

	<h1 style="text-align: center;">REQUEST FOR PROPOSAL</h1>	Solicitation Number Date Issued Date Posted Procurement Officer Phone E-Mail Address	USC-RFP-2797-LW April 14, 2015 April 14, 2015 Lana Widener (803)777-7776 llw@sc.edu
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DESCRIPTION: **Customer Relationship Management for USC Columbia Campus**

USING GOVERNMENT AGENCY: University of South Carolina

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

SUBMIT OFFER BY (Opening Date/Time): **May 7, 2015 @ 3:00 PM** See "Deadline for Submission of Offer" provision.

QUESTIONS MUST BE RECEIVED BY: **April 21, 2015 @ 3:00 PM** See "Questions from Offerors" provision.

NUMBER OF COPIES TO BE SUBMITTED: One (1) Original in Hardcopy and five copies marked "COPY" and one (1) Electronic Copy (Original 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:

MAILING ADDRESS:	PHYSICAL ADDRESS:
University of South Carolina – Purchasing Dept. 1600 Hampton St., Suite 606 Columbia, SC 29208	University of South Carolina – Purchasing Dept. 1600 Hampton St., Suite 606 Columbia, SC 29208

See "Submitting Your Offer" provision

CONFERENCE TYPE: N/A DATE & TIME: As appropriate, see "Conferences-Pre-Bid/Proposal" & "Site Visit" provisions	LOCATION: N/A
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AWARD & AMENDMENTS	Award will be posted at the Physical Address stated above on June 2, 2015 . The award, this solicitation, and any amendments will be posted at the following web address: http://purchasing.sc.edu
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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.

NAME OF OFFEROR <small>(Full legal name of business submitting the offer)</small>		OFFEROR'S TYPE OF ENTITY: <small>(Check one)</small> <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/local) <input type="checkbox"/> Other _____
AUTHORIZED SIGNATURE <small>(Person signing must be authorized to submit binding offer to enter contract on behalf of Offeror named above.)</small>		
TITLE <small>(Business title of person signing above)</small>		
PRINTED NAME <small>(Printed name of person signing above)</small>	DATE SIGNED	

(See "Signing Your Offer" provision.)

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.

STATE OF INCORPORATION (If offeror is a corporation, identify the state of Incorporation.)

TAXPAYER IDENTIFICATION NO. <small>(See "Taxpayer Identification Number" provision)</small>	
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PAGE TWO**(Return Page Two with Your Offer)**

HOME OFFICE ADDRESS (Address for offeror's home office / principal place of business)	NOTICE ADDRESS (Address to which all procurement and contract related notices should be sent.) (See "Notice" clause)
	<div style="border-top: 1px solid black; display: flex; justify-content: space-between;"> Area Code - Number - Extension Facsimile </div> <div style="border-top: 1px solid black; margin-top: 5px;">E-mail Address</div>

PAYMENT ADDRESS (Address to which payments will be sent.) (See "Payment" clause)	ORDER ADDRESS (Address to which purchase orders will be sent) (See "Purchase Orders and "Contract Documents" clauses)
<div style="border-top: 1px solid black; height: 100px;"></div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> ____ Payment Address same as Home Office Address ____ Order Address same as Home Office Address </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> ____ Payment Address same as Notice Address (check only one) ____ Order Address same as Notice Address (check only one) </div>	<div style="border-top: 1px solid black; height: 100px;"></div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> ____ Order Address same as Home Office Address </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> ____ Order Address same as Notice Address (check only one) </div>

ACKNOWLEDGMENT OF AMENDMENTS							
Offeror 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

DISCOUNT FOR PROMPT PAYMENT (See "Discount for Prompt Payment" clause)	10 Calendar Days (%)	20 Calendar Days (%)	30 Calendar Days (%)	____ Calendar Days (%)
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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 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

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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 to provide multi-channel Customer Relationship Management (CRM) services for the University of South Carolina – Columbia Campus in accordance with all requirements stated herein.

MAXIMUM CONTRACT PERIOD -- ESTIMATED (January 2006): July 1, 2015 End date: June 30, 2020. Dates provided are estimates only. Any resulting contract will begin on the date specified in the Notice of Intent to Award. See page clause entitled "Term of Contract – Effective Date/Initial Contract Period “.

II. Instructions To Offerors - A. General Instructions

DEFINITIONS (JAN 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.

BOARD – means the South Carolina Budget and Control Board.

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 (JAN 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/sa.php>. (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.

BID / PROPOSAL AS OFFER TO CONTRACT (JAN 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 (JAN 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 (JAN 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 (JAN 2004):

(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 nonresponsive.

(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):

(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.

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

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 (JAN 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)]

DISCLOSURE OF CONFLICTS OF INTEREST OR UNFAIR COMPETITIVE ADVANTAGE (MAY 2011): You warrant and represent that your offer identifies and explains any unfair competitive advantage you may have in competing for the proposed contract and any actual or potential conflicts of interest that may arise from your participation in this competition or your receipt of an award. The two underlying principles are (a) preventing the existence of conflicting roles that might bias a contractor's judgment, and (b) preventing an unfair competitive advantage. If you have an unfair competitive advantage or a conflict of interest, the state may withhold award. Before withholding award on these grounds, an offeror will be notified of the concerns and provided a reasonable opportunity to respond. Efforts to avoid or mitigate such concerns, including restrictions on future activities, may be considered.

DRUG FREE WORK PLACE CERTIFICATION (JAN 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 (JAN 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.

IRAN DIVESTMENT ACT – CERTIFICATION (JAN 2015): (a) The Iran Divestment Act List is a list published by the Board pursuant to Section 11-57-310 that identifies persons engaged in investment activities in Iran. Currently, the list is available at the following URL: <http://procurement.sc.gov/PS/PS-iran-divestment.phtm> (.). Section 11-57-310 requires the government to provide a person ninety days written notice before he is included on the list. The following representation, which is required by Section 11-57-330(A), is a material inducement for the State to award a contract to you. (b) By signing your Offer, you certify that, as of the date you sign, you are not on the then-current version of the Iran Divestment Act List. (c) You must notify the Procurement Officer immediately if, at any time before posting of a final statement of award, you are added to the Iran Divestment Act List.

OMIT TAXES FROM PRICE (JAN 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 (JUN 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.”

PUBLIC OPENING (JAN 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 (JAN 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.

RESPONSIVENESS / IMPROPER OFFERS (JAN 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 sub-line 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 (JAN 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 (JAN 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 (JAN 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/closings>.

SUBMITTING CONFIDENTIAL INFORMATION (AUG 2002): (An overview is available at 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 (JAN 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.

TAXPAYER IDENTIFICATION NUMBER (JAN 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 (JAN 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-RFP-2797-LW

Title: Customer Relationship Management for USC Columbia Campus

Mailing Address:

University of South Carolina – Purchasing Dept.
 Attn: Lana Widener
 1600 Hampton St, Suite 606
 Columbia, SC 29208

QUESTIONS MAY BE E-MAILED TO:llw@sc.edu**FAXED TO:**

(803)777-2032

CLARIFICATION (NOV 2007): Pursuant to Section 11-35-1530(6), 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 11-35-1530(6); R.19-445.2080]

CONTENTS OF OFFER (RFP) – SPO (JAN 2006): (a) Offers should be complete and carefully worded and should convey all of the information requested. (b) Offers should be prepared simply and economically, providing a straightforward, concise description of offeror's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. (c) Each copy of your offer should be bound in a single volume where practical. All documentation submitted with your offer should be bound in that single volume. (d) If your offer 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 offer. Offers which include either modifications to any of the solicitation's contractual requirements or an offeror's standard terms and conditions may be deemed non-responsive and not considered for award.

DISCUSSIONS & 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.

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.

OPENING PROPOSALS – PRICES NOT DIVULGED (JAN 2006): In competitive sealed proposals, prices will not be divulged at opening.

PROTEST - CPO - MMO ADDRESS (JUNE 2006): Any protest must be addressed to the Chief Procurement Officer, Materials Management Office, and submitted in writing (a) by email to protest-mmo@mmo.state.sc.us, (b) by facsimile at 803-737-0639, or (c) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201.

III. Scope of Work / Specifications

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

OPERATIONAL MANUALS: Unless otherwise specified, contractor shall provide one operational manual for each item acquired no later than July 1, 2015.

QUALITY – NEW: All items MUST be new.

General Information:

The University of South Carolina is soliciting proposals for a multi-channel Customer Relationship Management (CRM) solution to automate and personalize customer/constituent communications, provide rules-based automated processes and response management, and deliver robust analytical tools and reports including return on investment (ROI) reporting. The system must seamlessly import and export data to and from the University's Student Information System (currently Ellucian Banner, version 8.6.2). The software should be web-based and web browser accessible, collaborative to support multiple users, secure on multiple levels, inclusive of desired features, and intuitive and "easy-to-use".

Overview of Current CRM Practices

Undergraduate Admissions

Activities:

Current communication streams include the use of traditional mail, telethons, email, online chats web-sites and social media outlets. University conducts multiple communication campaigns simultaneously at any given time and currently utilizes the Education System's EMAS RecruitmentPro Product. All student communication should occur for both domestic and international students, as well as for other audiences of interest (college counselors, parents, recruitment volunteers, etc.).

Volume:

Currently, University sends well over 1M+ communication pieces (print and electronic) per entering class. Audiences include students at all parts of the enrollment funnel, as well as other important constituents such as college counselors and parents.

Functional Requirements:

Offeror shall detail its proposed solution's ability to provide or perform each of the functions identified in this section. Indicate whether the function is provided in the current configuration of the proposed solution or the current release of any application included with Offeror's solution, with enough detail to understand how the function is performed. ***If the item will be incorporated into a future configuration or release, indicate such, and be as specific as possible as to which future release and the expected availability. If the functionality is only available at an additional cost, please so indicate.***

A. General - The system:

1. Must enable University and administration to target and reach prospective students, parents, college counselors, and other interested parties by using advanced personalization technology.
2. Should provide multiple channels through which communications with each audience can be conducted and tracked, including but not limited to:
 - Phone campaigns
 - E-mail campaigns and individual messages
 - Web forms
 - Web site management and self-service interfaces
 - Letters
 - Chats
 - Referrals within the system and to external departments
 - Portal visits
 - Campus visits
 - Text messaging
 - Blogs
 - Video streaming
 - Social media, to include Facebook and Twitter

3. Should track user behavior and capture interests to deliver a unique web experience within a portal at each visit.
4. Should provide a work-flow engine that will automate the assignment of a record to a specific role based on specific criteria or activities (e.g. prospect to applicant to enrolled student).
5. Should link to and allow the viewing of imaged documents tied to a student, either from within the system or by linking to an external imaging/tracking system. The University currently uses BDMS (Banner Document Management System), Ellucian's Banner native document management system. The new system must be able to track, capture and report on documents from a variety of third-party sources including but not limited to The Common Application, CollegeNET and Parchment.
6. Must enhance application and yield rates by driving prospective students through the entire admission process by keeping them informed and engaged with news, information, surveys, cutting-edge web services, and targeted content.
7. Must be fully compliant with University standards for accessibility which are the guidelines found in Section 508 of the Rehabilitation Act of 1973. Link for Section 508 of the Act: www.access-board.gov/sec508/standards.htm
8. Provide an analytics package to analyze the effectiveness and return on investment (ROI) of campaigns, events and other items as well as individual communications across all targeted audiences.
9. Must allow for the scheduling of events such as campus visit programs, tours, and off campus events.
10. Must allow for reasonable and manageable upgrade paths and conversion scripts to minimize operational impact of new releases of the software.
11. Must provide security of the data housed and maintained by the application software.
12. Must deliver patches or updates for all security related aspects of the application as well as the base/system software, if at any time the application requires such.
13. The CRM system should be built on a technology platform that has been constructed using standard tools and practices; to include the following features: scalable; documented reliability; well-documented components and architecture. If there are third party dependencies, they are to be well-specified; product to comply with standard source and quality control practices and provide:
 - a. web-based access to all features for all end users using all modern web browser;
 - b. 24/7 access with standard load-balancing for peak usage;
 - c. managed, secured hosting services including backup and recovery; and
 - d. tiered privilege levels for different types of authorized users.

B. Communication Campaigns – The system:

1. Must build and execute unique communication plans for multiple user groups, using targeted e-mails, direct mail campaigns, and newsletters that can be tracked and recorded.
2. Must facilitate increased communications for incoming classes. Single communications ability should allow for 250,000 communications or more, either through print or electronic means.
3. Must allow for the division of inquiry and prospect pools into market segments for targeted communications through the use of queries.
4. Must allow for scheduled and automated personalized and customized HTML, Flash, or text e-mails and allow for the sending of on-demand e-mails when needed according to specified logic.
5. Should allow for the scheduling and sending of personalized event invitations and reminders according to specified logic.

6. Must provide tractable results enabling the system user to know exactly what is being delivered, viewed, read, or interacted with.
7. Must understand SPAM filters, blacklisting/whitelisting policies, and privacy laws to ensure messages are in compliance with legislation and have the best possible chance of being successfully delivered to and read by contacts.
8. Should support the use of other languages and alphabets in communications.
9. Should allow for the capture and use of more than one email address per student and related persons associated with the student's record (e.g. parents, college counselors, etc.).

C. System Integration, Content Management:

1. Must capture and store contact data from users via the associated web sites or forms, or from other systems which can export data using web forms.
2. Must seamlessly import and export data to and from University's Student Information System (Ellucian Banner). Should allow for both batch and automated import of data.
3. Must stay current with the Ellucian Banner upgrades and further Ellucian Banner development, and upgrades, including modifications.
4. Should use simple, graphic interfaces for the purposes of creating communications, web forms and campaigns.
5. Must seamlessly import data files from a variety of sources, including but not limited to The Common Application, CollegeNET, the CollegeBoard, and the ACT.

D. Analytical Tools and Reports – The System

1. Must provide return on investment (ROI) analytics at the global user group level as well as the specific activity level.
2. Should provide cost benefit analysis reports to assist in determining the most cost effective communications campaigns.
3. Must provide predefined and custom reports based on campaign and recruiter effectiveness. Describe how this is accomplished.
4. Must provide activity histories for each contact to measure engagement levels; reports should be based on key metrics, which can be determined by the user.
5. Must offer real-time reporting to accurately track demographics and assign customers to target groups accordingly. Track migration history from one target group to another.
6. Must provide ability for users to create ad-hoc reports.
7. Should provide non-editable audit trails for quality assurance and effectiveness tracking.
8. Should allow for connecting to the data structure via ODBC (Open Database Connectivity) or some other similar database connection.

E. Self Service Interface - The System:

1. Should allow users to serve themselves via a role-based, personalized web portal. Some of the roles should include but are not limited to: prospective students, applicants, admitted students, educators, counselors, recommenders and volunteer recruiters.

Specifically for student users, the system should allow for student input, to include the ability to create an account; respond to core questions; branch to school-specific questions; log out and login; retrieve and edit previous responses. It should also allow for the student to create a portfolio of various document types via uploading.

For educators and recommenders, it should allow an ability to input or upload all supporting documents, transcripts, and recommendations and have them tagged to the corresponding student's portfolio.

2. Self-service interface should be optimized for mobile viewing on phones and tablet devices. Describe what (if any) features of the full sites are missing on a mobile optimized site.
3. Must provide for online applications for admission. Must allow for the creation of web forms that allow for adaptive display based upon logic conditions dependent on student responses (e.g., if student self-reported test scores are high enough, an honors supplement to the application is launched).
4. Should provide campus visit scheduling for varied events, such as campus visit days and regular campus tours. If fees are associated with an event, can they be waived in the system for specific student populations? Describe how an event registration system interacts with the CRM and also how it collects data on specific needs of students.
5. Should integrate with existing social media platforms. Please describe.

Back Office Functional Requirements - The System

1. Must allow staff to operate it to perform daily activities (full utilization of communication campaigns and other system functions) without technical support.
2. Must allow staff to easily change inquiry forms and web content, including the building of online inquiry forms.
3. Should allow staff to run activity reports, create and set up automated e-mails, and post and manage RSVP's to events from their desktops.
4. Must have configurable role-based views of comprehensive data regarding customer interactions.
5. Should provide an interface to a user configurable workflow engine so that inquiries and communications requiring follow up are routed to the appropriate person or office.
6. Should offer online tools including: links to imaged documents, word merge ability, event calendaring and scheduling (campus visits and campus events) and import and export data control and scheduling ability.
7. Should provide availability of on-line help to all users.
8. Must support creation of bulk letters with customization and the generation of letters, correspondence. Explain in sufficient detail how this is accomplished, and what if any, additional software if needed.
9. Should allow for integration with 3rd party address verification and cleaning services.
10. Should provide ad-hoc routing and approvals to be constructed, through workflows, in combination with predefined routings and approvals of if-then logic.
11. Should provide tracking and reports on status of transactions/forms within the routing and approval process (if included). (e.g. a user can easily determine the status of a transactions/form in the routing and approval process.
12. Should provide a mechanism to schedule, run and produce reports in batch mode at future dates, times where appropriate (a scheduling system).
13. Describe how custom or ad hoc reports are created.
14. Must provide ability to process batch runs with the system is up and available for other activities.

15. Should provide ability to easily produce charts and graphs.
16. Must provide ability to export data to spreadsheets or word processors of common types (e.g. excel, MS Word etc.). Are all fields available to be exported? Can specific fields be blocked from export?
17. Must provide capability for data archival. Explain how this is done from an end user point of view and what is required.
18. Must provide simple (administrator) end user ability to monitor system performance.
19. Must be able to read data from and write data to a variety of different input and output formats. Ability to read data from standard third parties, such as College Board SATs or the ACT assessment, NRCUUA, Chegg, etc.. Must be able to easily adapt file layout to accommodate changes in a third-party data file.
21. Must provide ability for duplicate records to be merged. System must support one unique identifier across all applications.
22. Describe how jobs are scheduled or how tasks are automated.
23. Is your system capable of integrating with third-party analytic solutions such as Google Analytics, Crystal Reports or Tableau? Describe how.

Technology Requirements

A. Implementation Plan - Please outline:

1. The proposed implementation plan and schedule
2. Timeframe for software delivery
3. Support to be provided by Contractor. Indicate in terms of on-site and on-call, the support personnel that will be made available to install and implement the proposed system. Specify the tasks to be performed as well as the amount the respondent support and time to be made available for each task. Please highlight additional costs, including contractor or training support beyond levels quoted in this response (including any travel costs).
4. The recommended approach for conversion or migration of existing data (from EMAS RecruitmentPro)
5. University's requirements (tasks, personnel and cost related) for the conversion and implementation effort.

B. Data Structure Description

1. At a minimum, provide a general description of the proposed system's data structure. Additional technical specifics such as data diagram should also be provided.
2. Provide a list of files, fields, and tables used by the system. Provide a sample of file layout of a student's record.
3. Provide the required database platform if not database independent.

C. Audit Logs and Analysis

1. Provide details regarding audit logs, which should be stored in files accessible and readable by system and security administrators.
2. Outline tools for the on-line and batch analysis of these data elements.
3. Provide documentation as to the data structures and file definitions.

D. Hardware

1. Operating system necessary to run the software.
2. Processor required for running the CRM system, memory requirements and disk storage.
3. Detailed description of all hardware and software issues and requirements related to the system.

E. Manuals

1. Provide a copy of each user and administrator manual that would be supplied if the system were purchased.
2. Specify titles and costs of any additional manuals that would be available for purchase after installation.

F. Other

1. Programming language(s) used by the proposed application.
2. Query language(s) used/supported by the proposed application.
3. Describe version control utilized for code configuration control.
4. Does the CRM integrate with email systems and active directory? Describe.
5. Describe how the software integrates with an existing identity management infrastructure.
6. Is the system PCI compliant and does it accept credit card transactions. If so, do transactions take place in real time? What is the discount rate for credit card transactions? Describe your PCI compliance practices.
7. Can the system interface with a campus master calendar system, such as Resource 25?
8. Describe systems in place for data redundancy and backup. What percentage of “up time” is guaranteed?

Security Requirements

A. Data Privacy

1. Contractor will be required to treat all data that it receives from University, or is otherwise exposed to within University data systems, with the highest degree of confidentiality and in compliance with all applicable federal and state laws and regulations and University policies. Contractor shall employ commercial best practices for ensuring the security of University electronic and paper data accessed, used, maintained, or disposed of in the course of Contractor's performance under any Agreement pursuant to this solicitation. Contractor shall only use such data for the purpose of fulfilling its duties pursuant to the Agreement and shall not further disclose such data to any third party without the prior written consent of University or as otherwise required by law and shall not allow any data mining by any party other than University.
2. Contractor in the course of performing its duties under any written Agreement pursuant to this solicitation may receive, or be exposed to, the following types of data: student education records; financial information as that term is defined in the Financial Modernization Act of 1999; protected health information as that term is defined in the Health Insurance Portability and Accountability Act; and various items of personal identifying information including but not limited to Social Security Numbers, credit card numbers, financial account numbers and corresponding security or access codes and passwords, drivers license numbers, and state identification card numbers, and school system identification numbers. Contractor shall employ sufficient administrative, physical, and technical data security measures to meet the requirements under the specific federal and state laws applicable to those data, including but not limited to:
 - 2.1 Student Education Records: Family Educational Rights and Privacy Act.
Contractor agrees to protect the confidentiality of student information and to comply with the Family Educational Rights and Privacy Act of 1974 (FERPA) and its implementing regulations, specifically 20 U.S.C. 1232G, and 34 C.F.R. § 99.33, with respect to any redisclosure of personally identifiable information from education records obtained from University.
 - 2.2 Financial Information including credit card and financial account numbers: The

Financial Modernization Act of 1999, 15 USC 1681 et seq.; the Safeguards Rule at 16 CFR Part 31, the Payment Card Industry Data Security Standard PCI DSS.

2.3 Protected Health Information: The Health Insurance Portability and Accountability Act ("HIPAA"), 42 USC 1320d-2 (note); implementing privacy and security regulations at 45 CFR Parts 160 and 164, and related agency guidance.

3. Contractor shall have a plan in place to notify University immediately upon becoming aware of a breach of the Contractor's security that reasonably may have resulted in unauthorized access to University data. Contractor takes responsibility for costs associated with remediating any breach resulting from failings of their business practices, hardware or software systems.

B. General

1. An authorized Contractor representative must certify in writing that the application performs only those functions outlined in the provided documentation. That is, that there are no undocumented functions in the software. Such functions include alternate methods for gaining access to the application, or master keys such as master User Ids, master passwords, or trapdoors, or other functions that can be used to circumvent the application's own or the host computer's standard systems security. If there are exceptions to this statement, the Contractor must provide additional documentation describing the function and how and under what circumstances it would be used.

C. University Standard Electronic Security Environment

1. User Identification

- 1.1 All users must be uniquely identified with a User Identification (User Id).
- 1.2 Permitted User Id formats must support local policies. Specifically, the application should in no way base business processing on the format of the User Id by relying on portions of the User Id to influence business logic or processing. User Id lengths of up to eight (8) characters must be supported. Generally, access to databases and/or files must be made using the user's unique User Id.

2. Token Authentication

- 2.1 The application should support "strong authentication" - such as a password token device by directly interacting with popular token authentication systems and with the user to accomplish a personal identification number/challenge/response sequence.

3. Password Authentication

- 3.1 Users must have the ability to change their own passphrases.
- 3.2. A restricted passphrase list must be enforced. That is, a list of passwords from which the users may not choose must be consulted when users are changing their passwords, and the contents of this list should be modifiable by system administrators.
- 3.3 A forced passphrase change interval must be enforced. That is, there must be a mechanism that forces a user to change their current password after a given amount of time, and a period of time that a user must wait before they are allowed to change their password again. These parameters should be modifiable by system administrators.
- 3.4 Passphrase patterning must be enforced. That is, the system administrator must be capable of requiring passwords to be in a certain format consisting of letters, numbers, and special characters, and the administrator should be able to specify that the user password must contain a certain number each of letters numbers and special characters.
- 3.5 An "attack lockout" must be associated with the user id given a set amount of passphrase violations has occurred since the last successful login, and logins subsequent to the lockout being tripped must be denied. The parameter governing the number of allowed violations before lockout is activated must be modifiable by the system administrator. The system administrator must be able to reset this lockout for a given user id.
- 3.6 The user must not be able to choose a new passphrase that is the same or similar to their previous passphrase. The value of the number of previous passphrase should be modifiable by the system administrator.

3.7 Administrator ability to change text associated with responses to various situations is very desirable. Minimally, responses supported should include:

3.7.1 Invalid passphrase.

3.7.2 Passphrase, new passphrase missing.

3.7.3 Too many invalid attempts -- lockout activated. Contact system administrator.

3.7.4 New passphrase too similar to old password.

3.7.5 New passphrase re-verify failed.

3.7.6 New passphrase cannot be used - restricted word.

3.7.7 Invalid passphrase format.

3.8 Describe any integration with third party systems for which user IDs and passwords are the same. Are Shibboleth or LDAP connections allowed?

4. User Authorization

4.1 The application must provide varying levels of user authority.

4.2 Authority to access the databases and files associated with the application should be controlled within the application, and should be permitted based on the user's unique identity.

4.3 Users should be "logged out" of the system after a period of inactivity. Please describe the conditions under which this can occur.

4.4 Can Active Directory be used to allow users to login in to the system?

5. User Accountability

5.1 Actions taken against data via the application should be attributable to one and only one user:

5.2 Once a user identifies itself to the application and authenticates his or her identity, the application should maintain the user's identity throughout the active session. That is, the user should not be able to change his or her identity without first logging out and re-authenticating themselves to the application.

5.3 In addition, there should be no method for other users, either outside of the application or from within the application, to assume another user's active session, and hence their identity and authority.

6. Auditing

6.1 The application should provide for actively auditing all user activities: by user, or by data element, or by function. Information collected should include date and time of event, user involved, action attempted, and result.

7. Security Scans

7.1 Security scanning (using industry standard systems) of hosts serving applications must not be inhibited in anyway.

8. General Security

8.1 If service being provided is a cloud or hosted service, no portion of the data or service is to be hosted outside of the continental United States. Describe the facility or warehouse where data will be stored, including the environment and all security strategies; retention policies and procedures; on-going access and return of the data to University; and the process for transition upon termination.

8.2 Provide details on how back-ups are managed for disaster recovery purposes. What back-up and recovery features do you provide as part of your system and supporting utilities? Describe duration, number, and location of backups

in the event data must be restored.

- 8.3 Describe anti-fraud and anti-malice system protections that are in place to protect client data.
- 8.4 Describe how the system is protected against online ‘robot’ attacks and other fraudulent activities.

Training and Documentation

A. Training and Documentation:

1. Training programs available for technical as well as non-technical user personnel must be described. Please supply the following information:
 - 1.1 Course titles and descriptions.
 - 1.2 Dates/duration
 - 1.3 Appropriate attendees
 - 1.4 Cost per individual, per course
 - 1.5 Course site and pricing based on course site
2. What training is provided as a part of the implementation of the product?
3. Is there ongoing training with new releases and/or upgrades?
4. Is all training in person, or web based, or are there other forms of training? Describe.
5. What forms of end-user support exist? What is their availability?
6. What documentation is provided with the software?
7. Could the University incorporate any of Offeror’s documentation into University’s in-house documentation for training and end user purposes?
8. Identify any application consultant organizations which assist with training for Offeror’s solution or product.

B. Support and Product Information

1. What customer technical services are provided as part of the product’s basic license and maintenance fees, and what additional cost services are available?
2. What customer user-services and support are provided as part of the product’s basic license and maintenance fees and what additional cost services are available?
3. Provide a description of the procedures and facilities for diagnosing a software problem and correcting it once found.
4. Provide a copy of Offeror’s current support service level agreement (SLA).
5. Describe how Offeror handles support for any third party software required for the operation of the proposed application software.
6. Briefly describe the various support functions (consulting, program development, exit user routines, customizations, etc.) Offeror provides and the hourly rate for each service.
7. Describe all remaining types of support, maintenance, fixes, new releases, and new functionality etc., that will be provided as part of Offeror’s annual software maintenance fee.

8. List the locations of the nearest support offices. How many people employed by your organization are dedicated to end user support?
9. Describe how support issues are logged.
10. Detail your problem escalation procedure.
11. Describe your technical support organization and structure.
12. Describe availability of technical support, including days and hours of operation. Can support availability be increased during specific time frames?
13. Indicate your system's downtime/uptime performance record.
14. Are there fees or lack of support associated with choosing not to apply an upgrade or update to the system?
15. Does your system also have available a test environment? What about one for training purposes?

Data Ownership and Control

The University of South Carolina requires exclusive control and ownership of its data. Data are not to be used for any other purpose besides those identified and agreed upon by the University of South Carolina. Describe protocols in place to ensure this. If the University terminates its contract with the provider, all data are to be returned to the University of South Carolina in a time and manner chosen by the University.

A. User Community

Describe formal interactions with the user community including user groups, how user requests for package enhancements are handled and prioritized, newsletters etc.

B. Integration with other systems

1. Provide information on previous history Offeror has had with integrating Offeror's solution or product with other systems for:

- 1.1 Imaging and document management
- 1.2 Scholarship eligibility and awarding
- 1.3 Workflow management
- 1.4 Event registration management

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.

INFORMATION FOR OFFERORS TO SUBMIT – EVALUATION (JAN 2006): In addition to information requested elsewhere in this solicitation, offerors should submit the following information for purposes of evaluation:

PROPOSAL CONTENTS

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

Information to be provided by Offeror in the Proposal [identify what is Mandatory (M) and what is Evaluated (E)].

Requirements may be designated as "Mandatory" (M) or "Evaluated" (E), or both (M/E).

(M) - Mandatory Requirement. The Offeror **MUST** meet this requirement. The determination as to whether the Offeror meets the mandatory specification rests solely with University. If University determines that a Offeror does not meet a mandatory requirement as specified, or has not included mandatory information, the proposal may be deemed non-responsive, and no further evaluation will occur. In addition, wherever the words “must,” “shall,” or “will” appear this denotes a Mandatory requirement.

(E) - Evaluated. Offerors are expected to provide comprehensive written responses to evaluated specifications. Points will be awarded based on the degree to which the state’s evaluators determine that the Offeror meets the requirement. An Offeror which does not respond to an evaluated specification will receive no points for that specification.

Offerors must include the following information:

- 3.1 Proposals will include the business name, address and telephone number and email of the Offeror, and a cover letter summarizing the proposal. **(M)**
- 3.2 Offeror will list names, titles, and qualifications of the key personnel who will be assigned to this project, including subcontractors. Include concise business biographies or resumes of the key personnel who will be doing the work described in the proposal. This information must include their areas of expertise, and their experience with projects of similar scope and nature. Include projected increases in staff during the contract period. If Offeror will be required to obtain goods or services from a subcontractor in order to fulfill the work set forth in the proposal, in addition to any subcontractors listed as key personnel in accordance with this Section, Offeror must list the additional subcontractors, if known. If the identity of the specific subcontractors is not known at the time of proposal submission, Offeror should indicate that a subcontractor is anticipated to be named, and identify the specific service or good that will be subcontracted. **(M/E)**
- 3.3 Offeror must include a detailed description of procedures and other aspects of the working relationship expected between Offeror's project manager and University's representative as well as any other information deemed necessary for the fulfillment of the awarded contract. **(M/E)**
- 3.4 Offeror must submit sufficient evidence of financial capability to meet the responsibilities to perform the contract which may include balance sheets, income statements, financial statements, independent financial compilation/review or other financial information whereby University can determine Offeror’s credit rating or financial capability. It will be at University sole discretion to determine if evidence submitted is sufficient to determine financial capability. University reserves the right to request further information as needed for clarification purposes. The successful Offeror to which the contract is awarded may, at the discretion of University, be required to provide periodic (in no case more than two (2) times per year) updates to the financial capabilities report submitted pursuant to this RFP **(M)**.
- 3.5 Offeror must describe the annual research and development (R&D) investment for the solution being proposed- both in terms of financial investment and total number of employees dedicated to the R&D function. Describe what percentage of R&D is a result of customer requests. **(M/E)**
- 3.5 Offeror should provide statistics related to growth in number of employees over the past five years, describe where personnel growth in the company has occurred (e.g. department) and the average length of tenure for the technical support team. **(M/E)**
- 3.6 Offeror should describe their relationships and integrations, if any, with: The College Board; The ACT; The Common Application; CollegeNET, Facebook; Twitter; Naviance; NACAC; Docufide/Parchment, and other third party applications of note. **(M/E)**
- 3.7 Offeror to perform the project. Offeror must provide evidence of what the organization is doing to remain a viable and stable player in the marketplace. Offerors will verify that the Offeror has any and all licenses (including, but not limited to, software licenses) necessary for the work contemplated under this RFP, as applicable. **(M/E)**
- 3.8 Offeror must describe what generally differentiates their organization from key competitors, market share in the space, and their competitive advantage. **(M/E)**
- 3.8.A Proposals must include a description of the Offeror’s experience performing projects similar in type and magnitude to the subject of this RFP. Offerors must include a minimum of three examples. Offerors must also include work samples of similar projects (e.g. photographs, literature, schematics, report samples,

etc.). (M/E)

- 3.8 B Proposals must include a list of five clients and contact information for which similar projects have been completed by the Offeror. Please include at least three institutions of a similar size to the University of South Carolina. The University may contact these clients for an evaluation and assessment of the Offeror's performance. (M/E)
- 3.8 C Proposals must include a description of customer retention, and statistics related to the number of organizations that have implemented the technology, the name of the oldest active customer, and adoption and growth of the system over the past three years. (M/E)
- 3.8 D Proposals must include a description of how Offeror would approach this project and fully address all deliverables identified in **Section I**. (M/E)
- 3.8 E Proposals must include a proposed timeline with a breakdown of time allocated for implementation and delivery of all deliverables identified in **Section I** (M/E)
- 3.9 An itemized budget of cost estimates for Work to be performed to complete the project. The itemized budget must set forth a total price. (M/E)

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.

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? _____

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? _____

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.)

For a list of certified minority firms, please consult the Minority Business Directory, which is available at the following URL: <http://www.govoep.state.sc.us/osmba>

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 the point of contact. In determining your responsibility, the state may evaluate your proposed subcontractors.

VI. Award Criteria

AWARD CRITERIA – PROPOSALS (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 – PROPOSALS (JAN 2006): Offers will be evaluated using only the factors stated below. Evaluation factors are stated in the relative order of importance, with the first factor being the most important. Once evaluation is complete, all responsive offerors will be ranked from most advantageous to least advantageous.

The award will be made to the responsive offeror who's proposal, taking into consideration all evaluation factors, is deemed most advantageous to the University of South Carolina.

All responsive proposals will be evaluated by an evaluation panel on the basis of the following criteria listed in order of importance:

Stage 1 Evaluation

Evaluation of proposals will be executed in two stages. The first stage evaluation will be based upon the written proposals using these evaluation factors, which are listed in order of importance.

Requirements Assessment – the proposals will be evaluated to assess not only whether the requirements are met, but also how well they are met and whether the approach described provides significant advantage to USC.

Comprehensiveness of features and services offered – the Desirable Features and Characteristics described in the proposal will be evaluated on depth and breadth of coverage, the value of the approach in providing significant advantage to USC, and the degree of desirability (Highly Desirable versus Desirable)

Ease of system use – the proposals will be evaluated to see how well the CRM system can be used by a non-technical, functional user to accomplish the activities outlined above in the RFP.

Business Proposal – The total cost to Furnish, Deliver, Implement and Support a CRM system for the Undergraduate Admissions of the University of South Carolina in accordance with the requirements stated herein. No other charges will be considered by the University. Additional items in the Business Proposal, such as references and expenditures in R&D, and level of staffing will also be considered as part of the business proposal. Provide a detailed explanation of the total cost of ownership for Offeror's proposed base solution for the maximum five year contract term.

Compatibility/ease of integration with other systems – the proposals will be evaluated to see how well the CRM system integrates and supports data exchanges between the Student Information System and third parties including but not limited to The College Board, The ACT, CollegeNET, and The Common Application.

NOTE: At the completion of the First Stage evaluation, all offerors whose proposals receive cumulative scores of eighty-five percent (85%) or greater of the total points available from the evaluation committee will advance to the second stage evaluation. Offeror's who advance to the second stage will be notified two weeks prior of the appointed schedule time for the Stage 2 Evaluation.

Stage 2 Evaluation

Requirements Assessment – the proposals will be evaluated to assess not only whether the requirements are met, but also how well they are met and whether the approach described provides significant advantage to USC.

Comprehensiveness of features and services offered – the Desirable Features and Characteristics described in the proposal will be evaluated on depth and breadth of coverage, the value of the approach in providing significant advantage to USC, and the degree of desirability (Highly Desirable versus Desirable)

Ease of system use – the proposals will be evaluated to see how well the CRM system can be used by a non-technical, functional user to accomplish the activities outlined above in the RFP.

Compatibility/ease of integration with other systems – the proposals will be evaluated to see how well the CRM system integrates and supports data exchanges between the Student Information System and third parties including but not limited to The College Board, The ACT, CollegeNET, and The Common Application.

Implementation – the proposal will be evaluated on how the system can be implemented at USC and the resources available for implementation.

Demonstration **(format to follow)**

Demonstrations should be no more than two hours, with a 10 minute break, with 30 minutes scheduled afterwards for questions. Demonstrations can occur on or off campus. Offeror should demonstrate basic functional operations of the CMR, including:

- *how to send a mass email how it is tracked in the system, how to know if/when student opened it.
- *how to create a student plan for communications that is dependent on timing, logic, if applicable.
- *how to create communications for distribution (letters, exports with data, etc.)
- *how a student record appears, including viewing test scores for the student, past and future communications, student attributes, high school and college information, parental data, addresses, etc.
- *how tele-counseling module operates, if applicable
- *how enrollment funnel reports can be created
- *how tool for ad hoc reporting operates
- *show self-service interface for students and associated persons, such as counselors and recommenders
- *show campus visit and event scheduling
- *show to use, set up workflow within the system, if applicable.
- *show to create, edit, maintain custom forms

Evaluation scores from Stages 1 and 2 combined will be highest ranked offeror determined.

NEGOTIATIONS (JAN 2006): The procurement officer may elect to make an award without conducting negotiations. However, after the offers have been ranked, the Procurement Officer may elect to negotiate price or the general scope of work with the highest ranked offeror. If a satisfactory agreement cannot be reached, negotiations may be conducted with the second, and then the third, and so on, ranked offerors to such level of ranking as determined by the procurement Officer.

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.

IRAN DIVESTMENT ACT – ONGOING OBLIGATIONS – (JAN 2015): (a) You must notify the procurement officer immediately if, at any time during the contract term, you are added to the Iran Divestment Act List. 9b) Consistent with Section 11-57-330(B), you shall not contract with any person to perform a part of the Work, if at the time you enter into the subcontract, that person is on the then-current version of the Iran Divestment Act List.

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 & INTEREST (MAY 2011): (a) Unless otherwise provided in this Solicitation, the State 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 herein, including the purchase order, payment shall not be made on partial deliveries accepted by the Government. (b) Unless otherwise provided herein, including the purchase order, payment will be made by check. (c) Notwithstanding any other provision, payment shall be made in accordance with S.C. Code Section 11-35-45, which provides the Contractor's exclusive means of recovering any type of interest from the Owner. Contractor waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable. Except as set forth in this paragraph, the State shall not be liable for the payment of interest on any debt or claim arising out of or related to this contract for any reason. (d) Amounts due to the State shall bear interest at the rate of interest established by the South Carolina Comptroller General pursuant to Section 11-35-45 ("an amount not to exceed fifteen percent each year"), as amended. (e) Any other basis for interest, including but not limited to general (pre- and post-judgment) or specific interest statutes, including S.C. Code Ann. § 34-31-20, are expressly waived by both parties. If a court, despite this agreement and waiver, requires that interest be paid on any debt by either party other than as provided by items (c) and (d) above, the parties further agree that the applicable interest rate for any given calendar year shall be the lowest prime rate as listed in the first edition of the Wall Street Journal published for each year, applied as simple interest without compounding.

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

CHANGES (JAN 2006):

(1) Contract Modification. By a written order, at any time, and without notice to any surety, the Procurement Officer may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:

- (a) drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the [State] in accordance therewith;
- (b) method of shipment or packing;
- (c) place of delivery;
- (d) description of services to be performed;
- (e) time of performance (i.e., hours of the day, days of the week, etc.); or,
- (f) place of performance of the services. Subparagraphs (a) to (c) apply only if supplies are furnished under this contract.

Subparagraphs (d) to (f) apply only if services are performed under this contract

(2) Adjustments of Price or Time for Performance. If any such change increases or decreases the contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made in the contract price, the delivery schedule, or both, and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract. Failure of the parties to agree to an adjustment shall not excuse the contractor from proceeding with the contract as changed, provided that the State promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

(3) Time Period for Claim. Within 30 days after receipt of a written contract modification under Paragraph (1) of this clause, unless such period is extended by the Procurement Officer in writing, the contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the contractor's claim unless the State is prejudiced by the

delay in notification.

(4) Claim Barred After Final Payment. No claim by the contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

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 (MAR 2013): (a) Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A: VII, and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work and the results of that work by the contractor, his agents, representatives, employees or subcontractors. (b) Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit. This contract shall be considered to be an "insured contract" as defined in the policy.

(2) Auto Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage.

(3) Worker's Compensation: As required by the State of South Carolina, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

(b) Every applicable Using Governmental Unit, and the officers, officials, employees and volunteers of any of them, must be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

(c) For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the State, every applicable Using Governmental Unit, and the officers, officials, employees and volunteers of any of them. Any insurance or self-insurance maintained by the State, every applicable Using Governmental Unit, or the officers, officials, employees and volunteers of any of them, shall be excess of the Contractor's insurance and shall not contribute with it.

(d) Prior to commencement of the work, the Contractor shall furnish the State with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this section. All certificates are to be received and approved by the State before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The State reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this section, at any time.

(e) Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify the State immediately upon receiving any information that any of the coverages required by this section are or will be changed, cancelled, or replaced.

(f) Contractor hereby grants to the State and every applicable Using Governmental Unit a waiver of any right to subrogation which any insurer of said Contractor may acquire against the State or applicable Using Governmental Unit by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the State or Using Governmental Unit has received a waiver of subrogation endorsement from the insurer.

(g) Any deductibles or self-insured retentions must be declared to and approved by the State. The State may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

(h) The State reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Insurance Requirements: 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 award statement and on each contract 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 (JAN 2006):

(a)(1) The State may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to -

- (i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;
- (ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or
- (iii) Perform any of the other material provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The State's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Procurement Officer) after receipt of the notice from the Procurement Officer specifying the failure.

(b) If the State terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Procurement Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the State in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the State may require the Contractor to transfer title and deliver to the State, as directed by the Procurement Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Procurement Officer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.

(f) The State shall pay contract price for completed supplies delivered and accepted. The Contractor and Procurement Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property; if the parties fail to agree, the Procurement Officer shall set an amount subject to the Contractor's rights under the Disputes clause. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the Procurement Officer determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the termination had been issued for the convenience of the State. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the State, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the contractor's rights under the Disputes clause.

(h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this contract.

DISPOSAL OF PACKAGING (JAN 2006): Contractor shall dispose of all wrappings, crating, and other disposable materials pertaining to this contract at the end of each working day and upon completion of installation.

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.sa.sc.edu/shs/hipaa>

ILLEGAL IMMIGRATION (NOV 2008): (An overview is available at 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.

INDEMNIFICATION -- THIRD PARTY CLAIMS (NOV 2011): Notwithstanding any limitation in this agreement, and to the fullest extent permitted by law, Contractor shall defend and hold harmless Indemnitees for and against any and all suits or claims of any character (and all related damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property arising out of or in connection with the goods or services acquired hereunder or caused in whole or in part by any act or omission of contractor, its subcontractors, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an Indemnitee, and whether or not such claims are made by a third party or an Indemnitee; however, if an Indemnitee's negligent act or omission is subsequently determined to be the sole proximate cause of a suit or claim, the Indemnitee shall not be entitled to indemnification hereunder. Contractor shall be given timely written notice of any suit or claim. Contractor's obligations hereunder are in no way limited by any protection afforded under workers' compensation acts, disability benefits acts, or other employee benefit acts. This clause shall not negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist. The obligations of this paragraph shall survive termination, cancellation, or expiration of the parties' agreement. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance. As used in this clause, "Indemnitees" means the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees. [07-7B100-2]

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) Contractors 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.

MATERIAL AND WORKMANSHIP (JAN 2006): Unless otherwise specifically provided in this contract, all equipment, material, and articles incorporated in the work covered by this contract are to be new and of the most suitable grade for the purpose intended.

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 ADJUSTMENTS (JAN 2006): (1) Method of Adjustment. Any adjustment in the contract price made pursuant to a clause in this contract shall be consistent with this Contract and shall be arrived at through whichever one of the following ways is the most valid approximation of the actual cost to the Contractor (including profit, if otherwise allowed):

(a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

(b) by unit prices specified in the Contract or subsequently agreed upon;

(c) by the costs attributable to the event or situation covered by the relevant clause, including profit if otherwise allowed, all as specified in the Contract; or subsequently agreed upon;

(d) in such other manner as the parties may mutually agree; or,

(e) in the absence of agreement by the parties, through a unilateral initial written determination by the Procurement Officer of the costs attributable to the event or situation covered by the clause, including profit if otherwise allowed, all as computed by the Procurement Officer in accordance with generally accepted accounting principles, subject to the provisions of Title 11, Chapter 35, Article 17 of the S.C. Code of Laws.

(2) Submission of Price or Cost Data. Upon request of the Procurement Officer, the contractor shall provide reasonably available factual information to substantiate that the price or cost offered, for any price adjustments is reasonable, consistent with the provisions of Section 11-35-1830.

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

PRICING DATA – AUDIT – INSPECTION (JAN 2006): [Clause Included Pursuant to § 11-35-1830, - 2210, & -2220]

(a) Cost or Pricing Data. Upon Procurement Officer's request, you shall submit cost or pricing data, as defined by 48 C.F.R. § 2.101 (2004), prior to either (1) any award to contractor pursuant to 11-35-1530 or 11-35-1560, if the total contract price exceeds \$500,000, or (2) execution of a change order or contract modification with contractor which exceeds \$100,000. Your price, including profit or fee, shall be adjusted to exclude any significant sums by which the state finds that such price was increased because you furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date agreed upon between parties. (b) Records Retention. You shall maintain your records for three years from the date of final payment, or longer if requested by the chief Procurement Officer. The state may audit your records at reasonable times and places. As used in this subparagraph (b), the term "records" means any books or records that relate to cost or pricing data submitted pursuant to this clause. In addition to the obligation stated in this subparagraph (b), you shall retain all records and allow any audits provided for by 11-35-2220(2). (c) Inspection. At reasonable times, the state may inspect any part of your place of business which is related to performance of the work. (d) Instructions – Certification. When you submit data pursuant to subparagraph (a), you shall (1) do so in accordance with the instructions appearing in Table 15-2 of 48 C.F.R. § 15.408 (2004) (adapted as necessary for the state context), and (2) submit a Certificate of Current Cost or Pricing Data, as prescribed by 48 CFR § 15.406-2(a) (adapted as necessary for the state context).

(e) Subcontracts. You shall include the above text of this clause in all of your subcontracts. (f) Nothing in this clause limits any other rights of the state.

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.

RELATIONSHIP OF THE PARTIES (JAN 2006): Neither party is an employee, agent, partner, or joint venture 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.

STORAGE OF MATERIALS: Absent approval of the using governmental unit, Contractor shall not store items on the premises of the using governmental unit prior to the time set for moving materials.

TERM OF CONTRACT – EFFECTIVE DATE / INITIAL CONTRACT PERIOD: 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. Regardless, this contract expires no later than the last date stated on the final statement of award.

TERM OF CONTRACT – OPTION TO RENEW (JAN 2015): (a) 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. (b) Contractor acknowledges that, unless excused by Section 11-57-320, if the contractor is on the then-current Iran Divestment Act List as of the date of any contract renewal, the renewal will void ab initio.

TERMINATION FOR CONVENIENCE (JAN 2006): (1) Termination. The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State. The Procurement Officer shall give written notice of the termination to the contractor specifying the part of the contract terminated and when termination becomes effective. (2) Contractor's Obligations. The contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the contractor will stop work to the extent specified. The contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the contractor to assign the contractor's right, title, and interest under terminated orders or subcontracts to the State. The contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so. (3) Right to Supplies. 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. The contractor shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the contractor in which the State has an interest. If the Procurement Officer does not exercise this right, the contractor shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of Uniform Commercial Code Section 2-706. Utilization of this Section in no way implies that the State has breached the contract by exercise of the Termination for Convenience Clause. (4) Compensation. (a) The contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data required by Section 11-35-1830 bearing on such claim. If the contractor fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the contractor, if at all, an amount set in accordance with Subparagraph (c) of this Paragraph. (b) The Procurement Officer and the contractor may agree to a settlement and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the State, the proceeds of any sales of supplies and manufacturing materials under Paragraph (3) of this clause, and the contract price of the work not terminated;

(c) Absent complete agreement under Subparagraph (b) of this Paragraph, the Procurement Officer shall pay the contractor the following amounts, provided payments agreed to under Subparagraph (b) shall not duplicate payments under this Subparagraph:

- (i) contract prices for supplies or services accepted under the contract;
- (ii) costs reasonably incurred in performing the terminated portion of the work less amounts paid or to be paid for accepted supplies or services;
- (iii) reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Paragraph (2) of this clause. These costs must not include costs paid in accordance with Subparagraph (c)(ii) of this paragraph;
- (iv) any other reasonable costs that have resulted from the termination. The total sum to be paid the contractor under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph (b) of this Paragraph, and the contract price of work not terminated.
- (d) Contractor must demonstrate any costs claimed, agreed to, or established under Subparagraphs (b) and (c) of this Paragraph using its standard record keeping system, provided such system is consistent with any applicable Generally Accepted Accounting Principles.
- (5) Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not (i) affect the state's right to require the termination of a subcontract, or (ii) increase the obligation of the state beyond what it would have been if the subcontract had contained an appropriate clause.

VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL

PLEASE REFER TO ITEM BUSINESS PROPOSAL CONTENTS IN SECTION VI. STAGE 1 EVALUATION.

IX. ATTACHMENTS TO SOLICITATION

- A. IMPORTANT TAX NOTICE – NONRESIDENTS ONLY
- B. STATE OF SOUTH CAROLINA DEPARTMENT OF REVENUE FORM I-312
- C. OFFEROR'S CHECKLIST
- D. CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT
- E. PROTECTION OF CONFIDENTIAL DATA

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.

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.

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.

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.

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Confidentiality and Non-Disclosure Agreement ("**Agreement**") is executed this ____ day of _____, 2010_, by _____ ("**Consultant**").

WITNESSETH:

WHEREAS, Ellucian Company L.P. (successor by assignment to SunGard Higher Education Inc.), a Delaware corporation with a place of business at 4 Country View Road, Malvern, Pennsylvania 19355 ("**CONTRACTOR**") and the University of South Carolina, a South Carolina governmental agency ("**USC**"), entered into that certain Master Service Agreement, dated December 20, 2007 ("**Master Agreement**"); and

WHEREAS, Consultant may have access to certain confidential and proprietary information of USC, and CONTRACTOR and USC want to protect the confidentiality of any such confidential and proprietary information that may be disclosed by CONTRACTOR or USC to Consultant; and

WHEREAS, by the terms of the Master Agreement, USC is prohibited from providing Consultant with access to the Confidential Information of CONTRACTOR unless, as a condition precedent to such access, Consultant executes this Agreement, thereby agreeing to be bound by the terms, conditions and limitations contained herein.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Consultant agrees to the foregoing and as follows:

1. CERTAIN DEFINITIONS

1.1 "Software" means the Source Code and Object Code for the computer programs and computer coded instructions (including all related specifications, documentation, technical information, and all corrections, modifications, additions, improvements and enhancements to any of the foregoing) licensed by Ellucian Company L.P. (successor by assignment to SunGard Higher Education Inc.) ("**CONTRACTOR**") to the University of South Carolina ("**USC**") pursuant to the terms of a Master Agreement between CONTRACTOR and USC and having an Effective Date of December 20, 2007, as may be amended from time to time (the "License Agreement").

1.2 "Source Code" shall include source code for the Software in both human-readable and machine-readable form.

1.3 "Confidential Information" means commercially valuable, non-public information of CONTRACTOR that is disclosed to or otherwise received by Consultant in any manner and/or by any media, whether oral, visual or in tangible form (including, without limitation, documents, devices and computer readable media) and any and all copies thereof, including, without limitation the terms and conditions of the License Agreement; and the Software, including without limitation all copies of Source Code (if provided), Object Code and all related specifications, documentation, technical information, project management methodologies, and training materials, and all corrections, modifications, additions, improvements and enhancements to and all intellectual property rights for the Software.

1.4 "Permitted Purpose" means the right to use the Confidential Information required for Consultant to perform for USC the services and tasks identified in Exhibit A to this Agreement.

1.5 "Object Code" means computer programs assembled, compiled, or converted to magnetic or electronic binary form on software media, which are readable and usable by computer equipment

2. NONDISCLOSURE AND RESTRICTED USE OF CONFIDENTIAL INFORMATION

2.1 *Nondisclosure and Restricted Use.* Consultant acknowledges and understands that the Confidential Information, including without limitation the Software, is of great value to CONTRACTOR, and that the development of the Software has involved the expenditure of substantial amounts of money and the use of skilled development experts over a period of time. Consultant further acknowledges and understands that the Software and/or any other Confidential Information of CONTRACTOR being disclosed to Consultant on a strictly confidential basis is to be used only for the Permitted Purpose, and only in strict accordance with the terms, conditions and limitations of this Agreement and the License Agreement. Accordingly, Consultant will have the right to use the Confidential Information only for the Permitted Purpose, and for no other reason whatsoever. At all times during and after Consultant's access to the Confidential

Information, Consultant will hold the Confidential Information in confidence and, except as is required in connection with Consultant's performance of its obligations to USC in connection with the Permitted Purpose, Consultant: (a) shall not use, copy, disclose or otherwise make the Confidential Information available to any other person or entity without the prior written consent of both CONTRACTOR and USC (such consent which either CONTRACTOR or USC can withhold for any reason or for no reason at all; and (b) shall not remove or permit to be removed from the Confidential Information any notice placed thereon by CONTRACTOR or USC indicating the confidential nature of, or the proprietary right of USC in, the Confidential Information. Consultant is being granted access to the Confidential Information for the limited and sole purpose of the Permitted Purpose; that is, to provide to USC the information technology services and related work product described in the Permitted Purpose. Accordingly, in addition to all other obligations imposed on Consultant hereunder, Consultant is prohibited from offering, providing, licensing or otherwise making available any such work product (including any modifications) to any other individual or entity other than USC. In this regard, Consultant understands and agrees that it must obtain the advance, written consent of CONTRACTOR, and additionally sign a CONTRACTOR-approved non-disclosure agreement, in each instance in which it seeks to access any Confidential Information of CONTRACTOR for any client.

2.2 Notification Obligation. If Consultant becomes aware of any unauthorized use or disclosure of the Confidential Information by any person or entity, Consultant promptly shall advise both CONTRACTOR and USC of all facts known to Consultant concerning such unauthorized use or disclosure, and provide both CONTRACTOR and USC with reasonable assistance and cooperation with regard to the enforcement by CONTRACTOR and/or USC of their respective rights and interests under and arising from this Agreement.

2.3 Return of Confidential Information. Upon the termination of Consultant's obligations to USC, or at any time upon USC's request, Consultant shall return to USC all of the Confidential Information (including all complete and/or partial copies thereof) that are in Consultant's possession, custody or control. In connection with any such return, upon CONTRACTOR's or USC's request, Consultant shall provide USC with an affidavit stating that: (a) Consultant has returned to USC all Confidential Information to which Consultant had access; (b) Consultant does not have any Confidential Information, or copies thereof, in Consultant's possession, custody or control; and (c) Consultant has not made the Confidential Information, or any part thereof, available to any other person or entity without the express and prior written consent of both CONTRACTOR and USC, Consultant acknowledging that either USC or CONTRACTOR will have the right to withhold such consent for any reason or for no reason whatsoever. If Consultant has made the Confidential Information available to another person or entity without the prior written consent of CONTRACTOR and USC, Consultant agrees to promptly document the extent and nature of such dissemination, including, without limitation, identifying: (d) what Confidential Information was disclosed; (e) to whom the Confidential Information was disclosed; (f) the manner and means by which the Confidential Information was disclosed; and (g) the date(s) on which such disclosure occurred..

2.4 Access to the Confidential Information. Access to the Confidential Information shall be restricted to those of Consultant's personnel with a "need to know" who are engaged in the Permitted Purpose. Both before and after termination of the License Agreement for any reason, Consultant will refrain from permitting any other person, firm, corporation, organization or entity to have access to or have use of, directly or indirectly, all or any part of the Confidential Information, including without limitation the Software. Consultant shall maintain the Confidential Information in strict confidence and shall not disclose any Confidential Information in any manner to any other person, firm, corporation, organization or entity. Consultant shall not use, copy, duplicate, recreate, or reverse engineer all or any part of the Confidential Information, including without limitation any component of the Software, for any purpose other than the Permitted Purpose, and only in strict accordance with the terms, conditions and limitations of this Agreement and the License Agreement. Further, and without limitation, Consultant acknowledges and agrees that, notwithstanding whether Consultant or any other person or entity is the creator thereof, CONTRACTOR will exclusively own any and all right, title and interest in and to any and all modifications or derivative works of the Software, in whole and/or in part ("Developments"), regardless of who develops such modifications and derivative works, and Consultant hereby assigns to CONTRACTOR its entire right, title and interest thereto for the United States and all foreign countries without further compensation. Consultant agrees to execute such documents and other materials as may be reasonably requested by CONTRACTOR to obtain protection for such Developments and to perfect exclusive title thereto in CONTRACTOR, all at the sole expense of CONTRACTOR. Consultant shall insure that all employees of Consultant who are providing the services in connection with the Permitted Purpose shall be apprised of and shall comply with this Agreement.

2.5 Proprietary Legends. Consultant will not remove any proprietary rights legend from, and will, upon CONTRACTOR's reasonable request, add any proprietary rights legend to, materials disclosing or embodying Confidential Information.

2.6 Legal Process. In the event Consultant receives a subpoena or other validly issued administrative or judicial process demanding all or any part of the Confidential Information, Consultant shall promptly notify both CONTRACTOR and USC, and tender to CONTRACTOR the defense of such demand. Unless the demand shall have been timely limited, quashed or extended, Consultant shall thereafter be entitled to comply with such demand to the extent permitted by law. If requested by CONTRACTOR, Consultant shall cooperate (at the expense of CONTRACTOR) in the defense of a demand. CONTRACTOR shall have no liability to Consultant or to USC for any claims asserted by either of them in connection with Consultant's access to the Confidential Information or any other matter arising under or as a result of this Agreement.

2.7 Disclaimer of Warranties. **ALL CONFIDENTIAL INFORMATION IS DISCLOSED TO CONSULTANT "AS IS." CONTRACTOR MAKES NO WARRANTIES REGARDING THE ACCURACY OF THE CONFIDENTIAL INFORMATION. CONTRACTOR HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND/OR OF FITNESS FOR A PARTICULAR PURPOSE.**

2.8 Term of Confidentiality Obligations. In each instance, Consultant's obligations of confidentiality pursuant to this Agreement will remain in full force and effect for a period of ten (10) years following the date an item of Confidential Information is first disclosed to Consultant; but in any event, such obligations of confidentiality will continue in full force and effect for all of perpetuity with regard to the Software and any part of the Confidential Information which at such time CONTRACTOR treats as a trade secret (the "Non-Disclosure Period").

2.9 No License. Other than the limited right of use for the Permitted Purpose, neither USC nor CONTRACTOR grants ANY license to Consultant under any copyrights, patents, trademarks, trade secrets or other proprietary rights to use or reproduce Confidential Information

3. GENERAL PROVISIONS

3.1 Injunctive Relief. Because of the unique and highly confidential nature of the Confidential Information, Consultant acknowledges and agrees that CONTRACTOR and/or USC may suffer irreparable harm if Consultant breaches any of Consultant's obligations under this Agreement, and that monetary damages may be inadequate to compensate for such breach. Accordingly, in addition to any other rights and remedies that may be available to CONTRACTOR and USC at law and in equity, CONTRACTOR and/or USC shall be entitled to enforce the provisions of this Agreement by seeking injunctive relief, and Consultant shall not assert as defenses that an adequate remedy at law exists and/or that CONTRACTOR and/or USC will not be irreparably harmed.

3.2 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Agreement.

3.3 No Waiver. No delay or omission by CONTRACTOR or USC to exercise any right occurring upon Consultant's non-compliance or default with respect to any of the terms of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by CONTRACTOR or USC of any of the covenants, conditions or agreements to be performed by Consultant shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement herein contained.

3.4 Governing Law; Jurisdiction. This Agreement shall be governed by the laws of the State of South Carolina, and venue shall be proper in the state and federal courts for Richland County, State of South Carolina. This Agreement is not and shall not operate as a waiver of either USC's sovereign immunity or USC's immunity under the Eleventh Amendment of the United States Constitution.

3.5 Third Party Beneficiary. CONTRACTOR is a direct and intended third-party beneficiary of the terms of this Agreement. Specifically, but without limitation, CONTRACTOR will have the right to enforce the terms and conditions of this Agreement with regard to all Confidential Information and/or proprietary information of CONTRACTOR, including but without limitation the Software, in whole and/or in part.

3.6 No Assignment. Consultant shall not have the right to assign this Agreement or its obligations under this Agreement.

3.7 Exclusive Agreement; Modifications. This Agreement constitutes the complete and exclusive statement of the agreement of the parties with respect to the subject matter of this Agreement and supersedes all prior oral and written

proposals, negotiations, representations, promises, agreements, warranties or understandings concerning such subject matter. All provisions that, by their express terms, and/or that, by their nature require survival, shall survive after any termination of this Agreement. This Agreement may be modified only pursuant to a writing executed by USC, CONTRACTOR and Consultant.

IN WITNESS WHEREOF, this Confidentiality and Non-Disclosure Agreement has been executed on the date and year first above written.

XXXXXXXXXXXXXX
(CONSULTANT)

By: _____

Printed Name: _____

Title: _____

Acknowledged and Agreed:

University of South Carolina
(CLIENT)

By: _____

Printed Name and Title: _____

Date: _____

PROTECTION OF CONFIDENTIAL DATA

- Service Offeror agrees to abide by the limitations on re-disclosure of personally identifiable information from education records set forth in The Family Educational Rights and Privacy Act and with the terms set forth below. 34 CFR 99.33 (a)(2) states that the officers, employees and agents of a party that receives education record information from the Institution may use the information, but only for the purposes for which the disclosure of the information was made.
- **Definition: Covered Data and Information (CDI)** includes paper and electronic student education record information supplied by Institution, as well data provided by Institution's students to the Service Offeror, if any.
- **Acknowledgment of Access to CDI:** Service Offeror acknowledges that the Contract allows the Service Offeror access to CDI.
- **Prohibition on Unauthorized Use or Disclosure of CDI:** Service Offeror agrees to hold CDI in strict confidence. Service Offeror shall not use or disclose CDI received from or on behalf of the University of South Carolina (or its students) except as permitted or required by the Contract, as required by law, or as otherwise authorized in writing by the University of South Carolina. Service Offeror agrees not to use CDI for any purpose other than the purpose for which the disclosure was made.
- **Return or Destruction of CDI:** Upon termination, cancellation, expiration or other conclusion of the Contract, Service Offeror shall return all CDI to the University of South Carolina or, if return is not feasible, destroy any and all CDI. If the Service Offeror destroys the information, the Service Offeror shall provide the University of South Carolina with a certificate confirming the date of destruction of the data.
- **Remedies: If the University of South Carolina** reasonably determines in good faith that Service Offeror has materially breached any of its obligations under the Contract, then the University of South Carolina, in its sole discretion, shall have the right to (1) require Service Offeror to submit to a plan of monitoring and reporting, (2) provide Service Offeror with a fifteen (15) day period to cure the breach, or (3) terminate the Contract immediately if cure is not possible. Before exercising any of these options, the University of South Carolina shall provide written notice to Service Offeror describing the violation and the action it intends to take.
- **Maintenance of the Security of Electronic Information:** Service Offeror shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted CDI received from, or on behalf of the University of South Carolina or its students. Service Offeror shall impose these measures on all subcontractors used by Service Offeror.
- **Reporting Unauthorized Disclosures or Misuse of Covered Data and Information:** Service Offeror shall, within one (1) day of discovery, report to the University of South Carolina any use or disclosure of CDI not authorized by the Contract or in writing by the University of South Carolina. Service Offeror's report shall identify: (1) the nature of the unauthorized use or disclosure, (2) the CDI used or disclosed, (3) the identity of the individual or entity that received the unauthorized disclosure, (4) the action(s) that Service Offeror has taken or shall take to mitigate any potentially negative effects of the unauthorized use or disclosure, and (5) the corrective action(s) Service Offeror has taken or shall take to prevent future similar unauthorized uses or disclosures. Service Offeror shall provide any additional information in connection with the unauthorized disclosure reasonably requested by Institution.
- **Compliance with Red Flags Rule:** The Federal Trade Commission has promulgated regulations collectively known as the "Red Flags Rule" with which Institution must comply. See 16 CFR 681. Under the Red Flags Rule, Institution (the University of South Carolina) must ensure that Service Offeror either complies with Institution's identity theft Program or that Service Offeror has its own policies and procedures in place to detect and respond to identity theft Red Flags. Service Offeror represents and warrants that it has reasonable policies and procedures in place to detect, prevent and mitigate identity theft. Service Offeror shall review and comply with all relevant portions of Institution's identity theft policy, if any, as well as any applicable Institutional identity theft plan. Service Offeror shall report any Red Flags that it detects in connection with the Agreement to Institution.