



STATE OF NORTH CAROLINA

**EMERGENCY MANAGEMENT – RISK MANAGEMENT
North Carolina Geodetic Survey (NCEM-RM-NCGS)**

REQUEST TO QUALIFY CONTRACTORS FOR AERIAL IMAGERY QUALITY CONTROL SURVEYS

Request for Qualification Applications No. 19-RFQ-015084-DAD

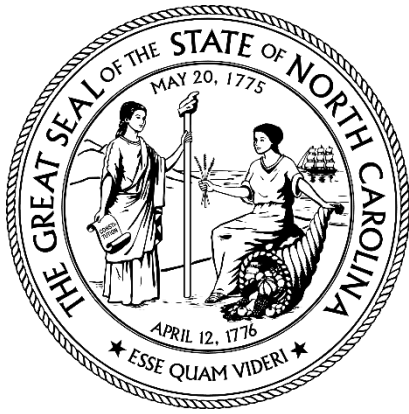
Date of Issue: May 7, 2020

Application Accepted Until: June 8, 2020 at 2:00 pm ET

ISSUING AGENCY: Department of Public Safety
Attn: Angie Dunaway
3030 Hammond Business Place
Raleigh, NC 27603

Direct all inquiries concerning this Request for Qualification to:
Angie Dunaway
angie.dunaway@ncdps.gov
(919) 324-6228

***NOTE: Applications received before the Opening Date will be processed.**



STATE OF NORTH CAROLINA

Request for Qualification No. 19-RFQ-015084-DAD

For internal State agency processing, please provide your company's Federal Employer Identification Number (FEID), Employer Identification Number (EIN), or alternate identification number (e.g. Social Security Number). Pursuant to North Carolina General Statute §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 is to be filled out and returned with your application.
Failure to do so may subject your application to rejection.**

Vendor's ID Number:

Federal ID Number or Social Security Number

Vendor Name



**STATE OF NORTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY**

Refer <u>ALL</u> Inquiries regarding this Request for Qualification to: Angie Dunaway angie.dunaway@ncdps.gov	Request for Qualification # 19-RFQ-015084-DAD
	Applications shall be submitted by: June 8, 2020 at 2:00 pm ET
	Contract Type: Open Market
	Commodity No. and Description: 905-10 Aerial Surveys & Mapping
	Using Agency: Emergency Management, Risk Management

EXECUTION

By executing this form, the undersigned Vendor certifies that its proposal is submitted competitively and without collusion (G.S. 143-54), that none of its officers, directors, or owners of an unincorporated business entity has 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. Gen. Stat. §143-59.2), and that it is not an ineligible Contractor as set forth in G.S. 143-59.1. False certification is a Class I felony. Furthermore, by executing this form, 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 Request for Qualification, 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. G.S. Gen. Stat. §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 Contract; 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 any response in this Request for Qualification, you attest, for your entire organization and its employees or agents that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization. *As required by the Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended), the undersigned Vendor certifies that by applying or bidding for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C § 1352. Each tier shall also disclose any lobbying with non-Federal funds that take place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient. This procurement complies with the State's own procurement laws, rules and procedures per 2 CFR § 200.317.*

By submitting and agreeing to terms and conditions of this Request for Qualifications, the undersigned Vendor certifies the following:

- The Vendor's Proposal is signed by representatives authorized to legally bind the Vendor.
- The Vendor is willing and able to obtain and furnish insurance certificates required by this RFQ within 10 calendar days after signing the contract.
- All costs will be mutually agreed upon and included in subsequent Delivery Orders.
- The Vendor has read and understands the terms and conditions set forth in this Request for Qualifications and agrees to each of them without exception.

Failure to execute/sign Proposal prior to submittal shall render this Proposal invalid and it WILL BE REJECTED.

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:		
PRINT NAME & TITLE OF PERSON SIGNING ON BEHALF OF VENDOR:		FAX NUMBER:
VENDOR'S AUTHORIZED SIGNATURE:	DATE:	EMAIL:

Offer valid for at least 90 days from date of RFQ opening, unless otherwise stated here: _____ days. After this date, any withdrawal of offer shall be made in writing, effective upon receipt by the agency issuing this RFQ.

ACCEPTANCE OF PROPOSAL

If any or all parts of this application are accepted by the State of North Carolina, an authorized representative of the Department of Public Safety shall affix his/her signature hereto and this document and all provisions of this Request for Qualification along with the Vendor response and the written results of any negotiations shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful Vendor(s).

<p>FOR STATE USE ONLY: Proposal accepted this _____ day of _____, 2020, as indicated on the attached certification, by _____ (Authorized Representative of Department of Public Safety).</p>
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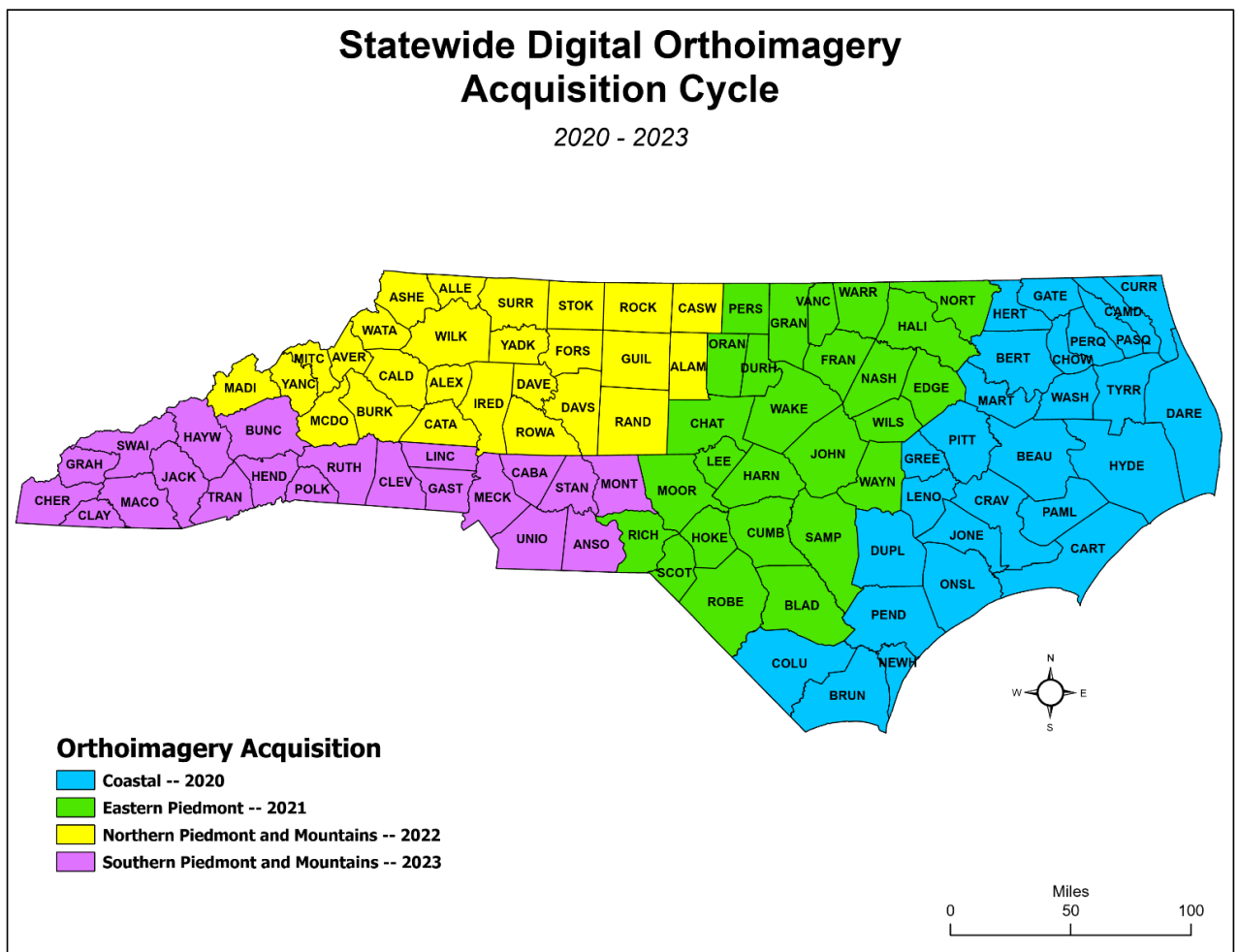
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1.0 PURPOSE AND BACKGROUND

The North Carolina Geodetic Survey (RM-NCGS), which is administratively located in the Department of Public Safety/North Carolina Emergency Management/Risk Management intends to award multiple Qualifications-Based Selection (QBS) contracts to qualified private surveying firms (henceforth referred to as the "Vendor") for the purpose of performing aerial imagery quality control (QC) surveys utilizing Global Navigation Satellite System (GNSS) and traditional survey methods to support the Statewide Digital Orthoimagery Project.

Note: The purpose of the orthoimagery project, which is funded by the North Carolina 911 Board (<http://www.nc911.nc.gov/>), is to collect seamless aerial imagery for use by local 911 agencies; local, state and federal agencies; and the public.

The work required by this Request for Qualification (RFQ) will consist of performing horizontal and vertical QC survey projects (adhering to RM-NCGS stipulated standards and specifications).



2.0 GENERAL INFORMATION

2.1 REQUEST FOR QUALIFICATION APPLICATION

The Request for Qualification is comprised of this RFQ document, any attachments, and any addenda released before the deadline for responses to this RFQ. All attachments and addenda released for this RFQ in advance of any Vendor award are incorporated herein by reference. Vendor may attach its proposal to this RFQ for submission; however, any and all additional, modified or conflicting terms and conditions submitted on or with Vendor's proposal shall be disregarded and shall not be considered a part of any contract arising from this RFQ. Any attempt to delete or avoid the force of the previous sentence shall render Vendor's submittal invalid, and it shall not be considered.

2.2 E-PROCUREMENT SOLICITATION

ATTENTION: This is NOT an E-Procurement solicitation. Paragraph #16 of Attachment C: North Carolina General Contract Terms and Conditions, paragraphs (b) and (c), do not apply to this solicitation.

The Terms and Conditions made part of this solicitation contain language necessary for North Carolina's Statewide E-Procurement Services. It is the Vendor's responsibility to read these terms and conditions carefully and to consider them in preparing its proposal. By execution of this RFQ, Vendor agrees to and acknowledges acceptance of all terms and conditions, including those related to E-Procurement usage. General information on the E-Procurement Services can be found at: <http://eprocurement.nc.gov/>.

2.3 NOTICE TO VENDORS REGARDING RFQ TERMS AND CONDITIONS

It shall be the Vendor's responsibility to read the Instructions, the State's terms and conditions, all relevant exhibits and attachments, and any other components made a part of this RFQ 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 concerning this RFQ.

If Vendors have questions, issues, or exceptions regarding any term, condition, or other component within this RFQ (including proposed alternate language), those **must** be submitted as questions in accordance with the instructions in Section 2.5 RFQ QUESTIONS. 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 RFQ addendum. The State may also elect to leave open the possibility for post-contract negotiation and amendment of specific provisions of the Contract that have been addressed during the question and answer period. Other than through this process, the State rejects and will not be required to evaluate or consider any additional or modified terms and conditions submitted with Vendor's proposal. 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.*

By execution and delivery of a proposal in response to this RFQ, 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. Noncompliance with, or any attempt to alter or delete, this paragraph shall constitute sufficient grounds to reject Vendor's RFQ as nonresponsive.

Any proposal that contains language that indicates the RFQ is non-binding or subject to further negotiation before a contractual document may be signed shall be rejected.

2.4 RFQ SCHEDULE

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

Event	Responsibility	Date and Time
Issue Request for Qualification	State	May 7, 2020
Submit Written Questions	Vendor	May 15, 2020 by 2:00 pm ET
Provide Responses to Questions	State	May 19, 2020
Submit Proposals	Vendor	June 8, 2020 by 2:00 pm ET
Contract(s) Award Notification	State	As soon as applicable after submission
Unit Rates Requested from Selected Qualified Vendors	State	One week after award notification
Unit Rates Submitted	Vendor	One week after request for unit rates
Delivery Orders Negotiated with Best Qualified Vendor(s) and Awarded	State	Ongoing as needed

2.5 RFQ QUESTIONS

Upon review of the RFQ documents, Vendors may have questions to clarify or interpret the RFQ in order to submit the best response possible. To accommodate the Qualification Questions process, Vendors shall submit any such questions by the above due date.

Written questions shall be emailed to angie.dunaway@ncdps.gov by the date and time specified above. Vendors should enter "Request for Qualification #19-RFQ-015084-DAD Aerial Mapping Questions" as the subject for the email. Questions submittals should include a reference to the applicable RFQ section and be submitted in a format shown below:

Reference	Vendor Question
RFQ Section, Page Number	Vendors question...?

Questions received prior to the submission deadline date, the State's response, and any additional terms deemed necessary by the State will be posted in the form of an addendum to the Interactive Purchasing System (IPS), <http://www.ips.state.nc.us>, and shall become an Addendum to this RFQ. 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 RFQ, shall be considered authoritative or binding. Vendors shall rely only on written material contained in an Addendum to this RFQ.

2.6 QUALIFICATION APPLICATION SUBMITTAL

RFQs will be accepted and reviewed by the State on an on-going basis, up until the final acceptance date listed on the cover page. **IMPORTANT NOTE: This is an absolute requirement.** 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 its proposal has been submitted to this Office by the specified time and date of opening. The time and date of submission will be marked on each proposal when received. Any proposal submitted after the submission deadline will be rejected.

E-MAIL INSTRUCTIONS

Submissions may be submitted via e-mail to: angie.dunaway@ncdps.gov. Vendors should enter “Request for Qualification #19-RFQ-015084-DAD Aerial Mapping Response” as the subject for the email. If Vendor elects to email response instead of hardcopy, **emailed response shall be followed up with a hardcopy** as indicated below.

MAIL or HAND DELIVERY INSTRUCTIONS

Mailing address for delivery of proposal via US Postal Service and delivery by any other method (special delivery, overnight, or any other carrier)
<p>QUALIFICATION NUMBER: 19-RFQ-015084-DAD Attn: Angie Dunaway North Carolina Department of Public Safety Purchasing and Logistics 3030 Hammond Business Place Raleigh, NC 27603</p>

Vendors shall deliver to the address identified in the table above one **(1) original, two (2) copies** and one **(1) electronic copy** (un-redacted) of its executed proposal on a flash drive, and, if required for confidentiality, one **(1) redacted copy** of its proposal (with all marked proprietary and confidential information redacted). Clearly mark on the electronic media whether it contains a redacted or un-redacted copy.

Clearly mark each package with: (1) Vendor name; (2) the RFQ number; and (3) the due date. Address the package(s) for delivery as shown in the table, above. File contents **shall NOT** be password-protected but, shall be in .PDF or .XLS format, and shall be capable of being copied to other sources.

Failure to submit a proposal in strict accordance with these instructions shall constitute sufficient cause to reject a Vendor’s proposal(s).

Critical updated information may be included in Addenda to this RFQ. It is important that all Vendors responding to this RFQ periodically check the State’s IPS website for any Addenda that may be issued prior to the RFQ opening date. All Vendors shall be deemed to have read and understood all information in this RFQ and all Addenda thereto.

Contact with anyone working for or with the State regarding this RFQ other than the State Contract Lead named on the face page shall constitute grounds for rejection of said Vendor’s proposal at the State’s election.

2.7 QUALIFICATION CONTENT

The below items are required to be submitted by the Vendor; failure to include any of the below items shall result in rejection of the Vendor's proposal:

a) Signed Documentation

Completed and signed version of EXECUTION PAGE (page 1 of this RFQ), along with the body of the RFQ (pages 2-20). Vendors must execute and acknowledge that they have read, understood and shall be bound by all provisions and requirements set forth in this RFQ and all Attachments. (The return of the RFQ documentation does not count toward the page limits).

b) Cover Letter

A cover letter shall be included from the Vendors interested in the project. The letter should be limited to 2 pages and should contain the following information:

- i. Statement regarding the Vendor's and team members' potential conflicts of interest for this project (if none, then so state).
- ii. Summation of information contained in the Letter of Qualification.
- iii. Listing of each affiliate, its contact info, and a description of any potential conflicts of interest. This listing of affiliates shall include, but not be limited to:
 - Joint ventures
 - Subsidiaries
 - Parent company
 - Companies owned or controlled by the parent company or a mutual owner. Essentially, the State/RM-NCGS needs to determine if there could be a conflict of interest between the Vendor and any related company that could be involved in any manner, shape, or form in this project.
- iv. Listing of any civil or criminal indictments, guilty pleas, or convictions of offenses involving the Vendor or any principal within the past 5 years.
- v. Vendor's project contact person, address, telephone number, FAX number, and email address.

c) Proposal Narrative

This section should be limited to ten (10) pages and should be typed using a font size 10 or larger on 8 ½" x 11" sheets, single spaced, one sided. In order to reduce costs and to facilitate recycling, the following items are discouraged: binders, dividers, and tabs. It is highly recommended that pages, sections, and paragraphs be numbered for easy reference.

This section shall contain information specifically addressing the evaluation criteria Section 3.0.

- i. Understanding of project approach.
- ii. Overview of any innovative approaches to be used.
- iii. List of equipment (field and office) and software that are available for use on this project.
- iv. Present and projected workload and manpower availability.

The last page of the proposal narrative should consist of an index to the "Supporting information and exhibits" packet.

d) Supporting Documentation

- i. Shall be relevant, referred to in the proposal, of minimal bulk, clearly identified, and neatly packaged, but not stapled to the proposal
- ii. Does not count as part of the 10-page proposal limit
- iii. Required components (explained in detail in Section III):

*Although the "Supporting information and exhibits" section is not counted toward the preferred ten (10) page limit, it should still be concise.

This supporting information section shall contain the following information:

- i. Organizational chart of the proposed team for the project, defining prime Vendor.
- ii. One-page resumes of key personnel to be used on the project and their anticipated role (include professional registration information, such as license numbers).
- iii. Overall summary of personnel to be assigned by discipline and professional licensing.
- iv. Documentation that the Professional Engineer or Surveyor in responsible charge of the work is a licensed Professional Engineer or Surveyor in the State of North Carolina in good standing with the North Carolina Board of Examiners for Engineers and Surveyors in accordance with Chapter 89C of the North Carolina General Statutes.
- v. Documentation that the prime Vendor and any of its corporate subsidiaries to be used on the program, as well as all team members, are properly registered to do business in North Carolina with the Office of the Secretary of State.
- vi. The following sections from the Vendor's written and current standard operations procedures manual for field personnel: 1). Table of Contents 2). Chapter on Field Safety. If neither document is available, so state.
- vii. Written or graphical evidence (e.g. plat of survey, control data sheets, and Table of Contents from a report of survey) of the Vendor's ability to perform an aerial imagery QC survey that meets or exceeds the accuracy requirements of this project.

e) Section 4.4 Vendor Experience

f) Section 4.5 References

g) Section 4.6 Financial Stability

h) Section 5.0 Scope of Qualification

i) All Attachments to this RFQ, including signatures where indicated

j) Signed receipt pages of any addenda released in conjunction with this RFQ.

2.8 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS

- a) **BAFO:** Best and Final Offer, submitted by a Vendor to alter its initial proposal, made in response to a request by the issuing agency.
- b) **BUYER:** The employee of the State or Other Eligible Entity that places an order with the Vendor.
- c) **CONTRACT LEAD:** Representative of the Department of Public Safety identified on the first page of this RFQ who will correspond with potential Vendors concerning RFQ issues and will contract with the Vendor providing the best offer to the State, and is the individual who will administer The Contract for the State.
- d) **DPS:** Department of Public Safety.
- e) **E-PROCUREMENT SERVICES:** The program, system, and associated Services through which the State conducts electronic procurement.
- f) **ET:** Eastern Time.
- g) **GNSS:** Global Navigation Satellite System.
- h) **IDIQ:** Indefinite Delivery/Indefinite Quantity contract
- i) **LOQ:** Letter of Qualifications.
- j) **NCBEES:** North Carolina Board of Examiner for Engineers and Surveyors.
- k) **NCEM:** North Carolina Emergency Management.
- l) **NCEM-NCFMP:** North Carolina Emergency Management, North Carolina Floodplain Mapping Program
- m) **NCEM-RM-NCGS:** North Carolina Emergency Management, Risk Management, North Carolina Geodetic Survey

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- n) **OPENING DATE:** Proposals will only be accepted up until the specified time and date listed in the RFQ. NO proposals will be accepted after that time and date.
 - o) **PLS:** Professional Land Surveyor.
 - p) **PRINCIPLE PLACE OF BUSINESS:** The principal place from which the overall trade or business of the Vendor is directed or managed.
 - q) **QC:** Quality Control.
 - r) **QUALIFIED PROPOSAL:** A responsive proposal submitted by a responsible Vendor.
 - s) **RM-NCGS:** Risk Management, North Carolina Geodetic Survey.
 - t) **SERVICES or SERVICE DELIVERABLES:** The tasks and duties undertaken by the Vendor to fulfill the requirements and specifications of this RFQ.
 - u) **SHALL or MUST:** Denotes that which is a mandatory requirement. Failure to meet a mandatory requirement will result in the rejection of the proposal.
 - v) **SHOULD:** Denotes that which is recommended, not mandatory.
 - w) **STATE:** The State of North Carolina, including any of its sub-units recognized under North Carolina law.
 - x) **STATE AGENCY:** Any of the more than 400 sub-units within the executive branch of the State, including its departments, boards, commissions, institutions of higher education and other institutions.
 - y) **THE CONTRACT:** A contract resulting from or arising out of Vendor responses to this RFQ document.
 - z) **VENDOR:** Supplier, bidder, proposer, company, firm, corporation, partnership, individual or other entity submitting a response to this Request for Qualification. Following award of a contract, the term refers to an entity receiving such an award.

2.9 MONITORING AND EVALUATION OF WORK

- a) The Technical Administrator (See Section 6.1) is responsible for ensuring that the work being performed is complete, accurate, and consistent with the terms and conditions of the contract. The Technical administrator will:
 - i. Schedule and attend progress meetings. The Vendor, at the request of the State/RM-NCGS, shall meet periodically with the State or RM-NCGS for Project Review meetings. The purpose of these meetings will be to review project progress reports, discuss Vendor and State/RM-NCGS performance, address outstanding issues, review problem resolution, provide direction, evaluate continuous improvement and cost saving ideas, and discuss any other pertinent topics;
 - ii. Monitor discussions and conditions leading to contract modifications;
 - iii. Visit the project and/or the Vendor's office(s) on a frequency that is commensurate with the magnitude, complexity, and type of work; and
 - iv. Assure that costs billed are consistent with the acceptability and progress of the Vendor's work.
- b) On all contracts exceeding \$10,000, the RM-NCGS Technical Administrator shall prepare written interim and/or final performance evaluation reports that will be sent to the Vendor for comment upon project completion and after appropriate milestones. These reports should include, but not be limited to, an evaluation of:
 - i. Work quality;
 - ii. Adherence to the work schedule (i.e. timely completion of the work); and
 - iii. Conformance with established policy.

3.0 METHOD OF AWARD AND RFQ EVALUATION PROCESS

3.1 METHOD OF AWARD

Contracts will be awarded in accordance with G.S. 143-52 and the evaluation criteria set out in this RFQ. Prospective Vendors shall not be discriminated against on the basis of any prohibited grounds as defined by Federal and State law.

All qualified proposals will be evaluated and award or awards will be made based on Vendors scoring.

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

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 under this RFQ. Any Vendor with an E-Procurement Services account that is in arrears by 91 days or more at the time of RFQ opening may, at the State's discretion, be disqualified from further evaluation or consideration.

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

3.2 CONFIDENTIALITY AND PROHIBITED COMMUNICATIONS

From the issuance date of this RFQ through the date the contract is awarded, each Vendor submitting a proposal (including its representatives, sub-contractors and/or suppliers) 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, department secretary, agency head, members of the general assembly and/or governor's office), or private entity, if the communication refers to the content of Vendor's proposal or qualifications, the contents of another Vendor's proposal, another Vendor's qualifications or ability to perform the 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 and/or the award of the contract. A Vendor not in compliance with this provision shall be disqualified from contract award, unless it is determined in the State's discretion that the communication was harmless, that it was made without intent to influence and that the best interest of the State would not be served by the disqualification. A Vendor's proposal may be disqualified if its sub-contractor and supplier engage in any of the foregoing communications during the time that the procurement is active (i.e., the issuance date of the procurement to the date of contract award). Only those discussions, communications or transmittals of information authorized or initiated by the issuing agency for this RFQ or general inquiries directed to the purchaser regarding requirements of the RFQ (prior to submission) or the status of the contract award (after submission) are excepted from this provision.

3.3 QUALIFICATION EVALUATION PROCESS

The State shall review all Vendor proposals to this RFQ to confirm that each one complies with the specifications and requirements of the RFQ.

The State will conduct an evaluation of proposals, as follows:

- a) Proposals will be received from each responsive Vendor either via Email or in an envelope or package until the date and time specified.

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- b) All proposal shall be received by the issuing agency not later than the date and time specified on the cover sheet of this RFQ, or as modified by an addendum.
- c) At its option, the State may request clarifications, oral presentations or discussions with any or all Vendors in order to clarify or to amplify the materials presented in any part of the proposal or requested in the RFQ. Vendors are cautioned, however, that the State is not required to request presentations or other clarification—and often does not. Therefore, all proposals should be complete and reflect the most favorable terms available from the Vendor.
- d) Proposals will generally be evaluated, based on completeness, content, and responsibility of the Vendor to supply the requested goods and services. Specific evaluation criteria are listed in Section 3.1 METHOD OF AWARD.
- e) Upon completion of the evaluation process, the State will make Award(s) based on the evaluation and post the award(s) to IPS under the RFQ number. 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.
- f) Vendors are cautioned that this is a request for qualification offers, not an offer or request to contract, and the State reserves the unqualified right to reject any and all proposals at any time if such rejection is deemed to be in the best interest of the State.

3.4 EVALUATION CRITERIA

The evaluation of Vendors submitting for this work will be based on the following evaluation criteria. The respective points for each criterion are indicated in parentheses:

Proposal Narrative (80 Points)

The Vendor shall use this section to describe in documented narrative form how it provides its clients (present and former) with “best value” service, which means:

- a) Offering and performing high quality surveying according to standards and specifications equal to or exceeding in all respects those being requested by RM-NCGS for this particular RFQ.
- b) Conducting all contracted work and delivering all contracted work products in a timely manner, at a reasonable cost, and within budget.

This section shall include clear and convincing evidence to support all claims and statements:

- VENDOR EXPERIENCE per Section 4.4
- EQUIPMENT per Section 5.2 d
- METHODS per Section 5.1
- DELIVERABLES per Section 5.6

Supportive Information and Exhibits per Section 2.7 d (15 Points)

The Vendor shall describe/provide:

- Organizational chart for proposed project team
- Resumes of key personnel to be assigned; and, their anticipated role (include professional registration information, such as license numbers)
- Summary of personnel to be assigned by discipline and professional licensing
- Vendor Operations Procedures Manual

- Table of Contents
- Chapter on Field Study
- Written or graphical evidence (e.g. plat of survey, control data sheets, and Table of Contents from a report of survey) demonstrating the Vendor's ability to perform an aerial imagery QC survey that meets or exceeds the accuracy requirements of this project

Financial Statement (5 Points)

Most recent annual balance sheet, income statement/statement of retained earnings and cash flow statement, or most recent statement of financial condition by an independent auditor per Section 4.6 FINANCIAL STABILITY.

In addition to providing the above each Vendor shall certify it is financially stable by completing the ATTACHMENT NUMBER E: CERTIFICATION OF FINANCIAL CONDITION. The State/RM-NCGS 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/RM-NCGS within thirty (30) days of any occurrence or condition that materially alters the truth of any statement made in this Certification.

It is the intent of NCEM-RM-NGS to evaluate the proposals based on criteria defined above. Upon evaluation, a short list will be developed from firms scoring **80** or more of the available points.

The selection of Vendor(s) will be based on demonstrated competence and qualification for the professional services required without regard to cost in accordance with N.C. General Statute § 143-64.31. Thereafter, the State will negotiate a contract for the engineering/surveying and related services described herein with the best qualified firm(s).

Through the Indefinite Delivery/Indefinite Quantity (IDIQ) contract, North Carolina Emergency Management, North Carolina Floodplain Mapping Program (NCEM-NCFMP) and the selected Vendor(s) will negotiate an overall, general scope of engineering/surveying and mapping services to be provided in support of the State's program. Then, NCEM-NCFMP may order services through issuing Delivery Orders under the contract as needed to successfully complete the program.

3.5 PERFORMANCE OUTSIDE THE UNITED STATES

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

- 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 CONFIDENTIALITY DURING PROCESS

During the evaluation period and prior to awarding contract(s), all information concerning the proposal and evaluation is confidential, and possession of the proposal and accompanying information is limited to personnel of the issuing agency and any third parties involved in this procurement process, and to the committee responsible for participating in the evaluation. Any attempt on behalf of a Vendor to gain such confidential information, or to influence the evaluation process (e.g., contact anyone involved in the evaluation, criticize another Vendor, offer any benefit or information not contained in the proposal) in any way is a violation of North Carolina purchasing law and regulations and shall constitute sufficient grounds for rejection of Vendor's proposal from further evaluation or consideration in the discretion of the State.

3.7 INTERPRETATION OF TERMS AND PHRASES

This Request for Qualification serves two functions: (1) to advise potential Vendors of the parameters of the solution being sought by the Department; and (2) to provide (together with other specified documents) the terms of the Contract that results from this procurement. As such, all terms in the Request for Qualification shall be enforceable as contract terms in accordance with the General Contract Terms and Conditions. The use of phrases such as "shall," "must," and "requirements" are intended to create enforceable contract conditions. In determining whether the RFQ should be evaluated or rejected, the Department will take into consideration the degree to which Vendors have proposed or failed to propose solutions that will satisfy the Department's needs as described in the Request for Qualification. Except as specifically stated in the Request for Qualification, 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 Department exercising its discretion to reject a RFQ in its entirety.

4.0 REQUIREMENTS

This Section lists the requirements related to this RFQ. 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 RFQ. If Vendor is unclear or has any question about the specifications, requirements and terms and conditions herein, it is urged and cautioned to contact the person on page 1 as specified in this RFQ and in accordance with the requirements of Section 2.5. "RFQ Questions."

4.1 CONTRACT TERM

Vendors that are determined to be qualified to perform work described under this RFQ will be eligible to contract with RM-NCGS for a period of three (3) years.

4.2 PAYMENTS, PAYMENT SCHEDULE AND TRAVEL COSTS

The method of compensation will be a negotiated total cost for each work assignment per this agreement.

RM-NCGS will not grant final approval on any project until:

- All specified work is completed, inspected and accepted by RM-NCGS per RM-NCGS technical standards and specifications.
- All survey and mapping products are delivered, reviewed, and accepted by RM-NCGS per RM-NCGS technical standards and specifications.

Note: The State//RM-NCGS, at its option and upon receipt of written invoice for any particular phase of a work assignment, may make partial payments to the Vendor, but only for work completed, inspected, and accepted by the State's Contract administrator, namely RM-NCGS.

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

Travel reimbursement shall not exceed the current in-state travel and per diem rates for state employees without the prior written approval of the State's Contract administrator, RM-NCGS. Normally, distances will be computed as one (1) round trip per week from the Vendor's nearest office to the centroid of the job project area. Travel within the job project area will be included in the per task cost.

4.3 INVOICES

The Vendor shall submit invoices for prescribed milestones associated with specific Delivery Orders to NCEM-NCFMP itemizing the services actually performed in accordance with the agreed upon Delivery Order pricing. NCEM-NCFMP shall pay the appropriate invoice amount within sixty (60) days of receipt, subject to NCEM-NCFMP review and approval of the Delivery Order work satisfactorily performed. NCEM-NCFMP shall withhold five (5) percent (5%) from the amounts to be paid to the Vendor on each respective Delivery Order. The amount withheld shall be paid to the Vendor upon the Vendor's satisfactory completion of the entire Delivery Order work. Delivery Orders agreed upon by the Parties shall be made a part of this Contract by written amendment.

4.4 VENDOR EXPERIENCE

Vendor shall identify all personnel qualifications and experience as related to this project. Any personnel or agent of the Vendor performing services under any contract arising from this RFQ may be required to undergo a background check at the expense of the Vendor if so requested by the State (See Section 4.7).

Describe any unique qualifications and availability of team members.

Describe the type and location of similar work performed within the last 5 years. For each project, list location, dates, and size of project; types of work performed and products produced; and the name and current telephone number for at least three references in Section 4.5.

NCEM-NCFMP reserves the right to contact all the references listed, if information from the three references contacted warrant further inquiry, NCEM-NCFMP may check all public sources to determine whether Vendor has listed all contracts for similar work within the designated period. If NCEM-NCFMP determines that references from other public contracts for similar contracts were not listed, it may contact the public entities to make inquiry into Vendor's performance of those contracts and the information obtained may be considered in evaluating Vendor's RFQ.

4.5 REFERENCES

Vendor shall provide at least three (3) references for which it has provided Services of similar size and scope to that proposed herein. The State may contact these references to determine whether the Services provided are substantially similar in scope to those proposed herein and Vendor’s performance has been satisfactory as part of the evaluation of the Vendor’s proposal. **Note:** positive written references from owners, designers and/or construction managers for the projects listed below may be used as part of the evaluation of the Vendor’s Experience.

COMPANY NAME	CONTACT NAME	TELEPHONE NUMBER

4.6 FINANCIAL STABILITY

Each Vendor shall submit the following financial documentation with its RFQ: most recent annual balance sheet, income statement/statement of retained earnings and cash flow statement, or most recent statement of financial condition by an independent auditor. Financial information, statements and/or documents submitted with a proposal shall be evaluated to determine: whether the Vendor has sufficient ability to perform the contract; whether the Vendor is able to meet its short term obligations, debts, liabilities, payroll, and expenses; whether Vendor has provided complete, reliable and accurate financial information regarding its business operation; whether the Vendor is financially solvent; and whether Vendor has sufficient cash flow and/or available financing from a financial institution to perform the proposed contract for 60 days without receiving payment from the State. Financial information of non-public entities may be marked as confidential in accordance with paragraph 14 (CONFIDENTIAL INFORMATION) of ATTACHMENT A: INSTRUCTIONS TO VENDORS.

Provide financial information in a separate, sealed envelope. By execution of the proposal document, the Vendor certifies that it is in sound financial condition and received an unqualified audit opinion for the latest audit of its financial statements, that it has no outstanding liabilities to the Internal Revenue Service or other government entities, is not the subject of any current litigation or findings of noncompliance under federal or state law, has not been the subject of any past litigation or findings of 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.

4.7 BACKGROUND CHECKS

NCEM-NCFMP may require the Vendor, its executive officers, its senior management personnel, to provide or undergo background checks at Vendor’s expense prior to beginning work or at any time during the period of performance. When requested, as part of a requested background check, the Vendor must provide NCEM-NCFMP with information for:

- a) Any **criminal felony conviction**, or conviction of any crime involving moral turpitude, including, but not limited to fraud, misappropriation or deception, of Vendor, its officers or directors, or any of its employees or other personnel to provide Services on this project, of which Vendor has knowledge or a statement that it is aware of none;

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- b) Any **criminal investigation** for any offense involving moral turpitude, including, but not limited to fraud, misappropriation, falsification or deception pending against Vendor of which it has knowledge or a statement it is aware of none;
 - c) Any **regulatory sanctions** levied against Vendor or any of its officers, directors or its professional employees expected to provide Services on this project by any state or federal regulatory agencies within the past three years or a statement that there are none. As used herein, the term “regulatory sanctions” includes the revocation or suspension of any license or certification, the levying of any monetary penalties or fines, and the issuance of any written warnings;
 - d) Any **regulatory investigations** pending against Vendor or any of its officers, directors or its professional employees expected to provide Services on this project by any state or federal regulatory agencies of which Vendor has knowledge or a statement that there are none.
 - e) Any **civil litigation**, arbitration, proceeding, or judgments pending against Vendor during the three (3) years preceding submission of its RFQ herein or a statement that there are none.

Vendor’s responses to these requests shall be considered to be continuing representations, 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.

4.8 PERSONNEL

Vendor shall not substitute key personnel assigned to the performance of this Contract without prior written approval by the Contract Lead. Vendor shall 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

- a) Vendor warrants that qualified personnel shall provide Services under this Contract in a professional manner. “Professional manner” means that the personnel performing the Services shall possess the skill and competence consistent with the prevailing business standards in the industry. Vendor agrees that it shall not enter any agreement with a third party that may abridge any rights of the State under this Contract. Vendor shall serve as the prime Vendor under this. Names of any third party Vendors of Vendor may appear for purposes of convenience in Contract documents; and shall not limit Vendor’s obligations hereunder. Vendor shall retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party vendor(s).
- b) If any Services, deliverables, functions, or responsibilities not specifically described in this Contract are required for Vendor’s proper performance, provision and delivery of the Services and other deliverables under this 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 Deliverables.

- c) Vendor warrants that it has the financial capacity to perform and to continue 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.

5.0 SCOPE OF WORK

The Vendor performing the work must be a Professional Land Surveyor (PLS) in the State of North Carolina. Any Vendor wishing to be considered must be properly registered with the Office of the Secretary of State and, if required, with the North Carolina Board of Examiners for Engineers and Surveyors (NCBEES).

Any Vendor proposing to use corporate subsidiaries must include a statement that these companies are properly registered with NCBEES and the Secretary of State. It will be the responsibility of the prime Vendor to verify the registration of any corporate subsidiary prior to submitting a Letter of Qualifications (LOQ).

Each Vendor must have the financial ability to undertake the work and assume the liability. Each selected Vendor will be required to furnish proof of sufficient Professional Liability Insurance coverage as determined by RM-NCGS (See Attachment B, Section 14). Each Vendor must have an accounting system to identify costs chargeable to the project.

The method of payment for the QC survey projects will be a negotiated total cost for each work assignment. RM-NCGS will specify the scope of work in tile groupings and/or on an as-needed basis. The types of surveying and mapping work and the degree of assistance required may vary. The project(s) will involve the positioning (horizontally and vertically) of aerial imagery QC points

Vendors are cautioned that this RFQ is a request for qualifications only. It is not a request to contract. Therefore, the State/RM-NCGS reserves the unqualified right to reject any and all LOQs when such rejection is deemed to be in the best interest of the State/RM-NCGS.

NOTE: This procurement will be conducted under the provisions of North Carolina General Statute 143-64.31 (http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_143/GS_143-64.31.html), which states:

"It is the public policy of this State and all public subdivisions and Local Governmental Units thereof, except in cases of special emergency involving the health and safety of the people or their property, to announce all requirements for architectural, engineering, surveying and construction management at risk services, to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for these services at a fair and reasonable fee with the best qualified firm. If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm."

5.1 METHODS

- a) Vendor shall outline its methods of conducting an aerial imagery QC survey.
- b) Describe how the Vendor's staff utilizes surveying and mapping equipment (i.e. GNSS, total stations, etc.) to perform the required kinds of surveys to the required standards and specifications.
- c) Describe the Vendor's field safety and emergency plan(s) for a field crew member who has a life-threatening anaphylactic reaction to an insect sting while working in a rural wooded area 0.5 miles from a paved road.
- d) Outline the Vendor's project approach and quality assurance measures.
- e) Describe the Vendor's innovative methods (i.e. cost and/or time saving), which satisfy recognized survey standards and specifications as well as with this project's requirements, that it would request using on this project.

5.2 STANDARDS AND SPECIFICATIONS

All surveying and mapping work shall be done in accordance with the applicable North Carolina Geodetic Survey (RM-NCGS) standards and specifications; current RM-NCGS survey manuals, guides, and approved references; NC General Statutes; and NC Board of Examiners for Engineers and Surveyors (NCBEES) rules and regulations.

- a) All surveys using GNSS methods and equipment shall comply with the FGDC ["Geospatial Positioning Accuracy Standards Part 2: Standards for Geodetic Networks"](http://www.fgdc.gov/standards/projects/FGDC-standards-projects/accuracy/part2/chapter2) (<http://www.fgdc.gov/standards/projects/FGDC-standards-projects/accuracy/part2/chapter2>) reporting methodology in Table 2.1 that surveys will meet or exceed:
 - o 3-centimeter (0.030 meters) horizontal accuracy standards and specifications at the 95% confidence level
 - o 5-centimeter (0.050 meters) vertical accuracy standards and specifications at the 95% confidence level
- b) All surveys using traditional methods and equipment [e.g. an electronic total station (ETS)] shall meet or exceed North Carolina Board of Examiners for Engineers and Surveyors rule 21-56.1603 Classification of Boundary Surveys Urban Land Surveys (Class A) standards and a vertical accuracy of 5 centimeters at the 95% confidence level.
- c) All survey work shall be conducted in feet (US Survey Feet) and referenced accordingly:
 - o Horizontal: North Carolina State Plane Coordinate System (NC SPCS) and placed on the North American Datum of 1983(2011) [NAD 83(2011)]
 - o Vertical: North American Vertical Datum of 1988 (NAVD 88)
- d) Equipment
 - i. Vendor shall list equipment (field and office) and licensed software that are available and would be designated for use on this project. Include the description (type, version number), quantity, condition, and accessories.
 - ii. For all survey measuring equipment (GNSS and leveling) to be used on the project, Vendor shall submit written evidence of recent calibrations that are traceable to the National Institute of Standards and Technology (NIST).

5.3 ENVIRONMENTAL OR REGULATORY CONSTRAINTS

The Vendor shall comply with all applicable Federal (including OSHA) and State laws, rules, and regulations regarding environmental, safety, and other regulatory constraints. All survey work shall be performed in a manner consistent with the natural environment of the area. It is the State//RM-NCGS's intent to have this work completed without permanently harming or drastically altering the natural conditions that existed prior to the survey in the project area.

5.4 SURVEY METHODS FOR POSITIONING THE AREIAL IMAGERY QC POINTS

Whenever practical, GNSS equipment and methods shall be the equipment and methods of choice for positioning the aerial imagery QC points. The aerial imagery QC points shall be both photo identified points and panel points. This program includes the following components: (1) acquiring, processing, and maintaining detailed, accurate spatial data, (such as building footprints, first floor elevations, topography and bathymetric data, digital orthophotography); (2) conducting database-centric, digital water / flood natural hazard analyses; (3) generating new and updating risk assessments and mitigation analysis models, data, maps and reports; (4) expanding the water and coupled non-water digital hazard risk visualization, communication, and flood risk management capabilities of NCEM-NCFMP during peace time and disaster incident command.

5.5 TASKS AND TYPES OF WORK

Types of work shall include, but are not restricted to:

- a) Notifying the landowner when QC points are located on private property
- b) Performing surveys to position (horizontally and vertically) the assigned QC points
- c) Collecting and reporting metadata for each QC point
- d) Documenting completely, accurately, concisely, and clearly all survey tasks using appropriate work products, which includes a complete narrative report of survey

Note: RM-NCGS will provide the Vendor with aerial imagery that has each QC point plotted.

If a QC point is located on private (non-State owned) property, the Vendor shall be responsible for soliciting the cooperation of the landowner(s) and securing all rights of entry and access prior to entering the site to position the QC point.

Milestones

Phase I: Project planning and reconnaissance

Phase II: Field surveys

Phase III: Document/digital file production. Report of survey and other required surveying and mapping documents/files.

5.6 DELIVERABLES

- a) Describe the Vendor's capability to produce the required survey products in both digital and hardcopy formats. Include up to three (3) recent (within the past 5 years), appropriate examples in this section or in the "Supporting information and exhibits" packet. For each project, list or state the following:
 - Client's name (company, agency, municipality, or individual)
 - Location, dates, and geographic size
 - Name, title, and current telephone number of the contact person(s) in the client's organization
 - Types of survey work performed
 - Survey standards and specifications met or exceeded
 - Surveying and mapping products produced
 - Whether the project was completed on time and within budget
- b) The Vendor shall furnish RM-NCGS with digital formats of any or all of the following survey products as specified and requested by RM-NCGS:
 - i. Weekly project status reports:
 - Emailed to the Technical administrator, Gary Thompson (gary.thompson@ncdps.gov), by 5:00 pm on the following Monday.
 - Subject heading format: "CAIQC: Weekly report [start MM/DD – end MM/DD] from [Firm name]"
 - Ex. CAIQC: Weekly report (05/31 – 06/05) from XYZ Surveyors, Inc.
 - Message content: Brief summary of the project's status and the week's activities.
 - ii. Recovery and field notes for any geodetic monument used in the project

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- iii. Excel spreadsheet listing QC point name, positional information, combined grid factor, and brief description
 - iv. Photographs of each aerial imagery QC point
Note: If the QC photograph is incorporated into the QC Excel spreadsheet, this deliverable is met.
 - v. Signed and sealed complete and accurate report of work performed
Note: RM-NCGS will specify the digital format for all deliverables.

5.7 LINE CLEARING

If the project necessitates line clearing to obtain a line of sight, the Vendor shall be responsible for any damage and must maintain the natural environment of the project area by keeping the line clearing to an absolute minimum. In addition, the Vendor must obtain written permission from the land owner to cut vegetation according to the following protocol:

- a) Written permission from the land owner is required to cut or damage any planted or cultivated crop, fruit, or ornamental tree or plant, regardless of size and any underbrush or seedling-sized tree with a ≥ 2 inch Diameter at Breast Height (DBH).
- b) Written permission from the land owner is not required to cut any underbrush or seedling-sized tree with a < 2 inch Diameter at Breast Height (DBH).

5.8 FIELD WORK, SUPERVISION AND FIELD NOTES

The State/RM-NCGS requires that the Vendor have immediately available to perform under this RFQ a minimum of one (1) full (2-4 person) field survey crew. Each crew shall be equipped, as required for each daily task, with fully operational and calibrated GNSS equipment and/or electronic total stations, search and recovery tools, safety equipment, and all related and necessary surveying field equipment and supplies.

All field work/surveys shall be under the direct supervision of a land surveyor holding a valid North Carolina Professional Land Surveyor (PLS) license. This surveyor shall sign and seal the report of survey describing the work that was performed.

5.9 ACCEPTANCE OF WORK

In the event acceptance criteria for any Services, work or other deliverables is not described herein or in contract documents or work orders hereunder, the State shall have the obligation to notify Vendor, in writing ten (10) calendar days following completion of such Services, work or other deliverable 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 of the Services, work or other deliverable. Final acceptance is expressly conditioned upon completion of all applicable assessment procedures.

Should the work or deliverables fail to meet any requirements, acceptance criteria or otherwise fail to conform to the contract, the State may exercise any and all rights hereunder, including, for deliverables, such rights provided by the Uniform Commercial Code as adopted in North Carolina.

5.10 TRANSITION ASSISTANCE

If this Contract is not renewed at the end of this term, or is canceled prior to its expiration, for any reason, Vendor shall provide, at the option of the State, up to 2 months after such end date all such reasonable transition assistance requested by the State, 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 deemed to be governed by the terms and conditions of this 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 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.

6.0 CONTRACT ADMINISTRATION

6.1 PROJECT MANAGER AND CUSTOMER SERVICE

The Vendor shall designate and make available to the State a single point of contact for contract related issues and issues concerning performance, progress review, scheduling and any service required.

VENDOR POINT OF CONTACT:

Name: _____

Email: _____

Phone Number: _____

STATES:

Contract Administrator

Angie Dunaway
NC Department of Public Safety
Purchasing and Logistics
3030 Hammond Business Place
Raleigh, NC 27603
angie.dunaway@ncdps.gov

Technical Administrator

Gary Thompson, PLS
NC Department of Public Safety
North Carolina Geodetic Survey
4105 Reedy Creek Road
Raleigh, NC 27609
gary.thompson@ncdps.gov

6.2 PERIODIC *WEEKLY* STATUS REPORTS

The Vendor will furnish RM-NCGS with weekly progress reports via email on Monday of each week (described in section 5.6. Deliverables).

6.3 DISPUTE RESOLUTION

The parties agree that it is in their mutual interest to resolve disputes informally. A claim by the Vendor shall be submitted in writing to the State's Contract Lead for resolution. A claim by the State shall be submitted in writing to the Vendor's Project Manager for resolution. The Parties shall 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 The Contract. If a dispute cannot be resolved between the Parties within thirty (30) days after delivery of notice, either Party may elect to exercise any other remedies available under The Contract, or at law. This term shall not constitute an agreement by either party to mediate or arbitrate any dispute.

6.4 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 the Vendor

Attachments to this RFQ begin on the next page.

ATTACHMENT A: INSTRUCTIONS TO VENDORS

1. **READ, REVIEW AND COMPLY:** It shall be the Vendor's responsibility to read this entire document, review all enclosures and attachments, and any addenda thereto, and comply with all requirements specified herein, regardless of whether appearing in these Instructions to Vendors or elsewhere in this IFB document.
2. **LATE RFQ:** Late RFQs, 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 the timely delivery of RFQs at the designated office by the designated time.
3. **ACCEPTANCE AND REJECTION:** The State reserves the right to reject any and all RFQs, to waive any informality in RFQs and, unless otherwise specified by the Vendor, to accept any item in the RFQ.
4. **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.
5. **EXECUTION:** Failure to execute page 1 of the IFB (Execution Page) in the designated space shall render RFQ non-responsive, and it will be rejected.
6. **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 IFB, including any negotiated terms; (2) requirements and specifications and administration provisions in Sections 4, 5 and 6 of this RFQ; (3) North Carolina General Contract Terms and Conditions in ATTACHMENT B: NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS; (4) Instructions in ATTACHMENT A: INSTRUCTIONS TO VENDORS; (5) Vendor's RFQ.
7. **INFORMATION AND DESCRIPTIVE LITERATURE:** Vendor shall furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this RFQ, each Vendor shall submit with its RFQ any sketches, descriptive literature and/or complete specifications covering the products and Services offered. Reference to literature submitted with a previous RFQ or available elsewhere will not satisfy this provision. Failure to comply with these requirements shall constitute sufficient cause to reject a RFQ without further consideration.
8. **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 Vendor remains responsible for providing packaging that will adequately protect the commodity and contain it for its intended use. Companies Vendors are strongly urged to bring to the attention of purchasers those products or packaging they offer which have recycled content and that are recyclable.
9. **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 as transacting business in North Carolina and shall not require a Certificate of Authority to Transact Business.
10. **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) All copies of the RFQ are printed double sided.

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- b) All submittals and copies are printed on recycled paper with a minimum post-consumer content of 30%.
 - c) Unless absolutely necessary, all RFQs 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.
 - d) 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.
11. **HISTORICALLY UNDERUTILIZED BUSINESSES:** 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.
12. **RECIPROCAL PREFERENCE:** Reserved.
13. **INELIGIBLE VENDORS:** As provided in G.S. 147-86.60 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*.
14. **CONFIDENTIAL INFORMATION:** To the extent permitted by applicable statutes and rules, the State will maintain as confidential trade secrets in its RFQ 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 as 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 and cautioned 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 as confidential, the State will notify Vendor of such action and allow Vendor to defend the confidential status of its information.
15. **PROTEST PROCEDURES:** Reserved
16. **MISCELLANEOUS:** 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.
17. **COMMUNICATIONS BY VENDORS:** In submitting its RFQ, the Vendor agrees not to discuss or otherwise reveal the contents of its RFQ to any source, government or private, outside of the using or issuing agency until after the award of the Contract or cancellation of this IFB. 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 RFQs (i.e., after the public opening of the RFQs 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 RFQ 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 IFB. 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 IFB are permitted.
18. **TABULATIONS:** RFQ tabulations can be electronically retrieved at the Interactive Purchasing System (IPS), <https://www.ips.state.nc.us/ips/BidNumberSearch.aspx>. Click on the IPS BIDS icon, click on Search for Bid, enter the bid number, and then search. Tabulations will normally be available at this web site not later than one working day after the bid opening. Lengthy or complex tabulations may be summarized, with other details not made available on IPS, and requests for additional details or information concerning such tabulations cannot be honored.

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19. **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 for goods and Services of potential interests to them available on the Interactive Purchasing System, as well as notifications of status changes to those solicitations. Online registration and other purchasing information is available at the following website: <http://ncadmin.nc.gov/about-doa/divisions/purchase-contract>.
20. **WITHDRAWAL OF RFQ:** RFQs 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 IFB prior to the time for opening RFQs identified on the cover page of this IFB (or such later date included in an Addendum to the IFB). 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 the opening of RFQs shall be allowed only for good cause shown and in the sole discretion of the Division of Purchase and Contract.
21. **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 IFB and in formal Addenda issued through IPS.
22. **COST FOR RFQ PREPARATION:** Any costs incurred by Vendor in preparing or submitting offers are the Vendor's sole responsibility; the State of North Carolina will not reimburse any Vendor for any costs incurred or associated with the preparation of RFQs.
23. **VENDOR'S REPRESENTATIVE:** Each Vendor shall submit with its RFQ the name, address, and telephone number of the person(s) with authority to bind the firm and answer questions or provide clarification concerning the firm's RFQ.
24. **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.
25. **PERSONNEL:** The Vendor agrees that it shall not substitute key personnel assigned to the performance of this contract without prior written approval by the NCEM-NCFMP Contract Administrator. The individuals designated as key personnel for purposes of this contract are those specified in the Vendor's proposal.
26. **MERGER, ACQUISITION, ETC.:** The Vendor shall notify NCEM-NCFMP at least thirty (30) days prior to any of the following occurring: (1) the merger of the Vendor with another entity; (2) the acquisition of the Vendor by another entity; (3) the purchase of more than a ten percent (10%) interest in the Corporation or Vendor by another person or individual; and/or (4) any change in the management of the Corporation or Vendor.
27. **PATENT, COPYRIGHT, TRADE SECRET AND INTELLECTUAL PROPERTY PROTECTION:** The work performed by the Vendor under this contract shall be work for hire. All deliverables including, but not limited to original data collected, manuals, documentation, Digital Elevation Models ("DEMs"), Digital Flood Insurance Rate Maps (DFIRMs), information technology, software or any patentable or copyrightable material(s) developed, in whole or in part, by the Vendor or Vendor's subcontractors in the performance of this contract is and shall become the property of NCEM-NCFMP and shall not be the subject of an application for copyright or patent by or on behalf of the Vendor, its officers, employees, agents, assigns, or subcontractor(s). To the extent that pre-existing proprietary material(s) or software belonging to Vendor, its subcontractor(s), or third parties, are incorporated into the material(s) or software developed pursuant to this contract, NCEM-RM-NCGS and the State understand and agree that paid licenses may be required by the Vendor or subcontractor(s) in order to use the material(s) or operate the software. Provided, however, should the Vendor or subcontractors use their own proprietary software to produce deliverables under this contract, the Vendor and subcontractors agree to provide NCEM-RM-NCGS and the United States Government with a royalty-free, paid-up, perpetual, non-exclusive, non-transferable license necessary to access and manipulate deliverables including, but not limited to, data collected, manuals, documentation, Digital Elevation Models, Digital Flood Insurance Rate Maps, information technology, and software. The Vendor or Firm shall hold and save the State, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, resulting from infringement of the rights of any third party in any copyrighted material, patented or unpatented invention, articles, device or appliance delivered in connection with this contract where fault on the part of the Vendor is a proximate cause of the loss, damage, or expenses. Vendor warrants to the best of its knowledge that: i) Performance under this Contract does not infringe

upon any intellectual property rights of any third party; and ii) There are no actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party. The Vendor shall pay any costs and damages awarded against NCEM-RM-NCGS or the State in any such action. The foregoing defense and payment by the Vendor shall be conditioned on the following:

- A. NCEM-RM-NCGS shall give the Vendor written notice within twenty (20) business days after it has actual knowledge of any claims (s) or action(s) relating hereto; and
- B. The Vendor shall have the sole control of its defense of any action on such claim(s) and of all negotiations relating to settlement or compromise thereof; NCEM-RM-NCGS and the State shall participate at their own expense in the defense of such claim(s) or action(s). The State reserves the right to recover attorneys' fees, litigation or arbitration expenses, or court costs actually incurred by the State to defend against third party claims alleged in any court, tribunal, or alternative dispute resolution procedure required of the State by law or by contract, if the fault of the Vendor or any of Vendor's subcontractors, agents, employees, or other persons or entities for which the Vendor may be liable or responsible as a result of any statutory, tort, or contractual duty is a proximate cause of the attorney's fees litigation or arbitration expenses, or court costs incurred by the State to be indemnified.

Should any software or the operation thereof become or in the Vendor's opinion be likely to become the subject of a claim of infringement of a United States patent, or copyright, or a trade secret, NCEM-RM-NCGS and the State shall permit the Vendor, at its option and expense, to either procure the right to continue using the software, or to replace or modify same so that they become noninfringing and continue to meet the contractual obligations. If neither of these options can reasonably be taken, or if the use of such software by NCEM-RM-NCGS or the State is prohibited by an injunction, the Vendor agrees to accept the return of such software and refund any sums paid by NCEM-RM-NCGS to the Vendor, less a commercially reasonable amount for use, and make every reasonable effort to assist in procuring substitute noninfringing software. If, in the sole opinion of NCEM-RM-NCGS or the State, the return of such infringing equipment or software makes the retention of other equipment or software acquired from the Vendor under this contract impractical, NCEM-RM-NCGS shall have the option of terminating this contract, or applicable portions thereof. The Vendor agrees to accept the return of such equipment or software and refund any sums paid by NCEM-RM-NCGS to the Vendor, less a commercially reasonable amount for use.

ATTACHMENT B: NORTH CAROLINA GENERAL CONTRACT TERMS & CONDITIONS

1. PERFORMANCE AND DEFAULT:

- a) It is anticipated that the tasks and duties undertaken by the Vendor shall include services or the manufacturing, furnishing, or development of goods and other tangible features or components as deliverables that are directly correlated and/or ancillary to the services performed. Except as provided immediately below, and unless otherwise mutually agreed in writing prior to award, any service deliverables or ancillary services provided by Vendor in performance of the contract shall remain property of the State. During performance, Vendor may provide proprietary components as part of the service deliverables that are identified in the solicitation response. Vendor grants the State a personal, permanent, non-transferable license to use such proprietary components of the service deliverables and other functionalities, as provided under this Agreement. Any technical and business information owned by Vendor or its suppliers or licensors made accessible or furnished to the State shall be and remain the property of the Vendor or such other party, respectively. Vendor agrees to perform its services under the contract in the same or similar manner provided to comparable users. The State shall notify the Vendor of any defects or deficiencies in performance of its services or failure of service deliverables to conform to the standards and specifications provided in this solicitation. Vendor agrees to remedy defective performance or any nonconforming deliverables upon timely notice provided by the State.
- b) Vendor has a limited, non-exclusive license to access and use State Data provided to Vendor, but solely for performing its obligations under this Agreement and in confidence as may be further provided herein. Vendor or its suppliers shall at a minimum, and except as otherwise specified and agreed herein, provide assistance to the State related to all services performed or deliverables procured hereunder during the State's normal business hours. Vendor warrants that its support, customer service, and assistance will be performed in accordance with generally accepted and applicable industry standards.
- c) If, through any cause, Vendor shall fail to fulfill in a timely and proper manner the obligations under The Contract, the State shall have the right to terminate The Contract by giving written notice to the Vendor and specifying the effective date thereof. In that event, any or all finished or unfinished deliverables under The Contract prepared by the Vendor shall, at the option of the State, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any acceptable work completed as to which the option is exercised. Notwithstanding, Vendor shall not be relieved of liability to the State for damages sustained by the State by virtue of any breach of The Contract, and the State may withhold any payment due the Vendor for the purpose of setoff until such time as the exact amount of damages due the State from such breach can be determined. The State may require at any time a performance bond or other acceptable alternative performance guarantees from a Vendor without expense to the State.
- d) In the event of default by the Vendor, the State may procure the goods and services necessary to complete performance hereunder from other sources and hold the Vendor responsible for any excess cost occasioned thereby. In addition, in the event of default by the Vendor under The Contract, or upon the Vendor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Vendor, the State may immediately cease doing business with the Vendor, immediately terminate The Contract for cause, and may take action to debar the Vendor from doing future business with the State.

2. **GOVERNMENTAL RESTRICTIONS:** In the event any Governmental restrictions are imposed which necessitate alteration of the goods, material, quality, workmanship or performance of the Services offered prior to acceptance, it shall be the responsibility of the Vendor to notify the Contract Lead at once, in writing, indicating the specific regulation which required such alterations. The State reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract.

3. **AVAILABILITY OF FUNDS:** Any and all payments to the Vendor shall be dependent upon and subject to the availability of funds to the agency for the purpose set forth in The Contract. In addition, the awarded Contract

may be suspended and/or terminated without liability to the State if the federal grant funding is suspended or terminated, and unless and until the State or NCEM receives federal funds in an amount that is deemed sufficient to enable it to fund the Contract awarded, the State or NCEM is under no obligation to make any payments to the Vendor.

4. **TAXES:** Any applicable taxes shall be invoiced as a separate item.
- a) G.S. 143-59.1 bars the Secretary of Administration from entering into Contracts with Vendors if the Vendor or its affiliates meet one of the conditions of G.S. 105-164.8(b) and refuses to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G.S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the Vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the RFQ document the Vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.
 - b) The agency(ies) participating in The Contract are exempt from Federal Taxes, such as excise and transportation. Exemption forms submitted by the Vendor will be executed and returned by the using agency.
 - c) Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.
5. **SITUS AND GOVERNING LAWS:** This Contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina, without regard to its conflict of laws rules, and within which State all matters, whether sounding in Contract or tort or otherwise, relating to its validity, construction, interpretation and enforcement shall be determined.
6. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of a correct invoice or acceptance of goods, whichever is later. The using agency is responsible for all payments to the Vendor under the Contract. Payment by some agencies may be made by procurement card, if the Vendor accepts that card (Visa, MasterCard, etc.) from other customers, and it shall be accepted by the Vendor for payment under the same terms and conditions as any other method of payment accepted by the Vendor. If payment is made by procurement card, then payment may be processed immediately by the Vendor.
7. **NON-DISCRIMINATION:**
- a) The Vendor will take necessary action to comply with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination on the basis of any prohibited grounds as defined by Federal and State law.
 - b) The vendor will take necessary action to ensure its internal employee policies and procedures are consistent with Executive Order #82 (Roy Cooper, December 6, 2018), which extends workplace protections and accommodations to pregnant employees.
 - c) Vendor will comply with the following anti-discrimination requirements: Titles VI and VII of the Civil Rights Act of 1964 (PL 88-352), and the regulations issued pursuant thereto (prohibiting discrimination on the basis race, color, national origin and ensuring that individuals are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age); Title IX of the Education Amendments of 1972 (codified as amended at 20 U.S.C. § 1681 et seq.) (prohibiting discrimination on the basis of sex); Titles I, II, III, IV, and V of the Americans with Disability Act of 1990 (prohibiting discrimination on the basis of disability); Section 504 of the Rehabilitation Act of 1973 (codified as amended at 29 U.S.C. § 794) (prohibiting discrimination on the basis of handicap); the Age Discrimination Act of 1975 (codified as amended at 42 U.S.C. § 6101 et seq.) (prohibiting age discrimination); Executive Order 11063 as amended by Executive Order 2259; and Section 109 of the Housing and Community Development Act of 1974, as amended.
8. **CONDITION AND PACKAGING Reserved**

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- 9. INTELLECTUAL PROPERTY WARRANTY AND INDEMNITY:** Vendor shall hold and save the State, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, resulting from infringement of the rights of any third party in any copyrighted material, patented or patent-pending invention, article, device or appliance delivered in connection with The Contract.
- a) Vendor warrants to the best of its knowledge that:
 - i. Performance under The Contract does not infringe upon any intellectual property rights of any third party; and
 - ii. There are no actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party;
 - b) Should any deliverables supplied by Vendor become the subject of a claim of infringement of a patent, copyright, trademark or a trade secret in the United States, the Vendor, shall at its option and expense, either procure for the State the right to continue using the deliverables, or replace or modify the same to become non-infringing. If neither of these options can reasonably be taken in Vendor's judgment, or if further use shall be prevented by injunction, the Vendor agrees to cease provision of any affected deliverables and refund any sums the State has paid Vendor and make every reasonable effort to assist the State in procuring substitute deliverables. If, in the sole opinion of the State, the cessation of use by the State of any such deliverables due to infringement issues makes the retention of other items acquired from the Vendor under this Agreement impractical, the State shall then have the option of terminating the Agreement, or applicable portions thereof, without penalty or termination charge; and Vendor agrees to refund any sums the State paid for unused Services or Deliverables.
 - c) The Vendor, at its own expense, shall defend any action brought against the State to the extent that such action is based upon a claim that the deliverables supplied by the Vendor, their use or operation, infringes on a patent, copyright, trademark or violates a trade secret in the United States. The Vendor shall pay those costs and damages finally awarded or agreed in a settlement against the State in any such action. Such defense and payment shall be conditioned on the following:
 - i. That the Vendor shall be notified within a reasonable time in writing by the State of any such claim; and
 - ii. That the Vendor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise provided, however, that the State shall have the option to participate in such action at its own expense.
 - d) Vendor will not be required to defend or indemnify the State if any claim by a third party against the State for infringement or misappropriation results from the State's material alteration of any Vendor-branded deliverables or services, or from the continued use of the deliverable(s) or Services after receiving notice of infringement on a trade secret of a third party.
- 10. TERMINATION FOR CONVENIENCE:** If this contract contemplates deliveries or performance over a period of time, the State may terminate this contract at any time by providing 15 days' notice in writing from the State to the Vendor. In that event, any or all finished or unfinished deliverables prepared by the Vendor under this contract shall, at the option of the State, become its property. If the contract is terminated by the State as provided in this section, the State shall pay for those items for which such option is exercised, less any payment or compensation previously made.
- 11. ADVERTISING:** Vendor agrees not to use the existence of The Contract or the name of the State of North Carolina as part of any commercial advertising or marketing of products or Services. A Vendor may inquire whether the State is willing to act as a reference by providing factual information directly to other prospective customers.
- 12. ACCESS TO PERSONS AND RECORDS:** During and after the term hereof, the State Auditor and any using agency's internal auditors shall have access to persons and records related to The Contract to verify accounts and data affecting fees or performance under the Contract, as provided in G.S. 143-49(9).
- 13. ASSIGNMENT:** No assignment of the Vendor's obligations nor the Vendor's right to receive payment hereunder shall be permitted.

However, upon written request approved by the issuing purchasing authority and solely as a convenience to the Vendor, the State may:

- a) Forward the Vendor's payment check directly to any person or entity designated by the Vendor, and
- b) Include any person or entity designated by Vendor as a joint payee on the Vendor's payment check.

In no event shall such approval and action obligate the State to anyone other than the Vendor and the Vendor shall remain responsible for fulfillment of all Contract obligations. Upon advance written request, the State may, in its unfettered discretion, approve an assignment to the surviving entity of a merger, acquisition or corporate reorganization, if made as part of the transfer of all or substantially all of the Vendor's assets. Any purported assignment made in violation of this provision shall be void and a material breach of The Contract.

14. INSURANCE:

COVERAGE - During the term of the Contract, the Vendor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract. As a minimum, the Vendor shall provide and maintain the following coverage and limits:

- a) **Worker's Compensation** - The Vendor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Vendor's employees who are engaged in any work under the Contract in North Carolina. If any work is sub-contracted, the Vendor shall require the sub-contractor to provide the same coverage for any of its employees engaged in any work under the Contract within the State.
- b) **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit. Defense cost shall be in excess of the limit of liability.
- c) **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used within North Carolina in connection with the Contract. The minimum combined single limit shall be \$250,000.00 bodily injury and property damage; \$250,000.00 uninsured/under insured motorist; and \$2,500.00 medical payment.

REQUIREMENTS - Providing and maintaining adequate insurance coverage is a material obligation of the Vendor and is of the essence of The Contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the 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 North Carolina laws or The Contract. 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 the Contract.

- 15. GENERAL INDEMNITY:** The Vendor shall hold and save the State, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, Services, materials, or supplies in connection with the performance of The Contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the Vendor in the performance of The Contract and that are attributable to the negligence or intentionally tortious acts of the Vendor provided that the Vendor is notified in writing within 30 days from the date that the State has knowledge of such claims. The Vendor represents and warrants that it shall make no claim of any kind or nature against the State's agents who are involved in the delivery or processing of Vendor deliverables or Services to the State. The representation and warranty in the preceding sentence shall survive the termination or expiration of The Contract.

16. ELECTRONIC PROCUREMENT:

- a) Purchasing shall be conducted through the Statewide E-Procurement Service. The State's third-party agent shall serve as the Supplier Manager for this E-Procurement Service. The Vendor shall register for the Statewide E-Procurement Service within two (2) business days of notification of award in order to receive an electronic purchase order resulting from award of this contract.

b) Reserved

c) Reserved.

d) The Supplier Manager will capture the order from the State approved user, including the shipping and payment information, and submit the order in accordance with the E-Procurement Service. Subsequently, the Supplier Manager will send those orders to the appropriate Vendor on State Contract. The State or State-approved user, not the Supplier Manager, shall be responsible for the solicitation, RFQs received, evaluation of RFQs received, award of contract, and the payment for goods delivered.

e) Vendor shall at all times maintain the confidentiality of its user name and password for the Statewide E-Procurement Services. If Vendor is a corporation, partnership or other legal entity, then the Vendor may authorize its employees to use its password. Vendor shall be responsible for all activity and all charges by such employees. Vendor agrees not to permit a third party to use the Statewide E-Procurement Services through its account. If there is a breach of security through the Vendor's account, Vendor shall immediately change its password and notify the Supplier Manager of the security breach by email. Vendor shall cooperate with the State and the Supplier Manager to mitigate and correct any security breach.

17. CONFIDENTIALITY: Any State information, data, instruments, documents, studies or reports given to or prepared or assembled by or provided to the Vendor under The Contract shall be kept as confidential, used only for the purpose(s) required to perform The Contract and not divulged or made available to any individual or organization without the prior written approval of the State.

18. CARE OF STATE DATA AND PROPERTY: The Vendor agrees that it shall be responsible for the proper custody and care of any data owned and furnished to the Vendor by the State (State Data), or other State property in the hands of the Vendor, for use in connection with the performance of The Contract or purchased by or for the State for The Contract. Vendor will reimburse the State for loss or damage of such property while in Vendor's custody.

The State's Data in the hands of the Vendor shall be protected from unauthorized disclosure, loss, damage, destruction by a natural event or other eventuality. Such State Data shall be returned to the State in a form acceptable to the State upon the termination or expiration of this Agreement. The Vendor shall notify the State of any security breaches within 24 hours as required by G.S. 143B-1379. See G.S. 75-60 *et seq.*

19. OUTSOURCING: Any Vendor or subcontractor providing call or contact center services to the State of North Carolina or any of its agencies shall disclose to inbound callers the location from which the call or contact center services are being provided.

If, after award of a contract, the Vendor wishes to relocate or outsource any portion of performance to a location outside the United States, or to contract with a subcontractor for any such performance, which subcontractor and nature of the work has not previously been disclosed to the State in writing, prior written approval must be obtained from the State agency responsible for the contract.

Vendor shall give notice to the using agency of any relocation of the Vendor, employees of the Vendor, subcontractors of the Vendor, or other persons providing performance under a State contract to a location outside of the United States.

20. COMPLIANCE WITH LAWS: 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 The Contract, including those of federal, state, and local agencies having jurisdiction and/or authority.

21. ENTIRE AGREEMENT: This IFB and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This IFB, any addenda hereto, and the Vendor's RFQ are incorporated herein by reference as though set forth verbatim.

All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

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- 22. ELECTRONIC RECORDS:** The State will digitize all Vendor responses to this solicitation, if not received electronically, as well as any awarded contract together with associated procurement-related documents. These electronic copies shall constitute a preservation record and shall serve as the official record of this procurement with the same force and effect as the original written documents comprising such record. Any electronic copy, printout or other output readable by sight shown to reflect such record accurately shall constitute an "original."
- 23. AMENDMENTS:** This Contract may be amended only by a written amendment duly executed by the State and the Vendor.
- 24. NO WAIVER:** Notwithstanding any other language or provision in The Contract, nothing herein is intended nor shall be interpreted as a waiver of any right or remedy otherwise available to the State under applicable law. The waiver by the State of any right or remedy on any one occasion or instance shall not constitute or be interpreted as a waiver of that or any other right or remedy on any other occasion or instance.
- 25. 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 as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.
- 26. SOVEREIGN IMMUNITY:** Notwithstanding any other term or provision in The Contract, nothing herein is intended nor shall be interpreted as waiving any claim or defense based on the principle of sovereign immunity or other State or federal constitutional provision or principle that otherwise would be available to the State under applicable law.
- 27. PREA:** The NC Department of Public Safety is committed to a standard of zero-tolerance pertaining to unduly familiar or sexually abusive behavior either by another juvenile or by staff, volunteer, vendor, contractor or party. Staff, volunteers, vendors, contractors or parties are strictly prohibited from engaging in personal dealings or any conduct of a sexual nature with any inmate or juvenile. Conversation and conduct with any inmate or juvenile must be professional at all times. Sexual acts between a juvenile or inmate and staff, volunteer, vendor, contractor or party may violate North Carolina law. Additionally, sexual acts between a juvenile or inmate and staff member will contradict the standards of the federal Prison Rape Elimination Act of 2003 (PREA). Such acts also may be punishable, at a minimum, as a Class E felony in North Carolina. Under North Carolina, consent of the inmate or juvenile may not available as a defense for an individual who is charged criminally based on sexual conduct with the inmate or juvenile. Also, pursuant to PREA standards, no juvenile or inmate can consent to engage in sexual activity with staff, volunteers, vendors, contractors or parties. Any contractual facility will comply with the national standards to prevent, detect, and respond to PREA (115.12, 212, 312) and permit the Department to monitor this aspect of the contract to ensure compliance with the PREA standards.

As a valued partner with DPS, it is important to remember that if you become aware of a report of any incidents of unduly familiar or sexually abusive behavior or sexual harassment, you have a duty to report this information immediately to your contact person with the Agency, by email to prea@ncdps.gov, or the DPS Communications office at (800) 368-1985.

Additionally, it may violate North Carolina law to sell or give an inmate or juvenile any alcoholic beverages, barbiturate or stimulant drug, or any narcotic, poison or poisonous substance, except upon the prescription of a physician; and it may violate North Carolina law to give an inmate or juvenile any tobacco or tobacco products, alcohol, or cell phones. It may also violate NCDPS policy to convey to or take from any juvenile or inmate any letters, or verbal messages; to convey any weapon or instrument by which to effect an escape, or that will aid in an assault or insurrection; to trade with any inmate for clothing or stolen goods or to sell any inmate any article forbidden by NCDPS policy.

By signing this document, you acknowledge that you understand and will abide by this policy as outlined above."

- 28. DEBARMENT:** Vendor shall be responsible to ensure that it has checked the federal System for Awards Management (SAM) <https://www.sam.gov/portal/SAM> and the State Debarred Vendors Listing,

<http://www.pandc.nc.gov/actions.asp> to verify that contractors or sub-Recipients have not been suspended or debarred from doing business with federal or State government".

- 29. ACCOUNTABILITY:** Employees of other public and private organizations providing a service to the agency are accountable to the North Carolina Department of Public Safety (DPS) Departmental Purchasing Contract Administrator and the facility head or designee of the program in which they work. The facility head or designee shall report all non-compliance issues in writing to the North Carolina DPS Departmental Purchasing Contract Administrator. The North Carolina DPS Departmental Purchasing Contract Administrator shall work with the employee of the public or private organization providing the service in order to bring performance up to expectations or terminate services if the conditions justify.
- 30. INDEPENDENT CONTRACTOR:** The Vendor and any of its subcontractors, and their respective officers, directors, employees and agents, in the performance of this contract shall be and are independent contractors and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Vendor represents that it has, or will secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with the State or RM-NCGS. It is further understood by the Parties that this contract shall not be construed as a partnership or joint venture between the Vendor and RM-NCGS.
- 31. SEVERABILITY:** In the event that a court of competent jurisdiction holds that a provision or requirement of this contract violates any applicable law, each such provision or requirement shall be enforced only to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this contract shall remain in full force and effect.
- 32. FEDERAL INTELLECTUAL BANKRUPTCY ACT:** The Parties agree that RM-NCGS and the State shall be entitled to all rights and benefits conferred upon them by the Federal Intellectual Bankruptcy Act, Public Law 100-506, and any amendments thereto.
- 33. BENEFICIARY:** Except as herein specifically provided otherwise, this contract shall inure to the benefit of and shall be binding on the Parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this contract and all rights of action relating to such enforcement shall be strictly reserved to RM-NCGS or the State and the named Vendor. Nothing contained in this document shall give or allow any claim or right of action whatsoever to or by other third party or person.
- 34. FINANCIAL INTEREST:** The Vendor warrants that no officer or employee of the State has any financial or personal beneficial interest, direct or indirect, in the subject matter of this contract, and that no such officer or employee has received or will receive, either by rebate, gift or otherwise, any money or thing of value whatsoever, or any promise, obligation, or contract for future award of compensation, as an inducement for making this contract.

ATTACHMENT D: HISTORICALLY UNDERUTILIZED BUSINESSES

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) of the 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, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. This includes utilizing subcontractors to perform the required functions in this IFB. Any questions concerning NC HUB certification, contact the [North Carolina Office of Historically Underutilized Businesses](#) at (919) 807-2330. The Vendor shall respond to question a) and b) below.

- a) Is Vendor a Historically Underutilized Business? **Yes** **No**
- b) Is Vendor Certified with North Carolina as a Historically Underutilized Business? **Yes** **No**

If so, state HUB classification: _____

ATTACHMENT E: CERTIFICATION OF FINANCIAL CONDITION

Name of Vendor: _____

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 on 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 The 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 15 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:



Signature Date

Printed Name Title

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

ATTACHMENT F: ALCOHOL/DRUG-FREE WORK PLACE POLICY

POLICY

It is the policy of the Department of Public Safety to provide a work environment free of alcohol and drugs in order to ensure the safety and well-being of employees, correctional clientele, and the general public. All employees of the Department of Public Safety, including permanent full-time, trainee, and permanent part-time, permanent hourly, probationary, and temporary shall abide by this policy.

PURPOSE

This document is intended to advise managers and employees of the guidelines of an alcohol/drug free work place, and to set out the penalties for violation(s) of the guidelines.

PROCEDURES/OPERATIONAL GUIDELINES

All employees of the Department of Public Safety are expected to be physically and mentally prepared and able to perform their assigned duties throughout the workday. No employee shall report to the work site impaired by or suffering from the effects of drugs or alcohol.

Individuals reporting for work under the influence or the effects of alcohol and/or drugs shall be issued discipline, up to and including dismissal, consistent with the policy governing personal conduct.

No employee shall manufacture, distribute, or dispense controlled substances (drugs/alcohol) at the work site or away from the work site. No employee shall use "across the counter" medication to the point of impairment while at the work site, or in any situation which may bring discredit to the Department. Use or abuse shall be viewed as personal misconduct and shall be cause for immediate disciplinary action up to and including dismissal.

Possession of an illegal substance in any situation, at work or away from the work site shall be cause for discipline. Possession of controlled substances, i.e. Prescription medication or alcohol, must be in compliance with existing laws. Violations will result in discipline up to and including dismissal based on personal misconduct.

Employees who are arrested, detained, or served a warrant for any alcohol/drug related incident, at the work site or away from the work site have 24 hours to file a written report of the situation with the work unit supervisor/manager, i.e. Warden, Superintendent, Branch Manager. The work unit supervisor/manager shall make a recommendation for appropriate disciplinary action based on the facts of the case after conducting a thorough investigation.

If sufficient facts cannot be obtained due to pending litigation, the work unit supervisor/manager shall request, in writing, that any recommendation for disciplinary action be delayed until the court has disposed of the matter. Once the legal proceedings have been completed, the employee shall furnish a certified copy of the court disposition within 48 hours of the judgment. The recommendation for discipline shall be made at this time, if not previously addressed.

Any conviction of a drug or alcohol related offense, which occurred at the work site, shall be reported to the federal government by the Personnel Office; therefore, such offenses shall be reported to the Personnel Office by the appropriate manager so that the Personnel Office may comply with the requirement.

The Department of Public Safety utilizes the State Employee Assistance Program (EAP) administered through the Office of State Personnel. The EAP provides employees with a comprehensive referral service to aid in coping with or overcoming personal problems, including drug and alcohol problems. Consultants with the State EAP will provide managerial/supervisory training and coordinate employee orientation.

ATTACHMENT G: FEMA RULES AND REGULATIONS (2 CFR Part 200, Appendix II)

To the extent applicable, the following are the requirements that Vendor must agree to in order to be awarded any contract under this solicitation. If Vendor is unwilling to meet any of these requirements, Vendor's submittal shall not be considered.

1. **No governmental non-competes.** Vendor shall not impose or enforce any non-competition agreement upon the employees included in Vendor's RFQ that would prevent those employees from accepting any offer of employment from the State of North Carolina outside of the first Term of the Contract. By executing this RFP the Vendor affirms this condition, as directed in the VENDOR EXPERIENCE SECTION 4.5 section of this RFP. This affirmation is a material condition for the State's award of any work under this RFP.
2. **Program Monitoring.** Vendor agrees to assist and cooperate with the Federal grantor agency and NCEM or their duly designated representatives in the monitoring of the project or projects to which this contract relates, and to provide in form and manner approved by NCEM such monitoring reports, progress reports, and the like as may be required and to provide such reports at the times specified.
3. **Remedies.** Remedies for performance and default are governed under Section 1 and related sections of the North Carolina General Contract Terms & Conditions included in this solicitation and Section 4 of the FEMA Rules and Regulations below.
4. **Termination for Cause.** In addition to Section 1 of the North Carolina General Contract Terms & Conditions included in this solicitation, if through any cause, Vendor shall fail to fulfill in a timely or proper manner any obligations under this Contract, or if Vendor shall violate any of the covenants, agreements, or stipulations of the Contract, NCEM shall thereupon have the right to terminate this Contract by giving written notice to Vendor of such termination and specifying the effective date of such termination. Unless a shorter time is determined by NCEM to be necessary, NCEM shall effect termination according to the following procedure:
 - a. **Notice to Cure.** NCEM shall give written notice of the conditions of default, setting forth the ground or grounds upon which such default is declared ("Notice to Cure"). The Vendor shall have ten (10) days from receipt of the Notice to Cure or any longer period that is set forth in the Notice to Cure to cure the default.
 - b. **Notice of Termination.** If the conditions set forth in the Notice to Cure are not cured within the period set forth in the Notice to Cure, NCEM may terminate the Contract, in whole or in part. NCEM shall give the Vendor written notice of such termination ("Notice of Termination"), specifying the applicable provision(s) under which the Contract is terminated and the effective date of the termination.
 - c. In such event, all finished or unfinished documents, data, studies, and reports prepared by Vendor entitle Vendor's receipt of just and equitable compensation for any satisfactory work completed on such documents. Notwithstanding the above, Vendor shall not be relieved of liability to NCEM for damage sustained to NCEM by virtue of any breach of this Contract by Vendor. NCEM may withhold any payments to Vendor for the purpose of set off until such time as the exact amount of damages due NCEM from Vendor is determined.
5. **Termination for Convenience.** Termination of the Contract for convenience shall be governed by Section 10 of the North Carolina General Contracts Terms & Conditions.
6. **Equal Employment Opportunity.** During the performance of this contract, the Vendor agrees as follows:
 - a. The Vendor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Vendor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- b. The Vendor shall, in all solicitations or advertisements for employees placed by or on behalf of the Vendor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. The Vendor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Vendor's legal duty to furnish information.
- d. The Vendor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Vendor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Vendor shall comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Vendor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Vendor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Vendor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The Vendor shall include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Vendor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Vendor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Vendor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it shall be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it shall assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Vendors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it shall furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it shall otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it shall refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Vendor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Vendors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings

7. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).**

Compliance with the Contract Work Hours and Safety Standards Act.

- a. *Overtime requirements.* No Vendor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b. *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in 29 C.F.R. §5.5(b)(1) the Vendor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Vendor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in 29 C.F.R. §5.5(b)(1), in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in 29 C.F.R. §5.5(b)(1).
- c. *Withholding for unpaid wages and liquidated damages.* NCDEM shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Vendor or subcontractor

under any such contract or any other Federal contract with the same prime Vendor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Vendor, such sums as may be determined to be necessary to satisfy any liabilities of such Vendor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in 29 C.F.R. §5.5(b)(2).

- d. *Subcontracts.* The Vendor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of 29 C.F.R. §5.5 and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Vendor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in 29 C.F.R. §5.5(b)(2) through (4).

8. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT.

Clean Air Act

- a. The Vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- b. The Vendor agrees to report each violation to NCEM and understands and agrees that NCEM will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. The Vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

- a. The Vendor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- b. The Vendor agrees to report each violation to NCEM and understands and agrees that NCEM will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. The Vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

9. Debarment and Suspension.

- a. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Vendor is required to verify that none of the Vendor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- b. The Vendor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- c. This certification is a material representation of fact relied upon by NCEM. If it is later determined that the Vendor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to NCEM, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

- d. The Vendor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) (as Amended).

Vendors that apply for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Required Certification. If applicable, Vendors must sign and submit to NCEM the certification. See Attachment H.

11. Procurement of Recovered Materials.

- a. In the performance of this contract, the Vendor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
 - Competitively within a timeframe providing for compliance with the contract performance schedule;
 - Meeting contract performance requirements; or
 - At a reasonable price.
- b. Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- c. The Vendor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

12. Women and Minority Owned Businesses. Vendor shall comply with the provisions of 2 C.F.R. § 200.321 which requires that all necessary affirmative steps are taken by the State and Vendor to assure that minority and women's businesses are used when possible, and N.C. Gen. Stat. 143-128.2 establishes a ten percent (10%) goal for participation by minority and women owned businesses in total value of work performed for the State.

13. Access to Records. In addition to Section 12 of the North Carolina General Contract Terms & Conditions included in this solicitation, the following access to records requirements apply to this contract:

- a. The Vendor agrees to provide NCEM, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Vendor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- b. The Vendor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c. The Vendor agrees to provide the FEMA Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the contract.

d. In compliance with the Disaster Recovery Act of 2018, NCEM the Vendor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

14. **Modifications to Contract.** Modifications to the Contract are governed by Section 24 of the North Carolina General Contract Terms & Conditions included in this solicitation.
15. **Records Retention.** All records required to be kept on the project shall be maintained for at least five (5) years after final payments and until all other pending matters under the grant for this project have been closed. However, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the five (5) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the five (5) year period, whichever is later.
16. **Energy Efficiency.** All participants in the projects funded hereby shall recognize mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (PL 94-163).
17. **Program Fraud and False or Fraudulent Statements or Related Acts.** Vendor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the Contract.
18. **No Obligation by Federal Government.** The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Vendor, or any other party pertaining to any matter resulting from the contract.
19. **Compliance with Federal Law, Regulations, and Executive Orders.** This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Vendor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives
20. **DHS, Seal, Logo, and Flags.** In addition to the prohibitions in Section 11 of the North Carolina General Contract Terms & Conditions included in this solicitation, the Vendor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

ATTACHMENT H: CERTIFICATION REGARDING LOBBYING (Appendix A, 44 C.F.R. Part 18)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Vendor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Vendor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Vendor's Authorized Official

Name and Title of Vendor's Authorized Official

Date

**ATTACHMENT I: CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED
TRANSACTIONS**

Note: The phrase "prospective lower tier participant" means providers under contract with the NCEM-NCFMP.

1. By signing and submitting this document, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of the fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originate may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549, 2 CFR § 200.338. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter any lower tier covered transaction with a person who is debarred, suspended, determined ineligible or voluntarily excluded from participation in this covered transaction unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this document that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency of which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized in paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension, and/or debarment.
10. The prospective lower tier participant certifies, by submission of this document, that neither it nor its principals are presently debarred, suspend, proposed for debarment, declared ineligible, nor voluntarily excluded from participation in this transaction by any federal department or agency.

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11. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Authorized Signature

Title

Vendor

Date

**ATTACHMENT J: SF254 ARCHITECT-ENGINEER AND RELATED SERVICES
QUESTIONNAIRE**

Complete and attach to Vendor's proposal Standard Form (SF) 254 ARCHITECT-ENGINEER AND RELATED SERVICES QUESTIONNAIRE. Form SF 254 is located on the North Carolina State Construction Office website under FORMS and DOCUMENTS, <http://www.nc-sco.com/documents/forms/sf254-word.doc>.

ATTACHMENT K: APPEALS PROCEDURE

The vendor may appeal the denial of a contract award as noted below.

- a. **Initial Protest** – A vendor denied contract award may protest the Qualification committee's decision by filing a written appeal via hand-delivery or e-mail to the applicable Qualification committee within three (3) business days of emailed notice that the firm has been denied contract award. The written appeal shall clearly articulate the reasons why the vendor is contesting the denial (i.e., explains how the vendor satisfied all required criteria for Qualification in the government's solicitation in their initial response) and attach all documents supporting the vendor's position. The Qualification committee may contact the vendor regarding the information provided prior to ruling on the protest. The Qualification Committee should review the written protest within five (5) business days. If the Qualification committee upholds its denial, the vendor shall be notified in writing via e-mail.
- b. **Appeal** – Within three (3) business days of NCEM's emailed notice of the Qualification Committee's written protest decision, the denied vendor may appeal the Qualification Committee's decision, in writing, via hand-delivery or e-mail, to the Qualification Official. The Qualification Official should review the appeal within five (5) business days. In the event the Qualification Official is unable to review in a timely manner, he/she may designate a representative that is not a member of the Qualification committee to handle the appeal.
- c. **Decision on Appeal** – The decision of the Qualification Official or Representative on the appeal shall be final, and the firm shall be promptly notified of the decision.
- d. **General Rules for Protests and Appeals** – Vendors submitting proposals shall be provided an e-mail address for communication with NCEM during the protest and appeal process. The vendor shall provide at least two e-mail addresses for use by NCEM in communicating with the vendor. A vendor's failure to comply with any requirements of the protest and appeals procedures of this section shall result in the vendor's protest or appeal being terminated and rendered moot.