

STATE OF NORTH CAROLINA

Department of State Treasurer (NCDST)

Request for Proposal #: RFP #07-2024001

**External Counsel for the NC DST Supplemental Retirement Program and the
Retirement Systems Division**

Date of Issue: January 29, 2025

Proposal Opening Date: March 4, 2025

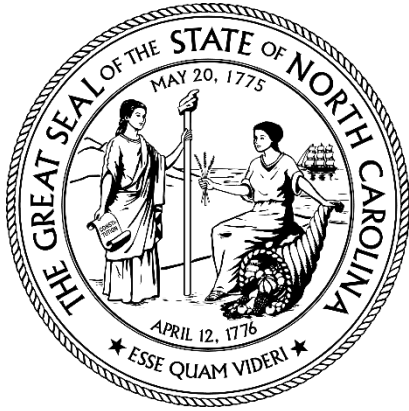
At 2:00PM ET

Direct all inquiries concerning this RFP to:

Jessica Herrmann, Director of Procurement and Contracting, North Carolina
Department of State Treasurer

Email: jessica.herrmann@nctreasurer.com

Phone: (919)814-3913



STATE OF NORTH CAROLINA

Request for Proposal

07-2024001

For internal State agency processing, including tabulation of proposals, provide your company's eVP (Electronic Vendor Portal) Number. Pursuant to G.S. 132-1.10(b) this identification number shall not be released to the public. **This page will be removed and shredded, or otherwise kept confidential**, before the procurement file is made available for public inspection.

**This page shall be filled out and returned with your proposal.
Failure to do so may subject your proposal to rejection.**

Vendor Name

Vendor eVP#

Note: For a contract to be awarded to you, your company (you) must be a North Carolina registered vendor in good standing. You must enter the vendor number assigned through eVP (Electronic Vendor Portal). If you do not have a vendor number, register at <https://vendor.ncgov.com/vendor/login>

STATE OF NORTH CAROLINA
Department of State Treasurer

Refer <i>ALL</i> Inquiries regarding this RFP to the procurement lead through the Message Board in the Sourcing Tool. See section 2.2 for details: Procurement Lead: Jessica Herrmann, Procurement and Contracting Director	Request for Proposal #: 07-2024001
	Proposals will be publicly opened: 03/04/2025 @2:00PM ET
Using Agency: NC Department of State Treasurer	Commodity No. and Description: 801200 Legal Services
Requisition No.: N/A	

EXECUTION

In compliance with this Request for Proposals (RFP), and subject to all the conditions herein, the undersigned Vendor offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein.

By executing this proposal, the undersigned Vendor understands that false certification is a Class I felony and certifies that:

- this proposal is submitted competitively and without collusion (G.S. 143-54),
- none of its officers, directors, or owners of an unincorporated business entity have been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and
- it is not an ineligible Vendor as set forth in G.S. 143-59.1.

Furthermore, by executing this proposal, the undersigned certifies to the best of Vendor’s knowledge and belief, that:

- it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State Department or Agency.

As required by G.S. 143-48.5, the undersigned Vendor certifies that it, and each of its sub-Contractors for any Contract awarded as a result of this RFP, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system.

As required by Executive Order 24 (2017), the undersigned vendor certifies will comply with all Federal and State requirements concerning fair employment and that it does not and will not discriminate, harass, or retaliate against any employee in connection with performance of any Contract arising from this solicitation.

G.S. 133-32 and Executive Order 24 (2009) prohibit the offer to, or acceptance by, any State Employee associated with the preparing plans, specifications, estimates for public contracts; or awarding or administering public contracts; or inspecting or supervising delivery of the public contract of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of this response to the RFP, the undersigned certifies, for Vendor’s entire organization and its employees or agents, that Vendor is not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

By executing this bid, Vendor certifies that it has read and agreed to the **INSTRUCTION TO VENDORS** and the **NORTH CAROLINA GENERAL TERMS AND CONDITIONS incorporated herein**. These documents can be accessed from the Ariba Sourcing Tool.

Failure to execute/sign proposal prior to submittal may render proposal invalid and it MAY BE REJECTED. Late proposals shall not be accepted.

COMPLETE/FORMAL NAME OF VENDOR:		
STREET ADDRESS:	P.O. BOX:	ZIP:
CITY & STATE & ZIP:	TELEPHONE NUMBER:	TOLL FREE TEL. NO:
PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE (SEE INSTRUCTIONS TO VENDORS ITEM #21):		
PRINT NAME & TITLE OF PERSON SIGNING ON BEHALF OF VENDOR:		FAX NUMBER:
VENDOR’S AUTHORIZED SIGNATURE*:	DATE:	EMAIL:

VALIDITY PERIOD

Offer shall be valid for **one hundred and eighty (180) days** from date of bid opening, or if extended by mutual agreement of the parties in writing. Any withdrawal of this offer shall be made in writing, effective upon receipt by the agency issuing this RFP.

ACCEPTANCE OF PROPOSAL

If the Vendor’s proposal is selected by the Department of State Treasurer and, if required, approved by the North Carolina Supplemental Retirement Board of Trustees (the “Board”), the Vendor shall negotiate with the Department in good faith to execute a contract that incorporates the Vendor’s proposal, this RFP (including the North Carolina General Terms and Conditions), and any other terms reasonably requested by the Department and the Board. The selection or acceptance of a proposal does not constitute a contract for the services in the proposal.

<p>FOR STATE USE ONLY: Offer accepted and Contract awarded this _____ day of _____, 2025, as indicated on</p> <p>The attached certification, by _____.</p> <p style="text-align: center;">(Authorized Representative of the North Carolina Department of State Treasurer)</p>

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1.0 PURPOSE AND BACKGROUND

The Retirement Systems Division (RSD) of the North Carolina Department of State Treasurer administers the North Carolina Retirement Systems (NCRS) and the North Carolina Supplemental Retirement Plans (SRP) for state and local governmental employees in the State of North Carolina. NCRS includes the Teachers' and State Employees' Retirement System (TSERS), the Local Governmental Employees' Retirement System (LGERS), and other defined benefit plans. SRP consists of the Supplemental Retirement Income Plan of North Carolina (NC 401(k) Plan) and the North Carolina Public Employee Deferred Compensation Plan (NC 457 Plan). The Department uses outside counsel for specialized legal advice and representation for NCRS and SRP, including fiduciary and tax matters and representation at the U.S. Internal Revenue Service (IRS). The Retirement Systems Division and the Supplemental Retirement Plan Division are seeking a Vendor(s) with niche subject matter expertise in IRS law and Employee Retirement Income Security Act (ERISA) knowledge to enhance the Department of State Treasurer's fiduciary duty to remain a qualified retirement plan in alignment with the federal tax code. Awarded Vendor(s) will offer analysis and guidance on tax-related issues that relate to retirement plans offered to North Carolina state government employees.

The intent of this solicitation is to award an Agency Contract to one or more potential Vendors.

1.1 CONTRACT TERM

The Contract shall have an initial term of three (3) years, beginning on the date of final Contract execution (the "Effective Date").

At the end of the Contract's initial term, the State shall have the option, in its sole discretion, to renew the Contract on the same terms and conditions for up to two (2) additional one-year terms. The State will give the Vendor written notice of its intent to exercise each option no later than sixty (60) days before the end of the Contract's then-current term. In addition to any optional renewal terms, and with the Vendor's concurrence, the State reserves the right to extend the Contract after the last active term.

Proposals shall be submitted in accordance with the terms and conditions of this RFP and any addenda issued hereto. The Vendor shall begin work under the Contract within five (5) business days of the Effective Date.

2.0 GENERAL INFORMATION

2.1 REQUEST FOR PROPOSAL DOCUMENT

This RFP is comprised of the base RFP document, any attachments, and any addenda released before Contract award, which are incorporated herein by reference.

2.2 E-PROCUREMENT FEE

ATTENTION: This is an NC eProcurement solicitation facilitated by the Ariba Network. The E-Procurement fee may apply to this solicitation. See the paragraph entitled ELECTRONIC PROCUREMENT of the North Carolina General Terms and Conditions.

General information on the E-Procurement Services can be found at: <http://eprocurement.nc.gov/>.

What is the Ariba Network?

The Ariba Network is a web-based platform that serves as a connection point for buyers and vendors. Vendors can log in to the Ariba Network to view purchase orders, respond to electronic requests for quotes, participate in Sourcing Events, and collaborate with buyers on contract documents.

For training on how to use the Sourcing Tool to view solicitations, submit questions, develop responses, upload documents, and submit offers to the State, Vendors should go to the following site:

<http://eprocurement.nc.gov/training/vendor-training>.

2.3 NOTICE TO VENDORS REGARDING RFP TERMS AND CONDITIONS

It shall be the Vendor's responsibility to read the Instructions to Vendors, the North Carolina General Terms and Conditions, all relevant exhibits and attachments, and any other components made a part of this RFP and comply with all requirements and specifications herein. Vendors are also responsible for obtaining and complying with all Addenda and other changes that may be issued in connection with this RFP.

It shall be the Vendor's responsibility to make its proposal clear, unambiguous, and understandable to the State. If Vendors have questions or issues regarding any component of this RFP, those must be submitted as questions in accordance with the instructions in the PROPOSAL QUESTIONS Section. **Any questions or issues not submitted prior to the proposal deadline are considered waived.** If the State determines that any changes will be made as a result of the questions asked, then such decisions will be communicated in the form of an RFP addendum. The State may also elect to leave open the possibility for later negotiation of specific provisions of the Contract that have been addressed during the question-and-answer period, prior to contract award.

Other than through the process of negotiation under 01 NCAC 05B.0503, the State rejects and will not be required to evaluate or consider any additional or modified terms and conditions submitted with Vendor's proposal or otherwise. This applies to any language appearing in or attached to the document as part of the Vendor's proposal that purports to vary any terms and conditions or Vendors' instructions herein or to render the proposal non-binding or subject to further negotiation. Vendor's proposal shall constitute a firm offer that shall be held open for the period required herein ("Validity Period" above).

The State may exercise in its discretion to consider Vendor proposed modifications. By execution and delivery of this RFP Response, the Vendor agrees that any additional or modified terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect, and will be

disregarded unless expressly agreed upon through negotiations and incorporated by way of a Best and Final Offer (BAFO). Noncompliance with, or any attempt to alter or delete, this paragraph shall constitute sufficient grounds to reject Vendor’s proposal as nonresponsive.

2.4 RFP SCHEDULE

The table below shows the *intended* schedule for this RFP. The State will make every effort to adhere to this schedule.

Event	Responsibility	Date and Time
Issue RFP	State	01/29/2025
Submit Written Questions	Vendor	02/11/2025
Provide Response to Questions	State	02/18/2025
Submit Proposals & Proposal Opening	Vendor	03/04/2025
Contract Award (estimation)	State	04/16/2025

2.5 SITE VISIT or PRE-PROPOSAL CONFERENCE – Reserved.

2.6 PROPOSAL QUESTIONS

Upon review of the RFP documents, Vendors may have questions to clarify or interpret the RFP in order to submit the best proposal possible. To accommodate the Proposal Questions process, Vendors shall submit any such questions by the “Submit Written Questions” date and time provided in the RFP SCHEDULE Section above, unless modified by Addendum.

Questions related to the content of the solicitation, or the procurement process should be directed to the person on the title page of this document via the Sourcing Tool's message board by the date and time specified in the RFP SCHEDULE Section of this RFP. Vendors will enter “**RFP # 07-2024001 – Questions**” as the subject of the message. Question submittals should include a reference to the applicable RFP section. This is the only manner in which questions will be received.

Questions or issues related to using the Sourcing Tool itself can be directed to the North Carolina eProcurement Help Desk at 888-211-7440, Option 2. Help Desk representatives are available Monday through Friday from 7:30 AM ET to 5:00 PM ET.

Questions received prior to the submission deadline date, the State’s response, and any additional terms deemed necessary by the State will be posted publicly in the Sourcing Tool in the form of an addendum and shall become an Addendum to this RFP. No information, instruction or advice provided orally or informally by any State personnel, whether made in response to a question or otherwise in

connection with this RFP, shall be considered authoritative or binding. Vendors shall rely *only* on written material contained in the RFP and an addendum to this RFP.

2.7 PROPOSAL SUBMITTAL

IMPORTANT NOTE: This is an absolute requirement. Late bids, regardless of cause, will not be opened or considered, and will be automatically disqualified from further consideration. Vendor shall bear the sole risk of late submission due to unintended or unanticipated delay. It is the Vendor's sole responsibility to ensure its proposal has been received as described in this RFP by the specified time and date of opening. Failure to submit a proposal in strict accordance with instructions provided shall constitute sufficient cause to reject a Vendor's proposal(s). Solicitation responses are subject to Sealed Bidding requirements.

Vendor's proposals for this procurement must be submitted through the Sourcing Tool. For training on how to use the Sourcing Tool to view solicitations, submit questions, develop responses, upload documents, and submit offers to the State, Vendors should go to the following site: <https://eprocurement.nc.gov/training/vendor-training>

Questions or issues related to using the Sourcing Tool itself can be directed to the North Carolina eProcurement Help Desk at 888-211-7440, Option 2. Help Desk representatives are available Monday through Friday from 7:30 AM EST to 5:00 PM EST.

Tips for Using the Sourcing Tool

1. Vendors should review available training and confirm that they are able to access the Sourcing Event, enter responses, and upload files well in advance of the date and time response are due to allow sufficient time to seek assistance from the North Carolina eProcurement Help Desk.
2. Vendors may submit their responses early to make sure there are no issues, and then submit a revised response any time prior to the response due date and time. The State will only review the most recent response.
3. Vendors should respond to all relevant sections of the Sourcing Event. Certain questions or items are required in order to submit a response and are denoted with an asterisk. The Sourcing Tool will not allow a response to be submitted unless all required items are completed. The Sourcing Tool will provide error messages to help identify any required information that is missing when response is submitted.
4. Simply saving your response in the Sourcing Tool is not the same as submitting your response to the State. Vendors should make sure they complete the submission process and receive a message that their response was successfully submitted.
5. **Only Proposals submitted through the Content Section of the Ariba Sourcing Event will be considered. Proposals submitted through the Message Board will not be accepted or considered for award.**

6. If confidential and proprietary information is included in the proposal, **also submit one (1) signed, REDACTED copy of the proposal.** Such information may include trade secrets defined by N.C. Gen. Stat. § 66-152 and other information exempted from the Public Records Act pursuant to N.C. Gen. Stat. §132- 1.2. Vendor may designate information, Products, Services or appropriate portions of its response as confidential, consistent with and to the extent permitted under the statutes and rules set forth above. By so redacting any page, or portion of a page, the Vendor warrants that it has formed a good faith opinion, having received such necessary or proper review by counsel and other knowledgeable advisors, that the portions determined to be confidential and proprietary and redacted as such, meet the requirements of the Rules and Statutes set forth above. However, under no circumstances shall price information be designated as confidential.

If the Vendor does not provide a redacted version of the proposal with its proposal submission, the Department may release an unredacted version if a record request is received.

The North Carolina Department of State Treasurer will be conducting the live bid openings over Microsoft Teams. Below is the information for this procurement’s bid opening scheduled for Tuesday, March 4, 2025, by 2:00PM ET.

Microsoft Teams [Need help?](#)

[Join the meeting now](#)

Meeting ID: 245 831 967 784

Passcode: L7Se6dM6

Dial in by phone

[+1 984-275-3153,,388002716#](#) United States, Raleigh

[Find a local number](#)

Phone conference ID: 388 002 716#

For organizers: [Meeting options](#) | [Reset dial-in PIN](#)

2.8 PROPOSAL CONTENTS

Vendors shall provide responses to all questions and complete all attachments for this RFP that require the Vendor to provide information and upload them to the Sourcing Event in the Sourcing Tool. Vendor may not be able to submit its response in the Sourcing Tool unless all required items are addressed. Vendors shall provide authorized signatures where requested. Failure to provide all required items, or Vendor's submission of incomplete items, may result in the State rejecting Vendor's proposal, in the State's sole discretion.

Vendor shall include the following items and attachments in their proposal:

- a) Cover Letter, which must contain the following: (i) a statement that confirms that the proposer has read the RFP in its entirety, including all links, and all Addenda released in conjunction with the RFP; (ii) a statement that the Vendor agrees to perform in accordance with the scope of work, requirements, and specifications contained herein; and (iii) Vendor's agreement to comply with all instructions, terms and conditions, and attachments.
- b) Title Page of this Proposal: Include the company name, address, phone number and authorized representative along with the Proposal Number.
- c) **Completed and signed version of all EXECUTION PAGES, inclusive of the Terms and Conditions in Attachment C. along with the body of the RFP.**
- d) Signed receipt pages of any addenda released in conjunction with this RFP, if required to be returned.
- e) Vendor's Proposal addressing all Specifications of this RFP.
- f) Completed Section 4.5, Vendor Experience.
- g) Completed Section 4.6, References.
- h) Completed Technical Approach, Section 5.4.
- i) Completed version of ATTACHMENT A: PRICING
- j) Completed and signed version of ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION
- k) Completed and signed version of ATTACHMENT E: CUSTOMER REFERENCE FORM
- l) Completed and signed version of ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR
- m) Completed and signed version of ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION

Note: NC DST prefers that Vendors submit a) through l) above in one document for ease of reference.

12.9 ALTERNATE PROPOSALS - Reserved.

2.10 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS

Relevant definitions for this RFP are provided in 01 NCAC 05A .0112 and in the Instructions to Vendors found in the Sourcing Tool, which are incorporated herein by this reference.

The following definitions, acronyms, and abbreviations are also relevant to this RFP:

- a) **AFFILIATE:** Any person or entity that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person or entity.
- b) **ADDENDUM:** A document issued to supplement or modify the original Solicitation document. Addenda may be issued following a pre-bid/pre-proposal conference or as a result of a specification or work scope changes to the Solicitation.
- c) **BAFO:** Best and Final Offer, submitted by a Vendor to alter its initial bid, made in response to a request by the issuing agency.
- d) **BOARD:** North Carolina Supplemental Retirement Board of Trustees.
- e) **CONTRACT:** A contract resulting from or arising out of Vendor responses to this Solicitation.
- f) **CONTRACT ADMINISTRATOR:** A representative of the agency who is responsible for the functions that are performed after all parties have signed a contract, including any modifications to the contract.
- g) **CONTRACT / PROCUREMENT LEAD:** Representative of the agency identified on the first page of the Solicitation document who will correspond with potential Vendors concerning Solicitation issues, will contract with the Vendor providing the best offer to the State, and is the individual who will administer the Contract for the State.
- h) **CONTRACT MANAGER:** A representative of the agency or awarded vendor who ensures compliance with the contract terms and conditions while giving attention to the achievement of the stated output and outcome of the contract.
- i) **DEPARTMENT:** The North Carolina Department of State Treasurer.
- j) **E-PROCUREMENT SERVICES:** The program, system, and associated services through which the State conducts electronic procurement.
- k) **ELECTRONIC VENDOR PORTAL (eVP):** System for vendors to do business with the State of North Carolina, including registering to do business, responding to bid opportunities, and certifying as a HUB and/or NCSBE.
- l) **HUB:** Historically Underutilized Business <https://ncadmin.nc.gov/businesses/hub>
- m) **KEY PERSONNEL:** The attorneys who will be primarily responsible for providing the Services if a Contract is awarded to the Vendor.

- n) **OFFER:** The bid or proposal submitted in response this Solicitation. The terms Bid and Proposal are used interchangeably with the term Offer.
- o) **OFFEROR:** The single legal entity submitting the Offer. The term Bidder is used interchangeably with the term Offeror. See Part V.2 of Section 8.0 entitled "Signing Your Offer."
- p) **QUALIFIED BID/PROPOSAL:** A responsive bid submitted by a responsible Vendor.
- q) **RESPONSIBLE:** Refers to a Vendor who demonstrates in its Offer that it has the capability to perform the requirements of the Solicitation.
- r) **RESPONSIVE:** Refers to an Offer that conforms to the Requirements of the Solicitation in all respects to be considered by the State for award.
- s) **RFP:** Request for Proposals (a type of Solicitation document)
- t) **SERVICES:** The services described in this RFP.
- u) **STATE:** The State of North Carolina, including any of its sub-units recognized under North Carolina law.
- v) **STATE AGENCY:** Any of the more than 400 sub-units within the executive branch of the State, including its departments, institutions, boards, commissions, universities, and units of the State.
- w) **STATE DEPARTMENTS:** Department of Administration, Department of Agriculture and Consumer Services, Department of Commerce, Department of Natural and Cultural Resources, Department of Environmental Quality, Department of Health and Human Services, Department of Information Technology, Department of Insurance, Department of Justice, Department of Labor, Department of Military and Veteran Affairs, Department of Public Instruction, Department of Public Safety, Department of Revenue, Department of State Treasurer, Office of the Secretary of the State, Department of Transportation, Wildlife Resources Commission, Office of Budget and Management, Office of the Governor, Office of the Lieutenant Governor, Office of The State Auditor, Office of the State Controller.
- x) **VENDOR:** The supplier, bidder, proposer, company, firm, corporation, partnership, individual or other entity submitting a response to a Solicitation document. Following award of a contract, the term refers to an entity receiving such an award.
- y) **WORK:** 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.
- z) **YOU and YOUR:** Offeror.

Relevant definitions for this RFP are provided in 01 NCAC 05A .0112 and in the Instructions to Vendors found in the Sourcing Tool, which are incorporated herein by this reference.

3.0 METHOD OF AWARD AND PROPOSAL EVALUATION PROCESS

3.1 METHOD OF AWARD

North Carolina G.S. § 143-52 provides a general list of criteria the State shall use to award contracts, as supplemented by the additional criteria herein. The Services being procured shall dictate the application and order of criteria; however, all award decisions shall be in the State's best interest. All qualified proposals will be evaluated, and awards will be made to the Vendor(s) meeting the specific RFP Specifications and achieving the highest and best final evaluation, based on the criteria described below.

A proposed Contract is subject to the approval of the North Carolina Attorney General, and for SRP a proposed Contract may be subject to the approval of the North Carolina Supplemental Retirement Board of Trustees (see N.C.G.S. § 114-2.3). All responsive bids will be reviewed, and award or awards will be based on the responsive bid(s) offering the lowest price that meets the specifications provided herein, to include any required verifications set out herein such as but not limited to past performance, references, and financial documents.

While the intent of this RFP is to award a Contract(s) to multiple Vendors for all line items, the State reserves the right to make separate awards to different Vendors for one or more line items, to not award one or more line items or to cancel this RFP in its entirety without awarding a Contract, if it is considered to be most advantageous to the State to do so.

The State reserves the right to waive any minor informality or technicality in proposals received.

3.2 CONFIDENTIALITY AND PROHIBITED COMMUNICATIONS DURING EVALUATION

While this RFP is under evaluation, the responding Vendor, including any subcontractors and suppliers, is prohibited from engaging in conversations intended to influence the outcome of the evaluation. See Paragraph 29 of the Instructions to Vendors entitled COMMUNICATIONS BY VENDORS.

Each Vendor submitting a proposal to this RFP, including its employees, agents, subcontractors, suppliers, subsidiaries and affiliates, is prohibited from having any communications with any person inside or outside the using agency; issuing agency; other government agency office or body (including the purchaser named above, any department secretary, agency head, members of the General Assembly and Governor's office); or private entity, if the communication refers to the content of Vendor's proposal or qualifications, the content of another Vendor's proposal, another Vendor's qualifications or ability to perform a resulting contract, and/or the transmittal of any other

communication of information that could be reasonably considered to have the effect of directly or indirectly influencing the evaluation of proposals, the award of a contract, or both.

Any Vendor not in compliance with this provision shall be disqualified from evaluation and award. A Vendor's proposal may be disqualified if its subcontractor and/or supplier engage in any of the foregoing communications during the time that the procurement is active (*i.e.*, the issuance date of the procurement until the date of contract award or cancellation of the procurement). Only those discussions, communications or transmittals of information authorized or initiated by the issuing agency for this RFP or inquiries directed to the purchaser named in this RFP regarding requirements of the RFP (prior to proposal submission) or the status of the award (after submission) are excepted from this provision.

3.3 PROPOSAL EVALUATION PROCESS

Only responsive submissions will be evaluated.

The State will conduct a One-Step evaluation of Proposals:

Proposals will be received according to the method stated in the Proposal Submittal Section above.

All proposals must be received by the issuing agency not later than the date and time specified in the RFP SCHEDULE Section above, unless modified by Addendum. Vendors are cautioned that this is a request for offers, not an offer or request to contract, and the State reserves the unqualified right to reject any and all offers at any time if such rejection is deemed to be in the best interest of the State.

At the date and time provided in the RFP SCHEDULE Section above, unless modified by Addendum, the proposal from each responding Vendor will be opened publicly and all offers (except those that have been previously withdrawn, or voided bids) will be tabulated. The tabulation shall be made public at the time it is created. When negotiations after receipt of bids are authorized pursuant to G.S. 143-49 and 01 NCAC 05B.0503, only the names of offerors and the Services offered shall be tabulated at the time of opening. If negotiation is anticipated, cost and price shall become available for public inspection at the time of the award. Interested parties are cautioned that these costs and their components are subject to further evaluation for completeness and correctness and therefore may not be an exact indicator of a Vendor's pricing position.

At their option, the evaluators may request oral presentations or discussions with any or all Vendors for clarification or to amplify the materials presented in any part of the proposal. Vendors are cautioned, however, that the evaluators are not required to request presentations or other clarification—and often do not. Therefore, all proposals should be complete and reflect the most favorable terms available from the Vendor.

If negotiation is anticipated under 01 NCAC 05B.0503, pricing may not be public until award.

At their sole option, the evaluators may request oral presentations or discussions with any or all Vendors for the purpose of clarification or to amplify the materials presented in any part of the proposal. Vendors are cautioned, however, that the evaluators are not required to request presentations or other clarification—and often do not.

Upon completion of the evaluation process, the State will make award(s) based on the evaluation and post the award(s) to *the electronic Vendor Portal (eVP)*, <https://evp.nc.gov>, under the RFP number for this solicitation. Award of a Contract to one Vendor does not mean that the other proposals lacked merit, but that, all factors considered, the selected proposal was deemed most advantageous and represented the best value to the State.

The State reserves the right to negotiate with one or more vendors, or to reject all original offers and negotiate with one or more sources of supply that may be capable of satisfying the requirement, and in either case to require Vendor to submit a Best and Final Offer (BAFO) based on discussions and negotiations with the State.

3.4 EVALUATION CRITERIA

In addition to the general criteria in G.S. 143-52 which may or may not be relevant to this RFP, all qualified proposals will be evaluated, and award made based on considering the following criteria, to result in an award most advantageous to the State:

BEST VALUE: "Best Value" procurement methods are authorized by N.C.G.S. §§143-135.9 and 143B-1350(h). The award decision is made based on multiple factors, including: total cost of ownership, meaning the cost of acquiring, operating, maintaining, and supporting a product or service over its projected lifetime; the evaluated technical merit of the Vendor's offer; the Vendor's past performance; and the evaluated probability of performing the specifications stated in the solicitation on time, with high quality, and in a manner that accomplishes the stated business objectives and maintains industry standards compliance. The intent of "Best Value" procurement is to enable Vendors to offer and the Agency to select the most appropriate solution to meet the business objectives defined in the solicitation and to keep all parties focused on the desired outcome of a procurement.

A ranking method of source selection will be utilized in this procurement using the Evaluation Criteria section below to allow the State to award this RFP to the Vendor(s) providing the Best Value and recognizing that Best Value may result in award other than the lowest price or highest technically qualified offer. By using this method, the overall ranking may be adjusted up or down when considered with, or traded-off against, other non-price factors.

EVALUTION METHOD: Narrative and by consensus of the evaluating committee, explaining the strengths and weaknesses of each proposal and why the recommended awardee(s) provide the best value to the State.

All qualified proposals will be evaluated, and award made based on considering the following criteria listed to result in an award most advantageous to the State:

1. Vendor Experience (Section 4.5)
2. References (Section 4.6)
3. Technical Approach (Section 5.4))
4. Vendor Pricing (Attachment A.)

3.5 PERFORMANCE OUTSIDE THE UNITED STATES

Vendor shall complete ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR. In addition to any other evaluation criteria identified in this RFP, the State may also consider, for purposes of evaluating proposed or actual contract performance outside of the United States, how that performance may affect the following factors to ensure that any award will be in the best interest of the State.

- a) Total cost to the State
- b) Level of quality provided by the Vendor
- c) Process and performance capability across multiple jurisdictions
- d) Protection of the State's information and intellectual property
- e) Availability of pertinent skills
- f) Ability to understand the State's business requirements and internal operational culture
- g) Particular risk factors such as the security of the State's information technology
- h) Relations with citizens and employees
- i) Contract enforcement jurisdictional issues

3.6 INTERPRETATION OF TERMS AND PHRASES

This RFP serves two functions: (1) to advise potential Vendors of the parameters of the solution being sought by the State; and (2) to provide (together with other specified documents) the terms of the Contract resulting from this procurement. The use of phrases such as "shall," "must," and "requirements" are intended to create enforceable contract conditions. In determining whether proposals should be evaluated or rejected, the State will take into consideration the degree to which Vendors have proposed or failed to propose solutions that will satisfy the State's needs as described in the RFP. Except as specifically stated in the RFP, no one requirement shall automatically disqualify a Vendor from consideration. However, failure to comply with any single requirement may result in the State exercising its discretion to reject a proposal in its entirety.

4.0 REQUIREMENTS

This Section lists the requirements related to this RFP. By submitting a proposal, the Vendor agrees to meet all stated requirements in this Section as well as any other specifications, requirements, and terms and conditions stated in this RFP. If a Vendor is unclear about a requirement or specification or believes a change to a requirement would allow for the State to receive a better proposal, the Vendor is urged to submit these items in the form of a question during the question-and-answer period in accordance with the Proposal Questions Section above.

4.1 PRICING

Proposal price shall constitute the total cost to the State for complete performance in accordance with the requirements and specifications herein, including all applicable charges for handling, transportation, administrative and other similar fees. Complete ATTACHMENT A: PRICING FORM and upload in the Sourcing Tool. The pricing provided in ATTACHMENT A, or resulting from any negotiations, is incorporated herein and shall become part of any resulting Contract.

4.2 INVOICES

The Vendor shall provide invoices to the North Carolina Department of State Treasurer as described in Attachment A: Pricing. In addition, each invoice should include the Vendor's billing address and the Invoice number.

Invoices must be sent to Reid Chisholm Reid.Chisholm@nctreasurer.com , Timothy Melton timothy.melton@nctreasurer.com and FOD Accounts Payable dstaccountspayable@nctreasurer.com.

INVOICES MAY NOT BE PAID UNTIL AN INSPECTION HAS OCCURRED AND THE SERVICES ACCEPTED.

Fees and Invoices

The costs payable by the Department are based on the hourly fees and hours worked of each person at the Vendor who provides Services, subject to any budget, estimate, or fixed fee as described below.

Separate invoices must be provided for each of the following four billing entities: the NC 401(k) Plan, the NC 457 Plan, the Supplemental Retirement Plans (i.e., Services that apply to both the NC 401(k) and NC 457 Plans), and the North Carolina Retirement Systems.

For each invoice, individual charges must be listed by person by date and include specific and reasonably detailed descriptions of the Services to which the charges apply. Billing increments can be no greater than 0.25 hours.

The Vendor shall submit monthly invoices within 30 days of the end of each month. The Department shall pay all undisputed amounts within 30 days of receiving a clean invoice.

4.3 FINANCIAL STABILITY

As a condition of contract award, the Vendor must certify that it has the financial capacity to perform and to continue to perform its obligations under the Contract; that Vendor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Vendor that could materially adversely affect performance of this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

Each Vendor shall certify it is financially stable by completing ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION. The State is requiring this certification to minimize potential issues from contracting with a Vendor that is financially unstable. From the date of the Certification to the expiration of the Contract, the Vendor shall notify the State within thirty (30) days of any occurrence or condition that materially alters the truth of any statement made in this Certification. The Contract Manager may require annual recertification of the Vendor's financial stability.

4.4 HUB PARTICIPATION

Pursuant to North Carolina General Statute G.S. 143-48, it is State policy to encourage and promote the use of small, minority, physically handicapped, and women contractors in purchasing Goods and Services. As such, this RFP will serve to identify those Vendors that are minority owned or have a strategic plan to support the State's Historically Underutilized Business program by meeting or exceeding the goal of 10% utilization of diverse firms as 1st or 2nd tier subcontractors. Vendor shall complete ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION.

4.5 VENDOR EXPERIENCE

In its Proposal, Vendor shall demonstrate experience with public and/or private sector clients with similar or greater size and complexity to the State. Vendor shall provide information as to the qualifications and experience of all legal and professional personnel to be assigned to this project, including résumés citing experience with similar projects and the responsibilities to be assigned to each person.

4.6 REFERENCES

Vendor shall upload to the Sourcing Tool at least three (3) references in ATTACHMENT E: CUSTOMER REFERENCE FORM, for which it has provided Services of similar size and scope to those proposed herein. The State may contact these users to determine whether the Services provided are substantially similar in scope to those proposed herein and whether Vendor's performance has been satisfactory. The information obtained shall be considered in the evaluation of the Proposal.

4.7 BACKGROUND CHECKS

Any personnel or agent of Vendor performing Services under any Contract arising from this RFP may be required to undergo a background check at the expense of the Vendor, if requested by the State.

Vendor's response to these requests shall be considered a continuing representation, and Vendor's failure to notify the State within thirty (30) days of any criminal litigation, investigation or proceeding involving Vendor or its then current officers, directors or persons providing Services under this Contract during its term shall constitute a material breach of contract. The provisions of this paragraph shall also apply to any subcontractor utilized by Vendor to perform Services under this Contract.

4.7.1 GENERAL INFORMATION

Should a background check be requested by the Department of State Treasurer, the following requirements must be met:

- a) Criminal background checks shall be current and completed within ninety (90) days of the Contract effective date.
- b) The criminal background check shall include a social security verification/check, felonies, misdemeanors, and traffic records covering a minimum of the last seven (7) years for all states and countries where the individual has resided. The criminal background check information shall be first thoroughly reviewed by the Vendor and then sent to the Contract Administrator for review and approval. Out of state searches shall be required for persons living in the state of NC for fewer than seven (7) years. Fingerprint background checks may be required in some instances depending on the facility requirements.
- c) A criminal background check on the awarded Vendor and its employees shall be provided by the Vendor prior to Contract effective date. Copies of the original criminal background check shall be sent to the Contract Administrator for evaluation. In some cases, badging cannot take place until after the evaluation and approval of the Vendor's criminal checks.
- d) When a new employee or individual is identified to perform Services on this Contract, the Vendor shall provide the Contract Administrator with a criminal background check before the individual can be approved for work. Persons without approved criminal background checks shall not be allowed to work in the relevant buildings until proper documentation is submitted and approved.
- e) The State may require the Vendor to exclude the Vendor's employees, agents, representatives, or subcontractors based on the background check results. Discovery that one or more employees have convictions does not disqualify the Vendor from award.
- f) Additionally, the State may use The North Carolina Department of Public Safety Offender Public Information or similar Services to conduct additional background checks on the Vendor's proposed employees.

4.7.2 BACKGROUND CHECK LIMITATIONS

- a) Any individual representing the Vendor, who in his/her lifetime, has been adjudicated as a habitual felon as defined by GS 14-7.1 or a violent habitual felon as defined by GS 14-7.7, shall not be allowed to work in buildings occupied by State Government employees.
- b) Any individual representing the Vendor, who during the last seven (7) years has been convicted of any criminal felony or misdemeanor sexual offense or a crime of violence shall not be allowed to work in buildings occupied by State Government employees.
- c) Any individual representing the Vendor, who at any time has an outstanding warrant or a criminal charge for a crime described in (b) above shall not be allowed to work on State property.
- d) The Vendor must ensure that all employees have a responsibility to self-report to the Vendor within twenty-four (24) hours any arrest for any disqualifying offense. The Vendor must notify the Contract Administrator within twenty-four (24) hours of all details concerning any reported arrest.
- e) Upon the request of the Contract Administrator, the Vendor will re-screen any of its employees, agents, representatives, and subcontractors during the term of the Contract.
- f) The Vendor's responses to these background check requests shall be considered a continuing representation, and Vendor's failure to notify the State within thirty (30) days of any criminal charge, investigation, or proceeding involving Vendor or its then-current officers, directors or persons providing Services under this Contract during its term shall constitute a material breach of contract. The provisions of this paragraph shall also apply to any subcontractor utilized by Vendor to perform Services under this Contract.
- g) If there are problems or delays with performance associated with the completion and compliance with this background check requirements, any Vendor's performance bond could be used to complete these Services.

4.7.3 DOCUMENT REQUIREMENTS - Reserved.

4.7.4 VENDOR BACKGROUND CHECK AGREEMENT

Vendor agrees to conduct a criminal background check per the specifications above in this section on all employees proposed to work under this Contract, at its expense, and provide the required documentation to the State in order to perform Services under this Contract:

YES NO

4.8 PERSONNEL

Vendor warrants that qualified personnel shall provide Services under this Contract in a professional

manner. "Professional manner" means that the personnel performing the Services will possess the skill and competence consistent with the prevailing business standards in the industry. Vendor will serve as the prime contractor under this Contract and shall be responsible for the performance and payment of all subcontractors that may be approved by the State. Names of any third-party Vendors or subcontractors of Vendor may appear for purposes of convenience in Contract documents; and shall not limit Vendor's obligations hereunder. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractors.

Should the Vendor's proposal result in an award, the Vendor shall be required to agree that it will not substitute Key Personnel assigned to the performance of the Contract without prior written approval by the Contract Lead. Vendor shall further agree that it will notify the Contract Lead of any desired substitution, including the name(s) and references of Vendor's recommended substitute personnel. The State will approve or disapprove the requested substitution in a timely manner. The State may, in its sole discretion, terminate the Services of any person providing Services under this Contract. Upon such termination, the State may request acceptable substitute personnel or terminate the contract Services provided by such personnel.

4.9 VENDOR'S REPRESENTATIONS

If Vendor's Proposal results in an award, Vendor agrees that it will not enter any agreement with a third party that may abridge any rights of the State under the Contract. If any Services, deliverables, functions, or responsibilities not specifically described in this solicitation are required for Vendor's proper performance, provision and delivery of the Service and deliverables under a resulting Contract, or are an inherent part of or necessary sub-task included within such Service, they will be deemed to be implied by and included within the scope of the Contract to the same extent and in the same manner as if specifically described in the Contract. Unless otherwise expressly provided herein, Vendor will furnish all of its own necessary management, supervision, labor, facilities, furniture, computer and telecommunications equipment, software, supplies and materials necessary for the Vendor to provide and deliver the Services and other Deliverables.

4.10 QUESTIONS TO VENDORS – Reserved.

4.11 AGENCY INSURANCE REQUIREMENTS MODIFICATION

A. Default Insurance Coverage from the General Terms and Conditions applicable to this Solicitation:

- Small Purchases
- Contract value in excess of the Small Purchase threshold, but up to \$1,000,000.00
- Contract value in excess of \$1,000,000.00

B. The Purchasing Agency has conducted a risk assessment and determined that certain default coverage provisions in the North Carolina General Terms and Conditions, paragraph entitled *Insurance*, should be increased from the minimums stated. Increased or additional insurance coverage amounts for this Solicitation are as follows. Coverages not changed here remain as stated in the General Terms and Conditions.

4.12 NC COVID-19 VACCINATION AND TESTING REQUIREMENT - Reserved.

4.13 FEDERAL COVID-19 VACCINATION REQUIREMENT – Reserved.

4.14 LOBBYING ACTIVITY CERTIFICATION FOR FEDERAL GRANTS – Reserved.

5.0 SPECIFICATIONS AND SCOPE OF WORK

The Vendor shall provide specialized legal advice and representation for North Carolina Retirement System (NCRS) and Supplemental Retirement Plan (SRP), including fiduciary and tax matters and representation at the IRS (collectively, the “Services”). A non-exclusive list of the Services is described in Section 5.3 in “Tasks and Deliverables”.

5.1 GENERAL

The North Carolina Department of State Treasurer (NCDST) Retirement Systems Division (RSD) and the Supplemental Retirement Plans (SRP) rely on outside counsel for specialized legal advice regarding the North Carolina Retirement Systems (NCRS) and the NC 401(k) and NC 457 Plans, respectively. The specialized legal works includes advice and representation on fiduciary and tax matters for defined benefit plans (pensions) and 401(k) and 457(b) defined contribution plans.

5.2 SPECIFICATIONS – Reserved.

5.3 TASKS/DELIVERABLES

The awarded Vendor(s) will deliver analysis and legal advice on topics such as those outlined below, without limitation, to keep the existing state retirement plans in compliance with the Internal Revenue Services’ code. Written analysis and advice to the Retirement Systems Division and the Supplemental Retirement Plans may be formal (Determination Letters, Private Letter Rulings, Memos) or informal (email). The Vendor will provide legal advice, draft documents, and/or represent the North Carolina Retirement System (NCRS) or the Supplemental Retirement Plans (SRP) in meetings with the IRS on the following matters by the date mutually agreed upon by the Department and the Vendor.

Written guidance is aimed to ensure that North Carolina’s Retirement System (NCRS) and Supplemental Retirement Plans (SRP) are protected and follow federal IRS guidelines. The topics for potential Vendor(s) to analyze are listed below:

NCRS

- Return to work issues
- Separation from service issues
- Trust-to-trust asset transfers
- Tribal employers in governmental plans
- Review of employee leasing arrangements when the employers are in different defined benefit plans, or one employer does not participate in a defined benefit plan
- Tax withholding questions
- Correction of administrative errors
- Review of proposed legislative provisions for Internal Revenue Code (Code) compliance
- Review of proposed employer compensation practices for impermissible cash-or-deferred arrangements
- Statewide cost allocation plan (SWCAP) reimbursement issues with the federal government
- Review of employer mergers with the surviving employer offering a choice of retirement programs
- Non-profits participation in plans
- Taxation on overpayments of benefits
- Taxation on retroactive payments
- Bankruptcy issues
- Participation of nonprofits
- Other Code Section 401(a) compliance matters

NC 401(k) and NC 457 Plans

- Advice on corrections regarding employee deferrals, employer contributions, eligibility, and loans, including through the IRS's Voluntary Correction Program (VCP) and Self-Correction Program (SCP)
- Implementation of SECURE Act 2.0
- Voluntary Correction Program (VCP) filings
- Issues related to multiple employer plans
- Responses to Internal Revenue Service (IRS) audit
- Eligibility issues
- Required minimum distributions issues
- Structure of employer contributions
- Review of state legislative proposals
- Other Code compliance matters

The Vendor must have or obtain knowledge of the North Carolina General Statutes and plan documents applicable to NCRS and SRP.

5.4 PROJECT ORGANIZATION – Reserved.

5.5 TECHNICAL APPROACH -

- 1. Describe communication methodology for analysis of presented tax-issues.**
- 2. Describe documentation methodology for advice on presented tax-issues.**

3. Describe how you will support the North Carolina Retirement Systems Division and the Supplemental Retirement Systems Division with ongoing compliance with IRS codes.
4. Describe informal and formal guidance methodology on tax related issues for Defined Benefit Plans (DB) and Defined Contribution Plans (DC).

5.6 CERTIFICATION AND SAFETY LABELS – Reserved.

6.0 CONTRACT ADMINISTRATION

All Contract Administration requirements are conditioned on an award resulting from this solicitation. This information is provided for the Vendor’s planning purposes.

6.1 CONTRACT MANAGER AND CUSTOMER SERVICE

The Vendor shall be required to designate and make available to the State a contract manager. The contract manager shall be the State’s point of contact for Contract related issues and issues concerning performance, progress review, scheduling, and service.

Contract Manager Point of Contact	
Name:	
Office Phone #:	
Mobile Phone #:	
Email:	

The Vendor shall be required to designate and make available to the State for customer service. The customer service point of contact shall be the State’s point of contact for customer service-related issues (define roles and responsibilities).

Customer Service Point of Contact	
Name:	
Office Phone #:	
Mobile Phone #:	
Email:	

6.2 POST AWARD PROJECT REVIEW MEETINGS- The Retirement Systems Division and the Supplemental Retirement Systems will hold project review meetings as needed with awarded Vendor(s) to ensure alignment with the deliverables within this Request for Proposal.

6.3 CONTINUOUS IMPROVEMENT

The State encourages the Vendor to identify opportunities to reduce the total cost the State. A continuous improvement effort consists of various ways to enhance business efficiencies as performance progresses.

6.4 PERIODIC STATUS REPORTS- Reserved.

6.5 ACCEPTANCE OF WORK

Performance of the work shall be conducted and completed at least in accordance with the Contract requirements and recognized and customarily accepted industry practices. Performance shall be considered complete when the Services are approved as acceptable by the Department.

The State shall have the obligation to notify Vendor, in writing ten (10) calendar days following completion of such work described in the Contract that it is not acceptable. The notice shall specify in reasonable detail the reason(s) it is unacceptable. Acceptance by the State shall not be unreasonably withheld; but may be conditioned or delayed as required for reasonable review, evaluation, installation, or testing, as applicable to the work. Final acceptance is expressly conditioned upon completion of all applicable assessment procedures. Should the work fail to meet any specifications, acceptance criteria or otherwise fail to conform to the Contract, the State may exercise any and all rights hereunder, such rights provided by the Uniform Commercial Code, as adopted in North Carolina.

6.6 FAITHFUL PERFORMANCE

Any Contract may include terms ensuring a Vendor's performance such as: (1) a bond, or similar assurance; (2) liquidated damages; (3) a percentage of the Contract value held as a retainage; (4) withholding final payment contingent on acceptance of the final deliverable; and (5) any other provision that assures performance of the Vendor.

6.7 TRANSITION ASSISTANCE

If a Contract results from this solicitation, and the Contract is not renewed at the end of the last active term, or is canceled prior to its expiration, for any reason, Vendor shall provide transition assistance to the State, at the option of the State, for up to six (6) months to allow for the expired or canceled portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Services to the State or its designees. If the State exercises this option, the Parties agree that such transition assistance shall be governed by the terms and conditions of the Contract (notwithstanding this expiration or cancellation), except for those Contract terms or conditions that

do not reasonably apply to such transition assistance. The State shall agree to pay Vendor for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for performance of the Services or other resources utilized.

6.8 DISPUTE RESOLUTION

During the performance of the Contract, the parties agree that it is in their mutual interest to resolve disputes informally. Any claims by the Vendor shall be submitted in writing to the State's Contract Manager for resolution. Any claims by the State shall be submitted in writing to the Vendor's Project Manager for resolution. The Parties shall agree to negotiate in good faith and use all reasonable efforts to resolve such dispute(s).

During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Contract. The Parties will agree on a reasonable amount of time to resolve a dispute. If a dispute cannot be resolved between the Parties within the agreed upon period, either Party may elect to exercise any other remedies available under the Contract, or at law. This provision, when agreed in the Contract, shall not constitute an agreement by either party to mediate or arbitrate any dispute.

6.9 CONTRACT CHANGES

Contract changes, if any, over the life of the Contract shall be implemented by contract amendments agreed to in writing by the State and Vendor. Amendments to the contract can only be through the contract administrator.

7.0 ATTACHMENT A: PRICING

Vendor must complete this attachment in its entirety. Pricing outlined in this ATTACHMENT A: PRICING, shall constitute the total cost to the State for complete performance in accordance with the requirements and specifications herein, including all applicable charges, transportation and travel, administrative and other similar fees. Vendor shall not invoice for any amounts not specifically allowed for in this RFP. Failure to complete this attachment in its entirety will result in rejection of the bid response as non-responsive. Vendor pricing must be firm and fixed.

Fees and Invoices

The costs payable by the Department are based on the hourly fees and hours worked of each person at the Vendor who provides Services, subject to any budget, estimate, or fixed fee as described below.

Separate invoices must be provided for each of the following four billing entities: the NC 401(k) Plan, the NC 457 Plan, the Supplemental Retirement Plans (i.e., Services that apply to both the NC 401(k) and NC 457 Plans), and the North Carolina Retirement Systems.

For each invoice, individual charges must be listed by person by date and include specific and reasonably detailed descriptions of the Services to which the charges apply. Billing increments can be no greater than 0.25 hours.

The Vendor shall submit monthly invoices within 30 days of the end of each month. The Department shall pay all undisputed amounts within 30 days of receiving a clean invoice.

For Vendor Completion:

Hourly Fees: In the tables below, provide the hourly fees (inclusive of any discounts) for the Key Personnel and other staff who may provide Services. Please include the name, title, hourly fee, and type of plan (Defined Benefit or Defined Contribution / or both).

Key Personnel			
<u>Name</u>	<u>Title</u>	<u>Hourly Fee</u>	<u>Type of Plan (DB/DC/both)</u>

Other Staff			
<u>Name (Optional)</u>	<u>Title</u>	<u>Hourly Fee</u>	<u>Type of Plan (DB/DC/both)</u>

The hourly fee for each person who is one of the Key Personnel applies to any replacement of the person during the term of the Contract. The hourly fees are fixed for the initial three-year term of the Contract. The fees for any renewal terms are subject to the agreement of the Department and the Vendor.

The costs payable by the Department are limited to the fees of the Key Personnel and other staff listed above and IRS filing fees unless such costs are approved in advance by the Department. For clarity, the Department will not pay for online legal research, copying, or other overhead costs.

Cost Management

As a fiduciary of SRP and NCRS, the Department attempts to operate as efficiently and effectively as possible, including in the use of legal services. As part of this effort, the Department may require a budget or an estimate of fees from the Vendor prior to the provision of Services. In addition, the Department may request from the Vendor a proposed not-to-exceed fee ("NTE Fee"), in which case the maximum total fees payable to the Vendor for the work would be capped at the NTE Fee.

A budget, estimate, or NTE Fee will be requested, submitted, and approved (if applicable) by email between the Managing Attorneys for the Vendor and the Department, as included in the RFP (or their replacements, if applicable).

For Vendor Completion:

If requested by the Department pursuant to a Contract, are You willing to propose an NTE Fee for part or all or part of an IRS Filing?

YES NO

Are there any other matters for which You would provide Services for an NTE Fee?

YES NO

If yes, please explain:

Additional information (if any) the Vendor wants to provide regarding budget, estimates, and NTE Fees:

8.0 ATTACHMENT B: NC INSTRUCTIONS TO VENDORS

NORTH CAROLINA INSTRUCTIONS TO VENDORS

I. READ, REVIEW AND COMPLY

It shall be the Vendor's responsibility to read this entire document; review all enclosures, attachments, and any Addenda; and comply with all requirements specified, whether appearing in these Instructions to Vendors or elsewhere in the Solicitation document.

Any gender-specific pronouns used herein, whether masculine or feminine, shall be read and construed as gender neutral, and the singular of any word or phrase shall be read to include the plural and vice versa.

II. REQUEST FOR OFFERS

Vendors are cautioned that this is a request for Offers, not an offer or request to contract, and the State reserves the unqualified right to reject any and all bids at any time if such rejection is deemed to be in the best interest of the State.

By submitting your Bid or Proposal, you are offering to enter into a contract with the State.

The Contract is a separate document that represents the Vendor's and the State's entire agreement. If Your bid is accepted and results in a Contract, you will be expected to accept the North Carolina General Terms and Conditions included in the Solicitation document as part of the Contract. Depending upon the good or service being offered, other terms and conditions may apply.

III. DUTY TO INQUIRE

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 for 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 Addendum. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the State's attention.

IV. INTERPRETATION OF TERMS AND PHRASES

The Solicitation document serves to advise potential Vendors of the parameters of the solution being sought by the State. The use of phrases such as "shall," "must," and "requirements" are intended to create enforceable contract conditions. In determining whether bids should be evaluated or rejected, the State will take into consideration the degree to which Vendors have proposed or failed to propose solutions that will satisfy the State's needs as described in the Solicitation. Except as specifically stated in

the Solicitation, no one requirement shall automatically disqualify a Vendor from consideration. However, failure to comply with any single requirement, if determined to be essential under the circumstances then existing, may result in the State exercising its discretion to reject a bid in its entirety.

V. BID SUBMISSION

1. VENDOR'S REPRESENTATIVE: Each Vendor shall submit with its bid the name, address, and telephone number of the person(s) with authority to bind the Vendor and answer questions or provide clarification concerning the Vendor's bid.

2. SIGNING YOUR OFFER: 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 venture 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.

3. EXECUTION: Failure to sign the Execution Page (numbered page 1 of the Solicitation document) in the indicated space may render an Offer nonresponsive, and it may be rejected.

4. STATE OFFICE CLOSINGS: If an emergency or unanticipated event interrupts normal government processes so that Offers cannot be received at the State 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 Addendum may be issued to reschedule the bid opening. If State offices are closed at the time a pre-bid or pre-proposal conference is scheduled, an Addendum will be issued to reschedule the conference.

5. BID IN ENGLISH and DOLLARS: Offers submitted in response to this Solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation.

6. LATE BIDS: Late bids, regardless of cause, will not be opened or considered, and will automatically be disqualified from further consideration. It shall be the Vendor's sole responsibility to ensure delivery at the designated office by the designated time.

- a) Vendor shall bear the risk for late submission due to unintended or unanticipated delay— whether submitted electronically, delivered by hand, U.S. Postal Service, courier or other delivery

service. It is the Vendor's sole responsibility to ensure that its bid has been received by this Office by the specified time and date of opening. The date and time of submission will be marked on each bid when received, and any bid received after the bid submission deadline will be rejected.

- b) For proposals submitted via U.S. mail, please note that the U.S. Postal Service generally does not deliver mail to a specified street address but to the State's Mail Service Center. Vendors are cautioned that proposals sent via U.S. Mail, including Express Mail, may not be delivered by the Mail Service Center to the agency's purchasing office on the due date in time to meet the proposal deadline. All Vendors are urged to take the possibility of delay into account when submitting a proposal by U.S. Postal Service, courier, or other delivery service.

7. DETERMINATION OF 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.

8. CONTENTS OF OFFER:

- a) Offers should be complete and carefully worded and should convey all of the information requested.
- b) Offers should be prepared simply and economically, providing a straightforward, concise description of the Offeror's capabilities to satisfy the requirements of the Solicitation. Emphasis should be on completeness and clarity of content.
- c) If Your Offer includes any comment over and above the specific information requested in the Solicitation, You are to include this information as a separate appendix to Your Offer. Offers which include either modifications to any of the Solicitation's contractual requirements or an Offeror's standard terms and conditions may be deemed non-responsive and not considered for award at the State's discretion.

9. MULTIPLE OFFERS: If specifically stated in the Solicitation document, 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.

10. CLARIFICATION: The State may elect to communicate with You after bid 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.

11. ACCEPTANCE AND REJECTION: The State reserves the right to reject any and all bids, to waive any informality in bids and, unless otherwise specified by the Vendor, to accept any item in the bid. If either a unit price or an extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded. Regardless of error or omission, a Vendor shall not be permitted to increase its pricing after the deadline for submitting bids.

12. BASIS FOR REJECTION: Pursuant to 01 NCAC 05B .0501, the State reserves the right to reject any and all Offers, in whole or in part, by deeming the Offer unsatisfactory as to quality or quantity, delivery, price or service offered, non-compliance with the requirements or intent of this Solicitation, lack of competitiveness, error(s) in specifications or indications that revision would be advantageous to the State, cancellation or other changes in the intended project or any other determination that the proposed requirement is no longer needed, limitation or lack of available funds, circumstances that prevent determination of the best offer, or any other determination that rejection would be in the best interest of the State.

13. INFORMATION AND DESCRIPTIVE LITERATURE: Vendor shall furnish all information requested in the Solicitation document. Further, if required elsewhere in this bid, each Vendor shall submit with its bid any sketches, descriptive literature, and/or complete specifications covering the goods and services offered. Reference to literature submitted with a previous bid or available elsewhere will not satisfy this provision. 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. Failure to comply with these requirements shall constitute sufficient cause to reject a bid without further consideration.

14. WITHDRAWAL OF BID OR PROPOSAL: Proposals submitted electronically may be withdrawn at any time prior to the date for bid opening identified on the cover page of this Solicitation document (or such later date included in an Addendum). Proposals that have been delivered by hand, U.S. Postal Service, courier, or other delivery service may be withdrawn only in writing and if receipt is acknowledged by the office issuing the Solicitation document prior to the time for opening identified on the cover page of the Solicitation document (or such later date included in an Addendum). Written withdrawal requests shall be submitted on the Vendor's letterhead and signed by an official of the Vendor authorized to make such request. Any withdrawal request made after bid opening shall be allowed only for good cause shown and in the sole discretion of the Division of Purchase and Contract.

15. COST FOR BID OR PROPOSAL PREPARATION: Any costs incurred by Vendor in preparing or submitting Offers are the Vendor's sole responsibility.

16. INSPECTION AT VENDOR'S SITE: The State reserves the right to inspect, at a reasonable time, the equipment, item, plant, or other facilities of a prospective Vendor prior to Contract award, and during the Contract term as necessary for the State's determination that such equipment, item, plant, or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the Contract.

17. RECYCLING AND SOURCE REDUCTION: It is the policy of the State to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective. We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will adequately protect the commodity and contain it for its intended use. Companies are strongly urged to bring to the attention of purchasers those products or packaging they offer which have recycled content and that are recyclable.

18. CERTIFICATE TO TRANSACT BUSINESS IN NORTH CAROLINA: As a condition of Contract award, each out-of-State Vendor that is a corporation, limited-liability company, or limited-liability partnership shall have received, and shall maintain throughout the term of The Contract, a Certificate of Authority to Transact Business in North Carolina from the North Carolina Secretary of State, as required by North Carolina law. A State contract requiring only an isolated transaction completed within a period of six months, and not in the course of a number of repeated transactions of like nature, shall not be considered transacting business in North Carolina and shall not require a Certificate of Authority to Transact Business.

19. SUSTAINABILITY: To support the sustainability efforts of the State of North Carolina we solicit Your cooperation in this effort. Pursuant to Executive Order 156 (1999), it is desirable that all responses meet the following:

- a) If paper copies are requested, all copies of the bid are printed double sided. All submittals and copies are printed on recycled paper with a minimum post-consumer content of 30%.
- b) Unless absolutely necessary, all bids and copies should minimize or eliminate use of non- recyclable or non-reusable materials such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
- c) Materials should be submitted in a format which allows for easy removal, filing and/or recycling of paper and binder materials. Use of oversized paper is strongly discouraged unless necessary for clarity or legibility.

20. HISTORICALLY UNDERUTILIZED BUSINESSES (HUB): The State is committed to retaining Vendors from diverse backgrounds, and it invites and encourages participation in the procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. In particular, the State encourages participation by Vendors certified by the State Office of Historically Underutilized Businesses, as well as the use of HUB-certified vendors as subcontractors on State contracts.

21. RECIPROCAL PREFERENCE: G.S. 143-59 establishes a reciprocal preference requirement to discourage other states from favoring their own resident Vendors by applying a percentage increase to the price of any bid from a North Carolina resident Vendor. To the extent another state does so, North Carolina applies the same percentage increase to the bid of a Vendor resident in that state. Residency is determined by a Vendor's "Principal Place of Business," defined as that principal place from which the overall trade or business of the Vendor is directed or managed.

22. INELIGIBLE VENDORS: As provided in G.S. 147-86.59 and G.S. 147-86.82, the following companies are ineligible to contract with the State of North Carolina or any political subdivision of the State:

- a) any company identified as engaging in investment activities in Iran, as determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, and
- b) any company identified as engaged in a boycott of Israel as determined by appearing on the List of restricted companies created by the State Treasurer pursuant to G.S. 147-86.81.

A contract with the State or any of its political subdivisions by any company identified in a) or b) above shall be void ab initio.

23. VALID TAXPAYER INFORMATION: All persons or entities desiring to do business with the State must provide correct taxpayer information on North Carolina specified forms. The Substitute W-9 and Instructions are here:

[open \(nc.gov\)](https://nc.gov)

24. VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM: The North Carolina electronic Vendor Portal (eVP) allows Vendors to electronically register free with the State to receive electronic notification of current procurement opportunities available as well as notifications of status changes to those Solicitations. Online registration and other purchasing information is available at the following website: <https://evp.nc.gov>.

25. The status of a Vendor's E-Procurement Services account(s) shall be considered a relevant factor in determining whether to approve the award of a Contract resulting from this Solicitation document. Any Vendor with an E-Procurement Services account that is in arrears by 91 days or more at the time of bid opening may be suspended or deactivated, at the State's discretion, and may be disqualified from further evaluation or consideration.

26. TABULATIONS: Bid tabulations can be electronically retrieved at the Electronic Vendor Portal (eVP), <https://evp.nc.gov>. Tabulations will normally be available at this web site not later than one working day after the bid opening. If negotiation is anticipated under 01 NCAC 05B.0503, pricing may not be public until award. Lengthy or complex tabulations may be summarized, with other details not made available on eVP. Requests for additional details or information concerning such tabulations cannot be honored.

27. CONFIDENTIAL INFORMATION: To the extent permitted by applicable statutes and rules, the State will maintain as confidential trade secrets in bids that the Vendor does not wish disclosed. As a condition to confidential treatment, each page containing trade secret information shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the Vendor, with specific trade secret information enclosed in boxes, marked in a distinctive color or by similar indication. Cost information shall not be deemed confidential under any circumstances. Regardless of what a Vendor may label as a trade secret, the determination whether it is or is not entitled to protection will be determined in accordance with G.S. 132-1.2. Any material labeled confidential constitutes a representation by the Vendor that it has made a reasonable effort in good faith to determine that such material is, in fact, a trade secret under G.S. 132-1.2. Vendors are urged to limit the marking of information as a trade secret or as confidential so far as is possible. If a legal action is brought to require the disclosure of any material so marked confidential, the State will notify Vendor of such action and allow Vendor to defend the confidential status of its information.

28. COMMUNICATIONS BY VENDORS: In submitting its bid, the Vendor agrees not to discuss or otherwise reveal the contents of its bid to any source, government or private, outside of the using or issuing agency until after the award of the Contract or cancellation of this Solicitation. All Vendors are forbidden from having any communications with the using or issuing agency, or any other representative of the State concerning the Solicitation, during the evaluation of the bids (i.e., after the public opening of the bids and before the award of the Contract), unless the State directly contacts the Vendor(s) for purposes of seeking clarification or another reason permitted by the Solicitation. A Vendor shall not:

- (a) transmit to the issuing and/or using agency any information commenting on the ability or qualifications of any other Vendor to provide the advertised good, equipment, commodity;
- (b) identify defects, errors and/or omissions in any other Vendor's bid and/or prices at any time during the procurement process; and/or
- (c) engage in or attempt any other communication or conduct that could influence the evaluation or award of a Contract related to this Solicitation. Failure to comply with this requirement shall constitute sufficient justification to disqualify a Vendor from a Contract award. Only those communications with the using agency or issuing agency authorized by this Solicitation are permitted.

29. INFORMAL COMMENTS: The State shall not be bound by informal explanations, instructions or information given at any time by anyone on behalf of the State during the competitive process or after award. The State is bound only by information provided in writing in this Solicitation document and in formal Addenda.

30. PROTEST PROCEDURES: When a Vendor wishes to protest a contract awarded by the Division of Purchase and Contract or awarded by an agency when the award amount exceeds the agency's general delegation and the contract is not subject to a special delegation or exemption, a Vendor shall submit a written request addressed to the State Purchasing Officer at: Division of Purchase and Contract, 1305 Mail Service Center, Raleigh, NC 27699-1305.

When a Vendor wishes to protest a contract awarded by an agency when the award amount is less than an agency's general delegation or when the contract is subject to a special delegation or exemption the Vendor shall submit a written request to protest to the purchasing officer of the agency that issued the award. The protest request must be received in the proper office within thirty (30) consecutive calendar days from the date of the Contract award. Protest letters shall contain specific grounds and reasons for the protest, how the protesting party was harmed by the award made and any documentation providing support for the protesting party's claims.

Note: Contract award notices are sent only to the Vendor who is awarded the contract, and not to every person or firm responding to a Solicitation. Award notices are posted on eVP at <https://evp.nc.gov>. All protests will be handled pursuant to the North Carolina Administrative Code, 01 NCAC 05B .1519.

31. ORDER OF PRECEDENCE: In cases of conflict between specific provisions in this Solicitation or those in any resulting Contract documents, the order of precedence shall be (high to low):

- (1) any special terms and conditions specific to this Solicitation document, including any negotiated terms,
- (2) requirements and specifications and administration,
- (3) North Carolina General Terms and Conditions in North Carolina General Terms And Conditions,
- (4) Instructions To Vendors,
- (5) Pricing, and
- (6) Vendor's Bid.

32. ADDENDA: Critical updated information may be included in Addenda to the Solicitation. It is important that all Vendors bidding on the Solicitation periodically check for any Addenda that may be

issued prior to the bid opening date. All Vendors shall be deemed to have read and understood all information in the Solicitation document and all Addenda thereto. Vendors are also responsible for obtaining and complying with all Addenda and other changes that may be issued concerning the Solicitation.

33. ORAL EXPLANATIONS NON-BINDING: Oral explanations or instructions will not be binding. Any information given a prospective Offeror concerning a Solicitation will be furnished promptly to all other prospective Offerors as an Addendum 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 herein entitled "Duty to Inquire." The State will not identify You in its answer to Your question.

34. MAXIMUM COMPETITION: The State seeks to permit the maximum practicable competition. Offerors are urged to advise the State, 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. If the State determines that any changes will be made resulting from the questions asked, then such decisions will be communicated in the form of an Addendum.

35. FIRM OFFER: Vendor's bid shall constitute a firm offer. By execution and delivery of a bid in response to a Solicitation, the Vendor agrees that any additional or modified terms and conditions, whether submitted purposefully or inadvertently, shall have no force or effect, and will be disregarded.

9.0 ATTACHMENT C: NORTH CAROLINA GENERAL TERMS & CONDITIONS

Capitalized terms in the General Contract Terms and Conditions have the same meaning as in the RFP unless otherwise defined herein.

1. **Forum, Situs, and Jurisdiction.** The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, are solely governed by the laws of the State of North Carolina. The Vendor, by signing this Contract, agrees and submits, for all matters concerning this Contract, to the exclusive jurisdiction of the state courts of North Carolina and agrees, solely for such purpose, that the only venue for any legal proceedings shall be Wake County, North Carolina. The place of this Contract, and all transactions, agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort or otherwise, relating to its validity, construction, interpretation, and enforcement, shall be determined, unless the law of North Carolina requires a venue other than Wake County.
2. **Independent Contractor.** The Vendor and its employees, officers, subcontractors (if any), and Affiliates shall be independent contractors and not employees or agents of the State of North Carolina, the Client, or the Plans. This Contract shall not operate as a joint venture, partnership, agency, or any other business relationship. As an independent contractor, the Vendor shall be wholly responsible for the work or services to be performed and for the supervision and payment of its employees, officers, and subcontractors (if any, including Affiliates).
3. **Remedies.**
 - a. The Vendor shall indemnify, defend, and hold harmless the Client from and against all claims, liabilities, losses, costs, damages, obligations, and expenses (including without limitation reasonable attorneys' fees and other reasonable legal expenses) of any kind or character arising out of or in connection with any of the following (each a "Loss"): (i) any breach of any provision of this Contract; (ii) a claim or threatened claim that the Services (in whole or in part and including without limitation the Deliverables) violate the patent, copyright, trademark, trade secret, or other proprietary rights of any third party, provided that such Loss does not result from the Client's use of the Services in violation of this Contract; or (iii) the negligence, willful misconduct, bad faith conduct, or fraud of the Vendor in the performance of any duty or obligation pursuant to this Contract.
 - b. If a claim or threatened claim that the Services (in whole or in part and including without limitation the Deliverables) violate the patent, copyright, trademark, trade secret, or other proprietary rights of any third party, the Vendor shall, at its option and expense, either procure for the Client the right to continue using the Services or replace or modify the Services to become non-infringing.
 - c. If the Vendor materially breaches this Contract, including without limitation as described in subsection (a) or (b) of this section, the Client may (i) terminate this Contract upon written notice to the Vendor; and (ii) procure the Services necessary to complete performance hereunder from other sources and hold the Vendor responsible for any excess cost occasioned thereby.
 - d. The Client may withhold amounts payable to the Vendor as a setoff against the amount of any Loss payable by the Vendor pursuant to subsection (a) of this section. For clarity, such setoff shall not

otherwise change the parties' rights or obligations pursuant to this Contract.

- e. The remedies specified in this provision are cumulative and not mutually exclusive of one another and are in addition to any remedies the Client may have at law or in equity.

4. Termination.

- a. The Client may terminate this Contract at any time and for any reason by providing written notice to the Vendor.
- b. Following the termination or expiration of this Contract and as directed by the Client, the Vendor shall continue providing the Services and shall provide reasonable assistance to transfer the provision of the Services to another vendor. The provisions of this Contract shall continue to apply to the Services performed by the Vendor following the termination or expiration of this Agreement.
- c. Following the provision of Services pursuant to this Contract, (i) the Vendor shall give the Client all finished and unfinished Deliverables that have not been given previously to the Client; and (ii) the Client shall pay for the Services satisfactorily completed by the Vendor, less any payments previously made.

- 5. Payment Terms.** The Vendor shall invoice the Client in arrears for Services provided during the invoice period. Any applicable taxes shall be invoiced as a separate item. Payments to the Vendor shall be dependent upon and subject to the availability of funds to the Client for the purpose set forth in this Contract. The Client shall pay all undisputed invoices within 30 days of receipt.

6. Property Rights.

- a. The Client shall own (a) the legal memoranda and other documents with legal advice that are prepared for the Client, documents submitted to the IRS or other governmental or self-regulatory entity on behalf of the Client, and other deliverables provided to the Client as part of the Services (the "Deliverables"); and (b) the copyright and other rights in the Deliverables; provided that, nothing in this Contract is intended to limit the Vendor's right to provide legal services to other clients.
- b. The Vendor has or will obtain all of the rights necessary to perform the Services and to grant the Client the rights to the Deliverables and other Services pursuant to this Contract; (ii) neither the Services nor the programs and data used to develop or provide the Services violate any patents, trademarks, copyrights, trade secrets, or other proprietary rights of any third party; and (iii) the Vendor is not aware of any cause of action or claim asserting such infringement or violation.

7. Confidentiality and Public Records Act.

- a. Any information, data, instruments, documents, studies, or reports provided to the Vendor by or on behalf of the Client or obtained by the Vendor under this Contract (the "Client's Data") (a) shall be kept as confidential by the Vendor; (b) shall be used by the Vendor only for the purpose(s) required to perform this Contract; and (c) shall not be divulged or made available to any individual or organization by the Vendor without the prior written approval of the Client or as required by applicable law; provided that, the Vendor shall provide prompt notice to the Client of disclosure to

the extent permitted by applicable law.

- b. The Vendor understands and acknowledges that the Client is a governmental agency subject to Chapter 132 (Public Records) of the North Carolina General Statutes, as the same may be interpreted under North Carolina law and amended from time to time (the "Public Records Act"). As such, notwithstanding anything to the contrary contained in this Contract, the Vendor acknowledges and agrees that (i) any information determined in good faith by the Client to be subject to disclosure under the Public Records Act will not be treated as confidential information (including without limitation the Vendor's response to the RFP) and may be disclosed by the Client as provided in the Public Records Act.
- c. The Vendor understands and acknowledges that in order for information provided to the Client by the Vendor to be eligible for the "trade secret" exception to the Public Records Act in N.C.G.S. § 132-1.2(1), the information must (i) constitute a trade secret as defined in N.C.G.S. § 66-152(3); and (ii) be marked or designated as "confidential" or as a "trade secret" at the time of its initial disclosure to the Client. Furthermore, the Vendor understands and acknowledges that regardless of whether material is marked "confidential" or "trade secret," it will be exempted from the Public Records Act only to the extent authorized by North Carolina law.

8. Access to Persons and Records.

- a. The Vendor shall retain the books, records, documents, and reports maintained or created by the Vendor pursuant to this Contract for a period of seven (7) years following the termination or expiration of this Contract. In addition, the Vendor will follow any litigation document hold or audit document hold instruction sent to the Vendor by the Client.
- b. Pursuant to N.C.G.S. § 147-64.7, the North Carolina State Auditor and his or her respective authorized employees or agents are authorized to examine copies of all books, records, and accounts of the Vendor to the extent they are directly pertinent to the services in this Contract or to costs charged by the Vendor under this Contract. Any such examination shall be conducted at the State Auditor's expense and made upon reasonable prior written notice to the Vendor and during the Vendor's normal business hours. Any person examining such books, records, or accounts must comply with the Vendor's security rules, policies, and procedures. In addition, the Client and the Client's auditor shall have the right to examine copies of all books, records, and accounts of the Vendor to the same extent and under the same terms provided in the first three sentences of this section. Such right shall include without limitation the right to make copies of such books, records, and accounts. The Vendor shall cooperate reasonably with the Client, the Client's auditor, and the State Auditor in any examination pursuant to this section.

9. Assignment.

- a. The Vendor is prohibited from assigning this Contract, in whole or in part, or delegating any obligation under this Contract, except as permitted in writing by the Client. For clarity, assignment includes without limitation transfer to a successor entity in a merger, acquisition, or reorganization. Any purported assignment or delegation made in violation of this provision shall be void and a material breach of this Contract. The Client's rights, duties, and obligations under the Contract shall continue without interruption notwithstanding any reorganization of State government in accordance with Chapter 143A of the North Carolina General Statutes.

- b. If the Client provides written permission for the Vendor to use a subcontractor, the Vendor remains solely responsible for the performance of the subcontractor, including the Vendor's Affiliates, and the subcontractor shall adhere to the same standards required of the Vendor. Any contracts made by the Vendor with a subcontractor shall include provision that (a) the Client is an intended third-party beneficiary of the contract; (b) the subcontractor has no contract with the Client; and (c) the Client shall be indemnified by the Vendor for any claim presented by the subcontractor to the Client. The Vendor shall timely exercise its contractual remedies against any non-performing subcontractor and when appropriate, substitute another subcontractor.

10. Compliance with Laws.

- a. The Vendor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business and its performance in accordance with this Contract, including those of federal, state, local, foreign, and self-regulatory agencies having jurisdiction or authority (collectively, "Legal Requirements"). [Compliance with bar requirements and IRS requirements.]
- b. Without limiting subsection (a), the Vendor represents, warrants, and covenants that:
 - i. Each attorney who provides the Services is, and during the term of the Agreement shall remain, (A) licensed by at least one bar in the United States; (B) in good standing with all bars that license the attorney; and (C) fully compliant with all requirements of the bars that license the attorney, the Internal Revenue Service, and any other applicable regulatory entity; and
 - ii. The Vendor has, and during the term of the Agreement shall maintain, all registrations and licenses required for the Vendor to conduct business in the State of North Carolina.
- c. In the event that a change in Legal Requirements requires a change in the performance of the Services or the quality of the Deliverables prior to their performance or delivery, the Vendor shall promptly notify the Client in writing, indicating the specific Legal Requirement(s) that require such change. The Client reserves the right to accept any such changes, including any price adjustments occasioned thereby, or to terminate this Contract.

11. Equal Employment Opportunity. The Vendor shall maintain a non-discrimination policy and shall comply with all State and Federal laws relating to equal employment opportunity.

12. Insurance.

- a. During the term of this Contract, the Vendor at its sole cost and expense shall procure and maintain, at a minimum, the following types and levels of insurance on an occurrence basis:
 - i. Professional liability insurance (errors and omissions) with limits of at least \$1,000,000 per claim and aggregate;
 - ii. Fidelity bond;
 - iii. Cybersecurity insurance with limits of at least \$1,000,000 per claim and aggregate;
 - iv. Commercial general liability insurance, with limits of at least \$1,000,000 per occurrence and

- aggregate;
- v. Worker's compensation insurance, as required by the laws of North Carolina, as well as employers' liability coverage with minimum limits of \$500,000.00, covering all of the Vendor's employees who are engaged in any work under this Contract. If any work is subcontracted, the Vendor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under this Contract; and
 - vi. Automobile liability insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with this Contract. The minimum combined single limit shall be \$500,000 bodily injury and property damage; \$500,000 uninsured/under insured motorist; and \$5,000 medical payment.
- b. The commercial general liability policy shall include the Client as an additional insured with respect to liability imposed on the Client arising directly from the acts or omissions of the Vendor while providing the Services hereunder.
 - c. Obtaining and maintaining the required insurance coverage, as described above, is a material obligation of the Vendor and is of the essence of this Contract. All such insurance shall comply with all applicable laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that (i) are authorized to provide such coverage; (ii) have at least an A- rating by the A.M. Best Company; and (iii) are authorized by the North Carolina Commissioner of Insurance to do business in North Carolina. The Vendor shall at all times comply with the terms of such insurance policies and all requirements of the insurer under any such insurance policies, except as they may conflict with existing, applicable North Carolina laws.
 - d. The limits of coverage under each insurance policy maintained by the Vendor shall not be interpreted as limiting the Vendor's liability and obligations under this Contract.
 - e. Proof of insurance shall be provided concurrent with the execution of this Contract and, thereafter, upon request by the Client.

13. Advertising. The Vendor shall not, without the prior written consent of the Client, use the name of the Client, the Plans, "North Carolina Retirement Systems," "North Carolina Supplemental Retirement Plans," or "North Carolina Total Retirement Plans" or any name derivative of or confusingly similar to the foregoing in any offering material, press release, brochure, notice, or other publication or in any written marketing presentation made in connection with the offering of the Vendor's services; provided that the Vendor may include the Client's name in the Vendor's representative client listing.

14. Force Majeure. Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, power interruption, common carrier delay, acts or orders of governmental authority, fire, nuclear or other explosion, riot, strikes, civil insurrection, earthquake, flood, hurricane, tornado, or other catastrophic natural events or act of God.

15. Sovereign Immunity. The Vendor acknowledges and agrees that the Client reserves all immunities, defenses, rights, and actions arising out of its sovereign status or under the Eleventh Amendment to the U.S. Constitution, and no waiver of any such immunities, defenses, rights, or actions shall be implied or

otherwise deemed to exist by reason of its execution of this Contract, by any express or implied provision thereof, or by any actions or omissions to act by the Client or any of the Client's representatives or agents, whether taken pursuant to or prior to the Client's execution of this Contract. Notwithstanding the foregoing, the Client hereby acknowledges that the foregoing does not limit the validity of the contractual obligations of the Client hereunder and the legally binding nature of those obligations against the Client.

16. Ethics Policies.

- a. The Vendor has reviewed the Client's policies listed below and shall use its commercially reasonable efforts to prevent the Vendor Parties from violating the following policies:
 - i. Ethics and Conduct Policy (Tier 1);
 - ii. Supplemental Ethics Policy (Tier 2); and
 - iii. Divestment and Contract Prohibition Policy.

The policies are available on the Department's website (www.nctreasurer.com).

- b. No Vendor Party has made or will make any gift to, or a charitable donation as a result of a direct or indirect solicitation by, any employee of the Department or member of the Board.

"Vendor Parties" means (1) the Vendor; (2) the Vendor's officers, managing partners (or members), and comparable leadership of the Vendor; and (3) the Key Personnel and other Vendor employees who are expected to provide the Services.

17. Standard of Care. Without limiting any other provision of this Contract, the Vendor shall perform the Services under this Contract with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent professional acting in a like capacity and familiar with the Services to be provided under this Contract would exercise in providing such Services.

18. Conflicts of Interest. The Vendor represents, warrants, and covenants that no Vendor Party has, nor shall have during the term of this Contract, a financial interest or any other business relationship that would or may create a conflict of interest in its role in providing the Services under this Contract.

19. Disclosure.

- a. Except as disclosed in writing to the Client, no Vendor Party is or has been the subject of, or a defendant in: (i) an investigation or suspension or revocation of a license or certification by a U.S., state, local, or foreign governmental, regulatory, or self-regulatory body; (2) an enforcement action or prosecution (or settlement in lieu thereof) brought by a governmental authority or self-regulatory organization relating to a violation of the Legal Requirements or securities, tax, fiduciary, audit, accounting, consulting, or criminal laws; or (ii) a civil action (or settlement in lieu thereof) brought by investors or clients relating to a violation of Legal Requirements or securities, tax, consulting, or fiduciary laws. The foregoing sentence includes without limitation undertakings by a bar or the Internal Revenue Service.
- b. To the best knowledge of the Vendor, there is no legal action of the types described in subsection (a) ("Legal Actions") that is threatened against a Vendor Party; and
- c. During the term of this Contract, the Vendor shall notify the Client promptly if it receives notice of

any Legal Actions.

- 20. Data Security Requirements.** The Vendor shall comply with the provisions of Exhibit I (Information Security Requirements) in providing the Services.
- 21. Survival.** The following sections shall survive the termination or expiration of this Contract: 1, 3, 4.a, 4.b, 6, 7, 8, 9, 13, 15, 20, 21, 23, 24, 25, 26, 28, and 33. In addition, all provisions of this Contract shall continue to apply to actions taken before the termination or expiration of this Contract.
- 22. Signature Warranty.** Each signatory of this Contract warrants that he or she is duly authorized by the respective party to sign this Contract on behalf of and to bind his or her respective party to the terms and conditions herein.
- 23. Waiver.** Any waiver of any term or condition of this Contract shall be effective only if in writing and signed by all Parties hereto. Waiver by either party of any default or breach by the other party shall not be deemed a waiver of any subsequent default or breach.
- 24. Severability.** It is the intent of the parties that the provisions of this Contract shall be enforced to the fullest extent permitted by applicable law. To the extent that the terms set forth in this Contract or any word, phrase, clause, or sentence is found to be illegal or unenforceable for any reason, such word, phrase, clause or sentence shall be modified, deleted, or interpreted in such a manner so as to afford the party for whose benefit it was intended the fullest benefit commensurate with making this Contract, as modified, enforceable, and the balance of this Contract shall not be affected thereby, the balance being construed as severable and independent.
- 25. Entire Contract.** This Contract and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. The RFP (including any addenda), the BAFO, and the Vendor's responses to the RFP and BAFO are incorporated herein by reference. Conflicts among the documents that form this Contract shall be resolved in the following order of precedence (highest to lowest): (a) the provisions of this Contract (highest precedence); (b) the provisions of the BAFO; (c) the provisions of the RFP; (d) the Vendor's response to the BAFO; (e) and finally the Vendor's response to the RFP (lowest precedence).
- 26. Amendments.** This Contract may not be amended orally or by performance. This Contract may be amended only by a written amendment duly executed by the Client and the Vendor. The parties waive the right to amend the provisions of this section orally.
- 27. Counterparts.** This Contract may be executed and delivered in one or more counterparts (including by email and facsimile transmission), each of which shall be deemed an original but both of which shall constitute one and the same instrument. A party's electronic or scanned signature (e.g., PDF) on this Contract shall have the legal equivalent of a handwritten signature for all purposes.
- 28. Notices.** All notices shall be in writing and sent by (i) hand delivery; (ii) United States registered or certified mail, return receipt requested; (iii) a national third-party courier that provides signature receipts of delivery; or (iv) email. Notices are effective as of the date of actual receipt. If a notice is sent by email and

there exists an email acknowledgement confirming receipt, then the notice is effective as of the time of the transmission of the email notice.

- a. Notices to the Client shall be sent to the following:

North Carolina Department of State Treasurer
Attn: General Counsel
3200 Atlantic Avenue
Raleigh, NC 27604
Email: Ben.Garner@nctreasurer.com

With copies to:
Reid.Chisholm@nctreasurer.com
AND
Timothy.Melton@nctreasurer.com

- b. Notices to the Vendor shall be sent to the following:
[Name, title, address, and email address]

- 29. Availability of Funds.** Any and all payments to the Vendor shall be dependent upon and subject to the availability of funds appropriated or allocated to the Client for the purpose set forth in this Contract.
- 30. Taxes.** The Client represents that the Board and the Department are governmental entities of the State of North Carolina. The Vendor shall not invoice the Client for any Federal or state income taxes or other Federal or state taxes from which state governmental entities are exempt, unless required by the North Carolina Department of Revenue.
- 31. Key Personnel.** The Vendor shall not replace Key Personnel assigned to the performance of this Contract without the prior approval of the Client. The individuals designated as Key Personnel for purposes of this Contract are those specified in the Vendors' response to the RFP.
- 32. Time is of the Essence.** Time is of the essence in the performance of this Contract with respect to the provision of the Services.
- 33. Bar Rules.** Without limiting any other provision of this Contract, the Vendor and its employees and agents shall comply with the Bar Rules to which the Vendor and its employees and agents are subject. "Bar Rules" refer to the code of professional conduct (or comparable rules) for attorneys as enacted by a state bar (including the District of Columbia) and the federal, state, and local governmental statutes, ordinances, and regulations governing the legal profession.

10.0 ATTACHMENT D: HUB Supplemental Vendor Information

Solicitation #: _____

Vendor Name: _____

Historically Underutilized Businesses (HUBs) consist of minority, women, and disabled business firms that are at least fifty-one percent owned and operated by an individual(s) from one of these categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled.

Pursuant to G.S. 143B-1361(a), 143-48 and 143-128.4, the State invites and encourages participation in this procurement process by businesses owned by minorities, women, the disable, disabled business enterprises, and non-profit work centers for the blind and severely disabled. This includes utilizing individual(s) from these categories as subcontractors to perform the functions required in this Solicitation.

The Vendor shall respond to questions below, as applicable.

PART I: HUB CERTIFICATION

Is Vendor a NC-certified HUB entity? **Yes** **No**

If **yes**, provide Vendor #: _____

If **no**, does Vendor qualify for certification as HUB? **Yes** **No**

Vendors that check “yes” will be referred to the HUB Office for assistance in acquiring certification.

PART II: PROCUREMENT OF GOODS - SUPPLIERS

For *Goods* procurements, are you using Tier 2 suppliers? **Yes** **No**

If **yes**, then provide the following information:

Company Name	Company Address	Website Address	Contact Name	Contact Email	Contact Phone	NC HUB certified?	Percent of total bid price

PART III: PROCUREMENT OF SERVICES - SUBCONTRACTORS

For *Services* procurements, are you using Subcontractors to perform any of the services being procured under this solicitation? **Yes** **No**

If **yes**, then provide the following information:

Company Name	Company Address	Website Address	Contact Name	Contact Email	Contact Phone	NC HUB certified?	Percent of total bid price

Need more information?

Questions concerning the completion of this form should be presented during the Q&A period through the process defined in the Solicitation document.

Questions concerning NC HUB certification, contact the [North Carolina Office of Historically Underutilized Businesses](#) at 984-236-0130 or huboffice.doa@doa.nc.gov

11.0 ATTACHMENT E.: CUSTOMER REFERENCE TEMPLATE

Solicitation #:

Vendor Name:

Instructions: Vendor shall use this template to submit the following customer references with its offer.

1. Three (3) references for clients that sponsor defined benefit (DB) plans, preferably governmental plans, for which legal services were provided within the past three (3) years; and
2. Three (3) references for clients that sponsor defined contribution (DC) plans, preferably governmental plans, for which legal services were provided in the past three (3) years.

Clients that sponsor defined benefit and defined contribution plans may be used for both numbers 1 and 2 above. The State may contact Vendor references during the evaluation process to determine whether the Services provided were similar in scope to those proposed herein and whether the Vendor’s performance was satisfactory.

Name of Customer Organization:	
Type of Plan (DB, DC, or both):	
Customer Reference Name:	
Customer Reference Address:	
Customer Reference Email:	
Start Date:	
End Date:	
Explanation of services provided to the organization:	

Name of Customer Organization:	
Type of Plan (DB, DC, or both):	
Customer Reference Name:	
Customer Reference Address:	
Customer Reference Email:	
Start Date:	
End Date:	

Explanation of services provided to the organization:	
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Name of Customer Organization:	
Type of Plan (DB, DC, or both):	
Customer Reference Name:	
Customer Reference Address:	
Customer Reference Email:	
Start Date:	
End Date:	
Explanation of services provided to the organization:	

Add additional boxes as needed.

12.0 ATTACHMENT F.: LOCATION OF WORKERS UTILIZED BY VENDOR

Solicitation #: _____

Vendor Name: _____

In accordance with NC General Statute G.S. 143-59.4, Vendor shall detail the location(s) at which performance will occur, as well as the manner in which it intends to utilize resources or workers outside of the United States in the performance of The Contract.

Vendor shall complete items 1 and 2 below.

1. Will any work under this Contract be performed outside of the United States?

Yes No

If "YES":

- a) List the location(s) outside of the United States where work under the Contract will be performed by the Vendor, any subcontractors, employees, or any other persons performing work under the Contract.

- b) Specify the manner in which the resources or workers will be utilized:

2. Where within the United States will work be performed?

NOTES:

1. The State will evaluate the additional risks, costs, and other factors associated with the utilization of workers outside of the United States prior to making an award.
2. Vendor shall provide notice in writing to the State of the relocation of the Vendor, employees of the Vendor, subcontractors of the Vendor, or other persons performing services under the Contract to a location outside of the United States.
3. All Vendor or subcontractor personnel providing call or contact center services to the State of North Carolina under the Contract **shall disclose** to inbound callers the location from which the call or contact center services are being provided.

13.0 ATTACHMENT G.: CERTIFICATION OF FINANCIAL CONDITION

Solicitation #: _____

Vendor Name: _____

The undersigned hereby certifies that: **[check all applicable boxes]**

- The Vendor is in sound financial condition and, if applicable, has received an unqualified audit opinion for the latest audit of its financial statements.
Date of latest audit: _____ (If no audit within past 18 months, explain reason below.)
- The Vendor has no outstanding liabilities, including tax and judgment liens, to the Internal Revenue Service or any other government entity.
- The Vendor is current in all amounts due for payments of federal and state taxes and required employment-related contributions and withholdings.
- The Vendor is not the subject of any current litigation or findings of noncompliance under federal or state law.
- The Vendor has not been the subject of any past or current litigation, findings in any past litigation, or findings of noncompliance under federal or state law that may impact in any way its ability to fulfill the requirements of this Contract.
- He or she is authorized to make the foregoing statements on behalf of the Vendor.

Note: This shall constitute a continuing certification and Vendor shall notify the Contract Lead within 30 days of any material change to any of the representations made herein.

If any one or more of the foregoing boxes is NOT checked, Vendor shall explain the reason(s) in the space below. Failure to include an explanation may result in Vendor being deemed non-responsive and its submission rejected in its entirety.

Signature

Date

Printed Name

Title

[This Certification must be signed by an individual authorized to speak for the Vendor]

***** Failure to Return the Required Attachments May Eliminate Your Response from Further Consideration *****

EXHIBIT I. TO ATTACHMENT C: INFORMATION SECURITY PROVISIONS

1. Definitions. The following definitions apply to this exhibit. Capitalized terms that are not defined in this exhibit have the same meaning as in the North Carolina General Terms and Conditions.
 - a. "Client's Property" means collectively the Client's Data and the Deliverables.
 - b. "Data Policy" means the Statewide Data Classification and Handling Policy located at <https://it.nc.gov/document/statewide-data-classification-and-handling-policy>.
 - c. "Vendor's Systems" means the Vendor sites and other Vendor housing systems, including without the infrastructure, computer systems, networks, servers, and databases maintained by the Vendor or its agents or subcontractors in connection with the provision of the Services.
 - d. "Information Security Program" is defined in Section 6.
 - e. "Security Incident" means the following:
 - i. Loss, corruption, or unauthorized disclosure of, or unauthorized access to, the Client's Property or the Vendor's Systems;
 - ii. Fraudulent activity related to or affecting the Client's Property, the Services, or the Vendor's Systems;
 - iii. Introduction of viruses, disabling devices, or malware into the Client's Property or the Vendor's Systems;
 - iv. Any other malicious or inadvertent act that disrupts the access to, or the use or provision of, the Client's Property, the Services, or the Vendor's Systems; and
 - v. Any attempt to perform an act in subsections (i)-(iv).
2. Protection of the Client's Property. The Vendor shall protect the Client's Property in its possession, or the possession of a subcontractor, from unauthorized disclosure, unauthorized access, loss, damage, destruction by natural event, and other eventuality.
3. Protection of Restricted Data. Without limiting any other provision of this exhibit or the Contract, for purposes of the Contract, the Vendor shall treat the Client's Property as Restricted Data under the Data Policy and shall comply with the provisions of the Data Policy for such Restricted Data.
4. Security.
 - a. In order to protect the Client's Property, the Vendor shall provide, implement, and maintain (i) physically secure and encrypted backup of the Client's Property; (ii) secure passwords for the Vendor's Systems, as well as all appropriate administrative, physical, technical, and

procedural safeguards to protect the Client's Property and the Vendor's Systems from a Security Incident.

- b. The Vendor shall notify the Client within 24 hours of a Security Incident and shall meet with the Client as requested to discuss a Security Incident and the Vendor's response to the Security Incident.
5. Backup. The Vendor shall allow periodic backup of the Client's Property by the Client and the State to the State's infrastructure as the required by the State or Legal Requirements.
6. Information Security Program.
 - a. The Vendor has implemented, and shall maintain, an effective written information security program ("Information Security Program") that includes administrative, technical, and physical safeguards and other security measures necessary to (i) ensure the security, confidentiality, and integrity of the Client's Data; (ii) protect against any anticipated threats or hazards to the security, confidentiality, and integrity of the Client's Data; (iii) protect against unauthorized access to, destruction, modification, disclosure or use of the Client's Data; and (iv) detect and respond to Security Incidents involving the Client's Data.
 - b. The Vendor's Information Security Program addresses, and during the term of the Contract shall address, the following areas: (i) risk assessment and identification; (ii) data governance and classification; (iii) asset inventory and device management; (iv) access controls and identity management; (v) business continuity and disaster recovery planning and resources; (vi) system operations and availability; (vii) systems and network monitoring and security; (viii) system and application development and quality assurance; (ix) physical security and environmental controls; and (x) vendor management.
7. Compliance with Laws and Standards. The Vendor certifies that it shall treat the Client's Property in compliance with Legal Requirements and applicable industry standards with respect to privacy and data security, including without limitation any requirements implemented by the State under N.C.G.S. §§ 143B-1376 and -1377.
8. Notification. The Vendor shall notify the Client within 24 hours of a Security Incident and shall meet with the Client as requested to discuss a Security Incident and the Vendor's response to the Security Incident.
9. Access to Security Information. The Vendor shall allow the Client and the State reasonable access, at no cost, to security logs and reports, latency statistics, and other related security data regarding the Services and the Client's Property.
10. Movement of Client Property. In the course of normal operations, it may become necessary for the Vendor to copy or move Client's Property to another storage destination on its online system and

delete Client's Property found in the original location. In any such event, the Vendor shall preserve and maintain the content and integrity of the Client's Property.

11. Disaster. In the event of disaster or catastrophic failure that results in significant loss of the Client's Data or extended loss of access to the Client's Data or Services, the Vendor shall notify the Client by the fastest means available and in writing, with additional notification provided to the State Chief Information Officer or designee of the Client. The Vendor shall provide such notification within 24 hours after the Vendor reasonably believes there has been such a disaster or catastrophic failure. In the notification, the Vendor shall inform the Client of:
 - a. The scale and quantity of the loss of the Client's Property;
 - b. What the Vendor has done or will do to recover the Client's Property from backups and mitigate any deleterious effect of the loss of the Client's Property and the Services; and
 - c. What corrective action the Vendor has taken or will take to prevent future loss of the Client's Property and the Services.

If the Vendor fails to respond immediately and remedy the failure, the Client may exercise its remedies under the Contract or in law or at equity.

The Vendor shall investigate the disaster or catastrophic failure and shall share the report of the investigation with the Client. The Client, the State, and their respective agents shall have the right to lead (if required by Legal Requirements) or participate in the investigation. The Vendor shall cooperate fully with law enforcement and the Client, the State, and their respective agents.

12. Return of Client's Property. Following the termination or expiration of the Contract, cessation of business by the Vendor or other event preventing the Vendor from continuing to provide the Services, the Vendor shall not withhold the Client's Property or any other confidential information of the Client or refuse for any reason, to promptly return to the Client the Client's Property and any other confidential information of the Client (including copies) on such media as reasonably requested by the Client, even if the Client is then or is alleged to be in breach of the Contract. As a part of the Vendor's obligation to provide the Client's Property pursuant to this provision, the Vendor shall also provide the Client any data maps, documentation, software, or other materials necessary, including, without limitation, handwritten notes, materials, working papers or documentation, for the Client to use, translate, interpret, extract, and convert the Client's Property.
13. Secure Data Disposal. Except to the extent prohibited by Legal Requirements, upon the Client's request, the Vendor shall destroy all copies of the Client's Property that are in the possession of the Vendor or its subcontractor(s), including without limitation copies on disk, CD/DVD, backup tape, and paper. The Client's Property shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST) approved methods and certificates of destruction shall be provided to the Client up on request.

14. Survival. The provisions of this exhibit shall survive the termination or expiration of the Contract for as long as the Vendor or its subcontractor has possession of, or access to, the Client's Property