

 <b>UNIVERSITY OF SOUTH CAROLINA</b>	<b>Request for Proposal</b>	Solicitation Number: Date Issued: Procurement Officer: Phone: E-Mail Address:	USC-RFP-3301-JB June 4, 2018 Juaquana Brookins 803.777.3596 <a href="mailto:jbrookin@fmc.sc.edu">jbrookin@fmc.sc.edu</a>
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DESCRIPTION: **Provide Bulletin and Curriculum Management System**

USING GOVERNMENTAL UNIT: **University of South Carolina**

*The Term "Offer" Means Your "Bid" or "Proposal". Your offer must be submitted in a sealed package. Solicitation Number & Opening Date must appear on package exterior. See "Submitting Your Paper Offer or Modification" provision.*

<b>SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:</b>	
<b>MAILING ADDRESS:</b> University of South Carolina 1600 Hampton Street, Suite 606 Columbia SC 29208	<b>PHYSICAL ADDRESS:</b> University of South Carolina 1600 Hampton Street, Suite 606 Columbia SC 29208

SUBMIT OFFER BY (Opening Date/Time): **June 22, 201 2:00 PM EST** (See "Deadline For Submission Of Offer" provision)

QUESTIONS MUST BE RECEIVED BY: **June 11, 2016 10:00 AM EST** (See "Questions From Offerors" provision)

NUMBER OF COPIES TO BE SUBMITTED: **One (1) original in hard copy and Six (6) electronic copies USB drives** (*Original shall prevail*)

<b>CONFERENCE TYPE: None – Not Applicable</b> <b>DATE &amp; TIME:</b>  <small>(As appropriate, see "Conferences - Pre-Bid/Proposal" &amp; "Site Visit" provisions)</small>	<b>LOCATION:</b>
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<b>AWARD &amp; AMENDMENTS</b>	Award will be posted on <b>07/16/18</b> . The award, this solicitation, any amendments, and any related notices will be posted at the following web address: <a href="http://www.purchasing.sc.edu">http://www.purchasing.sc.edu</a>
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You must submit a signed copy of this form with Your Offer. By signing, 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.  
(See "Signing Your Offer" provision.)

<b>NAME OF OFFEROR</b>  <small>(full legal name of business submitting the offer)</small>	Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.
<b>AUTHORIZED SIGNATURE</b>  <small>(Person must be authorized to submit binding offer to contract on behalf of Offeror.)</small>	<b>DATE SIGNED</b>
<b>TITLE</b>  <small>(business title of person signing above)</small>	<b>STATE VENDOR NO.</b>  <small>(Register to Obtain S.C. Vendor No. at <a href="http://www.procurement.sc.gov">www.procurement.sc.gov</a>)</small>
<b>PRINTED NAME</b>  <small>(printed name of person signing above)</small>	<b>STATE OF INCORPORATION</b>  <small>(If you are a corporation, identify the state of incorporation.)</small>

<b>OFFEROR'S TYPE OF ENTITY: (Check one)</b> <span style="float: right;"><small>(See "Signing Your Offer" provision.)</small></span>		
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Other _____
<input type="checkbox"/> Corporate entity (not tax-exempt)	<input type="checkbox"/> Corporation (tax-exempt)	<input type="checkbox"/> Government entity (federal, state, or local)

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

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

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

<p><b>DISCOUNT FOR PROMPT PAYMENT</b> (See "Discount for Prompt Payment" clause)</p>	<p>10 Calendar Days (%)</p>	<p>20 Calendar Days (%)</p>	<p>30 Calendar Days (%)</p>	<p>____ Calendar Days (%)</p>
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**PREFERENCES - A NOTICE TO VENDORS (SEP. 2009):** On June 16, 2009, the South Carolina General Assembly rewrote the law governing preferences available to in-state vendors, vendors using in-state subcontractors, and vendors selling in-state or US end products. This law appears in Section 11-35-1524 of the South Carolina Code of Laws. A summary of the new preferences is available at [www.procurement.sc.gov/preferences](http://www.procurement.sc.gov/preferences). **ALL THE PREFERENCES MUST BE CLAIMED AND ARE APPLIED BY LINE ITEM, REGARDLESS OF WHETHER AWARD IS MADE BY ITEM OR LOT. VENDORS ARE CAUTIONED TO CAREFULLY REVIEW THE STATUTE BEFORE CLAIMING ANY PREFERENCES. THE REQUIREMENTS TO QUALIFY HAVE CHANGED. IF YOU REQUEST A PREFERENCE, YOU ARE CERTIFYING THAT YOUR OFFER QUALIFIES FOR THE PREFERENCE YOU'VE CLAIMED. IMPROPERLY REQUESTING A PREFERENCE CAN HAVE SERIOUS CONSEQUENCES.** [11-35-1524(E)(4)&(6)] **“PREFERENCES DO NOT APPLY”**

**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)).

**“PREFERENCES DO NOT APPLY”**

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

## **Solicitation Outline**

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

## **I. SCOPE OF SOLICITATION**

It is the intent of the University of South Carolina to solicit from qualified, experienced contractors to provide products, solutions and/or professional services to implement a Management System that will integrate the University's Bulletin and Curriculum Systems, as stated herein.

### **Solutions Based Procurement**

This is a Solutions-Based procurement that states a problem. Your solution should state your company's answers to the problem. Through this method, the State has attempted to provide the minimum amount of detailed specifications and requirements in order not to transform this RFP into a Bid. As a result, the State does not want to limit your creativeness or ingenuity by over specifying the requirements of this solicitation. However, following the general format provided will assist the University and the State in evaluating your submission. Offeror's response to the Technical Proposal is highly encouraged to include a detailed explanation of its response for every feature/function that it can offer.

### **ACQUIRE SERVICES (JAN 2006)**

The purpose of this solicitation is to acquire services complying with the enclosed description and/or specifications and conditions.

### **MAXIMUM CONTRACT PERIOD -- ESTIMATED (JAN 2006)**

Start date: **07/27/2018** End date: **07/26/2023**. Dates provided are estimates only. Any resulting contract will begin on the date specified in the notice of award. See clause entitled "Term of Contract - Effective Date/Initial Contract Period".

## II. INSTRUCTIONS TO OFFERORS - A. GENERAL INSTRUCTIONS

### DEFINITIONS, CAPITALIZATION, AND HEADINGS (FEB 2015)

CLAUSE HEADINGS USED IN THIS SOLICITATION ARE FOR CONVENIENCE ONLY AND SHALL NOT BE USED TO CONSTRUE MEANING OR INTENT. EVEN IF NOT CAPITALIZED, THE FOLLOWING DEFINITIONS ARE APPLICABLE TO ALL PARTS OF THE SOLICITATION, UNLESS EXPRESSLY PROVIDED OTHERWISE.

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

**BOARD** means the South Carolina Budget & Control Board or its successor in interest.

**BUSINESS** means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity. [11-35-310(3)]

**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. [11-35-310(4)]

**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 clause of the contract titled "Changes," if included herein, authorizes the Procurement Officer to order without the consent of the contractor. [11-35-310(9)]

**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.

**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 either the Cover Page, an amendment, or an award notice.

**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 you contract with to perform or provide any part of the work.

**US or WE** means the using governmental unit.

**USING GOVERNMENTAL UNIT** means the unit(s) of government identified as such on the Cover Page. If the Cover Page identifies the Using Governmental Unit as "Statewide Term Contract," the phrase "Using Governmental Unit" means any South Carolina Public Procurement Unit [11-35-4610(5)] that has submitted a Purchase Order to you pursuant to the contract resulting from this solicitation. Reference the clauses titled "Purchase Orders" and "Statewide Term Contract."

**WORK** means all labor, materials, equipment, services, or property of any type, provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract.

### AMENDMENTS TO SOLICITATION

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

### AUTHORIZED AGENT (FEB 2015)

All authority regarding 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 or the resulting contract.

### AWARD NOTIFICATION (FEB 2015)

Notice regarding any award, cancellation of award, or extension of award will be posted at the location and on the date specified on the Cover Page or, if applicable, any notice of extension of award. 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 2004)**

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 2004)**

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 2004)**

Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation.

**CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (MAY 2008)**

GIVING FALSE, MISLEADING, OR INCOMPLETE INFORMATION ON THIS CERTIFICATION MAY RENDER YOU SUBJECT TO PROSECUTION UNDER SECTION 16-9-10 OF THE SOUTH CAROLINA CODE OF LAWS AND OTHER APPLICABLE LAWS.

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

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

(i) Those prices;

(ii) The intention to submit an offer; or

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

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

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

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

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

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

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

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

(c) If the offeror deletes or modifies paragraph (a)(2) of this certification, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

**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 nonresponsible.

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

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

#### **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>.

#### **DISCLOSURE OF CONFLICTS OF INTEREST OR UNFAIR COMPETITIVE ADVANTAGE (FEB 2015)**

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. Without limiting the foregoing, you represent that your offer identifies any services that relate to either this solicitation or the work and that has already been performed by you, a proposed subcontractor, or an affiliated business of either.

#### **DEADLINE FOR SUBMISSION OF OFFER (JAN 2004)**

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)]

#### **DRUG FREE WORK PLACE CERTIFICATION (JAN 2004)**

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 (FEB 2015)**

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. All ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation shall be interpreted to require the better quality or greater quantity of work and/or materials, unless otherwise directed by amendment. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the State's attention. See clause entitled "Questions from Offerors."

#### **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 2004)**

Do not include any sales or use taxes in Your price that the State may be required to pay.

#### **OPEN TRADE REPRESENTATION (JUN 2015)**

By submitting an Offer, Offeror represents that Offeror is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300.

#### **PROTESTS (JUNE 2006)**

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

#### **PROHIBITED COMMUNICATIONS AND DONATIONS (FEB 2015)**

Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of law.

(a) During the period between publication of the solicitation and final award, ***you must not communicate, directly or indirectly, with the Using Governmental Unit or its employees, agents or officials regarding any aspect of this procurement activity***, unless otherwise approved in writing by the Procurement Officer. All communications must be solely with the Procurement Officer. [R. 19-445.2010]

(b) You are advised to familiarize yourself with Regulation 19-445.2165, which restricts donations to a governmental entity with whom you have or seek to have a contract. ***You represent that your offer discloses any gifts made, directly or through an intermediary, by you or your named subcontractors to or for the benefit of the Using Governmental Unit during the period beginning eighteen months prior to the Opening Date.*** [R. 19-445.2165]

#### **PUBLIC OPENING (JAN 2004)**

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 (FEB 2015)**

Submit Questions via Email only to [jbrookin@fmc.sc.edu](mailto:jbrookin@fmc.sc.edu)

Subject: USC-RFP-3301-JB Provide Bulletin and Curriculum Management System

(a) Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing. Questions regarding the original solicitation or any amendment must be received by the Procurement Officer no later than five (5) days prior to opening unless an earlier date is 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. [See R. 19-445.2042(B)] 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. See clause entitled "Duty to Inquire." We will not identify you in our answer to your question. (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. [See R. 19-445.2140]

#### **REJECTION/CANCELLATION (JAN 2004)**

The State may cancel this solicitation in whole or in part. The State may reject any or all proposals in whole or in part. [SC Code Section 11-35-1710 & R.19-445.2065.]

#### **RESPONSIVENESS/IMPROPER OFFERS (JUN 2015)**

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

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

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

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

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

(f) **Do not submit bid samples or descriptive literature unless expressly requested.** Unsolicited bid samples or descriptive literature will not be examined or tested, will not be used to determine responsiveness, and will not be deemed to vary any of the provisions of the solicitation. S.C. Code Ann. Reg. 19-445.2077(D).

#### **SIGNING YOUR OFFER (JAN 2004)**

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 2004)**

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/planandprepare/disasters/severe-winter-weather>

### **SUBMITTING CONFIDENTIAL INFORMATION (FEB 2015)**

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

### **SUBMITTING A PAPER OFFER OR MODIFICATION**

**Paper offers are required.** (a) 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). (b) (1) All copies of the offer or modification, and any other documents required to be submitted with the offer shall be enclosed in a sealed, opaque envelope or package. (2) Submit your offer or modification to the address on the Cover Page. (3) The envelope or package must show the time and date specified for opening, the solicitation number, and the name and address of the bidder. If the offer or modification is sent by mail or special delivery service (UPS, Federal Express, etc.), the outermost envelope or wrapper must be labeled "OFFER ENCLOSED" on the face thereof. (c) If you are responding to more than one solicitation, submit each offer in a separate envelope or package. (d) Submit the number of copies indicated on the Cover Page. (e) Facsimile or e-mail offers, modifications, or withdrawals, will not be considered unless authorized 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**

(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 2004)**

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

### CONTENTS OF OFFER (RFP) - SOLUTIONS BASED

Your offer should address each of the areas outlined below (as applicable) and provide the information requested. As your offer will be evaluated based on the information you provide, failure to provide a complete and comprehensive presentation of your solution could negatively affect our evaluation of your offer.

**1. Executive Overview:** Your offer should include a summary of the proposed solution that reflects your understanding of both the State's needs and how your solution will satisfy those needs. Please explain your overall approach to the management of this effort, including a brief discussion of the total organization (structure and relationships among personnel and consultants/subcontractors).

**2. Technical Overview:** Your offer should include a summary of the proposed technical solution with enough detail to demonstrate an understanding of the current environment and scope of the project .

3. Detailed explanation of proposed solution

3.1 Management

3.1.1 Implementation schedule

3.1.1.1 from contract formation to installation and acceptance

3.1.1.2 installation, testing, and pilot, as appropriate

3.1.1.3 detailed staffing deployment schedule

3.1.1.4 milestones and deliverables

3.1.2 Project management practices, policies, and certifications

3.1.3 Application development methodologies

3.1.4 Subcontracting, outsourcing, offshore contribution (if any)

3.1.5 Escalation policies, practices, and contacts

**3.2 Technical.** As appropriate, provide an explanation and/or information about the following, in detail:

3.2.1 Functional capabilities of the proposed solution, including all performance capabilities, specifications and response times.

3.2.2 Technical information about proposed solution, including technical specifications of any proposed equipment or services

3.2.3 Software, if any, including manufacturer, functional capabilities, warranties, support levels, and documentation (any applicable license agreements and documents reflecting offeror's authority to include such software).

3.2.4 Services included in the proposal and otherwise available

3.2.5 Environmental requirements for the proposed solution.

3.2.6 Software development plan, interfaces documentation, data synchronization, and replication plans, etc.

3.2.7 Technical and operational manuals, by reference.

**3.3 Change Management.** Who initiates change requests, what justifications and explanations are included, risks associated with change, approval process, etc.

**3.4 Installation and support.**

3.4.1 Installation -- provide detailed information on the installation requirements and schedule.

3.4.2 Training -- explain any proposed training solution. Include plans for training new employees beyond the initial training cycle, employee readiness evaluations, training feedback, student-instructor ratios, duration of training, etc. Include plans for updating and maintaining training plans, system documentation, operational documentation, etc. For the duration of the implementation or term of the contract as appropriate. Include any other training solutions that are available.

3.4.3 Support services including hardware and software maintenance include an explanation of any proposed support services including performance guarantees. Identify all proposed maintenance including a detailed explanation of response times. Include any forms or agreements.

3.4.4 Data conversion requirements should include who is responsible for developing any data conversion programs, what the acceptable level of conversion, how many records are to be converted, who is responsible for entering any records that do not convert properly, etc.

3.4.5 Service level agreements (SLA) with performance commitments. If appropriate, include industry standard response times and performance requirements for normal business processing and/or critical business processing as appropriate.

3.4.6 Disaster recovery plans should be included, as appropriate.

3.4.7 Back-up plans for proposed network, data, and systems outages and disruptions, if appropriate.

3.4.8 Warranties -- include all functional, performance, and quality of workmanship warranties. Describe acceptable warranty performance specifications and warranty performance reporting to include number of calls, number and type of repairs and changes, etc.

**3.5 Intellectual property:** explain the ownership rights to all proposed intellectual property.

### **3.6 Staffing**

3.6.1 Contractor

3.6.1.1 Key staff, their resumes, and areas of responsibility on this project

3.6.1.2 Non-key staff, by number and areas of responsibility on this project

3.6.1.3 State the number of state employees necessary and what training and skill levels are anticipated?

3.6.2 Other -- are there any other staffing requirements?

### **3.7 Business proposals**

3.7.1 Total cost of ownership -- provide anticipated cost of purchasing, owning, operating, maintaining, and supporting the proposed solution for the total potential term of the contract. Include a detailed accounting of the total cost of ownership.

3.7.2 Risk analysis -- identify the internal and external factors could significantly impact the probability of completing this project on time and within budget

3.7.3 Risk mitigation -- identify any actions that could be taken to mitigate the identified risks

3.7.4 Risk sharing -- identify any opportunities for mutually beneficial risk sharing

3.7.5 Performance incentives -- identify any opportunities for performance-based incentives

3.7.6 Financing options -- identify any alternative financing options available to the state

3.8 Offeror's Qualifications. Provide the information requested by the following provisions:

### **CLARIFICATION (NOV 2007)**

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

### **ELECTRONIC COPIES – REQUIRED MEDIA AND FORMAT**

In addition to your original offer, you must submit an electronic copy or copies on **USB** drives. Submit the number of copies indicated on the cover page. Each copy should be on separate media. Your business and technical proposals must be on separate media. Every disk or USB drive must be labeled with the solicitation number and the offeror's name, and specify whether its contents address technical proposal or business proposal. If multiple-disk sets are provided, each disk in the set must be appropriately identified as to its relationship to the set, e.g., 1 of 2. The electronic copy must be identical to the original offer. File format shall be compatible with Microsoft Office (version 2003 or later), or Adobe Acrobat or equivalent Portable Document Format (.pdf) viewer. The Procurement Officer must be able to view, search, copy and print electronic documents without a password.

### **OPENING PROPOSALS -- INFORMATION NOT DIVULGED (FEB 2015)**

In competitive sealed proposals, neither the number or identity of offerors nor prices will be divulged at opening.

### **DESCRIPTIVE LITERATURE – LABELLING (JAN 2006)**

Include offeror's name on the cover of any specifications or descriptive literature submitted with your offer.

### **PROTEST - CPO - ITMO ADDRESS (JUN 2006)**

Any protest must be addressed to the Chief Procurement Officer, Information Technology Management Office, and submitted in writing

(a) by email to [protest-itmo@itmo.sc.gov](mailto:protest-itmo@itmo.sc.gov),

(b) by facsimile at 803-737-0102, or

(c) by post or delivery to 1201 Main Street, Suite 601, Columbia, SC 29201.

### **LEGAL AGREEMENTS INCLUDED WITH PROPOSALS MUST BE APPROVED**

Every page of legal agreements(s) that Offeror expects the University to sign in order to do business with Offeror,

Offeror's terms and conditions, and/or similar type legal documents pursuant to potential contract award that Offeror chooses to include with its proposal must be clearly labelled "SAMPLE". If Offeror's proposal is the highest ranked offer from the evaluation process for the solicitation, then the University will consider the legal documents pursuant to potential contract award that the Offeror included with its proposal and clearly labelled "SAMPLE".

SAMPLES OR DESCRIPTIVE LITERATURE: Samples or descriptive literature should not be submitted unless expressly requested and regardless of any attempts by an offeror to condition its offer, unsolicited bid samples or descriptive literature which are submitted at offeror's risk will not be examined or tested, and will not be deemed to vary any of the provisions of the Request for Proposals.

### **III. SCOPE OF WORK/SPECIFICATIONS**

#### **A. Executive Summary**

The University of South Carolina is seeking an enterprise-wide solution with a qualified, experienced and reliable vendor to assist the University in the curricular approval and academic bulletin management of all institutional academic courses, programs, and policies, as well as a solution that addresses its institutional and strategic planning needs.

The solution proposed must be able to manage shared information across multiple colleges and campuses and must integrate with the institution's Student Information System (SIS), which is Banner. Such integration is critical for ensuring accuracy and consistency. Using information from the SIS, the proposed solution should provide pre-populated, dynamic online forms as part of a customizable curricular and bulletin management workflow.

The proposed solution should have robust, customizable reporting capability to track changes by proposal type as well as individual and institutional proponents. It should flag errors and aid in reconciling data. Furthermore, the proposed solution should be able to integrate all approved curriculum changes into the publication of the academic bulletins. All academic bulletins are online and must include both campus specific and across institutional shared content.

#### **B. University Background**

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

The University offers baccalaureate, masters, and doctoral degrees through 17 colleges and schools. The baccalaureate degree is offered in over 70 major fields; the masters degree in over 100 fields; and doctorate in over 50 fields. The School of Law offers the J. D. Degree and the Schools of Medicine the M.D. degree. Exchange programs with over 30 foreign countries have been established at the University of South Carolina. Over 15 research bureaus and institutes throughout the University provide research support and service in several disciplines. Please visit <http://www.sc.edu/aboutusc> for more USC information.

#### **C. Project Background**

In 2011, The University of South Carolina developed a custom application, the Academic Programs Proposal System (APPS) a web-based submission and approval system developed to facilitate the submission and approval process for course and program curriculum forms.

Users (proponents) include anyone who wishes to submit a proposal, those with approval authority for proposals

(approvers), and those sitting on college or university committees responsible for reviewing the proposals (committee reviewers). Anyone can view the current list of proposals submitted for approval across campus. They can search or filter proposals by college/school, designator, or action. Members of curriculum and faculty governance committees across campus can review, comment and run reports on proposals submitted via a secured, read-only site.

The University of South Carolina launched its inaugural online bulletins for the 2009-2010 academic year, replacing its longstanding printed versions. This process bolstered the standardization of content and presentation of the institution's approximately 350 academic programs; organized the University's undergraduate and graduate admissions and academic policies into a single reference; and, systematized its catalog of more than 9000 courses.

We currently have a complex bulletin structure in which multiple campuses and schools have unique as well as shared bulletin content (programs, courses, non-curricular information and policies). The following list outlines the bulletin structure

- Columbia Undergraduate
- Columbia Graduate
- Palmetto College (Four 2-year campuses)
- Schools of Medicine (Columbia and Greenville)
- School of Law
- 3 Comprehensive Campuses (4-year campuses)
- College of Pharmacy

USC flagship campus in Columbia has both online undergraduate and graduate academic bulletins as well as a separate policies and procedures manual that will need to be integrated into the bulletin. The Office of the University Registrar on the Columbia campus administers each academic bulletin cited above in partnership with academic and administrative representatives from each campus. Each bulletin is published annually on February 15 for the next academic year.

While the current bulletins offer a significantly improved user experience over the printed versions from the past, they still lack integration within our Banner system as well other with other critical systems, primarily the curriculum approval and the program assessment processes.

#### **D. Purpose**

The University seeks a qualified vendor with demonstrated capabilities in deploying and supporting a curriculum and bulletin management solution that has experience with an organization of the same size, scope and complexity as the University of South Carolina. It is envisioned that the proposed solution will assist the University in integrating the bulletin with curriculum management at both the programmatic and course levels.

The proposed solution will serve as the University's "program inventory" and shall be able to upload documents into the system from other approval agencies such as SC CHE, SACSCOC, etc. Below are the functional requirements of the solution:

- 1) Ability to have intuitive tools for editing content, managing workflows, and publishing to multiple platforms including web, mobile, tablet and print pdf platforms.
- 2) Ability to integrate with other University-approved systems such as Ellucian Banner, Degree Works and Omni Update OU Campus.
- 3) Ability to create custom workflow and reports for curriculum management.
- 4) Ability to have users assigned to the workflow process with the rights to edit, review, accept, reject, and archive changes to proposals.
- 5) Ability to have workflow capabilities to document editorial changes in the curriculum and bulletin management process.
- 6) Ability to export approved curriculum changes for publication into the bulletin.
- 7) Ability to archive and publish academic bulletins.
- 8) Ability to upload supporting documentation.
- 9) Ability to manage shared information across multiple colleges, schools, and campuses.
- 10) Ability to work with University single-sign on solution.

## **E. Desirable Elements**

1. The University is seeking a Contractor with a proven track record of delivering a curriculum and bulletin management solution to an organization the size, scope and complexity of the University of South Carolina.
2. The University is seeking a Contractor with a proven track record of delivering curriculum and bulletin management solutions to a minimum of three (3) Higher Education organizations the size, scope and complexity of the University of South Carolina.
3. The University is seeking a contractor with a verifiable track record of delivering curriculum and bulletin management solutions for a minimum of five (5) years.
4. The University is interested in a solution that provides for a rapid implementation of proposed solutions.
5. The University expects to review and approve all resource candidates prior to their being added to the contractor's support or implementation teams. Communications skills will be essential to the candidate's success and, if necessary, may be the only criteria for excluding a proposed candidate.
6. The University expects that the services proposed by the Offeror comply with all Federal and State laws, rules and regulatory requirements including State travel guidelines.
7. The University expects that the Offeror will propose performance metrics and that the proposed metrics follow industry best practices.
8. The Offeror's solution should provide for an approach to how the Offeror proposes to deal with Training, Knowledge Transfer, Maintaining Skillsets/Experience and the process for On-boarding new resources and Off-boarding departing resources whether they depart voluntarily or not and the associated credits, if any, to the university
9. The University expects that the Offeror will provide their resources with laptops, cell phones and whatever other tools are required to successfully perform their services.
10. The University expects the Offeror to comply with the University Information Security Program (see the website reference in Appendix A),
11. Parking will not be provided by the University.
12. The University expects all Contractor personnel to sign Appendix A.

## **F. Demonstration**

All responsive Offerors will be required to give a live or remote demonstration of the proposed software that will meet the proposed solution requirements listed in the solicitation.

1. Offerors will be limited to a 45 minute demonstration of the propose software and/or system described in the Offeror's written proposal. Evaluators may ask questions pertaining to the Offeror's presentation at the conclusion. The Offeror's answers are restricted to statements of facts. Offerors will not be allowed or permitted to introduce new information not included in their proposals. Negotiation is not permitted at this stage of the solicitation process and Offeror's may not make any changes to their proposals at this time.
2. Offerors may be required to document an answer if such a written clarification is determined to be in the best interest of the University of South Carolina.
3. The presentation should be conducted in a straightforward manner in order to secure a clear and meaningful understanding of the Offeror's proposed solutions.
4. The presentation is designed to satisfy the evaluation panel's need for clarification and understanding of the information that is provided in the Offeror's written proposal. Therefore, the Qualified Offeror may neither ask questions, divulge any cost information, nor receive preliminary assessments on its proposal from the members of the evaluation panel.

Attendees at the live or remote presentation session should include but are not limited to key members of the offeror's proposed account management team, key technical personnel, and key subject matter experts.

## **DELIVERY / PERFORMANCE LOCATION – PURCHASE ORDER (JAN 2006)**

After award, all deliveries shall be made and all services provided to the location specified by the Using Governmental Unit in its purchase order.



#### IV. INFORMATION FOR OFFERORS TO SUBMIT

##### INFORMATION FOR OFFERORS TO SUBMIT – GENERAL

**You shall submit a signed Cover Page and Page Two.** Your offer should include 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 Part IX. Attachments to Solicitations. You should submit a summary of all insurance policies you have or plan to acquire to comply with the insurance requirements stated herein, if any, including policy types; coverage types; limits, sub-limits, and deductibles for each policy and coverage type; the carrier's A.M. Best rating; and whether the policy is written on an occurrence or claims-made basis.

##### 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

##### 1. Refer to Section II. Instructions to Offerors--B. Special Instructions – Contents of Offer (RFP) solution based clause.

*Do not include Pricing in Technical Proposal. These should be submitted as two separate documents (One sealed envelope for Technical Proposal and one sealed envelope for Price Proposal) as hardcopies. For digital format, the documents should be submitted on two separate flash drives (one labeled Technical Proposal and one labeled Price Proposal)*

##### MINORITY PARTICIPATION (JAN 2006)

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

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

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

Will any of the work under this contract be performed by a SC certified Minority Business as a subcontractor?

Yes  NO

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

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

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

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

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

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

##### OFFSHORE CONTRACTING (JAN 2006)

Work that will be performed offshore by the Offeror and/or its subcontractors must be identified in the Offeror's response. For the purpose of this solicitation, offshore is defined as outside the 50 States and US territories. Offeror is to include an explanation for the following:

(a) What type of work is being contracted offshore?

\_\_\_\_\_  
(b) What percentage (%) of the total work is being contracted offshore?

(c) What percentage (%) of the total value of the contract is being contracted offshore?

(d) Provide a Service Level Agreement (SLA) demonstrating the arrangement between the off-shore contactor and the Offeror. **Attach Service Level Agreement to this document or paste here.** Data provided by the Offeror in regards to this clause is for information only and will not be used in the evaluation and determination of an award.

**SERVICE PROVIDER SECURITY ASSESSMENT QUESTIONNAIRE - REQUIRED (FEB 2015)**

[ASK QUESTIONS NOW: If you have a properly qualified third-party report or certification you believe we should accept in lieu of those identified in item (b), submit a question identifying same pursuant to the clause titled Questions from Offerors.] The Contractor must demonstrate that programs, policies and procedures are in place to adequately provide for the confidentiality, integrity, and availability of the information systems used by contractor to process, store, transmit, and access all government information. In order for the State to accurately evaluate the strength and viability of the Contractor's security policies, procedures and practices related to confidentiality, integrity and availability, Offerors must submit with their offers a thorough and complete written response to the Service Provider Security Assessment Questionnaire ("Response to SPSAQ") attached to this Solicitation, which must address all applicable organizations and applicable information systems. The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security – Definitions.

**SUBMITTING REDACTED OFFERS (MAR 2015)**

If your offer includes any information that you marked as "Confidential," "Trade Secret," or "Protected" in accordance with the clause entitled "Submitting Confidential Information," you must also submit one complete copy of your offer from which you have removed or concealed such information ( the redacted copy). 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 "Electronic Copies - Required Media and Format.") Except for the information removed or concealed, the redacted copy must be identical to your original offer, and the Procurement Officer must be able to view, search, copy and print the redacted copy without a password.

## V. QUALIFICATIONS

### QUALIFICATION OF OFFEROR (MAR 2015)

(1) To be eligible for award, you must have the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance. We may also consider a documented commitment from a satisfactory source that will provide you with a capability. We may consider information from any source at any time prior to award. We may elect to consider (i) key personnel, any predecessor business, and any key personnel of any predecessor business, including any facts arising prior to the date a business was established, and/or (ii) any subcontractor you identify. (2) You must promptly furnish satisfactory evidence of responsibility upon request. Unreasonable failure to supply requested information is grounds for rejection. (3) **Corporate subsidiaries are cautioned that the financial capability of an affiliated or parent company will not be considered in determining financial capability**; however, we may elect to consider any security, e.g., letter of credit, performance bond, parent-company corporate guaranty, that you offer to provide Instructions and forms to help assure acceptability are posted on [procurement.sc.gov](http://procurement.sc.gov), link to "Standard Clauses & Provisions."

**NOTE: The University reserves the right to contact Offeror's references.**

### QUALIFICATIONS AND EXPERIENCE

#### a. COMPANY EXPERIENCE

1. The University is seeking Offerors with a minimum of 5 years' experience providing services similar in nature to those outlined in the RFP. State the number of years of prior experience providing similar solutions/services.
2. The University is seeking Offerors with a customer base, past or present, which includes a minimum of three Higher Education or large public sector customers similar in size, scope and complexity to the University of South Carolina.
3. Describe at least three (3) references where your firm has provided solutions or services the same or similar, as requested in this RFP, including any prior projects in South Carolina. Provide at least the following information for each:
  - a. Client name & address
  - b. Contact name
  - c. Telephone number
  - d. Email address
  - e. Brief summary of the project, including project cost
  - f. Dates and time of project
  - g. Provide any failed projects, suspensions, and debarments, litigations (past or present).
4. Please indicate if your firm has been relieved, removed or otherwise terminated from a project prior to its completion in the last three years. If so, please provide in-depth details.
5. Discuss your experience, skill sets, and overall ability to support complex governmental, regulatory, higher education business processing activities such as ours.
6. Provide an overview of your full suite of products and services that you believe would be viable companion services to those the University has requested.

#### b. FINANCIAL STABILITY

Offerors are to provide evidence of financial viability regardless of corporate structure. Submit any one of the following financial statements:

1. Balance Sheet
2. Income Statement
3. Profit and Loss Statement (Provide either audited, compiled, or reviewed financial statements for most recent three fiscal years.)
4. Tax returns can be substituted for financial statements

## **SUBCONTRACTOR – IDENTIFICATION (FEB 2015)**

If you intend to subcontract, at any tier level, with another business for any portion of the work and that portion either (1) exceeds 10% of your cost, (2) involves access to any “government information,” as defined in the clause entitled “Information Security - Definitions,” if included, or (3) otherwise involves services critical to your performance of the work (err **on the** side of inclusion), your offer must identify that business and the work which they are to perform. Identify potential subcontractors by providing the business name, address, phone, taxpayer identification number, and point of contact. In determining your responsibility, the state may contact and 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.

### **DISCUSSIONS AND NEGOTIATIONS – OPTIONAL (FEB 2015)**

Submit your best terms from both a price and 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 without prior notice. 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. [11-35-1530(6); R.19-445.2095(l)] If improper revisions are submitted during discussions, the State may elect to consider only your unrevised initial proposal, provided your initial offer is responsive. 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). Negotiations may involve both price and matters affecting the scope of the contract, so long as changes are within the general scope of the request for proposals. If negotiations are conducted, the State may elect to disregard the negotiations and accept your original proposal.

### **UNIT PRICE GOVERNS (JAN 2006)**

In determining award, unit prices will govern over extended prices unless otherwise stated.

### **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.

1. **Technical Proposal:** The completeness and suitability of the Offeror's proposed functional and technical solutions to meet or exceed the requirements of this RFP.
2. **Qualifications and Experience:** Qualifications, experience and financial viability as demonstrated.
3. **Demonstration:** Functionality of how the tools meet or exceed the requirements in terms of ease of use, ease to change to meet changing business needs (flexibility), features and core competency compatibility.
4. **Business Proposal:** All costs to be incurred over the maximum five (5) year term contract.

## **VII. TERMS AND CONDITIONS -- A. GENERAL**

### **ASSIGNMENT, NOVATION, AND CHANGE OF NAME, IDENTITY, OR STRUCTURE (FEB 2015)**

(a) Contractor shall not assign this contract, or its rights, obligations, or any other interest arising from this contract, or delegate any of its performance obligations, without the express written consent of the responsible procurement officer. The foregoing restriction does not apply to a transfer that occurs by operation of law (e.g., bankruptcy; corporate reorganizations and consolidations, but not including partial asset sales). Notwithstanding the foregoing, contractor may assign monies receivable under the contract provided that the state shall have no obligation to make payment to an assignee until thirty days after contractor (not the assignee) has provided the responsible procurement officer with (i) proof of the assignment, (ii) the identity (by contract number) of the specific state contract to which the assignment applies, and (iii) the name of the assignee and the exact address or account information to which assigned payments should be made. (b) If contractor amends, modifies, or otherwise changes its name, its identity (including its trade name), or its corporate, partnership or other structure, or its FEIN, contractor shall provide the procurement officer prompt written notice of such change. (c) Any name change, transfer, assignment, or novation is subject to the conditions and approval required by Regulation 19-445.2180, which does not restrict transfers by operation of law.

### **BANKRUPTCY - GENERAL (FEB 2015)**

(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 two (2) 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 (FEB 2015)**

(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) the solicitation, as amended, (3) documentation of clarifications [11-35-1520(8)] or discussions [11-35-1530(6)] of an offer, if applicable, (4) your offer, (5) any statement reflecting the state's final acceptance (a/k/a "award"), and (6) 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 (5) above shall apply notwithstanding any additional or different terms and conditions in any other document, including without limitation, (i) a purchase order or other instrument submitted by the State, (ii) any invoice or other document submitted by Contractor, or (iii) any privacy policy, terms of use, or end user agreement. 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. (b) 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.

#### **NO INDEMNITY OR DEFENSE (FEB 2015)**

Any term or condition is void to the extent it requires the State to indemnify, defend, or pay attorney's fees to anyone for any reason.

#### **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.

#### **OPEN TRADE (JUN 2015)**

During the contract term, including any renewals or extensions, Contractor will not engage in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300.

#### **PAYMENT & INTEREST (FEB 2015)**

(a) 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 mailed to the payment address on "Page Two." (c)

Notwithstanding any other provision, payment shall be made in accordance with S.C. Code Section 11-35-45, or Chapter 6 of Title 29 (real property improvements) when applicable, 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, unless otherwise required by Section 29-6-30. (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. Section 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. (f) The State shall have all of its common law, equitable and statutory rights of set-off.

#### **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.

#### **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 therefore. 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**

1. The University shall have the right to reject in writing any of contractor's employees working on this Contract whose qualifications, in the University's good faith and reasonable judgement, do not meet the standards established by the University as necessary for the performance of services. Rejection of a contractor's employee by the University shall have no effect on any delivery schedule.
2. During the term of this Contract and any applicable Statements of Work and for one (1) year thereafter, neither party may, without prior written consent of the other party, hire or seek to hire any employee or contractor of the other party who had performed work in connection with this Agreement during the preceding year.

### **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>

### **BANKRUPTCY – GOVERNMENT INFORMATION (FEB 2015)**

(a) All government information (as defined in the clause herein entitled "Information Security - Definitions") shall belong exclusively to the State, and Contractor has no legal or equitable interest in, or claim to, such information. Contractor acknowledges and agrees that in the event Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, government information in its possession and/or under its control will not be considered property of its bankruptcy estate.

(b) Contractor agrees to notify the State within forty-eight (48) hours of any determination that it makes to file for bankruptcy protection, and Contractor further agrees to turn over to the State, before such filing, all government information that is in Contractor's possession in a format that can be readily utilized by the State.

(c) In order to protect the integrity and availability of government information, Contractor shall take reasonable measures to evaluate and monitor the financial circumstances of any subcontractor that will process, store, transmit or access government information.

### **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.

**CISG (JAN 2006)**

The parties expressly agree that the UN Convention on the International Sale of Goods shall not apply to this agreement.

**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 - GENERAL (FEB 2015)**

(a) Without limiting any of the obligations or liabilities of Contractor, 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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.

**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. **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.

#### **ILLEGAL IMMIGRATION (NOV 2008)**

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

### **INDEMNIFICATION-THIRD PARTY CLAIMS – GENERAL (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, cancelation, 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.

### **INDEMNIFICATION - THIRD PARTY CLAIMS – DISCLOSURE OF INFORMATION (FEB 2015)**

(a) Without limitation, Contractor shall defend and hold harmless Indemnitees from and against any and all suits, claims, investigations, or fines (hereinafter "action") of any character (and all related damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which arise out of or in connection with a disclosure of government information (as defined in the clause titled Information Security - Definitions) caused in whole or in part by any act or omission of contractor, its subcontractors at any tier, 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 action is brought by a third party or an Indemnitee, but only if the act or omission constituted a failure to perform some obligation imposed by the contract or the law. (b) Indemnitee must notify contractor in writing within a reasonable period of time after Indemnitee first receives written notice of any action. Indemnitee's failure to provide or delay in providing such notice will relieve contractor of its obligations under this clause only if and to the extent that such delay or failure materially prejudices contractor's ability to defend such action. Indemnitee must reasonably cooperate with contractor's defense of such actions (such cooperation does not require and is without waiver of an Indemnitee's attorney/client, work product, or other privilege) and, subject to Title 1, Chapter 7 of the South Carolina Code of Laws, allow contractor sole control of the defense, so long as the defense is diligently and capably prosecuted. Indemnitee may participate in contractor's defense of any action at its own expense. Contractor may not, without Indemnitee's prior written consent, settle, compromise, or consent to the entry of any judgment in any such commenced or threatened action unless such settlement, compromise or consent (i) includes an unconditional release of Indemnitee from all liability related to such commenced or threatened action, and (ii) is solely monetary in nature and does not include a statement as to, or an admission of fault, culpability or failure to act by or on behalf of, an Indemnitee or otherwise adversely affect an Indemnitee. Indemnitee's consent is necessary for any settlement that requires Indemnitee to part with any right or make any payment or subjects Indemnitee to any injunction. (c) Notwithstanding any other provision, contractor's obligations pursuant to this clause are without any limitation whatsoever. Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of the contract. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance. (d) "Indemnitee" means the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees.

### **INFORMATION SECURITY - DEFINITIONS (FEB 2015)**

The following definitions are used in those clauses that cross reference this clause.

**Compromise** means disclosure of information to unauthorized persons, or a violation of the security policy of a system in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object may have occurred. Without limitation, the term "compromise" includes copying the data through covert network channels, or copying the data to unauthorized media, or disclosure of information in violation of any obligation imposed by this contract.

**Data** means a subset of information in an electronic format that allows it to be retrieved or transmitted.

Government information means information (i) provided to Contractor by, or generated by Contractor for, the using governmental unit, or (ii) acquired or accessed by Contractor as a result of performing the Work. Without limiting

the foregoing, government information includes any information that Contractor acquires or accesses by software or web-based services, which includes, without limitation, any metadata or location data. Government information excludes unrestricted information.

**Information** means any communication or representation of knowledge such as facts, statistics, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual.

**Information system** means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

**Public information** means any specific information, regardless of form or format, that the State has actively and intentionally disclosed, disseminated, or made available to the public. Information is not public information solely because it may be subject to inspection pursuant to an unfulfilled public records request.

**Software** means any computer program accessed or used by the Using Governmental Unit or a third party pursuant to or as a result of this contract.

**Third party** means any person or entity other than the Using Governmental Unit, the Contractor, or any subcontractors at any tier.

**Unrestricted information** means (1) public information acquired other than through performance of the work, (2) information acquired by Contractor prior to contract formation, (3) information incidental to your contract administration, such as financial, administrative, cost or pricing, or management information, and (4) any ideas, concepts, know-how, methodologies, processes, technologies, techniques which Contractor develops or learns in connection with Contractor's performance of the work.

**Web-based service** means a service accessed over the Internet and acquired, accessed, or used by the using governmental unit or a third party pursuant to or as a result of this contract, including without limitation, cloud services, software-as-a-service, and hosted computer services.

### **INFORMATION SECURITY - SAFEGUARDING REQUIREMENTS (FEB 2015)**

(a) Definitions. The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security – Definitions. In addition, as used in this clause— Clearing means removal of data from an information system, its storage devices, and other peripheral devices with storage capacity, in such a way that the data may not be reconstructed using common system capabilities (i.e., through the keyboard); however, the data may be reconstructed using laboratory methods. Intrusion means an unauthorized act of bypassing the security mechanisms of a system. Media means physical devices or writing surfaces including but not limited to magnetic tapes, optical disks, magnetic disks, portable hard drives, “thumb” drives, large scale integration memory chips, and printouts (but not including display media, e.g., a computer monitor, cathode ray tube (CRT) or other (transient) visual output) onto which information is recorded, stored, or printed within an information system. Safeguarding means measures or controls that are prescribed to protect information. Voice means all oral information regardless of transmission protocol. (b) Safeguarding Information. Without limiting any other legal or contractual obligations, contractor shall implement and maintain reasonable and appropriate administrative, physical, and technical safeguards (including without limitation written policies and procedures) for protection of the security, confidentiality and integrity of the government information in its possession. In addition, contractor shall apply security controls when the contractor reasonably determines that safeguarding requirements, in addition to those identified in paragraph (c) of this clause, may be required to provide adequate security, confidentiality and integrity in a dynamic environment based on an assessed risk or vulnerability. (c) Safeguarding requirements and procedures. Contractor shall apply the following basic safeguarding requirements to protect government information from unauthorized access and disclosure: (1) Protecting information on public computers or Web sites: Do not process government information on public computers (e.g., those available for use by the general public in kiosks, hotel business centers) or computers that do not have access control. Government information shall not be posted on Web sites that are publicly available or have access limited only by domain/Internet Protocol restriction. Such information may be posted to web pages that control access by user ID/password, user certificates, or other technical means, and that provide protection via use of security technologies. Access control may be provided by the intranet (versus the Web site itself or the application it hosts). (2) Transmitting electronic information. Transmit email, text messages, blogs, and similar communications that contain government information using technology and processes that provide the best level of security and privacy available, given facilities, conditions, and environment. (3) Transmitting voice and fax information. Transmit government information via voice and fax only when the sender has a reasonable assurance that access is limited to authorized recipients. (4) Physical and electronic barriers. Protect government information by at least one physical and one electronic barrier (e.g., locked container or room, login and password) when not under direct individual control. (5) Sanitization. At a minimum, clear information on media that have been used to process government information before external release or disposal. Overwriting is an acceptable means of clearing media in accordance with National Institute of Standards and Technology 800–88, Guidelines for Media Sanitization, at [http://csrc.nist.gov/publications/nistpubs/800-88/NISTSP800-88\\_with-errata.pdf](http://csrc.nist.gov/publications/nistpubs/800-88/NISTSP800-88_with-errata.pdf). (6) Intrusion protection. Provide at a minimum the following protections against intrusions and compromise: (i) Current and regularly updated malware protection services, e.g., anti-virus, antispyware. (ii) Prompt application of security-relevant software upgrades, e.g., patches, service packs, and hot fixes. (7) Transfer limitations. Transfer government information only to those subcontractors that both require the

information for purposes of contract performance and provide at least the same level of security as specified in this clause. (d) Subcontracts. Any reference in this clause to Contractor also includes any subcontractor at any tier. Contractor is responsible for, and shall impose by agreement requirements at least as secure as those imposed by this clause on, any other person or entity that contractor authorizes to take action related to government information. (e) Other contractual requirements regarding the safeguarding of information. This clause addresses basic requirements and is subordinate to any other contract clauses or requirements to the extent that it specifically provides for enhanced safeguarding of information or information systems.

#### **INFORMATION USE AND DISCLOSURE (FEB 2015)**

Except to the extent necessary for performance of the work, citizens should not be required to share information with those engaged by the government in order to access services provided by the government and such information should be used by those engaged by the government only to the extent necessary to perform the work acquired; accordingly, this clause addresses basic requirements for the Contractor's use and disclosure of government information, which expressly includes, but is not limited to, information provided by or obtained from the citizens. Anonymizing information does not resolve the foregoing concern. This clause should be broadly interpreted to effectuate this intent. Every obligation in this clause is material. Absent express reference to this clause, this clause supersedes any other clause to the extent of any inconsistency unless and to the extent the other clause provides greater protection for government information. (a) Definitions. The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security – Definitions. (b) Legal mandates. Contractor shall be permitted to use, disclose, or retain government information to the limited extent necessary to comply with any requirement imposed on Contractor by law. If it is necessary for Contractor to use, disclose, or retain government information in order to comply with a law, Contractor shall provide using governmental unit with written notice, including a description of the circumstances and applicable law, in advance of such use, disclosure or retention except to the extent expressly prohibited by law. (c) Flow down. Any reference in this clause to Contractor also includes any subcontractor at any tier. Contractor is responsible for, and shall impose by agreement the requirements of this clause on, any other person or entity that contractor authorizes to take action related to government information. (d) Collecting Information. Contractor must gather and maintain government information only to the minimum extent necessary to accomplish the work. (e) Rights, Disclosure and Use. Except as otherwise expressly provided in this solicitation, Contractor agrees NOT to either (1) use or disclose government information, or (2) retain government information after termination or expiration of this contract. Contractor acquires no rights in any government information except the limited rights to use, disclose and retain the government information in accordance with the terms of this solicitation. To the extent reasonably necessary to perform the work, Contractor may: (i) use (including access, process, transmit, and store) and maintain the government information itself; and (ii) disclose government information to persons having a need-to-know (e.g., subcontractors). Before disclosing government information to a subcontractor or third party, Contractor shall give the using governmental unit detailed written notice of both the reason for disclosure and the identity and location of the recipient. The notice shall be provided no later than fifteen (15) business days in advance of the disclosure. (f) Return. Notwithstanding the using governmental unit's failure to perform or the pendency of a dispute, Contractor agrees to promptly deliver to the using governmental unit (or destroy, at the using governmental unit's option) all government information in its possession as and upon written request of using governmental unit (provided that, if the contract has not expired or been terminated, Contractor shall be excused from the performance of any work reasonably dependent on Contractor's further access to such government information). (g) Privacy Policy & Applicable Laws. Without limiting any other legal or contractual obligations imposed by this contract or the law, Contractor shall (a) comply with its own privacy policies and written privacy statements relevant to the work, and (b) comply with (1) all laws applicable to Contractor regarding government information, and (2) all laws and standards identified in the clause, if included, entitled Information Use and Disclosure – Standards. (h) Actions Following Disclosure. Immediately upon discovery of a compromise or improper use of government information, Contractor shall take such action as may be necessary to preserve forensic evidence and eliminate the cause of the compromise or improper use. As soon as practicable, but no later than twenty-four hours after discovery, Contractor shall notify using governmental unit of the compromise or improper use, including a description of the circumstances of the use or compromise. As soon as practicable after discovery, Contractor shall undertake a thorough forensic investigation of any compromise or improper use and provide the using governmental unit all information necessary to enable the using governmental unit to fully understand the nature and extent of the compromise or improper use. With regard to any compromise or improper use of government information, Contractor shall: (1) provide any notification to third parties legally required to be provided such notice by Contractor, and if not (e.g., if legally required of the using governmental unit), Contractor shall reimburse using governmental unit for the cost of providing such notifications; (2) pay all costs and expenses for at least two years of identity theft monitoring services (including without limitation, credit monitoring) and identity theft restoration services for any such affected individuals receiving notice where such services are appropriate given the circumstances of the incident and the nature of the information compromised; (3) undertake any other measures that are customary and reasonable for an entity to take when experiencing a similar disclosure, (4) pay any related fines or penalties imposed on the using governmental unit, and (5) reimburse the Using Governmental Unit all costs reasonably incurred for communications and public relations services involved

in responding to the compromise or improper us. Notwithstanding any other provision, contractor's obligations pursuant to this item (h) are without limitation. (i) Survival & Remedy. All the obligations imposed by this paragraph are material. The obligations of this section shall survive termination or expiration of the contract. Without limiting any rights the using governmental unit may have, and notwithstanding any other term of this contract, Contractor agrees that using governmental unit may have no adequate remedy at law for a breach of Contractor's obligations under this clause and therefore the using governmental unit shall be entitled to pursue equitable remedies in the event of a breach of this clause.

#### **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 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 “OTHER GOODS & SERVICES” (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), “Other Goods & Services” for services, as determined by the Procurement Officer. The Bureau of Labor and Statistics publishes this information on the web at [www.bls.gov](http://www.bls.gov)

#### **PRICING DATA – AUDIT – INSPECTION (JAN 2006)**

[Clause Included Pursuant to Section 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. Section 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. Section 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 Section 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 venturer of the other. Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party.

#### **RESTRICTIONS ON PRESENTING TERMS OF USE OR OFFERING ADDITIONAL SERVICES (FEB 2015)**

(a) Citizens, as well as public employees (acting in their individual capacity), should not be unnecessarily required to agree to or provide consent to policies or contractual terms in order to access services acquired by the government pursuant to this contract (hereinafter "applicable services") or, in the case of public employees, to perform their job duties; accordingly, in performing the work, contractor shall not require or invite any citizen or public employee to agree to or provide consent to any end user contract, privacy policy, or other terms of use (hereinafter "terms of use") not previously approved in writing by the procurement officer. Contractor agrees that any terms of use regarding applicable services are void and of no effect.

(b) Unless expressly provided in the solicitation, public contracts are not intended to provide contractors an opportunity to market additional products and services; accordingly, in performing the work, contractor shall not – for itself or on behalf of any third party – offer citizens or public employees (other than the procurement officer) any additional products or services not required by the contract.

(c) Any reference to contractor in items (a) or (b) also includes any subcontractor at any tier. Contractor is responsible for compliance with these obligations by any person or entity that contractor authorizes to take any action related to the work.

(d) Any violation of this clause is a material breach of contract. The parties acknowledge the difficulties inherent in determining the damage from any breach of these restrictions. Contractor shall pay the state liquidated damages of \$1,000 for each contact with a citizen or end user that violates this restriction.

#### **SERVICE PROVIDER SECURITY REPRESENTATION (FEB 2015)**

The following obligations are subordinate to any other contract clause to the extent the other clause specifically provides for enhanced safeguarding of government information, applicable information systems, or applicable organizations. Offeror (i) warrants that the work will be performed, and any applicable information system (as defined in the clause titled "Information Security - Definitions") will be established and maintained in substantial conformity with the information provided in Offeror's Response to SPSAQ; (ii) agrees to provide the Using Governmental Unit with prompt notice of any material variation in operations from that reflected in the Response to SPSAQ; and (iii) agrees to comply with all other obligations involving either information security or information use and disclosure imposed by the contract, notwithstanding any inconsistent statement in Offeror's Response to



SPSAQ. To the extent Offeror's Response to SPSAQ does not conform to any other contractual requirements, the Using Agency's lack of objection does not constitute a waiver

**SHIPPING / RISK OF LOSS (JAN 2006)**

F.O.B. Destination. Destination is the shipping dock of the Using Governmental Units' designated receiving site, or other location, as specified herein. (See Delivery clause)

**STORAGE OF MATERIALS (JAN 2006)**

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 installation.

**TERM OF CONTRACT – EFFECTIVE DATE / INITIAL CONTRACT PERIOD (JAN 2006)**

The effective date of this contract is the first day of the Maximum Contract Period as specified on the final statement of award. The initial term of this agreement is **1 year**, 0 months, 0 days from the effective date. Regardless, this contract expires no later than the last date stated on the final statement of award.

**TERM OF CONTRACT – OPTION TO RENEW (JAN 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 **1 year(s)**, 0 month(s), and 0 day(s), 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 be 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.

**WARRANTY – STANDARD (JAN 2006)**

Contractor must provide the manufacturer's standard written warranty upon delivery of product. Contractor warrants that manufacturer will honor the standard written warranty provided.

## VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL

The Cost Proposal is a separate document and is not to be included in the Offeror's technical proposal, **please submit cost on a separate USB Drive.**

The University is seeking pricing associated with your recommendation that will cover all aspects of each solution/service you are proposing. This should include the costs of implementing (i.e. planning, analysis and project management), transitioning to the solution (i.e. change management, configuration, testing, deployment, and training), configuration, interface development, consulting resources or services, and support of the proposed solution.

The University is seeking a Fixed Price proposal for the services you are proposing and expects to have unlimited use, without additional fees, of these services throughout the term of this contract. The University will select the solution and related cost proposals that are most beneficial to the University. Any proposed hourly rates are to be provided as two figures; one with travel expenses included as part of the hourly rate and, one without travel expenses included as part of the hourly rate.

The University is also seeking a Fixed Price to purchase/license the tools you proposed the solution to implement. The University will select the solution and related cost proposals that are most beneficial to the University. At its discretion, the University may choose to implement its own solution without support from a vendor.

## **IX. ATTACHMENTS TO SOLICITATION**

### **ATTACHMENTS LIST**

The following documents are attached to this solicitation:

**IMPORTANT TAX NOTICE - NONRESIDENTS ONLY**  
**OFFEROR'S CHECKLIST**  
**APPENDIX A - Memorandum of Understanding/Statement of User Responsibility**  
**CONTRACT ADDENDUM FOR EXTERNAL DATA & SYSTEMS SERVICE PROVIDERS**

**IMPORTANT TAX NOTICE - NONRESIDENTS ONLY**

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

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

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

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For information about other withholding requirements (e.g., employee withholding), contact the Withholding Section at the South Carolina Department of Revenue at 803-898-5383 or visit the Department's website at: <https://dor.sc.gov>

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This notice is for informational purposes only. This agency does not administer and has no authority over tax issues. All registration questions should be directed to the License and Registration Section at 803-898-5872 or to the South Carolina Department of Revenue, Registration Unit, Columbia, S.C. 29214-0140. All withholding questions should be directed to the Withholding Section at 803-896-1420.

PLEASE SEE THE "NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING" FORM (FORM NUMBER I-312) LOCATED AT: [https://dor.sc.gov/forms-site/Forms/I312\\_05182015.pdf](https://dor.sc.gov/forms-site/Forms/I312_05182015.pdf)

## 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.

# Appendix A

## Memorandum of Understanding/Statement of User Responsibility

I understand that by virtue of my employment or relationship with the University of South Carolina (USC), I may have access to data or technology assets which must be protected according to established laws, regulations, policies, procedures and guidelines. I have read and understand my responsibilities as outlined in the following USC policies, available on the USC policy website (<http://www.sc.edu/policies/>):

1. UNIV 1.51 Data and Information Governance
2. UNIV 1.52 Responsible Use of Data, Technology, and User Credentials
3. IT 3.00 – Information Security
4. ACAF 3.03 – Handling of Student Records
5. FINA 4.11 – Credit/Debit Card Processing

I have also read and understand my responsibilities as outlined in the USC Information Security Program, available on the University Technology Services Information Technology Security website (<http://security.sc.edu>).

I acknowledge that unauthorized disclosure or access, through my deliberate actions or negligence, of any protected information or technology asset could subject me to criminal and civil penalties imposed by law. I further acknowledge that unauthorized disclosure or access may also constitute just cause for disciplinary action including termination of my employment on the first offense regardless of whether criminal or civil penalties are imposed. If I am ever in doubt about my responsibilities regarding USC data or technology assets, I will immediately consult with my supervisor.

My signature denotes that I have read, understand and agree to comply with the above statements, requirements and provisions.

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Signature of Employee / Contractor

Date

**By signing the Cover Page of the Solicitation and including it in the proposal you submit, you are agreeing to adhere to the Contract Addendum For External Data & Systems Service Providers document below if you are awarded contract from the solicitation. Please note that under certain conditions and at the sole discretion of University personnel, select terms of this addendum may be negotiated and/or revised.**

## **CONTRACT ADDENDUM FOR EXTERNAL DATA & SYSTEMS SERVICE PROVIDERS**

This document constitutes an Addendum to the Agreement dated \_\_\_\_\_ between the University of South Carolina (hereinafter "Institution") and \_\_\_\_\_ (hereinafter "Service Provider"). If any of the terms of this Addendum conflict with any of the terms of the Agreement, then the terms of this Addendum shall control.

### **Protection of Covered Data and Information**

Service Provider agrees to abide by limitations binding upon the Institution and related to the transmission, storage, access, and disclosure of Covered Data and Information (CDI); this includes various federal and state legislation, regulations, policies, and industry practices.

**Definition: Covered Data and Information (CDI)** includes Personally Identifiable Information (PII) concerning university Constituents, as well as University Data, as defined in [UNIV 1.51](#), and may include paper records, electronic images, data and other information records supplied by Institution, as well as paper records, electronic images, data and other information records the Institution's Constituents provide directly to the Service Provider. Data classified by university Data Stewards as Restricted or Confidential is considered CDI unless specifically exempted by this Addendum. A list of potentially applicable items is located in Enterprise Data Standard 1.04 (Data Classification Level and Potentially Applicable Data Items; see <http://tinyurl.com/h43ojam>).

**Definition: Constituents** are persons and entities that have a relationship to any organizational unit of the university system, including but not limited to: students (prospective students, applicants for admission, enrolled students, campus residents, former students, and alumni), employees (faculty, staff, administrators, student employees, prospective employees, candidates for employment, former employees and retirees), and other affiliates (including but not limited to board members, consultants, contractors, donors, invited guests, recipients of goods and services, research subjects, and volunteers).

**Acknowledgment of Access to CDI:** Service Provider acknowledges that the Agreement allows the Service Provider and Institution to mutually transmit, store, and access CDI.

**Prohibition on Unauthorized Use or Disclosure of CDI:** Service Provider agrees to hold CDI in strict confidence. Service Provider shall not use or disclose CDI received from or on behalf of Institution (or its Constituents) except as permitted or required by the Agreement, as required by law, or as otherwise authorized in writing by Institution. Service Provider agrees not to access or 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 Agreement, Service Provider shall return all CDI to Institution or, if return is not feasible, destroy any and all institutional CDI. If the Service Provider destroys the information, the Service Provider shall provide Institution with a certificate confirming the date of destruction of the data.

**Remedies:** If Institution reasonably determines in good faith that Service Provider has materially breached any of its obligations under the Agreement, then Institution, in its sole discretion, shall have the right to (1) require Service Provider to submit to a plan of monitoring and reporting, (2) provide Service Provider with a fifteen (15) day period to cure the breach, or (3) terminate this Agreement immediately if cure is not possible. Before exercising any of these options, Institution shall provide written notice to Service Provider describing the violation and the action it intends to take.

**Maintenance of the Security of Electronic Information:** Service Provider shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all transmitted and stored CDI received from, or on behalf of Institution or its Constituents. Service Provider shall impose these measures on all subcontractors used by Service Provider.

**Reporting Unauthorized Disclosures or Misuse of Covered Data and Information:** Service Provider shall, within one (1) day of discovery, report to Institution any use or disclosure of CDI not authorized by the Agreement or in writing by Institution. Service Provider'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(s) or entity that received the unauthorized disclosure, (4) the action(s) that Service Provider has taken or shall take to mitigate any potentially negative effects of the unauthorized use or disclosure, and (5) the corrective action(s) Service Provider has taken or shall take to prevent future similar unauthorized uses or disclosures. Service Provider shall provide any additional information in connection with the unauthorized disclosure reasonably requested by Institution.



**Indemnification:** Service Provider shall indemnify, save and hold harmless Institution from any loss, liability, damage, claims, costs or judgments the Institution incurs, including Institution's costs and attorney fees, which arise from Service Provider's failure to meet any of its obligations under the Agreement, including but not limited to this Addendum.

## SERVICE PROVIDER SECURITY ASSESSMENT QUESTIONNAIRE

Instructions: (1) Attach additional pages or documents as appropriate and make sure answers cross reference to the questions below. (2) As used in this Questionnaire, the phrase “government information” shall have the meaning defined in the clause titled “Information Security.” (3) This Questionnaire must be read in conjunction with both of the following two clauses (a) Service Provider Security Assessment Questionnaire – Required, and (b) Service Provider Security Representation.

1. Describe your policies and procedures that ensure access to government information is limited to only those of your employees and contractors who require access to perform your proposed services.

2. Describe your disaster recovery and business continuity plans.

3. What safeguards and practices do you have in place to vet your employees and contractors who will have access to government information?

4. Describe and explain your security policies and procedures as they relate to your use of your contractors and next-tier sub -contractors.

5. List any reports or certifications that you have from properly accredited third-parties that demonstrate that adequate security controls and assurance requirements are in place to adequately provide for the confidentiality, integrity, and availability of the information systems used to process, store, transmit, and access all government information. (For example, an ISO/IEC 27001 compliance certificate, an AICPA SOC 2 (Type 2) report, or perhaps an AICPA SOC 3 report (i.e., a SysTrust or WebTrust seal)). For each certification, describe the scope of the assessment performed. Will these reports / certifications remain in place for the duration of the contract? Will you provide the state with most recent and future versions of the applicable compliance certificate / audit report?

6. Describe the policies, procedures and practices you have in place to provide for the physical security of your data centers and other sites where government information will be hosted, accessed or maintained.

7. Will government information be encrypted at rest? Will government information be encrypted when transmitted? Will government information be encrypted during data backups, and on backup media? Please elaborate.

8. Describe safeguards that are in place to prevent unauthorized use, reuse, distribution, transmission, manipulation, copying, modification, access or disclosure of government information.

9. What controls are in place to detect security breaches? What system and network activity do you log? How long do you maintain these audit logs?

10. How will government information be managed after contract termination? Will government information provided to the Contractor be deleted or destroyed? When will this occur?

11. Describe your incident response policies and practices.

12. Identify any third party which will host or have access to government information.