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|  | **Lander University****Request for Proposal** | Solicitation NumberDate PrintedDate IssuedProcurement OfficerPhoneE-Mail Address | RFP-LA-477-08-11-2021 08-03-202108-04-2021Lois Amick(864) 388-8899lamick@lander.edu |

DESCRIPTION: **Chartered Bus Services**

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

SUBMIT OFFER BY (Opening Date/Time): **08-11-2021 3:00 pm**

QUESTIONS MUST BE RECEIVED BY: **08/09/2021 12:00 Noon See "Questions from Offerors" provision**

NUMBER OF COPIES TO BE SUBMITTED: **ONE original and TWO copies**

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

SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:

 MAILING ADDRESS: PHYSICAL ADDRESS:

 Lander University Lander University

Procurement Services CPO 6023 Procurement Services, Room FO210

 Greenwood, S.C. 29649 204 W. Henrietta Ave.

 **See "Submitting Your Offer" provision** Greenwood, S.C. 29649

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| CONFERENCE TYPE: **Not Applicable**DATE & TIME:**As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions** | LOCATION: **Not Applicable**  |
| AWARD & AMENDMENTS | Award will be posted at the Physical Address stated above on **or before 08/12/2021.** The award, this solicitation, and any amendments will be posted at the following web address: <http://www.lander.edu/solicitations> |
| You must submit a signed copy of this form with Your Offer. By submitting a bid or proposal, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of thirty (30) calendar days after the Opening Date. |
| NAME OF OFFEROR (Full legal name of business submitting the offer) | OFFEROR'S TYPE OF ENTITY:(Check one)□ Sole Proprietorship□ Partnership□ Corporation (tax-exempt)□ Corporate entity (not tax-exempt)□ Government entity (federal, state, or local)□ Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (See "Signing Your Offer" provision.) |
| AUTHORIZED SIGNATURE(Person signing must be authorized to submit binding offer to enter contract on behalf of Offeror named above.) |
| TITLE (Business title of person signing above) |
| PRINTED NAME (Printed name of person signing above) | DATE SIGNED |
| Instructions regarding Offeror's name: Any award issued will be issued to, and the contract will be formed with, the entity identified as the offeror above. An offer may be submitted by only one legal entity. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, *i.e.*, a separate corporation, partnership, sole proprietorship, etc. |
| STATE OF INCORPORATION (If offeror is a corporation, identify the state of Incorporation.) |
| TAXPAYER IDENTIFICATION NO.(See "Taxpayer Identification Number" provision) | STATE VENDOR NO.(Register to Obtain S.C. Vendor No. at [www.procurement.sc.gov](http://www.procurement.sc.gov)) |
|  PAYMENT ADDRESS (Address to which payments will be sent.) (See "Payment" clause)          \_\_\_\_Payment Address same as Home Office Address\_\_\_\_Payment Address same as Notice Address   **(check only one)** | ORDER ADDRESS (Address to which purchase orders will be sent) (See "Purchase Orders and "Contract Documents" clauses)          \_\_\_\_Order Address same as Home Office Address\_\_\_\_Order Address same as Notice Address   **(check only one)** |
|  ACKNOWLEDGMENT OF AMENDMENTSOfferors acknowledges receipt of amendments by indicating amendment number and its date of issue. (See "Amendments to Solicitation" Provision) |
| Amendment No. | Amendment Issue Date | Amendment No. | Amendment Issue Date | Amendment No. | Amendment Issue Date | Amendment No. | Amendment Issue Date |
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| DISCOUNT FOR PROMPT PAYMENT(See "Discount for Prompt Payment" clause) | 10 Calendar Days (%) | 20 Calendar Days (%) | 30 Calendar Days (%) | \_\_\_\_\_Calendar Days (%) |

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| PREFERENCES - A NOTICE TO VENDORS (SEP. 2009): On June 16, 2009, the South Carolina General Assembly rewrote the law governing preferences available to in-state vendors, vendors using in-state subcontractors, and vendors selling in-state or US end products. This law appears in Section 11-35-1524 of the South Carolina Code of Laws. A summary of the new preferences is available at [www.procurement.sc.gov/preferences](http://www.procurement.sc.gov/preferences). ***ALL THE PREFERENCES MUST BE CLAIMED AND ARE APPLIED BY LINE ITEM, REGARDLESS OF WHETHER AWARD IS MADE BY ITEM OR LOT.*** **VENDORS ARE CAUTIONED TO CAREFULLY REVIEW THE STATUTE BEFORE CLAIMING ANY PREFERENCES. THE REQUIREMENTS TO QUALIFY HAVE CHANGED. IF YOU REQUEST A PREFERENCE, YOU ARE CERTIFYING THAT YOUR OFFER QUALIFIES FOR THE PREFERENCE YOU'VE CLAIMED. IMPROPERLY REQUESTING A PREFERENCE CAN HAVE SERIOUS CONSEQUENCES.** [11-35-1524(E)(4)&(6)] |
| PREFERENCES - ADDRESS AND PHONE OF IN-STATE OFFICE: **Preferences do not apply to Request for Proposals per SC Consolidated Procurement Code Section 11-35-1524, part (5)**\_\_\_\_ In-State Office Address same as Home Office Address\_\_\_\_ In-State Office Address same as Notice Address (check only one) |

**Solicitation Outline**

1. **Scope of Solicitation**
2. **Instructions to Offerors**

 **A. General Instructions**

 **B. Special Instructions**

1. **Scope of Work / Specifications**
2. **Information for Offerors to Submit**
3. **Qualifications**
4. **Award Criteria**
5. **Terms and Conditions**

 **A. General**

 **B. Special**

1. **Bidding Schedule / Cost Proposal**

**IX. Attachments to Solicitation**

**I. SCOPE OF SOLICITATION**

The scope of this solicitation is to provide chartered bus services for the 2021/2022 athletic teams’ travel including other areas on campus on an “as needed” basis with an option to renew for the 2022/2023 year in accordance with all requirements stated herein.

**ACQUIRE SERVICES (JAN 2006):**

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

**II. INSTRUCTIONS TO OFFERORS – A.** **GENERAL INSTRUCTIONS**

**DEFINITIONS, CAPITALIZATION, AND HEADINGS (DEC 2015)**

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

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

AUTHORITY means the State Fiscal Accountability Authority or its successor in interest.

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

CHANGE ORDER means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract. [11-35-310(4)]

CONTRACT See clause entitled Contract Documents & Order of Precedence.

CONTRACT MODIFICATION means a written order signed by the procurement officer, directing the contractor to make changes which the clause of the contract titled "Changes," if included herein, authorizes the Procurement Officer to order without the consent of the contractor. [11-35-310(9)]

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

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

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

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

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

PROCUREMENT OFFICER means the person, or his successor, identified as such on either the Cover Page, an amendment, or an award notice.

YOU and YOUR means Offeror.

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

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

SUBCONTRACTOR means any person you contract with to perform or provide any part of the work.

US or WE means the using governmental unit.

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

WORK means all labor, materials, equipment, services, or property of any type, provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract.[02-2A003-3]

**AMENDMENTS TO SOLICITATION (modified)**

(a) The Solicitation may be amended at any time prior to opening. All actual and prospective Offerors should monitor the following web site for the issuance of amendments: [https://www.lander.edu/about/offices-departments/finance-administration/procurement-services/purchasing-department](%20https%3A/www.lander.edu/about/offices-departments/finance-administration/procurement-services/purchasing-department%20) (b) Offerors shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on Page Two, (3) by letter, or (4) by submitting a bid that indicates in some way that the bidder received the amendment. (c) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

**AWARD NOTIFICATION (FEB 2015)**

Notice regarding any award, cancellation of award, or extension of award will be posted at the location and on the date specified on the Cover Page or, if applicable, any notice of extension of award. Should the contract resulting from this Solicitation have a total or potential value of one hundred thousand dollars, such notice will be sent electronically to all Offerors responding to the Solicitation and any award will not be effective until the calendar day (including weekends and holidays) immediately following the seventh business day after such notice is given.

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

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

**BID ACCEPTANCE PERIOD (JAN 2004)**

In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing.

**BID IN ENGLISH & DOLLARS (JAN 2004)** Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation.

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

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

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

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

(i) Those prices;

(ii) The intention to submit an offer; or

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

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

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

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

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

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

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

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

(c) If the offeror deletes or modifies paragraph (a)(2) of this certification, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure. [02-2A032-1]

**CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS (JAN 2004)**

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

 Offeror and/or any of its Principals-

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

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

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

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

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

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

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

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

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

**CODE OF LAWS AVAILABLE (JAN 2006)**

The South Carolina Code of Laws, including the Consolidated Procurement Code, is available at http://www.scstatehouse.net/code/statmast.htm. The South Carolina Regulations are available at: http://www.scstatehouse.net/coderegs/statmast.htm.

**COMPLETION OF FORMS / CORRECTION OF ERRORS (JAN 2006)**

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

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

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

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

 You warrant and represent that your offer identifies and explains any unfair competitive advantage you may have in competing for the proposed contract and any actual or potential conflicts of interest that may arise from your participation in this competition or your receipt of an award. The two underlying principles are (a) preventing the existence of conflicting roles that might bias a contractor's judgment, and (b) preventing an unfair competitive advantage. If you have an unfair competitive advantage or a conflict of interest, the state may withhold award. Before withholding award on these grounds, an offeror will be notified of the concerns and provided a reasonable opportunity to respond. Efforts to avoid or mitigate such concerns, including restrictions on future activities, may be considered. Without limiting the foregoing, you represent that your offer identifies any services that relate to either this solicitation or the work and that has already been performed by you, a proposed subcontractor, or an affiliated business of either. [02-2A047-2]

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

By submitting an Offer, Contractor certifies that, if awarded a contract, Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended

**DUTY TO INQUIRE (FEB 2015)**

 Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror's risk. All ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation shall be interpreted to require the better quality or greater quantity of work and/or materials, unless otherwise directed by amendment. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the State's attention. See clause entitled "Questions from Offerors." [02-2A070-2]

**ETHICS CERTIFICATE (MAY 2008)**

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

**OMIT TAXES FROM PRICE (JAN 2004)**

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

**OPEN TRADE REPRESENTATION (JUN 2015)**

 By submitting an Offer, Offeror represents that Offeror is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300. [02-2A083-1]

**PROTESTS (MAY 2019)**

 If you are aggrieved in connection with the solicitation or award of the contract, you may be entitled to protest, but only as provided in Section 11-35-4210. To protest a solicitation, you must submit a protest within **fifteen days** of the date the applicable solicitation document is issued. To protest an award, you must (i) submit notice of your intent to protest within **seven business days** of the date the award notice is posted, and (ii) submit your actual protest within **fifteen days** of the date the award notice is posted. Days are calculated as provided in Section 11-35-310(13). Both protests and notices of intent to protest must be in writing and must be received by the appropriate Chief Procurement Officer within the time provided. See clause entitled "Protest-CPO". The grounds of the protest and the relief requested must be set forth with enough particularity to give notice of the issues to be decided. [02-2A085-2]

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

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

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

 (b) You are advised to familiarize yourself with Regulation 19-445.2165, which restricts donations to a governmental entity with whom you have or seek to have a contract.  ***You represent that your offer discloses any gifts made, directly or through an intermediary, by you or your named subcontractors to or for the benefit of the Using Governmental Unit during the period beginning eighteen months prior to the Opening Date.***  [R. 19-445.2165] [02-2A087-1]

**PUBLIC OPENING (JAN 2004)**

Offers will be publicly opened as possible – regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition.

**QUESTIONS FROM OFFERORS (FEB 2015)**

(a) Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing. Questions regarding the original solicitation or any amendment must be received by the Procurement Officer no later than five (5) days prior to opening unless an earlier date is stated on the Cover Page. Label any communication regarding your questions with the name of the procurement officer, and the solicitation's title and number. Oral explanations or instructions will not be binding. [See R. 19-445.2042(B)] Any information given a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective offerors. See clause entitled “Duty to Inquire.” **We will not identify you in our answer to your question**. (b) The State seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer -- as soon as possible -- regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition. [See R. 19-445.2140]

**REJECTION/CANCELLATION (JAN 2004)**

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

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

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

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

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

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

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

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

**RESTRICTIONS APPLICABLE TO OFFERORS (JAN 2006)**

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

**SIGNING YOUR OFFER (JAN 2004)**

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

**STATE OFFICE CLOSINGS (JAN 2004)**

If an emergency or unanticipated event interrupts normal government processes so that offers cannot be received at the government office designated for receipt of bids by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal government processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule bid opening. If state offices are closed at the time a pre-bid or pre-proposal conference is scheduled, an Amendment will be issued to reschedule the conference. Useful information may available at: <http://www.scemd.org/myscgovweb/weather.html>.

**SUBMITTING CONFIDENTIAL INFORMATION (FEB 2015)**

 (An overview is available at [www.procurement.sc.gov](http://www.procurement.sc.gov) ) For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that Offeror contends contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged and confidential, as that phrase is used in Section 11-35-410. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the words "TRADE SECRET" every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "PROTECTED" every page, or portion thereof, that Offeror contends is protected by Section 11-35-1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire response (bid, proposal, quote, etc.) as confidential, trade secret, or protected. If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page. By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED", (2) agrees that any information not marked, as required by these bidding instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. In determining whether to release documents, the State will detrimentally rely on Offeror's marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "PROTECTED". By submitting a response, Offeror agrees to defend, indemnify and hold harmless the State of South Carolina, its agencies, officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from withholding information by the State of South Carolina or any of its agencies, that Offeror marked as "confidential" or "trade secret" or "PROTECTED". (All references to S.C. Code of Laws.) [02-2A125-2]

**SUBMITTING A PAPER OFFER OR MODIFICATION (MAR 2015)**

 Unless specifically instructed otherwise in the solicitation, you should submit your offer or modification in accordance with the clause titled "ON-LINE BIDDING INSTRUCTIONS." Paper offers are discouraged. If you must submit a paper offer or modification the following instructions apply. (a) All prices and notations should be printed in ink or typewritten. Errors should be crossed out, corrections entered and initialed by the person signing the bid. Do not modify the solicitation document itself (including bid schedule). (b) (1) All copies of the offer or modification, and any other documents required to be submitted with the offer shall be enclosed in a sealed, opaque envelope or package. (2) Submit your offer or modification to the address on the Cover Page. (3) The envelope or package must show the time and date specified for opening, the solicitation number, and the name and address of the bidder. If the offer or modification is sent by mail or special delivery service (UPS, Federal Express, etc.), the outermost envelope or wrapper must be labeled "OFFER ENCLOSED" on the face thereof. (c) If you are responding to more than one solicitation, submit each offer in a separate envelope or package. (d) Submit the number of copies indicated on the Cover Page. (e) Facsimile or e-mail offers, modifications, or withdrawals, will not be considered unless authorized by the Solicitation. [02-2A130-2]

**TAX CREDIT FOR SUBCONTRACTING WITH DISADVANTAGED SMALL BUSINESSES (JAN 2008)**

Pursuant to Section 12-6-3350, a taxpayer having a contract with this State who subcontracts with a socially and economically disadvantaged small business is eligible for an income tax credit equal to four percent of the payments to that subcontractor for work pursuant to the contract.  The subcontractor must be certified as a socially and economically disadvantaged small business as defined in Section 11-35-5010 and regulations pursuant to it.  The credit is limited to a maximum of fifty thousand dollars annually.  A taxpayer is eligible to claim the credit for ten consecutive taxable years beginning with the taxable year in which the first payment is made to the subcontractor that qualifies for the credit.  After the above ten consecutive taxable years, the taxpayer is no longer eligible for the credit.  A taxpayer claiming the credit shall maintain evidence of work performed for the contract by the subcontractor.  The credit may be claimed on Form TC-2, "Minority Business Credit."  A copy of the subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be attached to the contractor's income tax return.  Questions regarding the tax credit and how to file are to be referred to:  SC Department of Revenue, Research and Review, Phone:  (803) 898-5786, Fax:  (803) 898-5888.  Questions regarding subcontractor certification are to be referred to:  Governor's Office of Small and Minority Business Assistance, Phone:  (803) 734-0657, Fax:  (803) 734-2498.  [02-2A135-1]

**TAXPAYER IDENTIFICATION NUMBER (JAN 2006)**

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

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

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

**VENDOR REGISTRATION MANDATORY (JAN 2006)**

You must have a state vendor number to be eligible to submit an offer. To obtain a state vendor number, visit www.procurement.sc.gov and select “New Vendor Registration.” (To determine if your business is already registered, go to "Vendor Search".) Upon registration, you will be assigned a state vendor number. Vendors must keep their vendor information current. If you are already registered, you can update your information by selecting “Change Vendor Registration.” (Please note that vendor registration does not substitute for any obligation to register with the South Carolina Secretary of State (803-734-2170) or the South Carolina Department of Revenue (803-898-5391 or 803-898-5804).

**WITHDRAWAL OR CORRECTION OF OFFER (JAN 2004)**

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

**II. INSTRUCTIONS TO OFFERORS – B. SPECIAL INSTRUCTIONS**

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

**CONTENTS OF OFFER (RFP) (FEB 2015)**

(a) Offers should be complete and carefully worded and should convey all of the information requested.

(b) Offers should be prepared simply and economically, providing a straightforward, concise description of offeror’s capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.

(c) The contents of your offer must be divided into two parts, the technical proposal and the business proposal. Each part should be bound in a single volume.

(d) If your offer includes any comment over and above the specific information requested in the solicitation, you are to include this information as a separate appendix to your offer. Offers which include either modifications to any of the solicitation’s contractual requirements or an offeror’s standard terms and conditions may be deemed non-responsive and not considered for award.[02-2B040-2]

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

Submit your best terms from both a price and a technical standpoint. Your proposal may be evaluated and your offer accepted without any discussions, negotiations, or prior notice. Ordinarily, nonresponsive proposals will be rejected outright without prior notice. Nevertheless, the State may elect to conduct discussions, including the possibility of limited proposal revisions, but only for those proposals reasonably susceptible of being selected for award. [11-35-1530(6); R.19-445.2095(I)] If improper revisions are submitted during discussions, the State may elect to consider only your unrevised initial proposal, provided your initial offer is responsive. The State may also elect to conduct negotiations, beginning with the highest ranked offeror, or seek best and final offers, as provided in Section 11-35-1530(8). Negotiations may involve both price and matters affecting the scope of the contract, so long as changes are within the general scope of the request for proposals. If negotiations are conducted, the State may elect to disregard the negotiations and accept your original proposal. [06-6058-1]

**MAIL PICKUP** **(Modified):** Lander University gets mail delivery from The US Postal Service once daily around 2:45 p.m. (excluding weekends and holidays). See provision entitled Deadline for Submission of Offer. **- \*\*\*\*\*\*NOTICE for bids arriving by US Postal Service – consider the bid opening at 3:00 pm and the late arrival of mail to Lander.**

**ORAL PRESENTATIONS (Modified):**

Offerors may be requested to make oral presentations of their proposals to the State of South Carolina. Such presentations provide an opportunity for the offerors to clarify their proposals and to ensure a thorough understanding.

**UNSUCCESSFUL OFFERORS**

Offerors not awarded a contract under this solicitation, may request return of their proposals within thirty (30) days after notification of award is mailed. All costs of returns will be paid by the offeror. If Federal Express, UPS, or other shipping number is not received with request, all materials will be destroyed.

**PROTEST - CPO - MMO ADDRESS (JUNE 2006)**

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

 (a) by email to protest-mmo@mmo.sc.gov ,

 (b) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201.    [02-2B122-1]

**III. SCOPE OF WORK/SPECIFICATIONS**

**BACKGROUND**

**INSTITUTIONAL BACKGROUND**

**THE UNIVERSITY:** Founded in 1872, Lander University is a co-educational, state-assisted, comprehensive, regional, four-year university in Greenwood, S.C. With approximately 3,000 students, Lander provides exceptional educational opportunities within its traditional liberal arts and science programs, and its professional programs in business, education and nursing.

**LOCATION:** The city of Greenwood has a population of 23,342 with a county population exceeding 69,834. Greenwood is located in the Piedmont of western South Carolina, just 2-4 hours from the beautiful Blue Ridge Mountains or the South Carolina beaches.

**HOUSING:** Lander University’s on-campus housing options include 10 different living communities located on-campus and in close proximity to campus. Over 1,750 students call our residential communities home making on-campus living a lively hub for campus life.

**ACCREDITATION:** Lander is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (1866 Southern Lane, Decatur, Georgia 30033-4097, Telephone number 404-679-4501) to award bachelor’s and master’s level degrees.

**PURPOSE OF SOLICITATION**

**PROPOSAL CONSTITUTES OFFER**

By submitting a proposal, the Offeror agrees to be governed by the terms and conditions as set forth in this document. Any proposal containing variations from terms and conditions set forth herein may, in the sole discretion of the Lander University, render such proposal non responsive. Any inconsistencies between the RFP and any other contractual instrument shall be governed by the terms and conditions of this RFP, except where subsequent amendments to any contract resulting from this RFP supersede any such provisions of this RFP.

**PARTIAL PROPOSALS**

Proposals will not be accepted for anything other than the entire RFP.

**COMPANY EXPERIENCE AND REFERENCE ACCOUNTS**

Offerors must provide information showing company experience in receiving contracts for and furnishing all services comparable to the size and type of operations proposed. Also, Offerors must include the number of boarding students and a general description of type of operations and length of service for each client.

**III. Scope of Work / Specifications**

DELIVERY / PERFORMANCE LOCATION - SPECIFIED (JAN 2006): After award, all deliveries shall be made and all services provided to the following address, unless otherwise specified:

**Unless otherwise specified, all deliveries shall be made to the following address:**

Attn: Kent Atkins

Lander University

 864-388-8818

The following requirements represent a minimum imposed by the University and these requirements, in no way, restrict the offeror from proposing additional or increased features.

* The Offeror’s bus shall arrive on Lander’s campus in sound mechanical condition (**working** **HVAC, VCR/DVD player, windshield wipers, etc.**).
* **Statutory Responsibilities**: Rules and regulations of the Interstate Commerce Commission, Department of Transportation, and State regulatory and supervisory agencies governing the safety of public motor transportation operations, condition of equipment, proficiency of operators and maintenance crews, and first aid requirements will be complied with at all times.
* **Temperature Control:** In areas and during seasons where required for the comfort of passengers, buses will be equipped with air conditioning and heating units. The interior temperature of the coach will be so controlled as to ensure passenger comfort at all times regardless of seasonal weather conditions.
* **Cleanliness and Serviceability of Equipment:** Prior to departure of equipment from garaging point it will be serviced so as to be in proper operating condition. Interior and exterior will be thoroughly cleaned.

* Each carrier will brief the Lander person(s) in charge regarding route to be followed, stops in route and other service items.
* During movement the Lander person(s) in charge will be briefed concerning irregular events that occur and all reasons for delays or other interruptions to movement.

* Offeror shall be given a written warning for the first material deficiency during the course of the contract with Lander University. Any subsequent material deficiency shall result in the form of a cure notice, plus a meeting with Lander’s Procurement Director.
* Team(s) will depart and return to the Finis Horne Arena, Lander University, or, Jeff May Complex, Greenwood, S.C., at time specified in itinerary.
* Teams may add or delete games. Contractor will be notified as soon as information is available.
* Games are subject to an extra day if weather forces cancellation of a game. All games are subject to changes based on inclement weather and may force an extra night’s stay.
* Post season mileage is possible for trips to conference tournament. Not all mileage for the post season is included. Charter service will be needed for these games as playoffs are determined. It is understood that the same mileage rate will apply to **both** scheduled games and post season games and that an amendment to puchase orderwill be issued for actual mileage incurred to the post season games.
* Tournament site to be determined by highest seeded team. Contractor will be notified as soon as information is available.
* **Note: all miles are approximate.** It will be the responsibility of the vendor bidding to compute exact mileage including any “dead” miles to be incurred.
* A 46 capacity passenger bus is required. In the event two teams are traveling together, a 57 passenger bus is required.
* Each invoice submitted for payment must be itemized with the date and destination of trip. Invoices must be submitted to the procurement services office.
1. **Bidding Schedule / Cost Proposal**

The contractor shall be responsible for providing:

1. All motor coaches shall be less than 15 years old
2. All motor coaches shall be serviced and maintained by the carrier at frequent intervals. The carrier shall make records available to the University upon request.
3. All motor coaches shall meet DOT, SC DMV, OSHA, and all federal and state environmental standards.
4. All motor coaches shall be in proper working order, with a clean interior and exterior with no odors prior to traveling.
5. All motor coaches will provide a minimum of 55 passengers unless otherwise stated. In certain instances it will be advantageous for the University to request a smaller coach.
6. All motor coaches will have clean and functioning restrooms on board with lighting.
7. All motor coaches will have air conditioning and heating.
8. All motor coaches will have as standard equipment a VCR/DVD player with multiple screens.
9. All motor coaches will have as standard equipment wireless internet access.
10. All motor coaches will be equipped with locking storage for equipment and luggage underneath as well as overhead storage for personal bags.
11. In the event of an accident or breakdown the carrier will provide immediate access to a motor coach of similar size/features. If for any reason the driver is unable to complete the trip, the carrier will provide a substitute. The carrier will be responsible for any additional costs due to accident or mechanical breakdowns.

**Drivers:**

1. All drivers shall maintain a neat and clean appearance while working on behalf of the University. Drivers shall be uniformed while on duty.
2. Drivers shall act in a professional and courteous manner at all times.
3. Drivers shall arrive on time to allow sufficient time to load equipment and passengers, confer with coaches or responsible person regarding final travel details prior to the posted departure time.
4. Any action by the driver while working on behalf of Lander University which results in charges being incurred due to traffic citations, hotel room damage, etc. will be the responsibility of the driver or the carrier. Lander University will not be held responsible in these matters.

**Additionally:**

* The Offeror’s bus shall arrive on Lander’s campus in sound mechanical condition (**working** **HVAC, VCR/DVD player, windshield wipers, etc.**).
* **Statutory Responsibilities**: Rules and regulations of the Interstate Commerce Commission, Department of Transportation, and State regulatory and supervisory agencies governing the safety of public motor transportation operations, condition of equipment, proficiency of operators and maintenance crews, and first aid requirements will be complied with at all times.
* **Temperature Control:** In areas and during seasons where required for the comfort of passengers, buses will be equipped with air conditioning and heating units. The interior temperature of the coach will be so controlled as to ensure passenger comfort at all times regardless of seasonal weather conditions.
* **Cleanliness and Serviceability of Equipment:** Prior to departure of equipment from garaging point it will be serviced so as to be in proper operating condition. Interior and exterior will be thoroughly cleaned.

* Each carrier will brief The Lander person(s) in charge regarding route to be followed, stops in route and other service items.
* During movement The Lander person(s) in charge will be briefed concerning irregular events that occur and all reasons for delays or other interruptions to movement.

* Team(s) will depart and return to the Finis Horne Arena, Lander University, or as noted in itinerary, Jeff May Complex, Greenwood, S.C., at time specified in itinerary.
* Teams may add or delete games. Contractor will be notified as soon as information is available.
* In the event winning bus contractor does not have bus available for any given trip, it is the contractor’s responsibility to obtain a bus.
* Games are subject to an extra day if weather forces cancellation of a game. All games are subject to changes based on inclement weather and may force an extra night’s stay.
* Post season mileage is possible for trips to conference tournament. Not all mileage for the post season is included. Charter service will be needed for these games as playoffs are determined. It is understood that the same mileage rate will apply to **both** scheduled games and post season games.
* Tournament site to be determined by highest seeded team. Contractor will be notified as soon as information is available.
* It will be the responsibility of the vendor bidding to compute exact mileage including any “dead” miles to be incurred.
* Each invoice submitted for payment must be itemized with the date and destination of trip. Invoices must be submitted to the Procurement Services office.
* Base response on following sports travel itineraries received to today’s date:

**\*\*\*More trips may be added and use of contract is for any area/dept. of Lander University needing bus services.**

**Fall Sports Travel Schedules can be viewed at**

[**http://www.landerbearcats.com/landing/index**](http://www.landerbearcats.com/landing/index)

\*Please note that some trips will be taken in vans and bus services are not needed

Schedule below is partial and some early trips may be booked, call Kent Atkins w/questions

Women’s soccer

          9/2 to North Greenville, leave 4 pm; may change to vans

          9/15 To Coker, leave at 130

          9/25 leave at 8 am to Columbus, GA, come home after game.

          9/29 to Clayton St. leave at 12 pm

          10/6 to Mars Hill leave at 1230 pm; van possible

          10/16 to Albany St. leave at 830 come home after game.

          10/30 to USC Aiken, leave at 4 pm; van possible

          PBC tourney, November 2 or 3 and 5, 6 – 7 if they qualify

Volleyball

          9/16 to Flagler, leave 130 or 2, play on the 17th and return after game

          11/21 and 22 PBC Tourney if they qualify

Men’s soccer

          9/2 to Francis Marion

          9/5 to Francis Marion, play Chowan

          9/15 to North Georgia

          9/25 to Young Harris

          10/5 to Flagler, come back on the10/6

          10/20 to Clayton

          10/23 to GSW, come back on 10/24.

          PBC tourney November 2 or 3 and 5-7  (should qualify)

Cross Country

          Friday September 17 to WakeMed Park in Cary, NC (leave 10:30 AM, return 1:00 AM)

Friday October 8 to McAlpine Park in Charlotte, NC (leave 12:00 PM, return 10:30PM)

Friday October 22 to Chatahootchie Hills Park in Fairburn, GA – Leave Friday 10/22 2 PM, return Saturday 10/23 4PM)

Bidding Instructions:

Bids must meet the minimums listed. If offering more than the minimums listed, please attach a list of additional benefits and features.

 **BIDDING SCHEDULE**

You are submitting a Bid on the 2021-2022 Sports Travel Itineraries

**$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_minimum day rate or $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_per mile**

**$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_per overnight**

**Total Package Cost $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Vendor Authorized Signature

**Additional Information:**

**TERMINATION FOR NONCOMPLIANCE WITH THE DRUG FREE WORKPLACE ACT**

In accordance with S. C. Code Workplace Act, Sections 44-107-10, et seq., SC Code ann, (1976) this contract is subject to immediate termination, suspension of payment, or both if the CONTRACTOR fails to comply with the terms of the Drug Free Workplace Act.

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**IV. INFORMATION FOR OFFERORS TO SUBMIT**

**INFORMATION FOR OFFERORS TO SUBMIT – GENERAL (JAN 2006)**

Offeror shall submit a signed Cover Page and Page Two. Offeror should submit all other information and documents requested in this part and in parts II.B. Special Instructions; III. Scope of Work; V. Qualifications; VIII. Bidding Schedule/Price Proposal; and any appropriate attachments addressed in section IX. Attachments to Solicitations.

All proposals should be complete and carefully worded and should convey all of the information requested by the State. If significant errors are found in the offeror's proposal, or if the proposal fails to conform to the essential requirements of the RFP, the State and the State alone, will be the judge as to whether that variance is significant enough to reject the proposal. Proposals should be prepared simply and economically, providing a straightforward, concise description of offeror's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. Proposals which include either modifications to any of the contractual requirements of the RFP or an offeror's standard terms and conditions may be deemed non-responsive and therefore not considered for award.

Unless stated otherwise herein, the basic and governing language of the contract resulting from this solicitation shall be comprised of the RFP documents, including any attachments and amendments, and the successful offeror's signed proposal. In the event of a conflict between the two documents, the RFP shall govern.

**PROPOSAL CONTENTS**

To be considered for award, all proposals must include, as a minimum, the following information. **All information should be presented in the listed order with each section titled using the appropriate heading.**

1. **Clarity and responsiveness -~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~Weight=20**

**2. Qualifications, References, Relevant Experience and past performance~~~~ Weight=60**

The proposal shall include the Contractor’s capabilities to provide services outlined herein. Successful and satisfactory experience (BACKGROUND IN SIMILAR OPERATIONS) providing bus services to campus environments similar in size and scope to Lander University is required. References provided must demonstrate this experience. It is the Contractor’s responsibility to provide valid reference information, and the University reserves the right to use reference check responses in its evaluation of proposals. A minimum of three (3) South Carolina College or University references is required indicating the length of service of each account. Provide a list of three clients comparable to the University, indicating the length of service of each account. The University may contact and/or visit any reference submitted by proposing vendors or any reference identified during the evaluation process. This reference information shall include school name, contact person name, telephone number and e-mail address to reach contact person. Contractors must include a list of colleges and universities in the southeast region where the Contractor’s contract was not renewed in the past 4 years. (Southeast region includes: Alabama, Georgia, Florida, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia). Please provide contact name, phone number, and email address along with a brief explanation of why the contract was not renewed. Failure to provide full disclosure shall result in the removal of the Contractor from consideration.

Include the following Qualification Information:

 a. Offeror’s Key Contacts: List name(s) and phone number(s) of the company representatives who can be contacted regarding your proposal.

 b. Years in Business: Number of years in the charter bus services business. Include date and location of the company’s incorporation/organization.

 **(FINANCIAL RESOURCES):**

 c Provide documentation to demonstrate the offeror’s financial capability to perform the contract (i.e., a copy of the company’s audited financial statement from the previous two years or information on credit lines or working capital available for this contract.

**3. Price to the University~~~~~~~~~~~~~~~~~~~~~~~~~~~~~ Weight=20**

Offerors shall submit a total yearly price for all services including all requirements listed in the Request for Proposal.

**SUBMITTING REDACTED OFFERS (MAR 2015):** If your offer includes any information that you marked as “Confidential,” “Trade Secret,” or “Protected” in accordance with the clause entitled “Submitting Confidential Information,” you must also submit one complete copy of your offer from which you have removed or concealed such information ( the redacted copy). The redacted copy should (i) reflect the same pagination as the original, (ii) show the empty space from which information was redacted, and (iii) be submitted on magnetic media. (See clause entitled “Electronic Copies - Required Media and Format.”) Except for the information removed or concealed, the redacted copy must be identical to your original offer, and the Procurement Officer must be able to view, search, copy and print the redacted copy without a password. [04-4030-2]

**V. QUALIFICATIONS**

**QUALIFICATION OF OFFEROR (MAR 2015):** (1) To be eligible for award, you must have the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance. We may also consider a documented commitment from a satisfactory source that will provide you with a capability. We may consider information from any source at any time prior to award. We may elect to consider (i) key personnel, any predecessor business, and any key personnel of any predecessor business, including any facts arising prior to the date a business was established, and/or (ii) any subcontractor you identify. (2) You must promptly furnish satisfactory evidence of responsibility upon request. Unreasonable failure to supply requested information is grounds for rejection. (3) **Corporate subsidiaries are cautioned that the financial capability of an affiliated or parent company will not be considered in determining financial capability**; however, we may elect to consider any security, e.g., letter of credit, performance bond, parent-company corporate guaranty, that you offer to provide Instructions and forms to help assure acceptability are posted on procurement.sc.gov, link to “Standard Clauses & Provisions.” [05-5005-2]

**QUALIFICATIONS - SPECIAL STANDARDS OF RESPONSIBILITY (MAR 2015):**

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

Bidder must have successfully completed a minimum of (2) comparable (size and scope) fully operational. A comparable is defined as similar in size. Bid must include contact information including Name of Organization/University, contact person, address, telephone number and e-mail address if available as an attachment.

Bidder must have been in business for at least (5) years providing services that are the same or similar to the requirements stated herein. Bidder must provide evidence of meeting this requirement in an attachment to the solicitation.

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

 [ASK QUESTIONS NOW: If you have a properly qualified third-party report or certification you believe we should accept in lieu of those identified in item (b), submit a question identifying same pursuant to the clause titled Questions from Offerors.]

 The Contractor must demonstrate that programs, policies and procedures are in place to adequately provide for the confidentiality, integrity, and availability of the information systems used by contractor to process, store, transmit, and access all government information. In order for the State to accurately evaluate the strength and viability of the Contractor's security policies, procedures and practices related to confidentiality, integrity and availability, Offerors must submit with their offers a thorough and complete written response to the Service Provider Security Assessment Questionnaire ("Response to SPSAQ") attached to this Solicitation, which must address all applicable organizations and applicable information systems. The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security - Definitions. [04-4027-1]

**SUBCONTRACTOR – IDENTIFICATION (FEB 2015**): If you intend to subcontract, at any tier level, with another business for any portion of the work and that portion either (1) exceeds 10% of your cost, (2) involves access to any “government information,” as defined in the clause entitled “Information Security - Definitions,” if included, or (3) otherwise involves services critical to your performance of the work (err on the side of inclusion), your offer must identify that business and the work which they are to perform. Identify potential subcontractors by providing the business name, address, phone, taxpayer identification number, and point of contact. In determining your responsibility, the state may contact and evaluate your proposed subcontractors. [05-5030-2]

**VI. AWARD CRITERIA -- PROPOSALS (JAN 2006)**

**AWARD CRITERIA -- PROPOSALS (JAN 2006)** Award will be made to the highest ranked, responsive and responsible offeror whose offer is determined to be the most advantageous to the State. [06-6030-1]

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

**Unit Price Governs (JANUARY 2006):** In determining award, unit prices will govern over extended prices unless otherwise stated.

**DISCUSSIONS AND NEGOTIATIONS - OPTIONAL (FEB 2015)** Submit your best terms from both a price and a technical standpoint. Your proposal may be evaluated and your offer accepted without any discussions, negotiations, or prior notice. Ordinarily, nonresponsive proposals will be rejected outright without prior notice. Nevertheless, the State may elect to conduct discussions, including the possibility of limited proposal revisions, but only for those proposals reasonably susceptible of being selected for award. [11-351530(6); R.19-445.2095(I)] If improper revisions are submitted during discussions, the State may elect to consider only your unrevised initial proposal, provided your initial offer is responsive. The State may also elect to conduct negotiations, beginning with the highest ranked offeror, or seek best and final offers, as provided in Section 11-351530(8). Negotiations may involve both price and matters affecting the scope of the contract, so long as changes are within the general scope of the request for proposals. If negotiations are conducted, the State may elect to disregard the negotiations and accept your original proposal. [06-6058-1]

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

* **Qualifications, References, Relevant Experience and past performance 60 points**
* **Clarity and responsiveness 20 points**
* **Total cost of proposed services (price to the University) 20 points**

**Total points available: 100**

**VII. TERMS AND CONDITIONS – A. GENERAL**

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

(a) Contractor shall not assign this contract, or its rights, obligations, or any other interest arising from this contract, or delegate any of its performance obligations, without the express written consent of the responsible procurement officer. The foregoing restriction does not apply to a transfer that occurs by operation of law (e.g., bankruptcy; corporate reorganizations and consolidations, but not including partial asset sales). Notwithstanding the foregoing, contractor may assign monies receivable under the contract provided that the state shall have no obligation to make payment to an assignee until thirty days after contractor (not the assignee) has provided the responsible procurement officer with (i) proof of the assignment, (ii) the identity (by contract number) of the specific state contract to which the assignment applies, and (iii) the name of the assignee and the exact address or account information to which assigned payments should be made. (b) If contractor amends, modifies, or otherwise changes its name, its identity (including its trade name), or its corporate, partnership or other structure, or its FEIN, contractor shall provide the procurement officer prompt written notice of such change. (c) Any name change, transfer, assignment, or novation is subject to the conditions and approval required by Regulation 19-445.2180, which does not restrict transfers by operation of law. [07-7A004-2]

**BANKRUPTCY - GENERAL (FEB 2015)**

(a) Notice. In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Using Governmental Unit. This notification shall be furnished within two (2) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all State contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract. (b) Termination. This contract is voidable and subject to immediate termination by the State upon the contractor’s insolvency, including the filing of proceedings in bankruptcy. [07-7A005-2]

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

**CONTRACT DOCUMENTS & ORDER OF PRECEDENCE (FEB 2015)**

(a) Any contract resulting from this solicitation shall consist of the following documents: (1) a Record of Negotiations, if any, executed by you and the Procurement Officer, (2) the solicitation, as amended, (3) documentation of clarifications [11-35-1520(8)] or discussions [11-35-1530(6)] of an offer, if applicable, (4) your offer, (5) any statement reflecting the state's final acceptance (a/k/a "award"), and (6) purchase orders. These documents shall be read to be consistent and complimentary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above.

(b) The terms and conditions of documents (1) through (5) above shall apply notwithstanding any additional or different terms and conditions in any other document, including without limitation, (i) a purchase order or other instrument submitted by the State, (ii) any invoice or other document submitted by Contractor, or (iii) any privacy policy, terms of use, or end user agreement. Except as otherwise allowed herein, the terms and conditions of all such documents shall be void and of no effect.

(c) No contract, license, or other agreement containing contractual terms and conditions will be signed by any Using Governmental Unit. Any document signed or otherwise agreed to by persons other than the Procurement Officer shall be void and of no effect. [07-7A015-2)

**DISCOUNT FOR PROMPT PAYMENT (JANUARY 2006)**

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

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

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

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

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

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

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

Any term or condition is void to the extent it requires the State to indemnify, defend, or pay attorney’s fees to anyone for any reason. [07-7A045-2]

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

**OPEN TRADE (JUN 2015)**

 During the contract term, including any renewals or extensions, Contractor will not engage in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300. [07-7A053-1]

**PAYMENT & INTEREST (FEB 2015)**

(a) The State shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified herein, including the purchase order, payment shall not be made on partial deliveries accepted by the Government. (b) Unless otherwise provided herein, including the purchase order, payment will be made by check mailed to the payment address on “Page Two.” (c) Notwithstanding any other provision, payment shall be made in accordance with S.C. Code Section 11-35-45, or Chapter 6 of Title 29 (real property improvements) when applicable, which provides the Contractor's exclusive means of recovering any type of interest from the Owner. Contractor waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable. Except as set forth in this paragraph, the State shall not be liable for the payment of interest on any debt or claim arising out of or related to this contract for any reason. (d) Amounts due to the State shall bear interest at the rate of interest established by the South Carolina Comptroller General pursuant to Section 11-35-45 ("an amount not to exceed fifteen percent each year"), as amended, unless otherwise required by Section 29-6-30. (e) Any other basis for interest, including but not limited to general (pre- and post-judgment) or specific interest statutes, including S.C. Code Ann. Section 34-31-20, are expressly waived by both parties. If a court, despite this agreement and waiver, requires that interest be paid on any debt by either party other than as provided by items (c) and (d) above, the parties further agree that the applicable interest rate for any given calendar year shall be the lowest prime rate as listed in the first edition of the Wall Street Journal published for each year, applied as simple interest without compounding. (f) The State shall have all of its common law, equitable and statutory rights of set-off. [07-7A055-3]

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

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

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

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

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

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

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

**VII. TERMS AND CONDITIONS -- B. SPECIAL**

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

(a) All government information (as defined in the clause herein entitled “Information Security -Definitions”)

shall belong exclusively to the State, and Contractor has no legal or equitable interest in, or claim to, such

information. Contractor acknowledges and agrees that in the event Contractor enters into proceedings

relating to bankruptcy, whether voluntary or involuntary, government information in its possession and/or

under its control will not be considered property of its bankruptcy estate. (b) Contractor agrees to notify

the State within forty-eight (48) hours of any determination that it makes to file for bankruptcy protection,

and Contractor further agrees to turn over to the State, before such filing, all government information that

is in Contractor’s possession in a format that can be readily utilized by the State. (c) In order to protect the

integrity and availability of government information, Contractor shall take reasonable measures to

evaluate and monitor the financial circumstances of any subcontractor that will process, store, transmit or

access government information.[07-7B007-1]

**CHANGES (JAN 2006)**

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

(a)  drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the [State] in accordance therewith;

(b)  method of shipment or packing;

(c)  place of delivery;

(d)  description of services to be performed;

(e)  time of performance (i.e., hours of the day, days of the week, etc.); or,

(f)  place of performance of the services.  Subparagraphs (a) to (c) apply only if supplies are furnished under this contract.  Subparagraphs (d) to (f) apply only if services are performed under this contract.

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

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

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

[07-7B025-1]

**COMPLIANCE WITH LAWS (JAN 2006)**

  During the term of the contract, contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs.  [07-7B035-1]

**CONTRACTOR’S LIABILITY INSURANCE - GENERAL (FEB 2015)**

(a) Without limiting any of the obligations or liabilities of Contractor, Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A: VII, and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work and the results of that work by the contractor, his agents, representatives, employees or subcontractors.

(b) Coverage shall be at least as broad as:

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

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

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

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

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

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

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

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

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

(i) The State reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. [07-7B056-2]

**CONTRACTOR PERSONNEL (JAN 2006)**

  The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract.  The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.  [07-7B060-1]

**CONTRACTOR'S OBLIGATION -- GENERAL (JAN 2006)**

  The contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the work.  The contractor must act as the prime contractor and assume full responsibility for any subcontractor's performance.  The contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements.  [07-7B065-1]

**CONTRACTOR'S USE OF STATE PROPERTY (JAN 2006)**

  Upon termination of the contract for any reason, the State shall have the right, upon demand, to obtain access to, and possession of, all State properties, including, but not limited to, current copies of all State application programs and necessary documentation, all data, files, intermediate materials and supplies held by the contractor.  Contractor shall not use, reproduce, distribute, display, or sell any data, material, or documentation owned exclusively by the State without the State's written consent, except to the extent necessary to carry out the work.  [07-7B067-1]

**DEFAULT (JAN 2006)**

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

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or

(iii) Perform any of the other material provisions of this contract (but see paragraph (a)(2) of this clause).

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

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

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

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

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

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

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

(h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this contract. [07-7B075-1]

**ILLEGAL IMMIGRATION (NOV. 2008)**

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

**INDEMNIFICATION -- THIRD PARTY CLAIMS (NOV 2011)**

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

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

(a) Without limitation, Contractor shall defend and hold harmless Indemnitees from and against any and

all suits, claims, investigations, or fines (hereinafter “action”) of any character (and all related damages,

settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which arise out

of or in connection with a disclosure of government information (as defined in the clause titled Information

Security -Definitions) caused in whole or in part by any act or omission of Contractor, its subcontractors at

any tier, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them

or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an

Indemnitee, and whether or not such action is brought by a third party or an Indemnitee, but only if the act

or omission constituted a failure to perform some obligation imposed by the contract or the law.

(b) Indemnitee must notify Contractor in writing within a reasonable period of time after Indemnitee first

receives written notice of any action. Indemnitee's failure to provide or delay in providing such notice will

relieve Contractor of its obligations under this clause only if and to the extent that such delay or failure

materially prejudices Contractors ability to defend such action. Indemnitee must reasonably cooperate

with Contractor's defense of such actions (such cooperation does not require and is without waiver of an

Indemnitees attorney/client, work product, or other privilege) and, subject to Title 1, Chapter 7 of the

South Carolina Code of Laws, allow Contractor sole control of the defense, so long as the defense is

diligently and capably prosecuted. Indemnitee may participate in Contractor’s defense of any action at its

own expense. Contractor may not, without Indemnitee’s prior written consent, settle, compromise, or

consent to the entry of any judgment in any such commenced or threatened action unless such

settlement, compromise or consent (i) includes an unconditional release of Indemnitee from all liability

related to such commenced or threatened action, and (ii) is solely monetary in nature and does not

include a statement as to, or an admission of fault, culpability or failure to act by or on behalf of, an

Indemnitee or otherwise adversely affect an Indemnitee. Indemnitee’s consent is necessary for any

settlement that requires Indemnitee to part with any right or make any payment or subjects Indemnitee to

any injunction.

(c) Notwithstanding any other provision, Contractor’s obligations pursuant to this clause are without any

limitation whatsoever. Contractor’s obligations under this clause shall survive the termination,

cancellation, rejection, or expiration of the contract. This provision shall be construed fairly and

reasonably, neither strongly for nor against either party, and without regard to any clause regarding

insurance.

(d) "Indemnitee" means the State of South Carolina, its instrumentalities, agencies, departments, boards,

political subdivisions and all their respective officers, agents and employees.

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

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

30

Compromise means disclosure of information to unauthorized persons, or a violation of the security policy

of a system in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss

of an object may have occurred. Without

limitation, the term “compromise” includes copying the data through covert network channels, or copying

the data to unauthorized media, or disclosure of information in violation of any obligation imposed by this

contract.

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

Government information means information (i) provided to Contractor by, or generated by Contractor for,

the using governmental unit, or (ii) acquired or accessed by Contractor as a result of performing the Work.

Without limiting the foregoing, government information includes any information that Contractor acquires

or accesses by software or web-based services, which includes, without limitation, any

metadata or location data. Government information excludes unrestricted information.

Information means any communication or representation of knowledge such as facts, statistics, or

opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or

audiovisual.

Information system means a discrete set of information resources organized for the collection,

processing, maintenance, use, sharing, dissemination, or disposition of information.

Public information means any specific information, regardless of form or format, that the State has

actively and intentionally disclosed, disseminated, or made available to the public. Information is not

public information solely because it may be subject to

inspection pursuant to an unfulfilled public records request.

Software means any computer program accessed or used by the Using Governmental Unit or a third

party pursuant to or as a result of this contract.

Third party means any person or entity other than the Using Governmental Unit, the Contractor, or any

subcontractors at any tier.

Unrestricted information means (1) public information acquired other than through performance of the

work, (2) information acquired by Contractor prior to contract formation, (3) information incidental to your

contract administration, such as financial, administrative, cost or pricing, or management information, and

(4) any ideas,

concepts, know-how, methodologies, processes, technologies, techniques which Contractor develops or

learns in connection with performance per Contractor’s performance of the

performance of the work.

Web-based service means a service accessed over the Internet and acquired, accessed, or used by the

using governmental unit or a third party pursuant to or as a

result of this contract, including without limitation, cloud services, software-as-a-service, and hosted

computer services.[07-7B104-1]

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

(a) Definitions. The terms used in this clause shall have the same meaning as the terms defined in the

clause titled Information Security

– Definitions. In addition, as used in this clause—

Clearing means removal of data from an information system, its storage devices, and other peripheral

devices with storage capacity, in such a way that the data may not be reconstructed using common

system capabilities (i.e., through the keyboard); however, the data may be reconstructed using laboratory

methods.

Intrusion means an unauthorized act of bypassing the security mechanisms of a system.

Media means physical devices or writing surfaces including but not limited to magnetic tapes, optical

disks, magnetic disks, portable hard drives, “thumb” drives, large scale integration memory chips, and

printouts (but not including display media, e.g., a computer monitor, cathode ray tube (CRT) or other

(transient) visual output)

onto which information is recorded, stored, or printed within an information system.

Safeguarding means measures or controls that are prescribed to protect information. Voice means all oral

information regardless of transmission protocol.

(b) Safeguarding Information. Without limiting any other legal or contractual obligations, contractor shall

implement and maintain reasonable and appropriate administrative, physical, and technical safeguards

(including without limitation written policies and procedures) for protection of the security, confidentiality

and integrity of the government information in its possession. In addition, contractor stall apply security controls when the contractor reasonably determines that safeguarding requirements, in addition to those identified in paragraph (c) of this clause, may be required to provide adequate security, confidentiality and integrity in a dynamic environment based on an assessed risk or

vulnerability.

(c) Safeguarding requirements and procedures. Contractor shall apply the following basic safeguarding

requirements to protect government information from unauthorized access and disclosure: (1) Protecting information on public computers or Web sites: Do not process government information on public computers (e.g., those available for use by the general public in kiosks, hotel business centers) or computers that do not have access control. Government information shall not be posted on Web sites that are publicly available or have access limited only by domain/Internet Protocol restriction. Such information may be posted to web pages that control access by user ID/password, user certificates, or other technical means, and that provide protection via use of security technologies. Access control may be provided by the intranet (versus the Web site itself or the application it hosts). (2) Transmitting electronic information. Transmit email, text messages, blogs, and similar communications that contain government information using technology and processes that provide

the best level of security and privacy available, given facilities, conditions, and environment.

 (3)Transmitting voice and fax information. Transmit government information via voice and fax only when the sender has a reasonable assurance that access is limited to authorized recipients.(4) Physical and electronic barriers. Protect government information by at least one physical and one electronic barrier (e.g., locked

container or room, login and password) when not under direct individual control. (5) Sanitization. At a minimum, clear information on media that have been used to process government information before external release or disposal. Overwriting is an acceptable means of clearing media in accordance with National Institute of Standards and Technology 800–88, Guidelines for Media Sanitization, at http://csrc.nist.gov/publications/nistpubs/800-88/NISTSP800-88\_with-errata.pdf. (6) Intrusion protection.

Provide at a minimum the following protections against intrusions and compromise: (i) Current and

regularly updated malware protection services, e.g., anti -virus, antispyware. (ii) Prompt application of security-relevant software upgrades, e.g., patches, service packs, and hot fixes.

(7) Transfer limitations. Transfer government information only to those subcontractors that both require the information for purposes of contract performance and provide at least the same level of security as specified in this clause.

(d) Subcontracts. Any reference in this clause to Contractor also includes any subcontractor at any tier.

Contractor is responsible for, and shall impose by agreement requirements at least as secure as those imposed by this clause on, any other person or entity that contractor authorizes to take action related to government information.

(e) Other contractual requirements regarding the safeguarding of information. This clause addresses

basic requirements and is subordinate to any other contract clauses or requirements to the extent that it

specifically provides for enhanced safeguarding of information or information or information systems.

Information or information systems. [07-7B105-1]

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

Except to the extent necessary for performance of the work, citizens should not be required to share

information with those engaged by the government in order to access services provided by the

government and such information should be used by those engaged by the government only to the extent

necessary to perform the work acquired; accordingly, this clause addresses basic requirements for the

Contractor’s use and disclosure of government information, which expressly includes, but is not limited to,

information provided by or obtained from the citizens. Anonymizing information does not resolve the

foregoing concern. This clause should be broadly interpreted to effectuate this intent. Every obligation in

this clause is material. Absent express reference to this clause, this clause supersedes any other clause

to the extent of any inconsistency unless and to the extent the other clause provides greater protection for

government information.

(a) Definitions. The terms used in this clause shall have the same meaning as the terms defined in the

clause titled Information Security – Definitions.

(b) Legal mandates. Contractor shall be permitted to use, disclose, or retain government information to

the limited extent necessary to comply with any requirement imposed on Contractor by law. If it is

necessary for Contractor to use, disclose, or retain government information in order to comply with a law,

Contractor shall provide using governmental unit with written notice, including a description of the 32

circumstances and applicable law, in advance of such use, disclosure or retention except to the extent

expressly prohibited by law.

(c) Flow down. Any reference in this clause to Contractor also includes any subcontractor at any tier.

Contractor is responsible for, and shall impose by agreement the requirements of this clause on, any

other person or entity that contractor authorizes to take action related to government information.

(d) Collecting Information. Contractor must gather and maintain government information only to the

minimum extent necessary to accomplish the work.

(e) Rights, Disclosure and Use. Except as otherwise expressly provided in this solicitation, Contractor

agrees NOT to either (1) use or disclose government information, or (2) retain government information

after termination or expiration of this contract. Contractor acquires no rights in any government

information except the limited rights to use, disclose and retain the government information in accordance

with the terms of this solicitation. To the extent reasonably necessary to perform the work, Contractor

may: (i) use (including access, process, transmit, and store) and maintain the government information

itself; and (ii) disclose government information to persons having a need-to-know (e.g., subcontractors).

Before disclosing government information to a subcontractor or third party, Contractor shall give the using

governmental unit detailed written notice of both the reason for disclosure and the identity and location of

the recipient. The notice shall be provided no later than fifteen (15) business days in advance of the

disclosure.(f) Return. Notwithstanding the using governmental unit’s failure to perform or the pendency of

a dispute, Contractor agrees to promptly deliver to the using governmental unit (or destroy, at the using

governmental unit’s option) all government information in its possession as and upon written request of

using governmental unit (provided that, if the contract has not expired or been terminated, Contractor

shall be excused from the performance of any work reasonably dependent on Contractor’s further access

to such government information).

(g) Privacy Policy & Applicable Laws. Without limiting any other legal or contractual obligations imposed

by this contract or the law, Contractor shall (a) comply with its own privacy policies and written privacy

statements relevant to the work, and (b) comply with (1) all laws applicable to Contractor regarding

government information, and (2) all laws and standards identified in the clause, if included, entitled

Information Use and Disclosure –Standards.

(h) Actions Following Disclosure. Immediately upon discovery of a compromise or improper use of

government information, Contractor shall take such action as may be necessary to preserve forensic

evidence and eliminate the cause of the compromise or improper use. As soon as practicable, but no

later than twenty-four hours after discovery, Contractor shall notify using governmental unit of the

compromise or improper use, including a description of the circumstances of the use or compromise. As

soon as practicable after discovery, Contractor shall undertake a thorough forensic investigation of any

compromise or improper use and provide the using governmental unit all information necessary to enable

the using governmental unit to fully understand the nature and extent of the compromise orimproper use.

With regard to any compromise or improper use of government information, Contractor shall: (1) provide

any notification to third parties legally required to be provided such notice by Contractor, and if not (e.g., if

legally required of the using governmental unit), Contractor shall reimburse using governmental unit for

the cost of providing such notifications; (2) pay all costs and expenses for at least two years of identity

theft monitoring services (including without limitation, credit monitoring) and identity theft restoration

services for any such affected individuals receiving notice where such services are appropriate given the

circumstances of the incident and the nature of the information compromised; (3) undertake any other

measures that are customary and reasonable for an entity to take when experiencing a similar disclosure,

(4) pay any related fines or penalties imposed on the using governmental unit, and (5) reimburse the

Using Governmental Unit all costs reasonably incurred for communications and public relations services

involved in responding to the compromise or improper use. Notwithstanding any other provision,

contractor’s obligations pursuant to this item (h) are without limitation. (i) Survival & Remedy. All the

obligations imposed by this paragraph are material. The obligations of this section shall survive

termination or expiration of the contract. Without limiting any rights the using governmental unit may have,

and notwithstanding any other term of this contract, Contract or agrees that using governmental unit may

have no adequate remedy at law for a breach of Contractor’s obligations under this clause and therefore

the using governmental unit shall be entitled to pursue equitable remedies in the event of a breach of this

clause. [07-7B108-1]

**LICENSES AND PERMITS (JAN 2006)**

  During the term of the contract, the Contractor shall be responsible for obtaining, and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and /or inspections required by the State, county, city or other government entity or unit to accomplish the work specified in this solicitation and the contract.  [07-7B115-1]

**OWNERSHIP OF DATA & MATERIALS (JAN 2006)**

All data, material and documentation prepared for the state pursuant to this contract shall belong

exclusively to the State. [07-7B125-1]

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

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

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

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

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

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

(2) Submission of Price or Cost Data. Upon request of the Procurement Officer, the contractor shall provide reasonably available factual information to substantiate that the price or cost offered, for any price adjustments is reasonable, consistent with the provisions of Section 11-35-1830. [07-7B160-1]

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

**PRICE ADJUSTMENTS -- LIMITED BY CPI "OTHER GOODS and SERVICES" (JAN 2006)**

  Upon request and adequate justification, the Procurement Officer may grant a price increase up to, but not to exceed, the unadjusted percent change for the most recent 12 months for which data is available, that is not subject to revision, in the Consumer Price Index (CPI) for all urban consumers (CPI-U), "Other Goods & Services" for services, as determined by the Procurement Officer.  The Bureau of Labor and Statistics publishes this information on the web at www.bls.gov  [07-7B175-1]

**PRICING DATA -- AUDIT -- INSPECTION (JAN 2006)**

  [Clause Included Pursuant to Section 11-35-1830, - 2210, & -2220] (a) Cost or Pricing Data.  Upon Procurement Officer's request, you shall submit cost or pricing data, as defined by 48 C.F.R. Section 2.101 (2004), prior to either (1) any award to contractor pursuant to 11-35-1530 or 11-35-1560, if the total contract price exceeds $500,000, or (2) execution of a change order or contract modification with contractor which exceeds $100,000.  Your price, including profit or fee, shall be adjusted to exclude any significant sums by which the state finds that such price was increased because you furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date agreed upon between parties.  (b) Records Retention.  You shall maintain your records for three years from the date of final payment, or longer if requested by the chief Procurement Officer.  The state may audit your records at reasonable times and places. As used in this subparagraph (b), the term "records" means any books or records that relate to cost or pricing data submitted pursuant to this clause.  In addition to the obligation stated in this subparagraph (b), you shall retain all records and allow any audits provided for by 11-35-2220(2).  (c) Inspection.  At reasonable times, the state may inspect any part of your place of business which is related to performance of the work.  (d) Instructions Certification.  When you submit data pursuant to subparagraph (a), you shall (1) do so in accordance with the instructions appearing in Table 15-2 of 48 C.F.R. Section 15.408 (2004) (adapted as necessary for the state context), and (2) submit a Certificate of Current Cost or Pricing Data, as prescribed by 48 CFR Section 15.406-2(a) (adapted as necessary for the state context).  (e) Subcontracts.  You shall include the above text of this clause in all of your subcontracts.  (f) Nothing in this clause limits any other rights of the state. [07-7B185-1]

**PRIVACY – WEB SERVICES (JANUARY 2006):** You agree that any information acquired by you about individuals or businesses that is available to you as a result of your performance of this contract shall not be retained beyond the end of the term of the contract without the express written consent of the government. Such information shall never be sold, traded, or released to another entity, including affiliates, and shall not be used for any purpose other than performing this contract. Upon request, contractor shall provide written confirmation of compliance with this clause.

**RELATIONSHIP OF THE PARTIES (JAN 2006)**

  Neither party is an employee, agent, partner, or joint venturer of the other.  Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party.  [07-7B205-1]

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

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

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

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

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

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

  The effective date of this contract is the first day of the Maximum Contract Period as specified on the final statement of award.  The initial term of this agreement is1years, 0 months, 0 days from the effective date.  Regardless, this contract expires no later than the last date stated on the final statement of award.  [07-7B240-1]

**TERM OF CONTRACT -- OPTION TO RENEW (JAN 2006)**

  At the end of the initial term, and at the end of each renewal term, this contract shall automatically renew for a period of 1 year(s), 0 month(s), and 0 day(s), unless contractor receives notice that the state elects not to renew the contract at least thirty (30) days prior to the date of renewal.  Regardless, this contract expires no later than the last date stated on the final statement of award.  [07-7B245-1]

**TERM OF CONTRACT -- TERMINATION BY CONTRACTOR (JAN 2006)**

  Contractor may terminate this contract at the end of the initial term, or any renewal term, by providing the Procurement Officer notice of its election to terminate under this clause at least 90days prior to the expiration of the then current term.  [07-7B250-1]

**TERMINATION FOR CONVENIENCE (JAN 2006)**

  (1) Termination.  The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State.  The Procurement Officer shall give written notice of the termination to the contractor specifying the part of the contract terminated and when termination becomes effective.

(2) Contractor's Obligations.  The contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the contractor will stop work to the extent specified.  The contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work.  The contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work.  The Procurement Officer may direct the contractor to assign the contractor's right, title, and interest under terminated orders or subcontracts to the State.  The contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

(3) Right to Supplies.  The Procurement Officer may require the contractor to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer:  (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the contractor has specifically produced or specially acquired for the performance of the terminated part of this contract.  The contractor shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the contractor in which the State has an interest.  If the Procurement Officer does not exercise this right, the contractor shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of Uniform Commercial Code Section 2-706.  Utilization of this Section in no way implies that the State has breached the contract by exercise of the Termination for Convenience Clause.

(4) Compensation.  (a) The contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data required by Section 11-35-1830 bearing on such claim.  If the contractor fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the contractor, if at all, an amount set in accordance with Subparagraph (c) of this Paragraph.

(b) The Procurement Officer and the contractor may agree to a settlement and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the State, the proceeds of any sales of supplies and manufacturing materials under Paragraph (3) of this clause, and the contract price of the work not terminated;

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

(i) contract prices for supplies or services accepted under the contract;

(ii) costs reasonably incurred in performing the terminated portion of the work less amounts paid or to be paid for accepted supplies or services;

(iii) reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Paragraph (2) of this clause.  These costs must not include costs paid in accordance with Subparagraph (c) (ii) of this paragraph;

(iv) any other reasonable costs that have resulted from the termination.  The total sum to be paid the contractor under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph (b) of this Paragraph, and the contract price of work not terminated.

(d) Contractor must demonstrate any costs claimed, agreed to, or established under Subparagraphs (b) and (c) of this Paragraph using its standard record keeping system, provided such system is consistent with any applicable Generally Accepted Accounting Principles.

(5) Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not (i) affect the state's right to require the termination of a subcontract, or (ii) increase the obligation of the state beyond what it would have been if the subcontract had contained an appropriate clause. [07-7B265-1]

**IX. ATTACHMENTS TO SOLICITATION**

1. Minority Participation
2. Important Tax Notice - Nonresidents Only
3. W-9 Form

6. Offeror’s Checklist

**Attachment-3**

**MINORITY PARTICIPATION (DEC 2015)**

Is the bidder a South Carolina Certified Minority Business? [ ] Yes [ ] No

Is the bidder a Minority Business certified by another governmental entity? [ ] Yes [ ] No

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

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

If so, what percentage of the total value of the contract will be performed by a SC certified Minority Business as a subcontractor? \_\_\_\_\_\_\_\_\_\_\_\_\_

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

If so, what percentage of the total value of the contract will be performed by a minority business certified by another governmental entity as a subcontractor? \_\_\_\_\_\_\_\_\_\_\_\_\_

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

[ ] Traditional minority

[ ] Traditional minority, but female

[ ] Women (Caucasian females)

[ ] Hispanic minorities

[ ] DOT referral (Traditional minority)

[ ] DOT referral (Caucasian female)

[ ] Temporary certification

[ ] SBA 8 (a) certification referral

[ ] Other minorities (Native American, Asian, etc.)

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

The Department of Administration, Division of Small and Minority Business Contracting and Certification, publishes a list of certified minority firms. The Minority Business Directory is available at the following URL: <http://osmba.sc.gov/directory.html>

 **Attachment-4**

**IMPORTANT TAX NOTICE - NONRESIDENTS ONLY**

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

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

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

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

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

**Attachment-5**

 **Attachment-6**

**OFFEROR'S CHECKLIST**

AVOID COMMON PROPOSAL MISTAKES

Review this checklist prior to submitting your proposal.

If you fail to follow this checklist, you risk having your proposal rejected.

Do not include any of your standard contract forms!

Unless expressly required, do not include any additional boilerplate contract clauses.

Reread your entire proposal to make sure your proposal does not take exception to any of the state's mandatory requirements.

Make sure you have properly marked all protected, confidential, or trade secret information in accordance with the instructions entitled: SUBMITTING CONFIDENTIAL INFORMATION. ***do not mark your entire proposal as confidential, trade secret, or protected! Do not include a legend on the cover stating that your entire response is not to be released!***

Have you properly acknowledged all amendments? Instructions regarding how to acknowledge an amendment should appear in all amendments issued.

Make sure your proposal includes a copy of the solicitation cover page. Make sure the cover page is signed by a person that is authorized to contractually bind your business.

Make sure your proposal includes the number of copies requested.

Check to ensure your proposal includes everything requested!

If you have concerns about the solicitation, do not raise those concerns in your response! **After opening, it is too late! If this solicitation includes a pre-proposal conference or a question & answer period, raise your questions as a part of that process!** Please see instructions under the heading "submission of questions" and any provisions regarding pre-proposal conferences.

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

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

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