

STATE OF NORTH DAKOTA
Information Technology Department
Telecommunications Division
600 E Boulevard Ave, Dept. 112
Bismarck, ND 58505-0100



Request For Proposal (RFP)

RFP Title: Grand Forks Dark Fiber

RFP Number: 112-1517

Date of Issue: November 9, 2015

Purpose of RFP: The State of North Dakota is requesting proposals for dark fiber services in the city of Grand Forks.

Vendors are required to respond using this form.

Procurement Officer: Brandy Peterson

TABLE OF CONTENTS

SECTION ONE - INTRODUCTION AND INSTRUCTIONS.....	4
1.01 Purpose of the RFP.....	4
1.02 Contact Person, Telephone, Fax, E-mail	4
1.03 RFP Schedule.....	4
1.04 Return Mailing Address and Deadline for Receipt of Proposals.....	4
1.05 Assistance to Offerors with a Disability	5
1.06 Deadline for Receipt of Questions and Objections	5
1.07 Bidders List Registration Requirements	6
1.08 Pre-proposal Conference	6
1.09 Letter of Interest.....	6
1.10 Notice Provided.....	6
1.11 News Releases	6
SECTION TWO - BACKGROUND INFORMATION.....	7
2.01 Background Information	7
3.01 Scope of Work.....	8
3.02 Customer Service, Experience & Qualifications.....	12
SECTION FOUR - GENERAL CONTRACT INFORMATION.....	14
4.01 Standard Contract Provisions	14
4.02 Proposal as a Part of the Contract	14
4.03 Additional Terms and Conditions	14
4.04 Supplemental Terms and Conditions	14
4.05 Contract Approval.....	14
4.06 Contract Changes - Unanticipated Amendments	14
4.07 Indemnification and Insurance Requirements	15
4.08 Limited Liability.....	15
4.09 Informal Debriefing	15
4.10 Liquidated Damages.....	15
SECTION FIVE - EVALUATION CRITERIA AND CONTRACTOR SELECTION.....	16
5.01 Proposal Evaluation Criteria/Categories	16
5.02 Oral Presentations	16
5.03 Site Inspection of Offeror's Facility	16
SECTION SIX - PROPOSAL FORMAT AND CONTENT	17
6.01 Proposal Format	17
6.02 Proposal Content	17

SECTION SEVEN - STANDARD PROPOSAL INFORMATION	20
7.01 Authorized Signature.....	20
7.02 State Not Responsible for Preparation Costs	20
7.03 Conflict of Interest	20
7.04 Offer Held firm.....	20
7.05 Amendments to Proposals and Withdrawals of Proposals	20
7.06 Alternate Proposals	20
7.07 Subcontractors	20
7.08 Joint Ventures	21
7.09 Disclosure of Proposal Contents and Compliance with State’s Open Records Laws	21
7.10 Evaluation of Proposals	21
7.11 Right of Rejection	21
7.12 Clarification of Offers	22
7.13 Discussions and Best and Final Offers	22
7.14 Negotiations	23
7.15 Notice of Intent to Award	23
7.16 Protest of Solicitation, Intent to Award or Award	23
SECTION EIGHT - ATTACHMENTS	24
8.01 Attachments	24

1. Proposal Evaluation
2. Contract Form
3. Cost Proposal Format

SECTION ONE - INTRODUCTION AND INSTRUCTIONS

1.01 Purpose of the RFP

This Request for Proposal (RFP) is issued by the State of North Dakota acting through its Information Technology Department (hereinafter referred to as the STATE) is soliciting proposals for dark fiber services in the city of Grand Forks, North Dakota.

1.02 Contact Person, Telephone, Fax, E-mail

The procurement officer is the point of contact for this RFP. Vendors must direct all communications regarding this RFP to the procurement officer. Unauthorized contact regarding the RFP with other STATE employees may result in the STATE disqualifying the vendor. The STATE may also suspend or disbar vendor from the state bidders list.

PROCUREMENT OFFICER: Brandy Peterson

PHONE: 701-328-1888

FAX: 701-328-3000

TTY Users call: 7-1-1

E-MAIL: blpeterson@nd.gov

1.03 RFP Schedule

This schedule of events represents the STATE's best estimate of the schedule for this RFP.

The approximate RFP schedule is as follows:

- | | |
|--|-------------------|
| ● RFP Issued | November 9, 2015 |
| ● Questions, clarification requests, or objections due by 3pm Central Time | November 16, 2015 |
| ● Responses to questions/RFP amendments (if required) | November 3, 2015 |
| ● Proposals due by 3pm Central Time | December 15, 2015 |
| ● Proposal evaluation completed by approximately | December 23, 2015 |
| ● State issues Notice of Intent to Award a Contract approximately | December 28, 2015 |
| ● State issues contract approximately | January 5, 2016 |
| ● Contract start | August 1, 2016 |

1.04 Return Mailing Address and Deadline for Receipt of Proposals

Offerors must submit one (1) copy of its proposal in a sealed envelope or package.

Offerors must submit an electronic copy of their proposal on a CD, DVD, or USB Flash Drive.

Offerors must submit cost proposals in a separate sealed envelope or package, clearly labeled "cost proposal."

Offerors must clearly address all envelopes or packages containing proposals as described below to ensure proper delivery and to avoid having the STATE open them before the deadline for receipt. Offerors must address all envelopes or packages as follows:

North Dakota Information Technology Department
Network Services Division
Attn: Brandy Peterson
Request for Proposal (RFP): Grand Forks Dark Fiber
RFP Number: 112-1517

4201 Normandy Street
Bismarck, ND 58503

The STATE must receive proposals at the location specified no later than **3:00 P.M., CENTRAL**, Time on **December 15, 2015**. The STATE will not publicly read the proposals at the opening.

Offerors may not deliver proposals orally, by facsimile transmission, by other telecommunication or electronic means. Offerors may fax or electronically transmit signed proposals to a third party who must deliver the proposal to the location indicated above by the date and time designated as the deadline for receipt of proposals.

Offerors assume the risk of the method of dispatch chosen. The STATE assumes no responsibility for delays caused by any delivery service. Postmarking by the due date will not substitute for actual proposal receipt by the STATE. An Offeror's failure to submit its proposal prior to the deadline will cause the STATE to reject the proposal. Late proposals or amendments will not be opened or accepted for evaluation.

1.05 Assistance to Offerors with a Disability

Offerors with a disability that need an accommodation should contact the procurement officer prior to the deadline for receipt of proposals so the STATE can make reasonable accommodations.

1.06 Deadline for Receipt of Questions and Objections

Offerors must carefully review this solicitation, the contract (Attachment 2), and all attachments for defects, questionable, or objectionable material. All questions must be in writing submitted to the email address of the procurement officer, and cite the subject RFP number. The procurement officer must receive these written requests by the deadline specified in the RFP Schedule of Events to allow issuance of any necessary amendments.

This will also help prevent the opening of a defective solicitation and exposure of Offeror's proposals upon which the STATE could not make an award. The STATE will disallow any protests based on the content of the solicitation, if the Offeror does not bring these faults to the attention of the procurement officer, in writing, before the time indicated in the Schedule of Events.

If the procurement officer may answer the question by directing the questioner to a specific section of the RFP, then the procurement officer may answer the question over the telephone. Other questions may be more complex and may require a written response directed to all Offerors. The procurement officer will make this determination. The STATE considers oral communications unofficial and non-binding on the STATE. The Offeror must confirm telephone conversations in writing.

1.07 Bidders List Registration Requirements

VENDORS MUST BE REGISTERED BEFORE CONTRACT AWARD

The STATE will accept proposals from vendors that are not currently approved vendors on the State of North Dakota's bidders list; however, the Awardee will be required to become approved prior to award.

To become an approved vendor, Offerors must: 1) be registered with the North Dakota Secretary of State (fees apply), and 2) submit a completed Bidders List Application to the North Dakota Vendor Registry Office. Prospective Offerors may access the Procurement Vendor Database on-line to verify whether their firm is currently on the bidders list. The bidders list for this solicitation is commodity code(s) **725-23, 915-51 and 915-79**.

The Procurement Vendor Database, registration instructions and forms are available on-line at: <http://www.nd.gov/spo/>. Contact the Vendor Registry Office at 701-328-2683 or SPOVendor@state.nd.us for assistance.

The Awardee must register and become approved within **60 CALENDAR DAYS** from the date of the Notice of Intent to Award. If an Offeror fails to become an approved vendor by the time specified by the Procurement Officer, its proposal will be determined to be non-responsive, and the STATE will reject its proposal.

1.08 Pre-proposal Conference

The STATE will not hold a pre-proposal conference for this RFP. The STATE advises Offerors to carefully review the RFP and all attachments and submit all questions to the procurement officer by the deadline indicated for submission of questions in the schedule of events.

1.09 Letter of Interest

Vendors interested in receiving any notices related to this RFP are invited to submit a letter of interest to the procurement office at the following email address:

blpeterson@nd.gov

Include the name of the firm, contact person, mailing address, telephone number, fax number, and e-mail address. The sole purpose of the letter of interest is to provide the STATE with a contact person to receive any notices related to the RFP. Submission of a letter of interest is not a requirement for submitting a proposal.

1.10 Notice Provided

Notice of this solicitation has been provided in accordance with N.D.C.C. 54-44.4-09.

The Request for Proposal and any amendments to the RFP will be posted on the following website: <http://www.nd.gov/spo/vendor/>

1.11 News Releases

A vendor shall not make any news releases related to this RFP without prior approval of the procurement officer or project manager designated by the STATE.

SECTION TWO - BACKGROUND INFORMATION

2.01 Background Information

The STATE currently utilizes dark fiber to connect various customer sites located in Grand Forks, North Dakota. The STATE is seeking Offerors who can provide “dark” (i.e. non-lit) fiber optic cabling to connect existing locations in Grand Forks, North Dakota.

SECTION THREE -SCOPE OF WORK, CUSTOMER SERVICE, EXPERIENCE & QUALIFICATIONS

3.01 Scope of Work

The STATE, is soliciting proposals for “dark” single mode fiber optic cable infrastructure to customer sites in Grand Forks, North Dakota.

All items listed this section are requirements. If the Offeror is successful, the Offeror agrees that it shall comply with all requirements throughout the full term of the Contract. **Offerors must use the table format and maintain numbering provided by the State to respond to each requirement.**

In addition, the Offeror Response must include any specific references and/or supportive materials as described in the Offeror Response.

The STATE reserves the right to determine whether the supportive materials submitted by the Offeror demonstrate the Offeror will be able to comply with the Requirements.

1.	<p>The Offeror must acknowledge that they are required to provide single-mode fiber optic cable for the sites below under Location of Work. The hub location could be UND Merrifield Hall, NDUS Data Center or Grand Forks Police Department.</p> <p><u>Offeror Response:</u></p>
2.	<p>Offeror must describe in detail if the Offeror intends to propose anything other than a hub and spoke solution (i.e. daisy chain, loop).</p> <p><u>Offeror Response:</u></p>
3.	<p>The Offeror must acknowledge that a segment includes termination into the building demarc at each endpoint location.</p> <p><u>Offeror Response:</u></p>
4.	<p>The Offeror must acknowledge that all entrance costs for each location must be included in the proposed monthly rate.</p> <p><u>Offeror Response:</u></p>
5.	<p>The Offeror must provide a detailed route map that clearly identifies all segments as outlined below under Location of Work at the end of their response.</p> <p><u>Offeror Response:</u></p>
6.	<p>Offeror must acknowledge that the infrastructure would be such that at least twelve (12) strands of single-mode fiber would be brought from the intended source’s demarcation point, with at least twelve (12) strands being terminated in the building and at least two (2) strands spliced into the fiber backbone if backbone architecture is used.</p>

	<u>Offeror Response:</u>
7.	Offeror must acknowledge that they will manage all right of way issues, obtain all necessary permits, and franchise authority from the respective locale. <u>Offeror Response:</u>
8.	Offeror must acknowledge that all proposed fiber solutions should conform to the following specifications: Acceptable DB loss <ul style="list-style-type: none"> • 0.25db/Km + 0.3db/splice +.5db/connector pair (bi-directional) PMD (Polarization Mode Dispersion) <ul style="list-style-type: none"> • 40 ps (pico seconds) for 2.5 Gig <2.0 PMD coefficient • 10 ps for 10 Gig <0.5 PMD coefficient • 2.5ps for 40 Gig <0.125 PMD coefficient CD (Chromatic Dispersion) <ul style="list-style-type: none"> • 16640 ps/nm for 2.5 Gig • 1040 ps/nm for 10 Gig • 65 ps/nm for 40 Gig <u>Offeror Response:</u>
9.	Offeror must acknowledge that any fiber solutions that do not meet these specifications must be clearly noted for each segment or portion of fiber with the known specifications. <u>Offeror Response:</u>
10.	Offeror must identify the ownership of all fiber segments in their proposal, to include the Offeror and any third party provider. If there is any fiber included in the Offeror's proposal that is not owned by the Offeror, the Offeror must disclose the owner and the contract terms. <u>Offeror Response:</u>
11.	Offeror must acknowledge that all or part of these segments may be implemented into the contract. <u>Offeror Response:</u>
12.	Value Added Features Offerors are invited to provide any other information that may be is relevant to this RFP process. For example, would the vendor provide any additional services, or assist the STATE in evaluating its existing needs and future needs. <u>Offeror Response:</u>
13.	Contract Schedule and Deliverables

	The Offeror must describe in detail their plan to deliver the “dark” fiber to each of the locations listed under Location of Work by August 1, 2016. <u>Offeror Response:</u>
14.	The Offeror is encouraged provide a fiber installation schedule (such as a Gantt chart) that meets the August 1, 2016 construction deadline. <u>Offeror Response:</u>
15.	The Offeror is encouraged to outline a suggested transition period at no cost to the STATE for beneficial use. The transition period will be negotiated upon contract award. <u>Offeror Response:</u>
16.	Adds, Moves and Changes Offeror must acknowledge that during the term of the contract the STATE may add sites to the contract. The STATE will not be penalized or incur any costs during the term of the contract for the discontinuing service to a given segment. The STATE reserves the right to disconnect segments as needed and discontinue billing for those segments. The STATE reserves the right to aid construction in order to lower the monthly cost of the fiber. <u>Offeror Response:</u>
17.	Location of Work If the Offerors intends to submit a proposal for the city of Grand Forks, Offerors must submit a proposal for the locations listed below. <u>Offeror Response:</u>

Location of Work:

Location	Address
Grand Forks Parole & Probation	311 S 4th St, Suite 101
Grand Forks County Correctional Center	1701 N Washington St
Workforce Safety & Insurance	1397 Library Circle, Suite 100
Grand Forks BCI & Highway Patrol	1100 47th St N
Northeast Human Service Center	151 S 4th St, Suite 401
Grand Forks District DOT	1951 Washington St N
Grand Forks Job Service	1501 28th Ave S
North Dakota Mill & Elevator	1823 Mill Road
Grand Forks Public Library	2110 Library Circle
Mark Sanford Education Center – Grand Forks Public Schools	2400 47th Ave S
Red River High School	2211 17th Ave S
University of North Dakota	4400 S Washington St.

Lake Region State College Nursing	1425 S Columbia Road, Suite 1
UND Merrifield Hall	2655 2 nd Ave N
NDUS Data Center	3701 Campus Road
Grand Forks Police Department	122 S 5th St

Hub Locations:

Location	Address
UND Merrifield Hall	2655 2 nd Ave N
Grand Forks Police Department	122 S 5th St
NDUS Data Center	3701 Campus Road

3.02 Customer Service, Experience & Qualifications

All items listed this section are Customer Service, Experience, and Qualifications Requirements. If the Offeror is successful, the Offeror agrees that it shall comply with all product support, customer service, and experience requirements throughout the full term of the Contract.

Offerors must provide a full response to each requirement without cross referencing other sections of the proposal. Offerors must use the table format and maintain numbering provided by the STATE to respond to each requirement.

1.	<p>Contract Representation Offeror must provide a narrative of the dedicated contract representative and the support staff team. Information for the contract representative must include:</p> <ul style="list-style-type: none"> a. name, b. phone number, c. e-mail address, d. mailing address and e. years of appropriate experience. <p>Offerors must provide information on dedicated support or back-up staff including:</p> <ul style="list-style-type: none"> a. names, b. titles, c. phone numbers, d. e-mail addresses and e. mailing addresses. <p>Offerors must provide the names and titles, phone numbers, and e-mail and mailing addresses for the contract representative's chain of command within your company.</p> <p><u>Offeror Response:</u></p>
2.	<p>Offeror must acknowledge that the assigned contract representatives may be required to meet with the STATE on a regular basis, or when deemed necessary. The STATE may also require other support staff or team members identified on Offeror's escalation lists to be available for these meetings. Please verify that your company can and will make these staff members available to meet with the STATE, given adequate notice.</p> <p><u>Offeror Response:</u></p>
3.	<p>Customer Services Offerors must describe:</p> <ul style="list-style-type: none"> a. the process for placing orders, b. the process for handling customer inquiries and response time to inquiries, c. the proposed sales support/account representation and customer relationship services and strategies offered, d. billing procedures <p><u>Offeror Response:</u></p>
4.	<p>Offerors must describe the experience of their firm in completing similar projects. Additionally, Offerors must provide information specific to the personnel assigned to accomplish the work called for in this RFP. Offerors must provide a narrative description of the organization of the</p>

	<p>project team and a personnel roster that identifies each person who will actually work on the contract.</p> <p><u>Offeror Response:</u></p>
5.	<p>If an Offeror intends to use subcontractors, the Offeror must identify in the proposal the names of the subcontractors and the portions of the work the subcontractors will perform.</p> <p><u>Offeror Response:</u></p>
6.	<p>The Offeror must have successfully completed at least three (3) telecommunications projects of similar scope and complexity in cities with similar demographics and have successfully negotiated city franchise agreements for the purposes of fiber optic cable installations.</p> <p><u>Offeror Response:</u></p>
7.	<p>Technical Support Offeror must acknowledge maintenance for the fiber optic cable infrastructure will be the responsibility of the provider.</p> <p>Offeror must acknowledge that they will have a (4) four hour maintenance window should the fiber be cut at a point within the area of responsibility.</p> <p><u>Offeror Response:</u></p>
8.	<p>Technical Support Offeror must describe in detail hours of operation, operator responsibilities, and technical skill levels (correct problems or refer them?)</p> <p><u>Offeror Response:</u></p>
9.	<p>Offeror must acknowledge that they will provide any statistics that indicate the time duration from the time of problem detection to the time of problem resolution</p> <p><u>Offeror Response:</u></p>
10.	<p>Maintenance Procedures Offeror must describe in detail their procedure for providing maintenance service (to be approved by the STATE) that would include:</p> <ul style="list-style-type: none"> a. 24-hour trouble desk, b. trouble reporting procedures, c. telephone numbers for voice, d. e-mail addresses, e. maintenance organizational chart (showing supervision and key personnel), and escalation procedures. f. All listed personnel shall include their telephone numbers and office e-mail addresses. <p><u>Offeror Response:</u></p>

SECTION FOUR - GENERAL CONTRACT INFORMATION

4.01 Standard Contract Provisions

The Awardee shall be required to sign a contract substantially similar to the contract attached to this RFP (Attachment 2). The Awardee must comply with the contract provisions set out in this attachment. Any objections to the contract provisions must be set out in the Offeror's proposal. The State may deem any failure to object to a contract provision as the Offeror's acceptance of that provision. The STATE shall not permit alteration of these provisions without prior written approval.

The STATE instructs Offerors to contact the procurement officer in writing by the deadline set for questions (as identified in §1.03 RFP Schedule) with any concerns regarding the contract provisions.

4.02 Proposal as a Part of the Contract

The STATE may incorporate part or all of this RFP and the successful proposal into the contract.

4.03 Additional Terms and Conditions

The STATE reserves the right to add, delete, or modify terms and conditions during contract negotiations. These terms and conditions shall be within the scope of the RFP and will not affect the proposal evaluations.

4.04 Supplemental Terms and Conditions

Proposals including supplemental terms and conditions may be accepted, but supplemental conditions that conflict with those contained in this RFP or that diminish the STATE's right's under any contract resulting from the RFP will be considered null and void. The STATE is not responsible for identifying conflicting supplemental terms and conditions before issuing a contract award. After award of contract:

- [a] if conflict arises between a supplemental term or condition included in the proposal and a term or condition of the RFP, the term or condition of the RFP will prevail; and
- [b] if the result of the application of a supplemental term or condition included in the proposal would diminish the STATE's rights, the supplemental term or condition will be considered null and void.

4.05 Contract Approval

This RFP does not, by itself, obligate the STATE. The STATE's obligation will commence when the STATE signs the contract. Upon written notice to the contractor, the STATE may set a different starting date for the contract. The STATE will not be responsible for any work done by the contractor, even work done in good faith, if it occurs prior to the contract start date set by the STATE.

4.06 Contract Changes - Unanticipated Amendments

During the course of this contract, the awardee may be required to perform additional work. That work shall be within the general scope of the initial contract. When additional work is required, the Integrated Change Control Process in section 24d of the contract shall be used.

4.07 Indemnification and Insurance Requirements

The STATE incorporates indemnification and insurance provisions in Attachment 2 into the final contract. **The Offeror must submit objections to any of the provisions of the Indemnification and Insurance Requirements in writing to the attention of the procurement officer with the proposal submission.** The STATE shall not permit any alteration of these provisions without prior written approval from the STATE in consultation with the North Dakota Risk Management Division.

Upon receipt of the Notice of Intent to Award, the Awardee must obtain the required insurance coverage and provide the procurement officer with proof of coverage prior to contract approval. The coverage must be satisfactory to the STATE, in consultation with the North Dakota Risk Management Division. An Offeror's failure to provide evidence of insurance coverage is a material breach and grounds for withdrawal of the award or termination of the contract.

4.08 Limited Liability

The State's ability to agree to any limitation of liability is restricted by [N.D.C.C. 32-12.2-15](#).

4.09 Informal Debriefing

When the contract is completed, the STATE may perform an informal debriefing at the discretion of the procurement officer or project manager designated by the STATE. If performed, the scope of the debriefing will be limited to the work performed by the contractor. The STATE will negotiate the debriefing time and location between the STATE and contractor.

4.10 Liquidated Damages

Technology Services Contracts resulting from this RFP may include a clause setting forth an actual dollar amount designated as liquidated damages to ensure STATE remains whole in the case of delays in a project due to the CONTRACTOR's fault. Specific damages will be part of the negotiation process. The amount will be reasonable and not disproportionate to the damages anticipated at the point of the contract and will not serve in any way as a penalty.

SECTION FIVE - EVALUATION CRITERIA AND CONTRACTOR SELECTION

THE TOTAL NUMBER OF POINTS USED TO SCORE THIS CONTRACT IS 100

5.01 Proposal Evaluation Criteria/Categories

Sections Proposals will be scored in following major categories; each major category contains sub-categories to be scored. The categories and sub-categories, with their relative weights are as follows:

1. Scope of Work

Twenty-five Percent (25%) of the total possible evaluation points will be assigned to this criterion.

2. Customer Service, Experience and Qualifications

Twenty-five Percent (25%) of the total possible evaluation points will be assigned to this criterion.

3. Financial Strength

Five Percent (5%) of the total possible points will be assigned to this criterion.

4. Contract Cost

Forty-five Percent (45%) of the total possible evaluation points will be assigned to cost.

The STATE will not consider any prompt payment discounts terms proposed by the Offeror in evaluating cost. The cost amount used for evaluation may be affected by the application of North Dakota preference laws (N.D.C.C. § 44-08-01). The lowest cost proposal will receive the maximum number of points allocated to cost. The STATE will evaluate the point allocations for cost on the other proposals according to the method set forth in the Proposal Evaluation form attached to this RFP.

5.02 Oral Presentations

After any discussions for clarifications and the initial evaluation of proposals received, Offerors whose proposal receive the highest scores and are determined to be reasonably susceptible for award may be required to make an oral presentation of the proposed solution for the evaluation committee. The STATE will factor information presented during demonstrations into the evaluation scoring.

Offerors will be responsible for all costs associated with the providing the presentation.

5.03 Site Inspection of Offeror's Facility

The STATE may conduct on-site visits to the Offeror's firm or Offeror's customer where the Offeror is performing a comparable service to evaluate the Offeror's capacity to perform the contract. An Offeror must agree, at risk of being found non-responsive and having its proposal rejected, to provide the STATE reasonable access to relevant portions of its work sites. Individuals designated by the STATE will conduct the site inspection at the STATE's expense.

SECTION SIX - PROPOSAL FORMAT AND CONTENT

6.01 Proposal Format

General Information

- The STATE discourages overly lengthy and costly proposals; however, in order for the STATE to evaluate proposals fairly and completely, Offerors must follow the format set out in this RFP and provide all information requested.
- Offerors may make a written request to hold confidential any trade secrets and other proprietary data contained in proposals. The Offeror must clearly identify the material considered confidential, and the Offeror must include a brief statement that sets out the reasons for confidentiality. See the North Dakota Office of the Attorney General website for additional information. <http://www.ag.nd.gov/OpenRecords/ORM.htm>
- The STATE will not pay any cost associated with the preparation, submittal, presentation, or evaluation of any proposal Offerors must provide all documents, samples, or other information specifically required in this RFP.

Physical Organization

- Prepare proposals on 8.5 x 11 paper and insert in a three ring binder with sections (as defined below) separated by tabbed dividers. Any exhibits, pictures or drawings that are printed on paper larger than 8.5 x 11 should be folded, punched and bound in folder or enclosed in folder in sheet protectors or some other similar presentation, if possible. If not possible to include in binder, enclose in other container or presentation type folder which is as compactly sized as possible.
- Proposals must be separated into an introductory section and five content sections. Each section must be formatted as follows and include the information detailed below by providing comprehensive narrative statements and descriptions:

6.02 Proposal Content

Section One – Tab One

Introductory/Affirmations Section

An "Introduction" section must include the following:

- A cover letter signed by a company officer with authority to bind the company. The letter must contain the following:
 - the complete name and address of the Offeror and the name, mailing address, and telephone number of the person the STATE should contact regarding the proposal;
 - confirmation that the Offeror will comply with all provisions in this RFP;
 - disclosure of any instances where the Offeror or any individuals working on the contract has a possible conflict of interest and, if so, the nature of that conflict (e.g. employed by the State of North Dakota);
 - a statement certifying that the Offeror complies with:
 - the laws of the State of North Dakota;
 - *North Dakota Administrative Code*;
 - all applicable local, state, and federal laws, code, and regulations;
 - the applicable portion of the Federal Civil Rights Act of 1964;
 - the Equal Employment Opportunity Act and the regulations issued by the

- federal government;
- the Americans with Disabilities Act of 1990 and the regulations issued by the federal government;
- all terms, conditions, and requirements set forth in this RFP;
- a condition that the proposal submitted was independently arrived at, without collusion; and
- a condition that the offer will remain open and valid for the period indicated in this solicitation.

Section Two – Tab Two

Financials Section

Provide financial information in such a manner that the State can reasonably formulate a determination about the stability and financial strength of the organization. This must include but not be limited to information about:

- company size
- organization/date of incorporation
- ownership
- number of employees
- revenues for the last fiscal year, and,
- at least one of the following:
 - audited financial statements for the most recent 3 years;
 - an Annual Report as verification of financial status provided it contains at a minimum a Compiled Income Statement and Balance Sheet verified by a Certified Public Accounting firm; or (The State reserves the right to contact the accounting firm if questions arise
 - tax returns and financial statements including income statements and balance sheets for the most recent 3 years, and any available credit reports.

Disclose any and all judgments, pending or expected litigation, or other real potential financial reversals, which might materially affect the viability or stability of the Offeror's organization; or certify that no such condition is known to exist.

The STATE may request reports on financial stability from independent financial rating services in order to further substantiate stability.

Section Three – Tab Three

Scope of Work

Provide all information as required and requested in the referenced RFP Section 3.01.

Section Four – Tab Four

Customer Service, Experience, and Qualifications Requirements

Provide all information as required and requested in the referenced RFP Section 3.02.

Section Five – Tab Five

Required Enclosures

Offerors must provide all other attachments, documents, samples, or other information

referenced in the response to the RFP or as specifically required in this RFP.

Cost Proposal

- Offerors must complete cost proposal all costs must be clearly outlined.
- All costs must be inclusive.
- Offerors must submit one copy of the cost proposals in a separate sealed envelope or package, clearly labeled "cost proposal."
- The Offeror must state all costs associated with the contract in U.S. currency. The Offeror must identify any commodities the Offeror will import, and the price must include any applicable customs, brokerage agency fees, and duties.
- The Offeror must submit cost proposals with consideration to the STATE'S standard terms and conditions included in the attached sample contract.
- Offerors should describe any discounts terms for prompt payment. The STATE will not consider discounts for prompt payment when evaluating cost.

SECTION SEVEN - STANDARD PROPOSAL INFORMATION

7.01 Authorized Signature

An individual authorized to bind the Offeror to the provisions of the RFP must sign all proposals.

7.02 State Not Responsible for Preparation Costs

The STATE will not pay any cost associated with the preparation, submittal, presentation, or evaluation of any proposal.

7.03 Conflict of Interest

Offerors must disclose any instances where the firm or any individuals working on the contract has a possible conflict of interest and, if so, the nature of that conflict (e.g. employed by the State of North Dakota). The STATE reserves the right to cancel the award if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the Offeror's proposal. The STATE's determination regarding any questions of conflict of interest is final.

7.04 Offer Held firm

Proposals must remain open and valid for at least **90 DAYS** from the deadline specified for submission of proposals. In the event the STATE does not award within **90 DAYS**, the STATE will send a written request to all Offerors deemed susceptible for award asking Offerors to hold their price firm for a longer specified period of time.

7.05 Amendments to Proposals and Withdrawals of Proposals

Offerors may amend or withdraw proposals prior to the deadline set for receipt of proposals. The STATE will not accept amendments after the deadline unless they are in response to the STATE's request. After the deadline, Offerors may make a written request to withdraw proposals and provide evidence that they made a substantial mistake. The procurement officer may permit withdrawal of the proposal upon verifying that the Offeror made a substantial mistake, and the STATE may retain the Offeror's bid bond or other bid type of bid security, if one was required.

7.06 Alternate Proposals

Offerors may submit only one proposal for evaluation.

Alternate proposals (proposals that offer something different than what the STATE requested) will not be considered.

7.07 Subcontractors

Offerors may use subcontractors to perform work under this contract. If an Offeror intends to use subcontractors, the Offeror must identify in the proposal the names of the subcontractors and the portions of the work the subcontractors will perform.

If the STATE selects a proposal with subcontractors, the Offeror must provide the following information concerning each prospective subcontractor within **FIVE WORKING DAYS** from the date of the STATE's request:

- [a] complete name of the subcontractor;
- [b] complete address of the subcontractor;
- [c] type of work the subcontractor will be performing;
- [d] percentage of work the subcontractor will be providing;
- [e] evidence, as set out in the relevant section of this RFP, that the subcontractor is registered and, if applicable, holds a valid North Dakota business license; and
- [f] a written statement, signed by each proposed subcontractor, which clearly verifies that the subcontractor is committed to render the services required by the contract.

An Offeror's failure to provide this information, within the time set, may cause the STATE to consider its proposal non-responsive and reject it. The Offeror may substitute one subcontractor for another only at the discretion and with prior written approval of the STATE's designated procurement officer or project manager.

7.08 Joint Ventures

Joint ventures are acceptable. If submitting a proposal as a joint venture, the Offeror must submit a copy of the joint venture agreement that identifies the principals involved and its rights and responsibilities regarding performance and payment.

7.09 Disclosure of Proposal Contents and Compliance with State's Open Records Laws

All proposals and other material submitted become the property of the STATE and the STATE may return them only at the STATE's option. All proposals and related information, including detailed cost information, are exempt records and shall be held in confidence until an award is made, in accordance with N.D.C.C. § 54-44.4-10(2).

Offerors may make a written request to hold confidential any trade secrets and other proprietary data contained in proposals. The Offeror must clearly identify the material considered confidential, and the Offeror must include a brief statement that sets out the reasons for confidentiality. See the North Dakota Office of the Attorney General website for additional information. <http://www.ag.nd.gov/OpenRecords/ORM.htm>

After award, proposals shall be subject to the North Dakota open records law. Records are closed or confidential only if specifically stated in law. If the STATE receives a request for public information, the procurement officer, in consultation with the Office of the Attorney General, shall determine whether the information is an exception to the North Dakota open records law, and the information shall be processed accordingly.

7.10 Evaluation of Proposals

The STATE will review all proposals to determine if they are responsive to the requirements of this solicitation. The procurement officer or an evaluation committee will evaluate responsive proposals. The STATE will base the evaluation solely on the evaluation factors set forth in this RFP. The evaluation will consider information obtained subsequent to any discussions with Offerors determined to be reasonably susceptible for award and any demonstrations, oral presentations, or site inspections, if required in this RFP.

7.11 Right of Rejection

The STATE reserves the right to reject any proposals, in whole or in part. The STATE will reject

proposals received from debarred or suspended vendors. The procurement officer may reject any proposal that is not responsive to all of the material and substantial terms, conditions, and performance requirements of the RFP.

Offerors may not qualify the proposal nor restrict the rights of the STATE. If an Offeror does so, the procurement officer may determine the proposal to be a non-responsive counter-offer and the STATE may reject the proposal.

The procurement officer may waive minor informalities that:

- do not affect responsiveness;
- are merely a matter of form or format;
- do not change the relative standing or otherwise prejudice other offers;
- do not change the meaning or scope of the RFP;
- are insignificant, negligible, or immaterial in nature;
- do not reflect a material change in the work; or
- do not constitute a substantial reservation against a requirement or provision,

The STATE reserves the right to reject any proposal determined to be not responsive, and to reject the proposal of an Offeror determined to be not responsible. The STATE also reserves the right to refrain from making an award if it determines it to be in its best interest.

7.12 Clarification of Offers

In order to determine if a proposal is reasonably susceptible for award, the STATE permits communications by the procurement officer or the proposal evaluation committee with an Offeror to clarify uncertainties or eliminate confusion concerning the contents of a proposal and determine responsiveness to the RFP requirements. Clarifications may not result in a material or substantive change to the proposal. The STATE may adjust the initial evaluation because of a clarification under this section.

After receipt of proposals, if there is a need for any substantial clarification or material change in the RFP, the STATE will issue an amendment. The amendment will incorporate the clarification or change, and a new date and time established for new or amended proposals. The STATE may adjust evaluations as a result of receiving new or amended proposals.

7.13 Discussions and Best and Final Offers

The STATE may conduct discussions or request best and final offers with Offerors that have submitted proposals determined to be reasonably susceptible for award. The STATE is not obligated to do so, therefore, vendors should submit their best terms (cost and technical). The purpose of these discussions is to ensure full understanding of the requirements of the RFP and the Offeror's proposal. Discussions will be limited to specific sections of the RFP or proposal identified by the procurement officer. Discussions, if held, will be after initial evaluation of proposals by the proposal evaluation committee. If the STATE requests modifications to the proposal as a result of these discussions, the Offeror must put the modifications in writing. If the STATE requests best and final offers, the STATE will evaluate the best and final offer submitted by the Offeror against the criteria stated in the RFP and any subsequent amendments to the RFP including the best and final offer request. If an Offeror does not submit a best and final offer, the STATE will consider its original proposal as its best and final offer.

Offerors with a disability needing accommodation should contact the procurement officer prior to

the date set for discussions so that the STATE can make reasonable accommodations.

7.14 Negotiations

Contract negotiations will be conducted in accordance with [N.D.A.C. § 4-12-12](#). The STATE may enter into negotiations with one or more offeror whose proposals received the highest scores and are reasonably susceptible for award. During negotiations, the STATE and offeror may agree to alter or otherwise change the terms and conditions and price of the proposed contract. Negotiation, if held, will be within the scope of the RFP and limited to those items that would not have an effect on the ranking of proposals.

Each offeror will be responsible for all costs it incurs as a result of negotiations, including any travel and per diem expenses.

Contract negotiations will be conducted primarily by e-mail, conference calls, or internet-based conference. Any on-site negotiation, if needed, will be held in Bismarck, ND.

The STATE may terminate negotiations, reject a proposal as nonresponsive, and continue or commence negotiations with other offerors reasonably susceptible for award, if the offeror:

- fails to provide necessary information for negotiation in a timely manner,
- fails to negotiate in good faith,
- is unable to successfully negotiate contract terms that are acceptable to the STATE, or
- indicates that it cannot perform the contract within the budgeted funds.

7.15 Notice of Intent to Award

After proposals have been evaluated and the successful offeror selected, notice of intent to award will be promptly issued to all offerors that submitted proposals. Upon issuance of this notice, the procurement file becomes an open record.

The successful offeror named in the Notice of Intent to Award is advised not to begin work, purchase materials, or enter into subcontracts until the successful offeror and the STATE sign the contract

7.16 Protest of Solicitation, Intent to Award or Award

An interested party may protest a solicitation pursuant to [N.D.C.C. § 54-44.4-12](#) and [N.D.A.C. § 4-12-14-01](#). When a solicitation contains a deadline for submission of questions and requests for clarifications, protests of the solicitation will not be allowed if these faults have not been brought to the attention of the procurement officer before the specified deadline.

An offeror that has submitted a response to a solicitation and is aggrieved may protest an award or notice of intent to award pursuant to [N.D.C.C. § 54-44.4-12](#) and [N.D.A.C. § 4-12-14-02](#). The protest must be submitted in writing to the Procurement Officer within seven calendar days after issuance of the notice of intent to award.

The protestor may appeal the decision of the procurement officer to the Director of Office of Management and Budget within seven calendar days after receiving notice of the decision pursuant to [N.D.C.C. § 54-44.4-12](#) and [N.D.A.C. § 4-12-14-03](#). Contact 701-328-2740 or infospo@nd.gov.

SECTION EIGHT - ATTACHMENTS

8.01 Attachments

Attachments

1. Proposal Evaluation
2. Contract Form
3. Cost Proposal Format

**ATTACHMENT 1
PROPOSAL EVALUATION**

THE TOTAL NUMBER OF POINTS USED TO SCORE THIS CONTRACT IS 100

SCOPE OF WORK

Weight **25 Points**. Maximum Point Value for this Section

Rating Scale (25 POINT Maximum)	
Point Value	Explanation
0	None. Not addressed or response of no value
1-6	Fair. Limited applicability
7-12	Good. Some applicability
13-16	Very Good. Substantial applicability
17-25	Excellent. Total applicability

Proposals will be evaluated against the overall Scope of Work as outlined in Section 3.01.

CUSTOMER SERVICE, EXPERIENCE AND QUALIFICATIONS

Weight **25 Points**. Maximum Point Value for this Section

Rating Scale (25 POINT Maximum)	
Point Value	Explanation
0	None. Not addressed or response of no value
1-6	Fair. Limited applicability
7-12	Good. Some applicability
13-16	Very Good. Substantial applicability
17-25	Excellent. Total applicability

Proposals will be evaluated against the overall Customer Service, Experience and Qualifications as outlined in Section 3.02.

FINANCIAL STRENGTH

Weight **5 Points**. Maximum Point Value for this Section

Rating Scale (5 POINT Maximum)	
Point Value	Explanation
0	None. Not addressed or response of no value
1	Fair. Limited applicability
2	Good. Some applicability
3-4	Very Good. Substantial applicability
5	Excellent. Total applicability

Proposals will be evaluated against the overall Financial Requirements as outlined in Section 6.02.

CONTRACT COST

Weight **45 Percent**. Maximum Point Value for this Section
100 Points x **45 Percent = 45 Points**

Applying Preference Laws

The STATE will not consider any prompt payment discounts terms proposed by the Offeror when evaluating cost. The cost amount used for evaluation may be affected by the application of North Dakota preference laws (N.D.C.C. § 44-08-01). The preference given to a resident Offeror will be equal to the preference given or required by the state of the nonresident Offeror (i.e. reciprocal preference).

When evaluating cost proposals from nonresident (out-of-state) Offerors, the STATE will determine whether the Offeror's state of residence has a preference law for vendors resident in that state. The STATE will increase the cost proposal of the nonresident Offeror by the same percentage of preference given to vendors resident in that state.

For example, if the state law of the nonresident Offeror requires a 5% preference for vendors resident in that state, the procurement officer will increase that Offeror's cost proposal by 5% before evaluation.

See <http://www.nd.gov/spo/legal/docs/preference-laws.pdf> for a list of states Preference Laws or contact the North Dakota State Procurement Office at 701-328-2683.

Converting Cost to Points

After applying any reciprocal preference, the lowest cost proposal will receive the maximum number of points allocated to cost. The point allocations for cost on the other proposals will be determined as follows:

$$\frac{\text{Lowest Cost}}{\text{Cost being rated}} \times \text{Total Points for Cost} = \text{Awarded Points}$$

Request for Proposal Evaluation Summary

Name of RFP:		
RFP Number:		
Vendor Being Evaluated:		
Evaluator Name:		
Date:		
Technical Evaluation <i>(Maximum 55 Points)</i>	Maximum Points by Category	Score
1. Scope of Work	25	
2. Customer Service, Experience and Qualifications	25	
3. Financial Strength	5	
Cost Evaluation <i>(Maximum 45 Points)</i> Make adjustments for reciprocal preference, if necessary. See list of States Preference Laws: http://www.nd.gov/spo/ Calculated points awarded for price.		
4. Cost	45	
Total		

ATTACHMENT 2
GRAND FORKS DARK FIBER CONTRACT

1. PARTIES

The parties to this contract (Contract) are the state of North Dakota, acting through its *Department/Office* (STATE), and *Name of Business and type of business (e.g. legal name Delaware corporation or privately held company)* having its principal place of business at *principal business address* (CONTRACTOR).

2. SCOPE OF WORK

Note: If the Scope of Work (SOW) is brief, insert your language into the sentence provided directly below. If the SOW is a lengthy document, you may consider referencing the SOW as a separate section at the end of the Contract. A sample SOW section is provided in Exhibit A.

CONTRACTOR, in exchange for the compensation paid by STATE under this Contract, shall provide *SOW description*.

3. COMPENSATION

Note: A sample Compensation Details section is provided in Exhibit B.

a. Contractual Amount

STATE shall pay for the accepted services provided by CONTRACTOR under this Contract an amount not to exceed *amount* (Contractual Amount). The Contractual Amount shall be paid according to the Compensation Details document attached as Exhibit B.

The Contractual Amount is firm for the duration of the Contract and constitutes the entire compensation due CONTRACTOR for performance of its obligations under this Contract regardless of the difficulty, materials or equipment required, including fees, licenses, overhead, profit and all other direct and indirect costs or expenses incurred by CONTRACTOR except as provided by an amendment to this Contract.

b. Invoicing

The final cost set forth on each invoice shall be equivalent to the cost for each deliverable or service as specified in the Scope of Work. CONTRACTOR shall not submit an invoice for any deliverable or service specified in the Scope of Work that STATE has not fully accepted.

c. Payment

Payment made in accordance with this Compensation section shall constitute payment in full for the services and work performed and the deliverables provided under this Contract and CONTRACTOR shall not receive any additional compensation hereunder.

STATE shall make payment under this Contract within forty-five (45) calendar days after receipt of an approved invoice.

Payment of an invoice by STATE will not prejudice STATE's right to object to or question that or any other invoice or matter in relation thereto. CONTRACTOR's invoice will be subject to reduction for amounts included in any invoice or payment made which are determined by STATE not to constitute allowable costs, on the basis of audits conducted in accordance with the terms of this Contract. At STATE's sole discretion, all payments shall be subject to reduction for amounts equal to prior overpayments to

CONTRACTOR.

For any amounts that are or will become due and payable to STATE by CONTRACTOR, STATE reserves the right to deduct the amount owed from payments that are or will become due and payable to CONTRACTOR under this Contract.

d. Prepayment

STATE will not make any advance payments before performance by CONTRACTOR under this Contract.

e. Payment of Taxes by State

STATE is not responsible for and will not pay local, state, or federal taxes. STATE sales tax exemption number is E-2001. STATE will furnish certificates of exemption upon request by CONTRACTOR.

f. Taxpayer ID

CONTRACTOR's federal employer ID number is: _____.

g. Purchasing Card

STATE may make a payment using a government credit card. CONTRACTOR will accept a government credit card without passing the processing fees for the government credit card back to STATE.

4. EQUIPMENT, MATERIALS, AND WORKSPACE – RESOURCES PROVIDED BY PARTIES

For periods during which the parties mutually agree that CONTRACTOR's assigned staff is on site:

- a. On site means Grand Forks, ND.
- b. STATE agrees to provide an adequate working space, when required.

5. TERM OF CONTRACT

This Contract begins on August 1, 2016 and ends on July 31, 2021.

a. No Automatic Renewal

This Contract will not automatically renew.

b. Extension Option

STATE reserves the right to extend the Contract for an additional period of time, not to exceed twelve (12) months, beyond the current termination date of the Contract.

c. Renewal Option

STATE may renew this Contract upon satisfactory completion of the initial Contract term. STATE reserves the right to execute up to five (5) options to renew this Contract under the same terms and conditions for a period of twelve (12) months each.

6. TERMINATION

a. Termination by Mutual Agreement

This Contract may be terminated by mutual consent of both parties executed in writing.

b. Termination without Cause

STATE may terminate this Contract in whole or in part when it has determined that continuing the Contract is no longer necessary or would not produce beneficial results commensurate with the further expenditure of public funds.

c. Termination for Lack of Funding or Authority

STATE, by written notice to CONTRACTOR, may terminate the whole or any part of this Contract under any of the following conditions:

- 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.
- 3) If any license, permit, or certificate required by law or rule, or by the terms of this Contract, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Contract under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

d. Termination for Cause.

STATE may terminate this Contract effective upon delivery of written notice to CONTRACTOR, or any later date stated in the notice:

- 1) If CONTRACTOR fails to provide services required by this Contract within the time specified or any extension agreed to by STATE; or
- 2) If CONTRACTOR fails to perform any of the other provisions of this Contract, or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms.

The rights and remedies of STATE provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

7. SUSPENSION FOR CONVENIENCE

STATE shall have the right at any time to order the services of CONTRACTOR fully or partially stopped for STATE's own convenience. STATE shall provide CONTRACTOR written notice of the reason for and duration of the suspension. The schedule shall be delayed on a day-for-day basis to the extent STATE has issued a stop work order to CONTRACTOR and such stop work order is causing delays in completing services in accordance with the schedule. CONTRACTOR shall have the right to submit claims in accordance with the terms of this Contract as a result of stop work orders issued under this section.

8. FORCE MAJEURE

Neither party shall be held responsible for delay or default caused by fire, riot, terrorism, acts of God or war if the event is beyond the party's reasonable control and the affected party gives notice to the other party immediately upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default.

9. INJUNCTIVE RELIEF

CONTRACTOR shall immediately report to STATE any and all unauthorized disclosures or uses of STATE's Confidential Information or Proprietary Information of which CONTRACTOR or its staff is aware or has knowledge. CONTRACTOR acknowledges that any unauthorized publication or disclosure of STATE's Confidential Information or Proprietary Information to others may cause immediate and irreparable harm to STATE. If CONTRACTOR should publish or disclose such Confidential Information or Proprietary Information without authorization, STATE shall immediately be entitled to injunctive relief or any other remedies to which it is entitled under law or equity without requiring a cure period. CONTRACTOR shall indemnify, defend, and hold harmless STATE from all damages, costs, liabilities, and expenses (including without limitation reasonable attorneys' fees) caused by or arising from CONTRACTOR's unauthorized notification or disclosure of STATE's Confidential Information or Proprietary Information. As a condition to these indemnity obligations, STATE will provide CONTRACTOR with prompt notice of any claim of which STATE is aware and for which indemnification shall be sought under this Contract and shall cooperate in all reasonable respects with CONTRACTOR in connection with any such claim.

10. RIGHT OF SETOFF DAMAGES

Amounts due STATE by CONTRACTOR, including liquidated or other damages, or claims for damages, may be deducted or set-off by STATE from any money payable to CONTRACTOR pursuant to this Contract.

11. RIGHT TO WITHHOLD AMOUNTS OTHERWISE DUE IF THE CONTRACTOR IS IN BREACH

If CONTRACTOR fails to deliver Deliverables or to provide Services which satisfy CONTRACTOR's obligations under this Contract, STATE shall have the right to withhold any and all payments due under this Contract. STATE may withhold any and all such payments due under this Contract to CONTRACTOR without penalty or work stoppage by CONTRACTOR, until such failure to perform is cured.

12. RIGHT TO REMEDIES AND CUMULATION OF RIGHTS

No remedy conferred by any of the specific provisions of the Contract is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Contract, now or in the future existing at law or in equity or by statute or otherwise.

13. NON-WAIVER

Either party's failure to exercise any of its rights under the Contract, its delay in enforcing any right, or its waiver of its rights on any occasion, shall not constitute a waiver of such rights on any other occasion. No course of dealing by either party in exercising any of its rights shall constitute a waiver thereof. No waiver of any provision of the Contract shall be effective unless it is in writing and signed by the party against whom the waiver is sought to be enforced.

14. INDEMNITY

CONTRACTOR agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers and employees (State), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the State's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. This obligation to defend, indemnify, and hold harmless does not extend to professional liability claims arising from professional errors and omissions. The

legal defense provided by CONTRACTOR to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Any attorney appointed to represent the State must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08. CONTRACTOR also agrees to defend, indemnify, and hold the State harmless for all costs, expenses and attorneys' fees incurred if the State prevails in an action against CONTRACTOR in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this Contract.

15. INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION

- a. CONTRACTOR, at its own expense, shall defend and indemnify STATE against claims that products furnished under this Contract infringe a United States patent or copyright or misappropriate trade secrets protected under United States law.
- b. As to any product which is subject to a claim of infringement or misappropriation, CONTRACTOR may (a) obtain the right of continued use of the product for STATE or (b) replace or modify the product to avoid the claim. If neither alternative is available on commercially reasonable terms then, at the request of CONTRACTOR, any applicable Software license and its charges will end, STATE will stop using the product, and will return the product to CONTRACTOR. Upon return of the product, CONTRACTOR will give STATE a credit for the price paid to CONTRACTOR, less a reasonable offset for use and obsolescence.

16. REPRESENTATION AND WARRANTIES

CONTRACTOR represents and warrants to STATE that neither CONTRACTOR, in connection with performing the services in performance of this Contract, nor the completed product delivered by CONTRACTOR, will infringe any patent, copyright, trademark, trade secret or other proprietary right of any person. CONTRACTOR further represents and warrants to STATE that it will not use any trade secrets or confidential or proprietary information owned by any third party in performing the services related to this Contract or in delivery of the completed product unless CONTRACTOR has the authority to license, use or provide those trade secrets or confidential or proprietary information to STATE. CONTRACTOR further represents and warrants to STATE that neither CONTRACTOR nor any other company or individual performing services pursuant to this Contract is under any obligation to assign or give any work done under this Contract to any third party.

17. INSURANCE

CONTRACTOR shall secure and keep in force during the term of this Contract and CONTRACTOR shall require all subcontractors, prior to commencement of an agreement between CONTRACTOR and the subcontractor, to secure and keep in force during the term of this CONTRACT, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- a. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence
- b. Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence

- c. Workers compensation coverage meeting all statutory requirements. The policy must provide coverage for all states of operation that apply to the performance of this Contract
- d. Employer's liability or "stop gap" insurance of not less than \$1,000,000 as an endorsement on the workers compensation or commercial general liability insurance
- e. Professional errors and omissions with minimum limits of \$1,000,000 per occurrence and in the aggregate, CONTRACTOR shall continuously maintain such coverage during the Contract period and for three (3) years thereafter. In the event of a change or cancellation of coverage, CONTRACTOR shall purchase an extended reporting period to meet the time periods required in this section.

The insurance coverages listed above must meet the following additional requirements:

- a. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the CONTRACTOR. The amount of any deductible or self-retention is subject to approval by the State.
- b. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in form and terms approved by the State.
- c. The duty to defend, indemnify, and hold harmless the State under this agreement shall not be limited by the insurance required in this agreement.
- d. The state of North Dakota and its agencies, officers, and employees shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insured. The State shall have all the benefits, rights and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this agreement or by the contractual indemnity obligations of the CONTRACTOR.
- e. The insurance required in this agreement, through a policy or endorsement, shall include:
 - 1) Waiver of Subrogation" waiving any right to recovery the insurance company may have against the State
 - 2) A provision that CONTRACTOR's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the State and that any insurance, self-insurance or self-retention maintained by the State shall be in excess of CONTRACTOR's insurance and shall not contribute with it
 - 3) Cross liability/severability of interest for all policies and endorsements
 - 4) The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary
 - 5) The insolvency or bankruptcy of the insured CONTRACTOR shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured CONTRACTOR from meeting the retention limit under the policy

- f. CONTRACTOR shall furnish a certificate of insurance to the undersigned STATE representative prior to commencement of this agreement. All endorsements shall be provided as soon as practicable.
- g. Failure to provide insurance as required in this agreement is a material breach of contract entitling STATE to terminate this agreement immediately.
- h. CONTRACTOR shall provide at least 30 day notice of any cancellation or material change to the policies or endorsements.

18. TECHNOLOGY STANDARDS

CONTRACTOR shall comply with applicable STATE enterprise architecture technology standards. These standards can be found on STATE's website at <http://www.nd.gov/itd/standards>.

19. PERSONNEL

- a. STATE will designate a Project Manager to serve as the primary project manager for this Contract. If, during the course of the Contract, it becomes necessary for STATE to change the person assigned as STATE's Project Manager, STATE will notify CONTRACTOR in writing, pursuant to Notice section of this Contract.
- b. Unless STATE otherwise notifies CONTRACTOR, STATE's Project Manager shall carry out STATE's administrative and management functions under this Contract, shall be responsible for acceptance of the Contract deliverables, and shall provide support and overall direction to CONTRACTOR.
- c. CONTRACTOR will designate a Project Manager and provide individuals to meet the requirements and accomplish the work as stated in this Contract including any mutually agreed upon Scope of Work.
- d. CONTRACTOR agrees and understands that STATE's execution of the Contract is predicated, in part and among other considerations, on the utilization of the specific individuals and personnel qualifications as identified; primary being ***name of appropriate personnel, if applicable***. Therefore, CONTRACTOR agrees that:
 - 1) Prior to assignment of personnel, CONTRACTOR shall obtain written approval from STATE for all personnel to be assigned to this project
 - 2) The personnel assigned must have the knowledge necessary to complete requirements as defined in the Contract.
 - 3) CONTRACTOR shall warrant that all personnel assigned to perform tasks in response to this Contract will remain assigned for the agreed-upon length of time.
 - 4) No replacement, reassignment or substitution of any assigned individuals and personnel qualifications shall be made without the prior written approval of STATE and that such replacement, reassignment or substitution shall be made at no additional cost to STATE.
 - 5) Any substitution made pursuant to this paragraph must be of equal or higher skills, knowledge, and abilities than those personnel originally proposed and that STATE's approval of a substitution is not construed as an acceptance of the substitution's performance potential. STATE agrees that an approval of a substitution will not be unreasonably withheld.
 - 6) CONTRACTOR shall assign personnel on a full-time basis. In the event that a work assignment does not justify full-time participation, CONTRACTOR shall assign

personnel on a part-time basis with prior written approval of STATE's Project Manager. However, if the part-time assignments are specified in the Contract, no written approval from STATE's Project Manager is necessary except for substitution of CONTRACTOR personnel.

- e. Upon request by STATE, CONTRACTOR shall replace any CONTRACTOR personnel that STATE determines, in its sole discretion, to be unable to perform the responsibilities of the Contract acceptably, e.g., inappropriate or unprofessional personal conduct, professional inabilities, etc.
- f. STATE's working hours are Monday through Friday from 8:00 AM until 5:00 PM (CST or CDT) with one hour for lunch. STATE Project Manager may approve alternate work schedules.
- g. According to STATE policy, STATE personnel are only obligated to work a forty-hour workweek, Monday through Friday, and are allowed reasonable vacation, sick and educational absences.
- h. CONTRACTOR's personnel are not expected to work on State holidays or other mandatory leave days.
- i. CONTRACTOR agrees that STATE may require contracted staff and subcontractors assigned by CONTRACTOR to perform work under this Contract to submit to a criminal history record check in accordance with [N.D.C.C. § 54-59-20](#) and [§12-60-24](#). STATE shall have the right to reject any individual assigned to perform work under this Contract if, in its sole discretion, it determines that the results of the criminal history record check make the individual unacceptable.

20. PROJECT MANAGEMENT

a. Reporting

- 1) CONTRACTOR personnel will be responsible for providing written, *weekly/very other week/monthly* time utilizations, for each individual, to STATE's Project Manager, or STATE's project staff, as STATE's Project Manager may assign.
- 2) CONTRACTOR's Project Manager shall deliver to STATE's Project Manager, *weekly/very other week/monthly* reports of CONTRACTOR's progress on the project and meeting the objective/deliverables as stated in the Scope of Work. Each report must contain a description of the current status of the project, the tasks on which time was spent, the estimated progress to be made in the next reporting period, and the problems encountered the proposed solutions to them and their effect, if any, on the project budget/schedule.
- 3) Project Variance Reporting – CONTRACTOR must provide data to allow STATE's project manager to calculate cost and schedule variance in accordance with [N.D.C.C. § 54-59-23](#) as determined by STATE. If STATE's analysis shows a negative cost or schedule variance exceeding 20%, a subsequent report must also provide proposed corrective measures to address the issues.

b. Integrated Change Control Process

CONTRACTOR and STATE will utilize an integrated change control process to manage changes during the life of a project.

- 1) A change request must be in writing to document the potential change. The write-up for the proposed change must be submitted to CONTRACTOR and STATE's project managers who will in turn provide it to relevant parties for assessment.

- 2) All change requests will be logged and tracked. STATE's project manager will record the request in the project repository and will update the repository throughout the process.
- 3) The change will be reviewed and, if acceptable to STATE, CONTRACTOR will submit to STATE an estimate of the impact to cost, schedule, scope, and quality.
- 4) CONTRACTOR will continue performing the services in accordance with the original Contract unless otherwise agreed upon by STATE's project manager. Work shall not commence on any new activities related to the change request until all parties agree in writing.
- 5) CONTRACTOR's project manager and STATE's project manager will adapt the Project Plan to incorporate approved changes.
- 6) Each change request duly authorized in writing by the parties shall be incorporated into and considered part of the Contract.
- 7) During the course of the Contract, if CONTRACTOR determines or could reasonably determine any STATE actions or directions constitute a requirement to perform additional work, CONTRACTOR shall notify STATE within thirty (30) calendar days that STATE has requested CONTRACTOR to perform additional work in the form of a change request utilizing the process above. CONTRACTOR understands that it waives the right to request additional time and reimbursable costs if CONTRACTOR fails to notify STATE within thirty (30) calendar days of determining or reasonably being able to determine that any STATE actions or directions constitute a requirement to perform additional work under the Contract.

c. Deliverable Acceptance

- 1) Upon completion of a deliverable, CONTRACTOR will furnish STATE with the deliverable and associated documentation, the expected performance, and agreed upon Acceptance Criteria.
- 2) After receipt of items in Paragraph 27(c)(1), STATE will have five (5) working days or a different period of time as is agreed to by the parties, in which to accept or reject each item in writing. STATE will accept by signature. If STATE rejects it, STATE will specify in writing its grounds for rejection and CONTRACTOR shall use its best efforts to revise any issues for the deliverables to be acceptable to STATE within the following five (5) working days. If STATE rejects it a second time, STATE will have the option of repeating the procedure as described in this acceptance statement above, escalating the issue to the Executive Steering Committee, or terminating this Contract upon written notice to CONTRACTOR.

d. Final Acceptance

- 1) The successful completion of all deliverables as stated in the Scope of Work in accordance with the deliverable acceptance process AND
- 2) The final delivered product fully implemented in STATE's live production environment AND
- 3) STATE has sixty (60) calendar days thereafter in which to accept or reject it in writing. If STATE rejects it, STATE shall specify in writing its grounds for rejection and CONTRACTOR shall use its best efforts to make the product conform to the requirements of this Contract as soon as possible and at no additional cost to STATE. CONTRACTOR shall continue to use its best efforts to make the product

conform to the requirements of this Contract until STATE accepts the product or terminates this Contract upon written notice to CONTRACTOR.

21. PRODUCT CONFORMITY

STATE has twelve (12) months following Final Acceptance of the product(s) delivered by CONTRACTOR pursuant to this Contract to verify that the product(s) conform to the requirements of this Contract and perform according to CONTRACTOR system design specifications. Upon recognition of an error, deficiency, or defect, by STATE, CONTRACTOR shall be notified by STATE citing any specific deficiency (deficiency being defined as CONTRACTOR having performed incorrectly with the information provided by STATE, not CONTRACTOR having to modify a previous action due to additional and/or corrected information from STATE). CONTRACTOR, at no additional charge to STATE, shall provide a correction or provide a mutually acceptable plan for correction within thirty (30) calendar days following the receipt of STATE’s notice to CONTRACTOR. If CONTRACTOR’s correction is inadequate to correct the deficiency, or defect, or the error recurs, STATE may, at its option, act to correct the problem. CONTRACTOR shall be required to reimburse STATE for any such costs incurred or STATE may consider this to be cause for breach of contract.

22. WARRANTY

Insert the warranty language negotiated between the STATE and CONTRACTOR.

23. MAINTENANCE PROCEDURES

CONTRACTOR will respond to STATE requests for maintenance procedures identified below. In each case, STATE may describe and submit the problem by telephone, facsimile or electronic mail.

Incident Severity	Response Time	Resolution Time	Escalation Procedure
High Impact – software unusable	1 hour	Final Resolution within: 4 hours	Describe escalation procedure
Medium Impact – software useable with severely restricted functionality or performance	4 hours	Final Resolution within: 8 hours (1 business day)	Describe escalation procedure
Low Impact – software useable with minor impact on functionality or performance	8 hours	Final Resolution within: 40 hours (1 business week)	Describe escalation procedure

Scheduled Maintenance Notifications

Notification of Scheduled Maintenance Downtime

CONTRACTOR shall notify STATE of any schedule maintenance downtime which will cause the total scheduled maintenance downtime for the month to exceed # hours, or will occur

outside of the Standard Maintenance Windows outlined above. Except in cases of emergency, notification will be provided at least # hours prior to such downtime. In cases of emergency, CONTRACTOR shall use its best efforts to notify STATE of a planned downtime as soon as practicable.

24. NOTICE

All notices or other communications required under this Contract must be given by registered or certified mail and are complete on the date postmarked when addressed to the parties at the following addresses:

STATE	CONTRACTOR
Name	Name
Title	Title
Address	Address
City, State, Zip	City, State, Zip

Notice provided under this provision does not meet the notice requirements for monetary claims against STATE found at [N.D.C.C § 32-12.2-04](#).

25. CONFIDENTIALITY

CONTRACTOR shall not use or disclose any information it receives from STATE under this Contract that STATE has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Contract or as authorized in advance by STATE. STATE shall not disclose any information it receives from CONTRACTOR that CONTRACTOR has previously identified as confidential and that STATE determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota public records law, [N.D.C.C. ch. 44-04](#). The duty of STATE and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this Contract.

26. COMPLIANCE WITH PUBLIC RECORDS LAWS

CONTRACTOR understands that, except for disclosures prohibited in this Contract, STATE must disclose to the public upon request any records it receives from CONTRACTOR. CONTRACTOR further understands that any records obtained or generated by CONTRACTOR under this Contract, except for records that are confidential under this Contract, may, under certain circumstances, be open to the public upon request under the North Dakota public records law. CONTRACTOR agrees to contact STATE immediately upon receiving a request for information under the public records law and to comply with STATE’s instructions on how to respond to the request.

27. INDEPENDENT ENTITY

CONTRACTOR is an independent entity under this Contract and is not a STATE employee for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workforce Safety and Insurance Act. CONTRACTOR retains sole and absolute discretion in the manner and means of carrying out CONTRACTOR’s activities and responsibilities under this Contract, except to the extent specified in this Contract.

28. ASSIGNMENT AND SUBCONTRACTS

CONTRACTOR may not assign or otherwise transfer or delegate any right or duty without STATE’s express written consent. CONTRACTOR may, however, enter into subcontracts

provided that any subcontract acknowledges the binding nature of this Contract and incorporates this Contract, including any attachments. CONTRACTOR is solely responsible for the performance of any subcontractor. CONTRACTOR does not have the authority to Contract for or incur obligations on behalf of STATE.

29. SPOILIATION – NOTICE OF POTENTIAL CLAIMS

CONTRACTOR shall promptly notify STATE of all potential claims that arise or result from this Contract. CONTRACTOR shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to STATE the opportunity to review and inspect the evidence, including the scene of an accident.

30. MERGER AND MODIFICATION, CONFLICT IN DOCUMENTS

This Contract, including the following documents, constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties.

Notwithstanding anything herein to the contrary, in the event of any inconsistency or conflict among the documents making up this Contract, the documents must control in this order of precedence:

- a. The terms of this Contract as may be amended;
- b. STATE's Solicitation Amendment #1 to Request for Proposal ("RFP") number _____ dated _____;
- c. STATE's Request for Proposal ("RFP") number _____, dated _____;
- d. CONTRACTOR's proposal dated _____ in response to RFP number _____.

31. UNANTICIPATED AMENDMENTS

If additional work is required within the scope of this Contract due to a legitimate unforeseen circumstance, STATE shall provide CONTRACTOR a written description of the additional work and request CONTRACTOR to submit a proposal for accomplishing the scope of work. CONTRACTOR will not commence additional work until STATE until all parties agree in writing.

32. SEVERABILITY

If any term of this Contract is declared to be illegal or unenforceable by a court having competent jurisdiction, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the parties are to be construed and enforced as if the Contract did not contain that term.

33. APPLICABLE LAW AND VENUE

This Contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this Contract must be brought and solely litigated in the District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

34. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

STATE does not agree to any form of binding arbitration, mediation, or other forms of

mandatory alternative dispute resolution. The parties have the right to enforce their rights and remedies in judicial proceedings. STATE does not waive any right to a jury trial.

35. ATTORNEY FEES AND COSTS

In the event a lawsuit is instituted by STATE to obtain performance under this Contract, and STATE is the prevailing party, CONTRACTOR shall, except when prohibited by [N.D.C.C. §28-26-04](#), pay STATE's reasonable attorney fees and costs in connection with the lawsuit.

36. NONDISCRIMINATION AND COMPLIANCE WITH LAWS

CONTRACTOR agrees to comply with all applicable laws, rules, regulations and policies, including those relating to nondiscrimination, accessibility and civil rights. CONTRACTOR agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes and unemployment compensation and workers' compensation premiums. CONTRACTOR shall have and keep current at all times during the term of this Contract all licenses and permits required by law.

37. STATE AUDIT

All records, regardless of physical form, and the accounting practices and procedures of CONTRACTOR relevant to this Contract are subject to examination by the North Dakota State Auditor, the Auditor's designee, or Federal auditors. CONTRACTOR shall maintain all of these records for at least three (3) years following completion of this Contract and be able to provide them at any reasonable time. STATE, State Auditor, or Auditor's designee shall provide reasonable notice.

38. EFFECTIVENESS OF CONTRACT

This Contract is not effective until fully executed by all parties.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE FOLLOWS.**

CONTRACTOR
<i>Insert Contractor</i>
BY:
Printed Name:
Title:
Date:

STATE OF NORTH DAKOTA
<i>Acting through its Insert Agency</i>
BY:
Printed Name:
Title:
Date:

EXHIBIT A – Scope of Work

1. ACCEPTANCE PROCESS:

Upon completion of a deliverable, the parties shall follow the acceptance process in accordance with the Contract.

2. DELIVERABLE 1: PROJECT KICKOFF MEETING

e. Description:

CONTRACTOR shall coordinate with STATE to schedule an Initial Kickoff Meeting in **City Name**, ND, with the core planning team. CONTRACTOR Project Manager shall lead the meeting. The Initial Kickoff Meeting must facilitate the introduction of CONTRACTOR and STATE Core Project Team members and level-set understanding and awareness of project objectives, scope, governance, schedule and project risks and issues.

- 4) CONTRACTOR shall provide content to STATE for a detailed agenda in advance of the meeting, STATE shall finalize and send the agenda to invitees.
- 5) CONTRACTOR and STATE Project Manager shall introduce Project Sponsors, Project Steering Committee, core STATE and CONTRACTOR stakeholders.
- 6) CONTRACTOR and STATE shall facilitate the meeting, discuss and further define the following:
 - i. Effective project communication
 - ii. Project vision, background, purpose and objectives
 - iii. Project governance structure, project roles and responsibilities
 - iv. Preliminary Project Plan including scope and schedule
 - v. Initial risk assessment

f. Expectations of STATE:

- 7) STATE shall coordinate the logistics and co-facilitate the Kickoff Meeting.
- 8) STATE Project Sponsor and Project Team members shall participate in Kickoff Meeting.

g. Completion Date:

CONTRACTOR shall work with STATE to schedule the Kickoff Meeting within five (5) working days after the signing of the Contract to schedule the Kickoff Meeting. The Kickoff Meeting deliverable is due on **MM/DD/20YY**.

h. Acceptance Criteria:

For the acceptance of this deliverable to occur, the Project Kickoff Meeting results in:

- 9) Facilitation of Kickoff Meeting utilizing a clearly defined agenda
- 10) An introduction of critical CONTRACTOR and STATE resources assigned to the project
- 11) Review of Project Charter to include project governance and structure, roles and responsibilities, project purpose, objectives and scope
- 12) Review of communications approach and structure

- 13) Review and discussion of project risks and issues
- 14) Delivery of electronic feedback of meeting from CONTRACTOR

3. DELIVERABLE 2: PROJECT PLAN

i. Description:

CONTRACTOR shall participate, contribute, and collaborate with STATE, led by STATE's Project Manager, to develop a baseline Project Plan that provides, at a minimum, the following:

- 15) Management plans to control scope, schedule, cost and quality
- 16) An integrated change control process
- 17) A human resource management plan
- 18) A communication management plan
- 19) A risk management plan
- 20) An issue management plan
- 21) A procurement management plan
- 22) A detailed project schedule

j. Expectations of STATE:

- 23) STATE'S Project Manager shall be responsible for the final product.
- 24) The Project Plan shall follow STATE template.

k. Completion Date:

CONTRACTOR shall work with STATE within five (5) working days after the signing of the Contract to create the Project Plan. The Final Project Plan deliverable is due on **MM/DD/20YY**.

l. Acceptance Criteria:

For the acceptance of this deliverable to occur, CONTRACTOR shall provide content to the STATE for the following sections of the Project Plan regarding all services, tasks, and products delivered by CONTRACTOR:

- 25) A mutually agreed upon detailed baseline scope and schedule for the project
- 26) Management plans to control scope, schedule, cost and quality, including the variance
- 27) The governance structure for the project
- 28) Quality assurance and quality control plans
- 29) An integrated change control process
- 30) A human resource management plan
- 31) A communication management plan
- 32) A risk management plan
- 33) An issue management plan
- 34) A procurement management plan

35) An implementation and transition plan

36) A system performance plan

37) A system security plan

4. DELIVERABLE 3: TEMPLATE

m. **Description:**

n. **Expectations of STATE:**

38)

o. **Completion Date:**

39)

p. **Acceptance Criteria:**

For the acceptance of this deliverable to occur, the following criteria shall be met:

40)

5. DELIVERABLE 4: FINAL ACCEPTANCE

q. **Description:**

r. **Expectations of STATE:**

41)

s. **Completion Date:**

42)

t. **Acceptance Criteria:**

For the acceptance of this deliverable to occur, the following criteria shall be met:

43)

6. DELIVERABLE 5: POST-IMPLEMENTATION REPORT

u. **Description:**

CONTRACTOR shall participate, contribute, and collaborate with STATE, led by STATE's Project Manager, to develop a Post-Implementation Report that provides, at a minimum, the following:

44) Key project metrics related to schedule, cost, scope, and quality

45) Business metrics related to project objectives and measurements as defined in the project charter

46) Lessons learned from the project

47) Success stories from the project

48) Results of the Post-Project Implementation Survey

v. **Expectations of STATE:**

49) STATE's Project Manager shall be responsible for the final product.

50) The Post-Implementation Report shall follow STATE template.

w. Completion Date:

CONTRACTOR shall work with the STATE within five (5) working days after the product implementation to create the Post-Implementation Report. The final Post-Implementation Report deliverable is due on **MM/DD/20YY**.

x. Acceptance Criteria:

For the acceptance of this deliverable to occur, CONTRACTOR shall participate in the Post-Project Implementation Survey and provide content to the STATE for the Post-Implementation Report regarding all services, tasks, and products delivered by the CONTRACTOR:

51) Key project metrics related to schedule, cost, scope, and quality

52) Business metrics related to project objectives and measurements as defined in the project charter

53) Lessons learned from the project

54) Success stories from the project

7. DELIVERABLE 6: CLOSEOUT MEETING

y. Description:

CONTRACTOR shall coordinate with STATE to schedule a Closeout meeting in **City Name**, ND, with the core project team and interested stakeholders. STATE's Project Manager shall lead the meeting, though the CONTRACTOR may be asked to present on certain agenda items. The Closeout Meeting must present the completed Post-Implementation Report and facilitate discussion of the project closeout:

55) CONTRACTOR shall provide content to STATE for a detailed agenda in advance of the meeting, STATE shall finalize and send the agenda to invitees.

56) CONTRACTOR shall provide STATE any required information for STATE's Project Manager to present the Post-Implementation Report.

z. Expectations of STATE:

57) STATE shall coordinate the logistics and facilitate the Closeout Meeting.

58) CONTRACTOR and STATE shall expand upon the success stories and lessons learned captured from the survey, and discuss and document further details related to the lessons learned to provide comprehensive information to future projects

aa. Completion Date:

CONTRACTOR shall work with the STATE within five (5) working days after the product implementation to schedule the Closeout Meeting. The Closeout Meeting deliverable is due on **MM/DD/20YY**.

bb. Acceptance Criteria:

For the acceptance of this deliverable to occur, the Closeout Meeting results in:

59) Completion and confirmation of the Post-Implementation Report deliverable

60) Comprehensive lessons learned and success stories valuable to future projects

EXHIBIT B – Compensation Details

8. PROJECT DELIVERABLE PAYMENT SCHEDULE:

The following table defines all payment points. After completion of the Project Plan, this table will be amended with all dates filled in.

#	Deliverable	Start	Finish	Deliverable Value	To be Retained (XX%)	Invoice
1	Project Kickoff Meeting	<i>date</i>	<i>date</i>	<i>\$amount</i>	<i>\$amount</i>	<i>\$amount</i>
2	Project Plan	<i>date</i>	<i>date</i>	<i>\$amount</i>	<i>\$amount</i>	<i>\$amount</i>
3				<i>\$amount</i>	<i>\$amount</i>	<i>\$amount</i>
4				<i>\$amount</i>	<i>\$amount</i>	<i>\$amount</i>
X	Final Acceptance			<i>\$Total Retained</i>	<i>\$amount</i>	<i>\$Total Retained</i>
Project Deliverable Total						<i>\$amount</i>

ATTACHMENT 3
COST PROPOSAL FORMAT

Costs listed below must be inclusive of all costs necessary to implement the proposed solution. The State would prefer a postalized rate for the sites.

Location	Address	Number of Fiber Pairs	Monthly Cost Per Segment
Grand Forks Parole & Probation	311 S 4th St, Suite 101	1	
Grand Forks County Correctional Center	1701 N Washington St	1	
Workforce Safety & Insurance	1397 Library Circle, Suite 100	1	
Grand Forks BCI & Highway Patrol	1100 47th St N	1	
Northeast Human Service Center	151 S 4th St, Suite 401	1	
Grand Forks District DOT	1951 Washington St N	1	
Grand Forks Job Service	1501 28th Ave S	1	
North Dakota Mill & Elevator	1823 Mill Road	1	
Grand Forks Public Library	2110 Library Circle	1	
Mark Sanford Education Center – Grand Forks Public Schools	2400 47th Ave S	1	
Red River High School	2211 17th Ave S	1	
University of North Dakota	4400 S Washington St.	1	
Lake Region State College Nursing	1425 S Columbia Road, Suite 1	1	
UND Merrifield Hall	2655 2 nd Ave N	1	
NDUS Data Center	3701 Campus Road	1	

Location	Address	Monthly Hub Cost (If Applicable)
UND Merrifield Hall	2655 2 nd Ave N	
Grand Forks Police Department	122 S 5th St	
NDUS Data Center	3701 Campus Road	