontractors language requiring its subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14. (An overview is available at [www.procurement.sc.gov](http://www.procurement.sc.gov))

#### Other Transactions

By submitting an offer, Contractor certifies that it will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws (originally enacted as Section 3 of The South Carolina Illegal Immigration Reform Act, 2008 S.C. Act No. 280) and agrees to provide upon request any documentation required to establish either: (a) the applicability of Title 8, Chapter 14 to Contractor and any subcontractors or sub-subcontractors; or (b) the compliance with Title 8, Chapter 14 by Contractor and any subcontractor or sub-subcontractor. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." Contractor agrees to include in any contracts with its subcontractors language requiring the subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in any contracts with the sub-subcontractors language requiring the sub-subcontractor to comply with the applicable requirements of Title 8, Chapter 14.

**OMIT TAXES FROM PRICE (JANUARY 2006):** Do not include any sales or use taxes in Your price that the State may be required to pay.

**PROCUREMENT AGENT (AUG 2004)** Authorized Agent. All authority regarding the conduct of this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the government with regard to this procurement.



**PROTESTS (JUNE 2006)** Any prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the solicitation of a contract shall protest within fifteen days of the date of issuance of the applicable solicitation document at issue. Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest within ten days of the date notification of award is posted in accordance with this code. A protest shall be in writing, shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided, and must be received by the appropriate Chief Procurement Officer within the time provided. See clause entitled "Protest-CPO". [~ 11-35-4210]

**PUBLIC OPENING (JANUARY 2006)** Offers will be publicly opened at the date / time and at the location identified on the Cover Page, or last Amendment, whichever is applicable

**QUESTIONS FROM OFFERORS (JANUARY 2006):** (a) Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing. Questions must be received by the Procurement Officer no later than five (5) days prior to opening unless otherwise stated on the Cover Page. Label any communication regarding your questions with the name of the procurement officer, and the solicitation's title and number. Oral explanations or instructions will not be binding. Any information given a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective offerors. (b) The State seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer – as soon as possible – regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition.

**REJECTION/CANCELLATION (JAN 2004)** The State may cancel this solicitation in whole or in part. The State may reject any or all proposals in whole or in part. [SC Code Section 11-35-1710 & R.19-445.2065.]

**RESPONSIVENESS / IMPROPER OFFERS (JANUARY 2006)**

(a) Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation.

(b) Multiple Offers. Offerors may submit more than one Offer, provided that each Offer has significant differences other than price. Each separate Offer must satisfy all Solicitation requirements. If this solicitation is an Invitation for Bids, each separate offer must be submitted as a separate document. If this solicitation is a Request for Proposals, multiple offers may be submitted as one document, provided that you clearly differentiate between each offer and you submit a separate cost proposal for each offer, if applicable.

(c) Responsiveness. Any Offer which fails to conform to the material requirements of the Solicitation may be rejected as nonresponsive. Offers which impose conditions that modify material requirements of the Solicitation may be rejected. If a fixed price is required, an Offer will be rejected if the total possible cost to the State cannot be determined. Offerors will not be given an opportunity to correct any material nonconformity. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer. [R.19-445.2070 and Section 11-35-1520(13)]

(d) Price Reasonableness: Any offer may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price. [R. 19-445.2070].

(e) Unbalanced Bidding. The State may reject an Offer as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the State even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

**RESTRICTIONS APPLICABLE TO OFFERORS (JANUARY 2006)** Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of the state Ethics Act. (a) After issuance of the solicitation, ***you agree not to discuss this procurement activity in any way with the Using Governmental Unit or its employees, agents or officials.*** All communications must be solely with the Procurement Officer. This restriction may be lifted by express written permission from the Procurement Officer. This restriction expires once a contract has been formed. (b) Unless otherwise approved in writing by the Procurement Officer, ***you agree not to give anything to any Using Governmental Unit***

**SIGNING YOUR OFFER (JANUARY 2006)** Every Offer must be signed by an individual with actual authority to bind the Offeror. (a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm. (b) If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words "by its Partner," and signed by a general partner. (c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign. (d) An Offer may be submitted by a joint venturer involving any combination of individuals, partnerships, or corporations. If the Offeror is a joint venture, the Offer must be submitted in the name of the Joint Venture and signed by every participant in the joint venture in the manner prescribed in paragraphs (a) through (c) above for each type of participant. (e) If an Offer is signed by an agent, other than as stated in subparagraphs (a) through (d) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the agent's authorization to bind the principal.

**STATE OFFICE CLOSINGS (JANUARY 2006)** If an emergency or unanticipated event interrupts normal government processes so that offers cannot be received at the government office designated for receipt of bids by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal government processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule bid opening. If state offices are closed at the time a pre-bid or pre-proposal conference is scheduled, an Amendment will be issued to reschedule the conference. Useful information may be available at: [http://www.scemd.org/scgovweb/weather\\_alert.htm](http://www.scemd.org/scgovweb/weather_alert.htm).

**SUBMITTING REDACTED OFFERS (FEB 2007):** You are required to mark the original copy of your offer to identify any information that is exempt from public disclosure. You must do so in accordance with the clause entitled "Submitting Confidential Information." In addition, you must also submit one complete copy of your offer from which you have removed any information that you marked as exempt, i.e., a redacted copy. The information redacted should mirror in every detail the information marked as exempt from public disclosure. The redacted copy should (i) reflect the same pagination as the original, (ii) show the empty space from which information was redacted, and (iii) be submitted on magnetic media. (See clause entitled "Magnetic Media Required Format.") Except for the redacted information, the CD must be identical to the original hard copy. Portable Document Format (.pdf) is preferred. [04-4030-1]

**SUBMITTING CONFIDENTIAL INFORMATION (AUG 2002):** (An overview is available at [www.procurement.sc.gov](http://www.procurement.sc.gov)) For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that Offeror contends contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged and confidential, as that phrase is used in Section 11-35-410. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the words "TRADE SECRET" every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "PROTECTED" every page, or portion thereof, that Offeror contends is protected by Section 11-35-1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire response (bid, proposal, quote, etc.) as confidential, trade secret, or protected! If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page. By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED", (2) agrees that any information not marked, as required by these bidding instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. In determining whether to release documents, the State will detrimentally rely on Offeror's marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "PROTECTED". By submitting a response, Offeror agrees to defend, indemnify and hold harmless the State of South Carolina, its officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from the State withholding information that Offeror marked as "confidential" or "trade secret" or "PROTECTED". (All references to S.C. Code of Laws.)

**SUBMITTING YOUR OFFER OR MODIFICATION (JANUARY 2006)** (a) Offers and offer modifications shall be submitted in sealed envelopes or packages (unless submitted by electronic means) – (1) Addressed to the office specified in the Solicitation; and (2) Showing the time and date specified for opening, the solicitation number, and the name and address of the bidder. (b) If you are responding to more than one solicitation, each offer must be submitted in a different envelope or package. (c) Each Offeror must submit the number of copies indicated on the Cover Page. (d) Offerors using commercial carrier services shall ensure that the Offer is addressed and marked on the outermost envelope or wrapper as prescribed in paragraphs (a)(1) and (2) of this provision when delivered to the office specified in the Solicitation. (e) Facsimile or e-mail offers, modifications, or withdrawals, will not be considered unless authorized by the Solicitation. (f) Offers submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation.

**TAX CREDIT FOR SUBCONTRACTING WITH DISADVANTAGED SMALL BUSINESSES (JAN 2008):** Pursuant to Section 12-6-3350, a taxpayer having a contract with this State who subcontracts with a socially and economically disadvantaged small business is eligible for an income tax credit equal to four percent of the payments to that subcontractor for work pursuant to the contract. The subcontractor must be certified as a socially and economically disadvantaged small

business as defined in Section 11-35-5010 and regulations pursuant to it. The credit is limited to a maximum of fifty thousand dollars annually. A taxpayer is eligible to claim the credit for ten consecutive taxable years beginning with the taxable year in which the first payment is made to the subcontractor that qualifies for the credit. After the above ten consecutive taxable years, the taxpayer is no longer eligible for the credit. A taxpayer claiming the credit shall maintain evidence of work performed for the contract by the subcontractor. The credit may be claimed on Form TC-2, "Minority Business Credit." A copy of the subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be attached to the contractor's income tax return. Questions regarding the tax credit and how to file are to be referred to: SC Department of Revenue, Research and Review, Phone: (803) 898-5786, Fax: (803) 898-5888. Questions regarding subcontractor certification are to be referred to: Governor's Office of Small and Minority Business Assistance, Phone: (803) 734-0657, Fax: (803) 734-2498. [02-2A135-1]

**TAXPAYER IDENTIFICATION NUMBER (JANUARY 2006):** (a) If Offeror is owned or controlled by a common parent as defined in paragraph (b) of this provision, Offeror shall submit with its Offer the name and TIN of common parent.

(b) Definitions: "Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member. "Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(c) If Offeror does not have a TIN, Offeror shall indicate if either a TIN has been applied for or a TIN is not required. If a TIN is not required, indicate whether (i) Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States; (ii) Offeror is an agency or instrumentality of a state or local government; (iii) Offeror is an agency or instrumentality of a foreign government; or (iv) Offeror is an agency or instrumentality of the Federal Government.

**WITHDRAWAL OR CORRECTION OF OFFER (JANUARY 2006)** Offers may be withdrawn by written notice received at any time before the exact time set for opening. If the Solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for opening. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid. The withdrawal and correction of Offers is governed by S.C. Code Section 11-35-1520 and Regulation 19-445.2085.

## **II. Instructions To Offerors - B. Special Instructions**

### **SUBMISSION OF QUESTIONS**

**Mark envelopes on questions mailed:**

**QUESTIONS: USC-BVB-1732-CJ**

**Title:** Furnish all Labor, Materials and Equipment Necessary to Provide BigFix Software Support for the University of South Carolina Technology Services.

**Attn.: Dennis Gallman**

**QUESTIONS MAY BE E-MAILED TO:**

[GallmanD@mailbox.sc.edu](mailto:GallmanD@mailbox.sc.edu)

**FAXED TO:**

**803-777-2032**

DISCUSSIONS WITH BIDDERS (JAN 2006) After opening, the Procurement Officer may, in his sole discretion, initiate discussions with you to discuss your bid. Discussions are possible only if your bid is apparently responsive and only for the purpose of clarification to assure your full understanding of the solicitation's requirements. Any discussions will be documented in writing and shall be included with the bid.

MAGNETIC MEDIA – REQUIRED FORMAT (JAN 2006): As noted on the cover page, an original hard copy of your offer must be accompanied by the specified number of copies in the following electronic format: compact disk (CD) in one of the following formats: **CD-R; DVD ROM; DVD-R; or DVD+R**. Formats such as CD-RW, DVD-RAM, DVD-RW, DVD-+RW, or DVIX **are not acceptable** and will result in the Offeror's proposal being rejected. Every CD must be labeled with offeror's name, solicitation number, and specify whether contents address technical proposal or business proposal. If multiple CD sets are provided, each CD in the set must be appropriately identified as to its relationship to the set, e.g., 1 of 2. Each CD must be identical to the original hard copy. File format shall be MS Word 97 or later.

PROTEST – PROTEST – CPO – ITMO ADDRESS (JUNE 2006) Any protest must be addressed to the Chief Procurement Officer, Information Technology Management Office, and submitted in writing (a) by email to [protest-itmo@itmo.sc.gov](mailto:protest-itmo@itmo.sc.gov), (b) by facsimile at 803-737-0102, or (c) by post or delivery to 1201 Main Street, Suite 430, Columbia, SC 29201. [02-2B120-1]

PREFERENCES - A NOTICE TO VENDORS (SEP. 2009): On June 16, 2009, the South Carolina General Assembly rewrote the law governing preferences available to in-state vendors, vendors using in-state subcontractors, and vendors selling in-state or US end products. This law appears in Section 11-35-1524 of the South Carolina Code of Laws. A summary of the new preferences is available at [www.procurement.sc.gov/preferences](http://www.procurement.sc.gov/preferences). **ALL THE PREFERENCES MUST BE CLAIMED AND ARE APPLIED BY LINE ITEM, REGARDLESS OF WHETHER AWARD IS MADE BY ITEM OR LOT. VENDORS ARE CAUTIONED TO CAREFULLY REVIEW THE STATUTE BEFORE CLAIMING ANY PREFERENCES. THE REQUIREMENTS TO QUALIFY HAVE CHANGED. IF YOU REQUEST A PREFERENCE, YOU ARE CERTIFYING THAT YOUR OFFER QUALIFIES FOR THE PREFERENCE YOU'VE CLAIMED. IMPROPERLY REQUESTING A PREFERENCE CAN HAVE SERIOUS CONSEQUENCES.** [11-35-1524(E)(4)&(6)]

PREFERENCES - SC/US END-PRODUCT (SEP 2009): Section 11-35-1524 provides a preference to vendors offering South Carolina end-products or US end-products, if those products are made, manufactured, or grown in SC or the US, respectively. An end-product is the tangible project identified for acquisition in this solicitation, including all component parts in final form and ready for the use intended. The terms "made," "manufactured," and "grown" are defined by Section 11-35-1524(A). By signing your offer and checking the appropriate space(s) provided and identified on the bid schedule, you certify that the end-product(s) is either made, manufactured or grown in South Carolina, or other states of the United States, as applicable. Preference will be applied as required by law. Post award substitutions are prohibited. See "Substitutions Prohibited - End Product Preferences (Sep 2009)" provision.

PREFERENCES - RESIDENT VENDOR PREFERENCE (SEP 2009): To qualify for the RVP, you must maintain an office in this state. An office is a nonmobile place for the regular transaction of business or performance of a particular service which has been operated as such by the bidder for at least one year before the bid opening and during that year the place has been staffed for at least fifty

weeks by at least two employees for at least thirty five hours a week each. In addition, you must either: (1) maintain at a location in South Carolina at the time of the bid an inventory of expendable items which are representative of the general type of commodities for which the award will be made and which have a minimum total value, based on the bid price, equal to the lesser of fifty thousand dollars [\$50,000] or the annual amount of the contract; or (2) be a manufacturer headquartered and having an annual payroll of at least one million dollars in South Carolina and the end product being sold is either made or processed from raw materials into a finished end product by that manufacturer or its affiliate (as defined in Section 1563 of the Internal Revenue Code).

**PREFERENCES - RESIDENT CONTRACTOR PREFERENCE (SEP 2009):** To qualify for the RCP, you must maintain an office in this state. An office is a nonmobile place for the regular transaction of business or performance of a particular service which has been operated as such by the bidder for at least one year before the bid opening and during that year the place has been staffed for at least fifty weeks by at least two employees for at least thirty five hours a week each. In addition, you must, at the time you submit your bid, directly employ, or have a documented commitment with, individuals domiciled in South Carolina that will perform services expressly required by the solicitation and your total direct labor cost for those individuals to provide those services must exceed fifty percent of your total bid price. [11-35-1524(C)(1)(iii)] Upon request by the procurement officer, you must identify the persons domiciled in South Carolina that will perform the services involved in the procurement upon which you rely in qualifying for the preference, the services those individuals are to perform, and documentation of the your labor cost for each person identified. If requested, your failure to provide this information promptly will be grounds to deny the preference (and, potentially, for other enforcement action).

**PREFERENCES - RESIDENT SUBCONTRACTOR PREFERENCE (SEP 2009):** To qualify for this preference, You must meet the following requirements. (1) You must -- at the time you submit your bid -- have a documented commitment from a single proposed first tier subcontractor to perform some portion of the services expressly required by the solicitation. (2) The subcontractor -- at the time you submit your bid -- must directly employ, or have a documented commitment with, individuals domiciled in South Carolina that will perform services expressly required by the solicitation and the total direct labor cost to the subcontractor for those individuals to provide those services exceeds, as applicable, either twenty percent for a 2% preference or forty percent of bidder's total bid price for a 4% preference. (3) You must identify the subcontractor that will perform the work, the work the subcontractor is to perform, and your factual basis for concluding that the subcontractor's work constitutes the required percentage of the work to be performed in the procurement. [11-35-1524(D)] You can stack this preference, i.e., earn another 2% or 4% preference for each additional qualifying subcontractor, but the preference is capped. [11-35-1524(D)(4), (E)(7)] Upon request by the procurement officer, you must identify the persons domiciled in South Carolina that are to perform the services involved in the procurement upon which you rely in qualifying for the preference, the services those individuals are to perform, the employer of those persons, your relationship with the employer, and documentation of the subcontractor's labor cost for each person identified. If requested, your failure to provide this information promptly will be grounds to deny the preference (and, potentially, for other enforcement action). **YOU WILL NOT RECEIVE THE PREFERENCE UNLESS YOU SPECIFY WHETHER YOUR ARE CLAIMING THE 2% OR 4% PREFERENCE AND YOU PROVIDE THE INFORMATION REQUIRED BY ITEM (3) ABOVE.**

**UNIT PRICES REQUIRED (JAN 2006):** Unit price to be shown for each item.

**CONTENTS OF OFFER (BVB):** (a) Bids should be complete and carefully worded and should convey all of the information requested. (b) Bids should be prepared simply and economically, providing a

straightforward, concise description of bidder's capabilities to satisfy the requirements of the Best Value Bid (BVB) solicitation. Emphasis should be on completeness and clarity of content. (c) Each copy of your bid should be bound in a single volume where practical. All documentation submitted with your bid should be bound in that single volume. (d) If your bid includes any comment over and above the specific information requested in the solicitation, you are to include this information as a separate appendix to your bid. Bids which include either modifications to any of the solicitation's contractual requirements or a bidder's standard terms and conditions may be deemed non-responsive and not considered for award.

### **III. Scope of Work / Specifications**

DELIVERY / PERFORMANCE LOCATION – PURCHASE ORDER (January, 2006): After award, all deliveries shall be made and all services provided to the location specified by the using Governmental Unit in its purchase order.

**Furnish all Labor, Materials and Equipment Necessary to Provide BigFix Software Support for the University of South Carolina Technology Services (UTS).**

#### **SCOPE OF WORK**

##### **1.0 INTRODUCTION**

The University of South Carolina, founded in 1801, is one of the oldest and most comprehensive universities in the United States. The Columbia campus is the flagship institution in the eight (8) campus public University of South Carolina system, located in a diverse and thriving metropolitan community of over 450,000 people. The University of South Carolina has experienced considerable growth since the sixties with over 27,400 students enrolled at the Columbia campus, more than a third of whom are graduate students. Students from all states and over 130 foreign countries attend the University, with over 6,000 housed on campus. In addition, there are over 1,900 (full-time and part-time) faculty and over 2,800 staff at the University of South Carolina. The University has more than 240,000 alumni.

The University offers baccalaureate, masters, and doctoral degrees through 17 colleges and schools. The baccalaureate degree is offered in over 70 major fields; the master's degree in over 100 fields; and doctorate in over 50 fields. The School of Law offers the J. D. Degree and the School of Medicine the M.D. degree. Exchange programs with over thirty foreign countries have been established at the University of South Carolina. Over fifteen research bureaus and institutes throughout the University provide research support and service in several disciplines.

Additional information may be obtained through USC's web site: <http://www.sc.edu/aboutusc/>.

##### **2.0 REQUIREMENTS**

The contractor will provide all of the following required products to support an environment of 500 servers and 2000 clients.

- A. BigFix Platform
  - Server sku: BF-NA-1-PLAT-ENT-XS Subscription licensing for UNIX, Linux, Mac servers
  - Server sku: BF-NA-1-PLAT-ENT-WS Subscription licensing for Windows Server
  - Desktop sku: BF-NA-1-PLAT-ENT-Z Subscription licensing
  
- B. Systems Lifecycle Management Pack with DSS Software Asset Management Extension
  - Server sku: BF-NA-1-P-SLMDSSSAM-XS Subscription licensing for UNIX, Linux, Mac servers
  - Server sku: BF-NA-1-P-SLMDSSSAM-WS Subscription licensing for Windows Server
  - Desktop sku: BF-NA-1-P-SLMDSSSAM-Z Subscription licensing
  
- C. Security Configuration and Vulnerability Management Pack
  - Server sku: BF-NA-1-P-SCVM-XS Subscription licensing for UNIX, Linux, Mac servers
  - Server sku: BF-NA-1-P-SCVM-WS Subscription licensing for Windows Server
  - Desktop sku: BF-NA-1-P-SCVM-Z Subscription licensing

TRAINING: The contractor shall provide training upon request as scheduled by the University of South Carolina.

#### **IV. Information For Offerors To Submit**

INFORMATION FOR OFFERORS TO SUBMIT - GENERAL (JAN 2006): Offeror shall submit a signed Cover Page and Page Two. Offeror should submit all other information and documents requested in this part and in parts II.B. Special Instructions; III. Scope of Work; V. Qualifications; VIII. Bidding Schedule/Price Proposal; and any appropriate attachments addressed in section IX. Attachments to Solicitations.

#### **PROPOSAL CONTENTS**

To be considered for award, all proposals should include, at a minimum, the following information. Offerors should restate each of the items listed below and provide their response to that item immediately thereafter. **All information should be presented in the listed order:**

To be considered for award, all proposals must include, as a minimum, the following information. Bidders are to provide a response for each of the Sections listed below.

#### A. **Bidder Profile/Overview**



1. Bidder is to provide a brief overview of its organization, including but not limited to the following:
  - \* Business name
  - \* Physical address
  - \* Contact person's name
  - \* Contact Person's phone number
  - \* Contact Person's E-mail address
2. Bidder must provide documentation of its financial stability.

**B. Qualifications and Experience**

1. Provide a summary describing the Bidder's area of expertise and resource capabilities as they relate to this bid. This description must include detailed information that explains how bidder meets the additional qualification requirements in Section V. Qualifications of the solicitation. The summary should also include a list of support staff qualifications for its technicians that would provide support for the required products in the solicitation, to include the number of technicians and the qualifications of each.
2. References - Bidder is to submit at least three references indicating prior sales of one or more of the required products listed in this Bid. For each reference submit at a minimum the following information: (USC reserves the right to contact each reference provided)
  - \* Reference name
  - \* Physical address
  - \* Contact person's name
  - \* Contact Person's phone number
  - \* Contact Person's E-mail address
  - \* List of which of the required products that were sold to the reference
  - \* Date that the required product(s) were sold to the reference.
  - \* Any implementation and training services provided to the reference.
3. Provide information pertaining to the number and size of implementations that the bidder has been directory involved in.

**C. Support and Training**

1. Bidder must provide a list of the types of training available and associated costs for available training from the bidder for the required products in the solicitation.
2. Bidder must describe any support that would be included with the purchase of the required products in this solicitation, to include support levels, types, and hours of support. Any additional support options that are available should also be listed, including associated costs.

**D. Total Bid Cost (submitted in a separate sealed marked envelope)**

1. Bidder must provide a firm fixed price for the requirements stated in the solicitation that includes all travel expenses. Detail all costs associated with providing the labor, materials, and equipment necessary to provide BigFix Software Support required and include a grand total of all costs. (Section VIII. Bidding Schedule / Price-Business Proposal of the solicitation)
  
2. Bidder must provide per year pricing for four (4) additional years of software assurance for BigFix Software Support. (Section VIII. Bidding Schedule / Price-Business Proposal of the solicitation)

**MINORITY PARTICIPATION (JAN 2006)**

Is the bidder a South Carolina Certified Minority Business?  Yes  NO

Is the bidder a Minority Business certified by another governmental entity?  Yes  NO

If so, please list the certifying governmental entity: \_\_\_\_\_

Will any of the work under this contract be performed by a SC certified Minority Business as a subcontractor?  Yes  NO

If so, what percentage of the total value of the contract will be performed by a SC certified Minority Business as a subcontractor?  Yes  NO

Will any of the work under this contract be performed by a minority business certified by another governmental entity as a subcontractor?  Yes  NO

If so, what percentage of the total value of the contract will be performed by a minority business certified by another governmental entity as a subcontractor?  Yes  NO

If a certified Minority Business is participating in this contract, please indicate all categories for which the Business is certified:

- Traditional minority
- Traditional minority, but female
- Women (Caucasian females)
- Hispanic minorities
- DOT referral (Traditional minority)
- DOT referral (Caucasian female)
- Temporary certification
- SBA 8 (a) certification referral
- Other minorities (Native American, Asian, etc.)

(If more than one minority contractor will be utilized in the performance of this contract, please provide the information above for each minority business.)

**V. Qualifications**

**QUALIFICATION OF OFFEROR (JAN 2006)** To be eligible for award of a contract, a prospective contractor must be responsible. In evaluating an Offeror's responsibility, the State Standards of Responsibility [R.19-445.2125] and information from any other source may be considered. An Offeror must, upon request of the State, furnish satisfactory evidence of its ability to meet all contractual requirements. Unreasonable failure to supply information promptly in connection with a responsibility inquiry may be grounds for determining that you are ineligible to receive an award. S.C. Code Section 11-35-1810.

**SUBCONTRACTOR – IDENTIFICATION (JAN 2006):** If you intend to subcontract with another business for any portion of the work and that portion exceeds 10% of your price, your offer must identify that business and the portion of work which they are to perform. Identify potential subcontractors by providing the business' name, address, phone, taxpayer identification number, and point of contact. In determining your responsibility, the state may evaluate your proposed subcontractors.

Additional Bidder Qualifications

1. Must be either a BigFix VAR Partner or a Big Fix Platinum VAR Partner.
2. Must have been in business for at least three (3) years
3. Must have sold one or more of the required products in the solicitation to at least three (3) customers within the past eighteen (18) months. Having sold the required product(s) to similar educational institution is preferred.
4. Having the ability to provide training and implementation services is desired.

**VI. Award Criteria**

**AWARD CRITERIA – BEST VALUE BIDS (JAN 2006):** Award will be made to the highest ranked, responsive and responsible offeror whose offer is determined to be the most advantageous to the State.

**AWARD TO ONE OFFEROR (JAN 2006):** Award will be made to one Offeror.

**EVALUATION FACTORS – BEST VALUE BID (JAN 2006):** Offers will be evaluated using only the factors stated below. Numerical weightings are provided for each evaluation factor. All evaluation factors, other than cost (which must be at least 60%), will be considered prior to determining the effect of cost on the score for each offeror. Once evaluation is complete, all responsive offerors will be ranked from most advantageous to least advantageous.

A. Total Bid Cost	60%
B. Qualifications and Experience	21%
C. Support and Training	19%

**VII. Terms and Conditions - A. General**

ASSIGNMENT (JAN 2006): No contract or its provisions may be assigned, sublet, or transferred without the written consent of the Procurement Officer.

BANKRUPTCY (JAN 2006): (a) Notice. In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Using Governmental Unit. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all State contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract. (b) Termination. This contract is voidable and subject to immediate termination by the State upon the contractor's insolvency, including the filing of proceedings in bankruptcy.

CHOICE-OF-LAW (JAN 2006): The Agreement, any dispute, claim, or controversy relating to the Agreement, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation.

CONTRACT DOCUMENTS & ORDER OF PRECEDENCE (JAN 2006): (a) Any contract resulting from this solicitation shall consist of the following documents: (1) a Record of Negotiations, if any, executed by you and the Procurement Officer, (2) documentation regarding the clarification of an offer [e.g., 11-35-1520(8) or 11-35-1530(6)], if applicable, (3) the solicitation, as amended, (4) modifications, if any, to your offer, if accepted by the Procurement Officer, (5) your offer, (6) any statement reflecting the state's final acceptance (a/k/a "award"), and (7) purchase orders. These documents shall be read to be consistent and complimentary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. (b) The terms and conditions of documents (1) through (6) above shall apply notwithstanding any additional or different terms and conditions in either (i) a purchase order or other instrument submitted by the State or (ii) any invoice or other document submitted by Contractor. Except as otherwise allowed herein, the terms and conditions of all such documents shall be void and of no effect. (c) No contract, license, or other agreement containing contractual terms and conditions will be signed by any Using Governmental Unit. Any document signed or otherwise agreed to by persons other than the Procurement Officer shall be void and of no effect.

#### DISCOUNT FOR PROMPT PAYMENT (JAN 2006)

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the state annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

**DISPUTES (JAN 2006):** (1) Choice-of-Forum. All disputes, claims, or controversies relating to the Agreement shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. Contractor agrees that any act by the Government regarding the Agreement is not a waiver of either the Government's sovereign immunity or the Government's immunity under the Eleventh Amendment of the United State's Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation. (2) Service of Process. Contractor consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided as the Notice Address on Page Two or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail.

**EQUAL OPPORTUNITY (JAN 2006):** Contractor is referred to and shall comply with all applicable provisions, if any, of Title 41, Part 60 of the Code of Federal Regulations, including but not limited to Sections 60-1.4, 60-4.2, 60-4.3, 60-250.5(a), and 60-741.5(a), which are hereby incorporated by reference.

**FALSE CLAIMS (JAN 2006):** According to the S.C. Code of Laws § 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime.

**FIXED PRICING REQUIRED (JAN 2006):** Any pricing provided by contractor shall include all costs for performing the work associated with that price. Except as otherwise provided in this solicitation, contractor's price shall be fixed for the duration of this contract, including option terms. This clause does not prohibit contractor from offering lower pricing after award.

**NON-INDEMNIFICATION (JAN 2006):** Any term or condition is void to the extent it requires the State to indemnify anyone.

**NOTICE (JAN 2006):** (A) After award, any notices shall be in writing and shall be deemed duly given (1) upon actual delivery, if delivery is by hand, (2) upon receipt by the transmitting party of automated confirmation or answer back from the recipient's device if delivery is by telex, telegram, facsimile, or electronic mail, or (3) upon deposit into the United States mail, if postage is prepaid, a return receipt is requested, and either registered or certified mail is used. (B) Notice to contractor shall be to the address identified as the Notice Address on Page Two. Notice to the state shall be to the Procurement Officer's address on the Cover Page. Either party may designate a different address for notice by giving notice in accordance with this paragraph.

**PAYMENT (JAN 2006):** (a) The Using Governmental Unit shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, including the purchase order, payment shall not be made on partial deliveries accepted by the Government. (b) Unless the purchase order specifies another method of payment, payment will be made by check. (c) Payment and interest shall be made in accordance with S.C. Code Section 11-35-45. Contractor waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable.

**PUBLICITY (JAN 2006):** Contractor shall not publish any comments or quotes by State employees, or include the State in either news releases or a published list of customers, without the prior written approval of the Procurement Officer.

**PURCHASE ORDERS (JAN 2006):** Contractor shall not perform any work prior to the receipt of a purchase order from the using governmental unit. The using governmental unit shall order any supplies or services to be furnished under this contract by issuing a purchase order. Purchase orders may be used to elect any options available under this contract, e.g., quantity, item, delivery date, payment method, but are subject to all terms and conditions of this contract. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order.

**SETOFF (JAN 2006):** The state shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the state with regard to this contract, any other contract with any state department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the state for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto.

**SURVIVAL OF OBLIGATIONS (JAN 2006):** The Parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnification - Third Party Claims, Intellectual Property Indemnification, and any provisions regarding warranty or audit.

**TAXES (JAN 2006):** Any tax the contractor may be required to collect or pay upon the sale, use or delivery of the products shall be paid by the State, and such sums shall be due and payable to the contractor upon acceptance. Any personal property taxes levied after delivery shall be paid by the State. It shall be solely the State's obligation, after payment to contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to contractor by the taxing authority. In the event that the contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by the State to contractor, contractor shall be liable to the State for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on Contractor's net income or assets shall be the sole responsibility of the contractor.

**TERMINATION DUE TO UNAVAILABILITY OF FUNDS (JAN 2006):** Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. In the event of a cancellation pursuant to this paragraph, contractor will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor will not be reimbursed any costs amortized beyond the initial contract term.

**THIRD PARTY BENEFICIARY (JAN 2006):** This Contract is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns, and no other person will have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third party beneficiary or otherwise.

WAIVER (JAN 2006): The State does not waive any prior or subsequent breach of the terms of the Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by failing to strictly or promptly insist upon any term of the Contract. Only the Procurement Officer has actual authority to waive any of the State's rights under this Contract. Any waiver must be in writing.

## **VII. Terms and Conditions - B. Special**

**HIPAA LAW:** The Contractor agrees that to the extent that some or all of the activities within the scope of this Contract are subject to the Health Insurance Portability Accountability Act of 1996, P.L. 104-91, as amended (“HIPAA”), or its implementing regulations, it will comply with the HIPAA requirements and will execute such agreements and practices as the University of South Carolina may require to ensure compliance. Additional information may be viewed at: <http://www.sc.edu/hipaa/>

**PROTECTION OF HUMAN HEALTH AND THE ENVIRONMENT -** The University of South Carolina requires that all contractual activities to be in compliance with local, state and federal mandates concerning “protection of human health and the environment”. In addition, the University of South Carolina is a “Drug Free Work Place” and requires all contractors to comply with South Carolina Code of Laws Section 41-15-10 ET sequence (1976 w/amendments). Any contractor doing business with the University will be required to document compliance with these mandates and to furnish specific information requested by the University’s Department of Environmental Health and Safety when notified to do so. The Contractor understands and agrees that jobsites are open at all times work is being performed by the Contractor to authorized University employees who have been trained to identify unsafe work conditions. The Contractor will immediately correct any deficiencies noted by these inspections when requested by the University’s Department of Environmental Health and Safety to do so. In work areas where a specific hazard is posed which includes but is not limited to lead paint and asbestos abatement projects, Contractors will be required to produce Lead Compliance Plans and Asbestos Project Designs which outline their method of work prior to the start of work. Each contractor shall designate a responsible member of the Contractor’s organization to be at the site whose duty shall be the prevention of accidents. By submission of this bid, the vendor agrees to take all necessary steps to insure compliance with the requirements outlined above.

**COMPLIANCE WITH LAWS (JAN 2006):** During the term of the contract, contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs.

**CONTRACTOR'S LIABILITY INSURANCE (JAN 2006):** (1) Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in South Carolina such insurance as will protect the contractor from the types of claims set forth below which may arise out of or result from the contractor's operations under the contract and for which the contractor may be legally liable, whether such operations be by the contractor or by a subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable: (a) claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the work to be performed; (b) claims for damages because of bodily injury, occupational sickness or disease, or death of the contractor's employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than the contractor's employees; (d) claims for damages insured by usual personal injury liability coverage; (e) claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (f) claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; (g) claims for bodily injury or property damage arising out of completed operations; and (h) claims involving

contractual liability insurance applicable to the Contractor's obligations under the provision entitled Indemnification – Third Party Claims.

(2) Coverage shall be written on an occurrence basis and shall be maintained without interruption from date of commencement of the work until date of final payment. Coverage must include the following on a commercial basis: (i) Premises – Operations, (ii) Independent Contractor's Protective, (iii) Products and Completed Operations, (iv) Personal and Advertising Injury, (v) Contractual, including specific provision for contractor's obligations under the provision entitled Indemnification – Third Party Claims, (vi) Broad Form Property Damage including Completed Operations, and (vii) Owned, Non-owned and Hired Motor Vehicles.

(3) The insurance required by this paragraph shall be written for not less than the following limits of liability or as required by law, whichever coverage is greater.:

**COMMERCIAL GENERAL LIABILITY:**

General Aggregate (per project) \$1,000,000

Products/Completed Operations \$1,000,000

Personal and Advertising Injury \$1,000,000

Each Occurrence \$1,000,000

Fire Damage (Any one fire) \$ 50,000

Medical Expense (Any one person) \$ 5,000

**BUSINESS AUTO LIABILITY (including All Owned, Nonowned, and Hired Vehicles):**

Combined Single Limit \$1,000,000

OR

Bodily Injury & Property Damage (each) \$750,000

**WORKER'S COMPENSATION:**

State Statutory

Employers Liability \$100,000 Per Acc.

\$500,000 Disease, Policy Limit; \$100,000 Disease, Each Employee

(4) Required Documentation. (a) Prior to commencement of the work, contractor shall provide to the state a signed, original certificate of liability insurance (ACORD 25). The certificate shall identify the types of insurance, state the limits of liability for each type of coverage, include a provision for 30 days notice prior to cancellation, name every applicable using governmental unit (as identified on the cover page) as a Certificate Holder, provide that the general aggregate limit applies per project, and provide that coverage is written on an occurrence basis. (b) Prior to commencement of the work, contractor shall provide to the state a written endorsement to the contractor's general liability insurance policy that (i) names every applicable using governmental unit (as identified on the Cover Page) as an additional insured, (ii) provides that no material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy shall have effect unless the named governmental unit(s) has been given at least thirty (30) days prior written notice, and (iii) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of the state as secondary and noncontributory. (c) Both the certificate and the endorsement must be received directly from either the contractor's insurance agent or the insurance company.

(5) Contractor shall provide a minimum of thirty (30) days written notice to every applicable using governmental unit of any proposed reduction of coverage limits (on account of revised limits or claims paid under the General Aggregate) or any substitution of insurance carriers.

(6) The state's failure to demand either a certificate of insurance or written endorsement required by this paragraph is not a waiver of contractor's obligations to obtain the required insurance.

**Insurance Requirement: The successful bidder must provide a copy of its Liability Insurance certificate within ten (10) days upon the posting of the intent to award statement or statement of award and on each anniversary date thereafter attesting to such insurance coverage.**



**CONTRACTOR PERSONNEL (JAN 2006):** The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

**CONTRACTOR'S OBLIGATION – GENERAL (JAN 2006):** The contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the work. The contractor must act as the prime contractor and assume full responsibility for any subcontractor's performance. The contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements.

**CONTRACTOR'S USE OF STATE PROPERTY (JAN 2006):** Upon termination of the contract for any reason, the State shall have the right, upon demand, to obtain access to, and possession of, all State properties, including, but not limited to, current copies of all State application programs and necessary documentation, all data, files, intermediate materials and supplies held by the contractor. Contractor shall not use, reproduce, distribute, display, or sell any data, material, or documentation owned exclusively by the State without the State's written consent, except to the extent necessary to carry out the work.

**DEFAULT – SHORT FORM (JAN 2006):** The state may terminate this contract, or any part hereof, for cause in the event of any default by the contractor, or if the contractor fails to comply with any contract terms and conditions, or fails to provide the state, upon request, with adequate assurances of future performance. In the event of termination for cause, the state shall not be liable to the contractor for any amount for supplies or services not accepted, and the contractor shall be liable to the state for any and all rights and remedies provided by law. If it is determined that the state improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

**INDEMNIFICATION - THIRD PARTY CLAIMS (JAN 2006):** Notwithstanding any limitation in this agreement, Contractor shall defend and indemnify the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees against all suits or claims of any nature (and all damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities attributable thereto) by any third party which arise out of, or result in any way from, any defect in the goods or services acquired hereunder or from any act or omission of Contractor, its subcontractors, their employees, workmen, servants or agents. Contractor shall be given written notice of any suit or claim. State shall allow Contractor to defend such claim so long as such defense is diligently and capably prosecuted through legal counsel. State shall allow Contractor to settle such suit or claim so long as (i) all settlement payments are made by (and any deferred settlement payments are the sole liability of) Contractor, and (ii) the settlement imposes no non-monetary obligation upon State. State shall not admit liability or agree to a settlement or other disposition of the suit or claim, in whole or in part, without the prior written consent of Contractor. State shall reasonably cooperate with Contractor's defense of such suit or claim. The obligations of this paragraph shall survive termination of the parties' agreement.

**INTELLECTUAL PROPERTY INFRINGEMENT (JAN 2006)** (a) Without limitation and notwithstanding any provision in this agreement, Contractor shall, upon receipt of notification, defend and indemnify the State, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees against all actions, proceedings or claims of any nature (and all damages, settlement payments, attorneys' fees (including inside counsel), costs, expenses, losses or liabilities attributable thereto) by any third party asserting or involving an IP right related to an acquired item. State shall allow Contractor to defend such claim so long as the defense is diligently and capably prosecuted. State shall allow Contractor to settle such claim so long as (i) all

settlement payments are made by Contractor, and (ii) the settlement imposes no non-monetary obligation upon State. State shall reasonably cooperate with Contractor's defense of such claim. (b) In the event an injunction or order shall be obtained against State's use of any acquired item, or if in Contractor's opinion, the acquired item is likely to become the subject of a claim of infringement or violation of an IP right, Contractor shall, without in any way limiting the foregoing, and at its expense, either: (1) procure for State the right to continue to use, or have used, the acquired item, or (2) replace or modify the acquired item so that it becomes non-infringing but only if the modification or replacement does not adversely affect the specifications for the acquired item or its use by State. If neither (1) nor (2), above, is practical, State may require that Contractor remove the acquired item from State, refund to State any charges paid by State therefor, and take all steps necessary to have State released from any further liability. (c) Contractor's obligations under this paragraph do not apply to a claim to the extent (i) that the claim is caused by Contractor's compliance with specifications furnished by the State unless Contractor knew its compliance with the State's specifications would infringe an IP right, or (ii) that the claim is caused by Contractor's compliance with specifications furnished by the State if the State knowingly relied on a third party's IP right to develop the specifications provided to Contractor and failed to identify such product to Contractor. (d) As used in this paragraph, these terms are defined as follows: "IP right(s)" means a patent, copyright, trademark, trade secret, or any other proprietary right. "Acquired item(s)" means the rights, goods, or services furnished under this agreement. "Specification(s)" means a detailed, exact statement of particulars such as a statement prescribing materials, dimensions, and quality of work. (e) Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of this Agreement.

**LICENSES AND PERMITS (JAN 2006):** During the term of the contract, the Contractor shall be responsible for obtaining, and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and /or inspections required by the State, county, city or other government entity or unit to accomplish the work specified in this solicitation and the contract.

**OWNERSHIP OF DATA & MATERIALS (JAN 2006):** All data, material and documentation either prepared for the state pursuant to this contract shall belong exclusively to the State.

**PRICE ADJUSTMENT - LIMITED - AFTER INITIAL TERM ONLY (JAN 2006):** Upon approval of the Procurement Officer, prices may be adjusted for any renewal term. Prices shall not be increased during the initial term. Any request for a price increase must be received by the Procurement Officer at least ninety (90) days prior to the expiration of the applicable term and must be accompanied by sufficient documentation to justify the increase. If approved, a price increase becomes effective starting with the term beginning after approval. A price increase must be executed as a change order. Contractor may terminate this contract at the end of the then current term if a price increase request is denied. Notice of termination pursuant to this paragraph must be received by the Procurement Officer no later than fifteen (15) days after the Procurement Officer sends contractor notice rejecting the requested price increase.

**PRICE ADJUSTMENTS – LIMITED BY CPI “All Items” (JAN 2006):** Upon request and adequate justification, the Procurement Officer may grant a price increase up to, but not to exceed, the unadjusted percent change for the most recent 12 months for which data is available, that is not subject to revision, in the Consumer Price Index (CPI) for all urban consumers (CPI-U), “all items” for services, as determined by the Procurement Officer. The Bureau of Labor and Statistics publishes this information on the web at [www.bls.gov](http://www.bls.gov).

RELATIONSHIP OF THE PARTIES (JAN 2006): Neither party is an employee, agent, partner, or joint venturer of the other. Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party.

SHIPPING / RISK OF LOSS (JAN 2006): F.O.B. Destination. Destination is the shipping dock of the Using Governmental Units' designated receiving site, or other location, as specified herein. (See Delivery clause)

SUBCONTRACTOR SUBSTITUTION PROHIBITED - RESIDENT SUBCONTRACTOR PREFERENCE (SEP 2009): If you receive an award as a result of the subcontractor preference, you may not substitute any business for the subcontractor upon which you relied to qualify for the preference, unless first approved in writing by the procurement officer. If you violate this provision, the State may terminate your contract for cause and you may be debarred. In addition, the procurement officer may require you to pay the State an amount equal to twice the difference between the price paid by the State and the price offered by the next lowest bidder, unless the substituted subcontractor qualifies for the preference. [11-35-1524(D)(5)(c)]

SUBSTITUTIONS PROHIBITED - END PRODUCT PREFERENCES (SEP 2009): If you receive the award as a result of the South Carolina end product or United States end product preference, you may not substitute a nonqualifying end product for a qualified end product. If you violate this provision, the State may terminate your contract for cause and you may be debarred. In addition, you shall pay to the State an amount equal to twice the difference between the price paid by the State and your evaluated price for the item for which you delivered a substitute. [11-35-1534(B)(4)]

TERM OF CONTRACT – EFFECTIVE DATE / INITIAL CONTRACT PERIOD (JAN 2006): The effective date of this contract is the first day of the Maximum Contract Period as specified on the final statement of award. The initial term of this agreement is one year from the effective date. Regardless, this contract expires no later than the last date stated on the final statement of award.

TERM OF CONTRACT – OPTION TO RENEW (JAN 2006): At the end of the initial term, and at the end of each renewal term, this contract shall automatically renew for a period of one year, unless contractor receives notice that the state elects not to renew the contract at least thirty (30) days prior to the date of renewal. Regardless, this contract expires no later than the last date stated on the final statement of award.

TERMINATION FOR CONVENIENCE – SHORT FORM (JAN 2006): The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State. In such a termination, the Procurement Officer may require the contractor to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. Upon such termination, the contractor shall (a) stop work to the extent specified, (b) terminate any subcontracts as they relate to the terminated work, and (c) be paid the following amounts without duplication, subject to the other terms of this contract: (i) contract prices for supplies or services accepted under the contract, (ii) costs incurred in performing the terminated portion of the work, and (iii) any other reasonable costs that the contractor can demonstrate to the satisfaction of the State, using its standard record keeping system, have resulted from the termination. The contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided. As a condition of payment, contractor shall submit within three months of the effective date of the termination a claim specifying the amounts due because of the termination. The absence of an appropriate termination for

convenience clause in any subcontract shall not increase the obligation of the state beyond what it would have been had the subcontract contained such a clause.

**WARRANTY – STANDARD (JAN 2006):** Contractor must provide the manufacturer's standard written warranty upon delivery of product. Contractor warrants that manufacturer will honor the standard written warranty provided.

**VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL**

**YEAR 1 (A. BigFix Platform, B. Systems Lifecycle Management Pack with DSS Software Asset Management Extension, and C. Security Configuration and Vulnerability Management Pack products to support an environment of 500 servers and 2000 clients)**

Item	Qty	Unit of Measure	Description	Unit Price	Extended Price
1	1	Lot	Furnish all Labor, Materials and Equipment Necessary to Provide BigFix Software Support for the University of South Carolina Technology Services as per specifications herein.	\$ _____	\$ _____

Resident Vendor Preference \_\_\_\_\_  
 SC End Product Preference \_\_\_\_\_  
 US End Product Preference \_\_\_\_\_

**YEAR 2 (Additional year of software assurance for BigFix Software)**

Item	Qty	Unit of Measure	Description	Unit Price	Extended Price
2	1	Year	Additional Year of Software Assurance for BigFix Software	\$ _____	\$ _____

Resident Contractor Preference \_\_\_\_\_  
 Resident Sub-Contractor Preference (2%) \_\_\_\_\_ Number of Sub-Contractors \_\_\_\_\_  
 Resident Sub-Contractor Preference (4%) \_\_\_\_\_ Number of Sub-Contractors \_\_\_\_\_

**YEAR 3 (Additional year of software assurance for BigFix Software)**

Item	Qty	Unit of Measure	Description	Unit Price	Extended Price
3	1	Year	Additional Year of Software Assurance for BigFix Software	\$ _____	\$ _____

Resident Contractor Preference \_\_\_\_\_  
 Resident Sub-Contractor Preference (2%) \_\_\_\_\_ Number of Sub-Contractors \_\_\_\_\_  
 Resident Sub-Contractor Preference (4%) \_\_\_\_\_ Number of Sub-Contractors \_\_\_\_\_

**YEAR 4 (Additional year of software assurance for BigFix Software)**

Item	Qty	Unit of Measure	Description	Unit Price	Extended Price
4	1	Year	Additional Year of Software Assurance for BigFix Software	\$ _____	\$ _____

Resident Contractor Preference \_\_\_\_\_  
 Resident Sub-Contractor Preference (2%) \_\_\_\_\_ Number of Sub-Contractors \_\_\_\_\_  
 Resident Sub-Contractor Preference (4%) \_\_\_\_\_ Number of Sub-Contractors \_\_\_\_\_

**YEAR 5 (Additional year of software assurance for BigFix Software)**

Item	Qty	Unit of Measure	Description	Unit Price	Extended Price
5	1	Year	Additional Year of Software Assurance for BigFix Software	\$ _____	\$ _____

Resident Contractor Preference \_\_\_\_\_  
 Resident Sub-Contractor Preference (2%) \_\_\_\_\_ Number of Sub-Contractors \_\_\_\_\_  
 Resident Sub-Contractor Preference (4%) \_\_\_\_\_ Number of Sub-Contractors \_\_\_\_\_

**FIVE YEAR TOTAL PRICE \$ \_\_\_\_\_**

**Note:** The commodity preferences do not apply to a bid for an item of work by the bidder if the annual price of the bidder’s work exceeds \$50,000 or the total potential price of the bidder’s work exceeds \$500,000. [11-35-1524(E) (3)]

**Note:** The service preferences do not apply to a bid for an item of work by the bidder if the annual price of the bidder’s work exceeds \$50,000 or the total potential price of the bidder’s work exceeds \$500,000. [11-35-1524(E)(3)]

Please refer to the preference clauses listed in the additional conditions of this solicitation to ensure that you qualify to select the above preferences.

Bidder is to submit the following for preferences requested above:

- 1) Identify the subcontractor to perform the work:
- 2) Identify the work the subcontractor is to perform:
- 3) Bidder’s factual basis for concluding that the subcontractor’s work constitutes the required percentage of the work to be performed in the procurement.

**IX. ATTACHMENTS TO SOLICITATION**

- 1. IMPORTANT TAX NOTICE – NONRESIDENTS ONLY**
- 2. NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING (DEPT. OF REVENUE FORM I-312)**
- 3. OFFEROR’S CHECKLIST**

## IMPORTANT TAX NOTICE - NONRESIDENTS ONLY

Withholding Requirements for Payments to Nonresidents: Section 12-8-550 of the South Carolina Code of Laws requires persons hiring or contracting with a nonresident conducting a business or performing personal services of a temporary nature within South Carolina to withhold 2% of each payment made to the nonresident. The withholding requirement does not apply to (1) payments on purchase orders for tangible personal property when the payments are not accompanied by services to be performed in South Carolina, (2) nonresidents who are not conducting business in South Carolina, (3) nonresidents for contracts that do not exceed \$10,000 in a calendar year, or (4) payments to a nonresident who (a) registers with either the S.C. Department of Revenue or the S.C. Secretary of State and (b) submits a Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to the person letting the contract.

The withholding requirement applies to every governmental entity that uses a contract ("Using Entity"). Nonresidents should submit a separate copy of the Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to every Using Entity that makes payment to the nonresident pursuant to this solicitation. Once submitted, an affidavit is valid for all contracts between the nonresident and the Using Entity, unless the Using Entity receives notice from the Department of Revenue that the exemption from withholding has been revoked.

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Section 12-8-540 requires persons making payment to a nonresident taxpayer of rentals or royalties at a rate of \$1,200.00 or more a year for the use of or for the privilege of using property in South Carolina to withhold 7% of the total of each payment made to a nonresident taxpayer who is not a corporation and 5% if the payment is made to a corporation. Contact the Department of Revenue for any applicable exceptions.

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For information about other withholding requirements (e.g., employee withholding), contact the Withholding Section at the South Carolina Department of Revenue at 803-898-5383 or visit the Department's website at [www.sctax.org](http://www.sctax.org).

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This notice is for informational purposes only. This agency does not administer and has no authority over tax issues. All registration questions should be directed to the License and Registration Section at 803-898-5872 or to the South Carolina Department of Revenue, Registration Unit, Columbia, S.C. 29214-0140. All withholding questions should be directed to the Withholding Section at 803-898-5383.





STATE OF SOUTH CAROLINA  
DEPARTMENT OF REVENUE  
**NONRESIDENT TAXPAYER  
REGISTRATION AFFIDAVIT  
INCOME TAX WITHHOLDING**

**I-312**  
(Rev. 5/7/04)  
3323

**The undersigned nonresident taxpayer on oath, being first duly sworn, hereby certifies as follows:**

1. Name of Nonresident Taxpayer: \_\_\_\_\_
2. Trade Name, if applicable (Doing Business As): \_\_\_\_\_
3. Mailing Address: \_\_\_\_\_
4. Federal Identification Number: \_\_\_\_\_
5. Hiring or Contracting with: \_\_\_\_\_  
     Name: \_\_\_\_\_  
     Address: \_\_\_\_\_
- Receiving Rentals or Royalties From: \_\_\_\_\_  
     Name: \_\_\_\_\_  
     Address: \_\_\_\_\_
- Beneficiary of Trusts and Estates: \_\_\_\_\_  
     Name: \_\_\_\_\_  
     Address: \_\_\_\_\_

6. I hereby certify that the above named nonresident taxpayer is currently registered with  
**(check the appropriate box):**  
 The South Carolina Secretary of State or  
 The South Carolina Department of Revenue

Date of Registration: \_\_\_\_\_

7. I understand that by this registration, the above named nonresident taxpayer has agreed to be subject to the jurisdiction of the South Carolina Department of Revenue and the courts of South Carolina to determine its South Carolina tax liability, including estimated taxes, together with any related interest and penalties.

8. I understand the South Carolina Department of Revenue may revoke the withholding exemption granted under Code Sections 12-8-540 (rentals), 12-8-550 (temporarily doing business or professional services in South Carolina), and 12-8-570 (distributions to nonresident beneficiary by trusts or estates) at any time it determines that the above named nonresident taxpayer is not cooperating with the Department in the determination of its correct South Carolina tax liability.

The undersigned understands that any false statement contained herein could be punished by fine, imprisonment or both.

Recognizing that I am subject to the criminal penalties under Code Section 12-54-44 (B) (6) (a) (i), I declare that I have examined this affidavit and to the best of my knowledge and belief, it is true, correct and complete.

(Seal)

\_\_\_\_\_  
Signature of Nonresident Taxpayer (Owner, Partner or Corporate Officer, when relevant)

\_\_\_\_\_  
Date

If Corporate officer state title:

\_\_\_\_\_  
(Name - Please Print)

**Mail to:** The company or individual you are contracting with.

**OFFEROR'S CHECKLIST**  
*AVOID COMMON BID/PROPOSAL MISTAKES*

Review this checklist prior to submitting your bid/proposal.  
If you fail to follow this checklist, you risk having your bid/proposal rejected.

- DO NOT INCLUDE ANY OF YOUR STANDARD CONTRACT FORMS!
- UNLESS EXPRESSLY REQUIRED, DO NOT INCLUDE ANY ADDITIONAL BOILERPLATE CONTRACT CLAUSES.
- REREAD YOUR ENTIRE BID/PROPOSAL TO MAKE SURE YOUR BID/PROPOSAL DOES NOT TAKE EXCEPTION TO ANY OF THE STATE'S MANDATORY REQUIREMENTS.
- MAKE SURE YOU HAVE PROPERLY MARKED ALL PROTECTED, CONFIDENTIAL, OR TRADE SECRET INFORMATION IN ACCORDANCE WITH THE INSTRUCTIONS ENTITLED: SUBMITTING CONFIDENTIAL INFORMATION. ***DO NOT MARK YOUR ENTIRE BID/PROPOSAL AS CONFIDENTIAL, TRADE SECRET, OR PROTECTED! DO NOT INCLUDE A LEGEND ON THE COVER STATING THAT YOUR ENTIRE RESPONSE IS NOT TO BE RELEASED!***
- HAVE YOU PROPERLY ACKNOWLEDGED ALL AMENDMENTS? INSTRUCTIONS REGARDING HOW TO ACKNOWLEDGE AN AMENDMENT SHOULD APPEAR IN ALL AMENDMENTS ISSUED.
- MAKE SURE YOUR BID/PROPOSAL INCLUDES A COPY OF THE SOLICITATION COVER PAGE. MAKE SURE THE COVER PAGE IS SIGNED BY A PERSON THAT IS AUTHORIZED TO CONTRACTUALLY BIND YOUR BUSINESS.
- MAKE SURE YOUR BID/PROPOSAL INCLUDES THE NUMBER OF COPIES REQUESTED.
- CHECK TO ENSURE YOUR BID/PROPOSAL INCLUDES EVERYTHING REQUESTED!
- IF YOU HAVE CONCERNS ABOUT THE SOLICITATION, DO NOT RAISE THOSE CONCERNS IN YOUR RESPONSE! **AFTER OPENING, IT IS TOO LATE! IF THIS SOLICITATION INCLUDES A PRE-BID/PROPOSAL CONFERENCE OR A QUESTION & ANSWER PERIOD, RAISE YOUR QUESTIONS AS A PART OF THAT PROCESS!** PLEASE SEE INSTRUCTIONS UNDER THE HEADING "SUBMISSION OF QUESTIONS" AND ANY PROVISIONS REGARDING PRE-BID/PROPOSAL CONFERENCES.

This checklist is included only as a reminder to help offerors avoid common mistakes.

Responsiveness will be evaluated against the solicitation, ***not*** against this checklist.

You do not need to return this checklist with your response.