



North Carolina Department of Administration

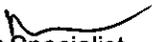
Beverly Eaves Perdue, Governor
Britt Cobb, Secretary

Division of Purchase and Contract
James D. Staton, State Purchasing Officer

Memorandum

DATE: December 17, 2009

TO: Angela Wainright
Purchasing Agent
Department of Crime Control & Public Safety

FROM: Mildred Christmas 
State Procurement Specialist

RE: Solid Waste Removal Services – Air National Guard
Your File – PR #9115334
Our File #200901356

Approval is hereby granted for your office to award this contract to A Sani Can Service, Inc. which offered the lowest cost proposal for the above referenced services. The contract period will be for one (1) year beginning from date of award with the option to renew for two (2) additional one (1) year periods for a total estimated annual cost will be \$18,408.00 which includes \$120.00 per haul plus disposal of \$42.00 per ton for the pick on the 30-yard self contained compactor.

Cc: File

Mailing Address:
1305 Mail Service Center
Raleigh, NC 27699-1305

State Courier 51-01-06
Internet Home Page: www.pandc.nc.gov
Phone: 919-807-4500
An Equal Opportunity / Affirmative Action Employer

Location Address:
116 West Jones Street
Raleigh, NC 27603-8002



Solicitation (IFB, RFP, RFQ) No. 200901356

Bidder/Offeror: A Sani-Can Service Inc.

**THIS PAGE IS TO BE FILLED OUT AND RETURNED WITH YOUR BID. FAILURE TO DO SO
MAY SUBJECT YOUR BID TO REJECTION.**

ATTENTION

Federal Employer Identification Number or alternate identification number
(e.g., Social Security Number) is used for internal processing, including bid tabulation.

Enter ID number here: 56-1435082

Pursuant to N.C.G.S. 132-1.10(b) this identification number shall not be released to the public.

This page will be removed and shredded, or otherwise kept confidential,
before the procurement file is made available for public inspection.

**STATE OF NORTH CAROLINA
REQUEST FOR PROPOSALS**

RFP #200901356

TITLE: Solid Waste Removal Service - Air National Guard

USING AGENCY: DEPARTMENT - Crime Control and Public Safety

ISSUE DATE: November 25, 2009

ISSUING AGENCY: Department of Administration

Sealed Proposals subject to the conditions made a part hereof will be received until **2:00 p.m. December 9, 2009**, for furnishing services described herein.

SEND ALL PROPOSALS DIRECTLY TO THE ISSUING AGENCY ADDRESS AS SHOWN BELOW:

<u>DELIVERED BY US POSTAL SERVICE (REGULAR/STANDARD MAIL ONLY)</u>	<u>DELIVERED BY ANY OTHER MEANS/SPECIAL DELIVERY/OVERNIGHT (BY ANY OTHER CARRIER)</u>
RFP NO. _____ NC DEPARTMENT OF ADMINISTRATION DIVISION OF PURCHASE AND CONTRACT 1305 MAIL SERVICE CENTER RALEIGH NC 27699-1305	RFP NO. _____ NC DEPARTMENT OF ADMINISTRATION DIVISION OF PURCHASE AND CONTRACT 116 WEST JONES STREET Room 4062 4 th Flr. RALEIGH NC 27603-8002

*****SPECIAL NOTE – PLEASE READ*****

The US Postal Service DOES NOT deliver any mail (US Postal Express Mail, Certified, Priority, Overnight, etc.) to our physical address of 116 West Jones Street.

IMPORTANT NOTE: Indicate firm name and RFP number on the front of each sealed proposal envelope or package, along with the date for receipt of proposals specified above.

Bids submitted via telegraph, facsimile (FAX) machine, telephone, and electronic means, including but not limited to e-mail, in response to this Request for Proposals will not be acceptable.

Direct all inquiries concerning this RFP to:

Mildred C. Christmas
Division of Purchase and Contract
Administration Building, 4th Floor
116 W. Jones St.
<http://www.pandc.nc.gov>
Raleigh, NC 27603
919-807-4525
919-807-4509 (FAX)
mildred.christmas@doa.nc.gov

NOTE: Questions concerning the specifications in this Request for Proposals will be received until **Wednesday, December 2, 2009** at 1:00 pm. **ALL QUESTIONS MUST BE SUBMITTED IN WRITING - EITHER BY FAX OR EMAIL TO THE ADDRESS OR NUMBER LISTED ABOVE. NO QUESTIONS WILL BE RECEIVED ON THE TELEPHONE.** A summary of all questions and answers will be posted on the Internet as an addendum, located under the RFP # being modified. **It is the offeror's responsibility to assure that all addenda have been reviewed and, if need be, signed and returned.**

<http://www.pandc.nc.gov/>

Within two days after notification of award of a contract, the vendor must register in NC E-Procurement @ Your Service (<http://vendor.ncgov.com>).

THE PROCUREMENT PROCESS

The following is a general description of the process by which a firm will be selected to provide services.

1. Request for Proposals (RFP) is posted on the internet via the State's Interactive Purchasing System.
2. A deadline for written questions is set for **Wednesday, December 2, 2009 at 1:00 pm.** (See cover sheet of this RFP for details.)
3. Proposals in one (1) original and two (2) copies will be received from each offeror in a sealed envelope or package. Each original shall be signed and dated by an official authorized to bind the firm. Unsigned proposals will not be considered.
4. All proposals must be received by the issuing agency not later than the date and time specified on the cover sheet of this RFP.
5. At that date and time the package containing the proposals from each responding firm will be opened publicly and the name of the offeror and cost(s) offered will be announced. Interested parties are cautioned that these costs and their components are subject to further evaluation for completeness and correctness and therefore may not be an exact indicator of an offeror's pricing position.
6. At their option, the evaluators may request oral presentations or discussion with any or all offerors for the purpose of clarification or to amplify the materials presented in any part of the proposal. However, offerors are cautioned that the evaluators are not required to request clarification; therefore, all proposals should be complete and reflect the most favorable terms available from the offeror.
7. Proposals will be evaluated according to completeness, content, experience with similar projects, ability of the offeror and its staff, and cost. Award of a contract to one offeror does not mean that the other proposals lacked merit, but that, all factors considered, the selected proposal was deemed most advantageous to the State.

In addition to any other evaluation criteria identified in the State agency's solicitation document, the agency shall, for purposes of evaluating proposed or actual contract performance outside of the United States, consider the following factors to ensure that any award will be in the best interest of the State:

- Total cost to the State
- Level of quality provided by the vendor
- Process capability across multiple jurisdictions
- Protection of the State's information and intellectual property
- Availability of pertinent skills
- Ability to understand the State's business requirements and internal operational culture
- Risk factors such as the security of the State's information technology
- Relations with citizens and employees
- Contract enforcement jurisdictional issues

8. Offerors are cautioned that this is a request for offers, not a request to contract, and the State reserves the unqualified right to reject any and all offers when such rejection is deemed to be in the best interest of the State.

CONTRACT PERIOD

The contract period will be for one (1) year beginning from date of award with the option to renew for two (2) additional one (1) year periods.

SCOPE OF WORK

The Department of Crime Control and Public Safety (CCPS) is seeking a vendor to provide weekly pickup of eight (8) eight (8) cubic yard containers for the removal and disposal of non-hazardous solid waste. The successful vendor is to supply the N.C. Air National Guard (NCANG) located at 4930 Minuteman Way, Charlotte NC 28208-3866 with eight (8) eight (8) cubic yard containers for the removal and disposal of non-hazardous solid waste. Containers are to be emptied twice (2) a week per month. The NCANG has to have a means of removing the non-hazardous trash /garbage that is generated by 400+ full time and 1500+ part-time personnel. This will prevent a buildup of non-hazardous trash/garbage, environmental, health and sanitation issues.

Also, there is a 30 cubic yard container to be picked up on an "on call basis". This is for haul charges that will incur from the on call pickup of a thirty (30) cubic yard self contained roll off compactor owned by the NCANG for the removal and disposal of non-hazardous solid waste which will be on a on call basis. The compactor may be required to be emptied four times during a twelve month period. The vendor is to provide this service at the N.C. Air National Guard (Bldg. #1) located at 4930 Minuteman Way, Charlotte NC 28208-3866. This is for the landfill disposal fee that will incur from the on call pickup of a thirty (30) cubic yard self contained roll off compactor owned by the NCANG for the removal and disposal of non-hazardous solid waste which will be on a on call basis.

Special Conditions:

1. The vendor must provide the NCANG with proof of compliance with and in accordance with Article 9, Chapter 130A of the General Statutes of North Carolina and all rules promulgated thereunder to include 15A NCAC 13B The North Carolina Solid Waste Management Rules et. Seq., and in conformity with the plans, specifications and other supporting data, to include a copy of their Solid Waste Operating Permit for Mecklenburg County or the county in which they base their operations in, to include certification showing that they are permitted to utilize only licensed and/or certified State or County owned landfills for the disposal of non-hazardous waste.

2. The driver may be required to sign a log book upon entering the installation to document and track the frequency and accuracy of the weekly pickups. Missed Pickups: If any scheduled pickup is missed, all efforts should be made to pickup on the following day, if not, that pickup will be deducted from the next month's invoice.

All original invoices need to be sent to the following address for certification before being sent to CCPS for processing: N.C. Air National Guard 145th CES / Jeffrey L. Young 4930 Minuteman Way Charlotte NC 28208-3866

PROPOSAL REQUIREMENTS

The response to this RFP shall consist of the following sections:

Corporate Background and Experience
Outsourcing
Cost Proposal

1. Corporate Background and Experience

This section shall include background information on the organization and should give details of experience with similar projects. A list of at least three (3) references (including contact persons and telephone numbers) for whom similar work has been performed shall be included.

2. Outsourcing

The Vendor must detail the manner in which it intends to utilize resources or workers located outside of the United States, and the State of North Carolina will evaluate the additional risks, costs and other factors associated with such utilization to make the award for this proposal as deemed by the awarding authority to be in the best interest of the State.

For any proposed or actual utilization or contract performance outside of the United States, the offeror's proposal must include:

- a) The location of work performed under a state contract by the vendor, any subcontractors, employees, or other persons performing the contract.
- b) The corporate structure and location of corporate employees and activities of the vendors, its affiliates or any subcontractors.

The State may initiate proceedings to debar a vendor from participation in the bid process and from contract award as authorized by North Carolina law, if it is determined that the vendor has refused to disclose or has falsified any information provided herein.

3. Cost Proposal

The Cost Proposal shall contain:

Personnel costs (including hourly rates and total hours)
Travel and Subsistence Expenses
Subcontractor Costs (if any)
Other Costs (e.g., office expenses)
TOTAL COST A total not to exceed cost representing the maximum amount for all work to be performed must be clearly indicated under this heading.

COST PROPOSAL/EXECUTION OF PROPOSAL

By submitting this proposal, the potential contractor certifies the following:

- This proposal is signed by an authorized representative of the firm.
- It can obtain insurance certificates as required within 10 calendar days after notice of award.
- The cost and availability of all equipment, materials, and supplies associated with performing the services described herein have been determined and included in the proposed cost.
- All labor costs, direct and indirect, have been determined and included in the proposed cost.
- The potential contractor has read and understands the conditions set forth in this RFP and agrees to them with no exceptions.
- The offeror is registered in NC E-Procurement @ Your Service or agrees to register within two days after notification of contract award.

Therefore, in compliance with this Request for Proposals, and subject to all conditions herein, the undersigned offers and agrees, if this proposal is accepted within 30 days from the date of the opening, to furnish the subject services for a cost not to exceed \$ 1480 monthly. Plus \$120/per haul plus disposal of \$42/ton for the pickup on the 30 yd-self contained compactor

OFFEROR: A Sani-Can Service Inc.
 ADDRESS: 4531 N Hwy 16
 CITY, STATE, ZIP: Denver NC 28037
 TELEPHONE NUMBER: 704-483-2881 FAX: 704-483-8481
 E-MAIL: chuffman@asanican.com

Principal Place of Business if different from above (See General Information on Submitting Proposals, Item 18.):

Will any of the work under this contract be performed outside the United States? Yes No
 (If yes, describe in technical proposal.)

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

BY: Cathy Huffman (Signature) TITLE: Sales Manager DATE: 12-4-09
Cathy Huffman (Printed name)

ACCEPTANCE OF PROPOSAL

(Using Agency Name)

BY: Angela Wainwright TITLE: Purchasing Agent DATE: 12/23/09

THIS PAGE MUST BE SIGNED AND INCLUDED IN YOUR PROPOSAL.

Unsigned proposals will not be considered.

Where Service Contracts Will Be Performed

In accordance with NC General Statute 143-59.4 (Session Law 2005-169),
this form is to be completed and submitted with the offeror's (technical) proposal/bid.

Issuing Agency: Department of Administration

Solicitation # 200901356

Agency Contact Person & phone #: Mildred C. Christmas, (919) 807-4525

Solicitation Title / Type of Services: Solid Waste Removal Service - NC Air National Guard

OFFEROR: A Sani-Can Service, Inc
City & State: Denver NC 28037

Location(s) from which services will be performed by the contractor:

Service	City/Providence/State	Country
<u>4531 N Hwy 16</u>	<u>Denver NC</u>	<u>USA</u>
_____	_____	_____
_____	_____	_____

Location(s) from which services are anticipated to be performed outside the U.S. by the contractor:

<u>NIA</u>	_____	_____
_____	_____	_____
_____	_____	_____

Location(s) from which services will be performed by subcontractor(s):

Service	Subcontractor	City/Providence/State	Country
<u>NIA</u>	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Location(s) from which services are anticipated to be performed outside the U.S. by the subcontractor(s):

<u>NIA</u>	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(Attach additional pages if necessary.)



4531 North Hwy 16, Denver NC 28037
704-483-2881 office • 704-483-8481 fax
www.asanican.com

Corporate Background and Experience

A Sani-Can Service, Inc. is a premier sanitation service provider. We are a locally owned and operated minority company based in Denver, North Carolina.

A Sani-Can Service, Inc. began as a portable restroom service provider in 1980, catering to the construction and special events industries. We have over thirty years of experience in the industry.

As a growing company and to offer more diversity, we began offering construction & demolition debris dumpster service in 2001. We are currently running six roll-off trucks in seven different counties.

Due to demand in the community, we began providing commercial solid waste and recycling dumpster services. Our employees have over twenty years of experience in the solid waste industry. Currently, we provide service in Lincoln, Iredell, Gaston, Mecklenburg, and limited areas of Cabarrus and Catawba Counties. Cities to include but not limited to: Charlotte, Gastonia, Huntersville, Concord, Davidson, Cornelius, Mooresville, Statesville, Denver, Lincolnton, Hickory, Vale, Cherryville, Stanley, Maiden, Newton.

If you have any questions or need further assistance, call Cathy Huffman at 704-507-7391 or email at chuffman@asanican.com.

References:

Lincoln County Schools

127 Bethel Church Rd
Lincolnton NC 28092
Randy Putnam
704-736-4200

Duke Energy
PO BOX 1244
Charlotte NC 28201
Fred Flowe
704-382-7772

Duke Power-McGuire Nuclear
Station
13225 Hagers Ferry Rd
Huntersville NC 28078
Mike Brown
704-875-4828

Energy United
411 North Hwy 16
Denver NC 28037
Phyllis Brown
704-483-7363

2010 Permit Renewal

Remit to: **Mecklenburg County**
Solid Waste Management Dept
 PO Box 33595
 Charlotte, NC 28233

(704)432-2339

A SANI-CAN SERVICE
 8151 WEBBS RD
 DENVER, NC 28037
 (704) 483-5641

CUSTOMER COPY

MICHELLE WILLIAMS/ KIM SMITH

Customer #: 855897

Indicate permits being renewed by checking Y or N in the renew column and confirm the total number renewed and the total amount remitted.

Permit #	Truck Identification	Expiration Date	Permit Cost	Renew?
9092	2004 MACK TK#92	6/30/2009	\$30.00	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>
9032	TK#91 2003 MACK MR68	6/30/2009	\$30.00	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
9432	TK#95	6/30/2009	\$30.00	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
9033	TK#90 2000 MACK MR68	6/30/2009	\$30.00	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
9124	TK#94 MACK/MR6885	6/30/2009	\$30.00	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
9112	TK#93 MACK 04	6/30/2009	\$30.00	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
9431	TK#401 MACK	6/30/2009	\$30.00	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>

Renewal charge for Fiscal Year 2009-2010 is \$30.00 per permit.

Total number of permits to be renewed: 5

Total amount remitted: \$ 150.00

Permits issued by Mecklenburg County are valid ONLY at the following sites: Compost Central Yard Waste Center, Hickory Grove Yard Waste Center, North Mecklenburg Yard Waste Center, and The Foxhole Landfill.

Please sign and return copy with payment.

Completed by: Haley Dubmeier Date: 4/15/09

GENERAL INFORMATION ON SUBMITTING PROPOSALS

- EXCEPTIONS:** All proposals are subject to the terms and conditions outlined herein. All responses shall be controlled by such terms and conditions and the submission of other terms and conditions, price lists, catalogs, and/or other documents as part of an offeror's response will be waived and have no effect either on this Request for Proposals or on any contract that may be awarded resulting from this solicitation. Offeror specifically agrees to the conditions set forth in the above paragraph by signature to the proposal.
- CERTIFICATION:** By executing the proposal, the signer certifies that this proposal is submitted competitively and without collusion (G.S. 143-54), that none of our officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and that we are not an ineligible vendor as set forth in G.S. 143-59.1. False certification is a Class I felony.
- ORAL EXPLANATIONS:** The State shall not be bound by oral explanations or instructions given at any time during the competitive process or after award.
- REFERENCE TO OTHER DATA:** Only information which is received in response to this RFP will be evaluated; reference to information previously submitted shall not be evaluated.
- ELABORATE PROPOSALS:** Elaborate proposals in the form of brochures or other presentations beyond that necessary to present a complete and effective proposal are not desired.

In an effort to support the sustainability efforts of the State of North Carolina we solicit your cooperation in this effort.

It is desirable that all responses meet the following requirements:

- All copies are printed **double sided**.
 - All submittals and copies are printed on **recycled paper with a minimum post-consumer content of 30%** and indicate this information accordingly on the response.
 - Unless absolutely necessary, all proposals and copies should **minimize or eliminate use of non-recyclable or non re-usable materials** such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
 - Materials should be submitted in a format which allows for **easy removal and recycling** of paper materials.
- COST FOR PROPOSAL PREPARATION:** Any costs incurred by offerors in preparing or submitting offers are the offerors' sole responsibility; the State of North Carolina will not reimburse any offeror for any costs incurred prior to award.
 - TIME FOR ACCEPTANCE:** Each proposal shall state that it is a firm offer which may be accepted within a period of 30 days. Although the contract is expected to be awarded prior to that time, the 30 day period is requested to allow for unforeseen delays.
 - TITLES:** Titles and headings in this RFP and any subsequent contract are for convenience only and shall have no binding force or effect.
 - CONFIDENTIALITY OF PROPOSALS:** In submitting its proposal the offeror agrees not to discuss or otherwise reveal the contents of the proposal to any source outside of the using or issuing agency, government or private, until after the award of the contract. Offerors not in compliance with this provision may be disqualified, at the option of the State, from contract award. Only discussions authorized by the issuing agency are exempt from this provision.
 - RIGHT TO SUBMITTED MATERIAL:** All responses, inquiries, or correspondence relating to or in reference to the RFP, and all other reports, charts, displays, schedules, exhibits, and other documentation submitted by the offerors shall become the property of the State when received.
 - OFFEROR'S REPRESENTATIVE:** Each offeror shall submit with its proposal the name, address, and telephone number of the person(s) with authority to bind the firm and answer questions or provide clarification concerning the firm's proposal.
 - SUBCONTRACTING:** Offerors may propose to subcontract portions of the work provided that their proposals clearly indicate what work they plan to subcontract and to whom and that all information required about the prime contractor is also included for each proposed subcontractor.
 - PROPRIETARY INFORMATION:** Trade secrets or similar proprietary data which the offeror does not wish disclosed to other than personnel involved in the evaluation or contract administration will be kept confidential to the extent permitted by NCAC T01:05B.1501 and G.S. 132-1.3 if identified as follows: Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL". Any section of the proposal which is to remain confidential shall also be so marked in boldface on the title page of that section. Cost information may not be deemed confidential. In spite of what is labeled as confidential, the determination as to whether or not it shall be determined by North Carolina law.

14. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order #150, the State invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.
15. **PROTEST PROCEDURES:** When an offeror wants to protest a contract awarded by the Secretary of Administration or by an agency over \$25,000 resulting from this solicitation, they must submit a written request to the State Purchasing Officer at Purchase and Contract, 1305 Mail Service Center, Raleigh, NC 27699-1305. This request must be received in the Division of Purchase and Contract within thirty (30) consecutive calendar days from the date of the contract award. When an offeror wants to protest a contract awarded by an agency or university resulting from this solicitation that is over \$10,000 but less than \$25,000 for any agency, or any contract awarded by a university, they must submit a written request to the issuing procurement officer at the address of the issuing agency. This request must be received in that office within thirty (30) consecutive calendar days from the date of the contract award. Protest letters must contain specific reasons and any supporting documentation for the protest. Note: Contract award notices are sent only to those actually awarded contracts, and not to every person or firm responding to this solicitation. Contract status and Award notices are posted on the Internet at <http://www.pandc.nc.gov/>. All protests will be handled pursuant to the North Carolina Administrative Code, Title 1, Department of Administration, Chapter 5, Purchase and Contract, Section 5B.1519. (See Protest Information at <http://www.pandc.nc.gov/protests.pdf> for more information.)
16. **TABULATIONS:** The Division has implemented an Interactive Purchasing System (IPS) that allows the public to retrieve bid tabulations electronically from our Internet web site: <http://www.pandc.nc.gov/>. Click on the IPS BiDS icon, click on Search for Bid, enter the RFP number, and then search. Tabulations will normally be available at this web site not later than one working day after opening. Lengthy tabulations may not be available on the Internet, and requests for these verbally or in writing cannot be honored.
17. **VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM:** Vendor Link NC allows vendors to electronically register free with the State to receive electronic notification of current procurement opportunities for goods and services available on the Interactive Purchasing System. Online registration and other purchasing information are available on our Internet web site: <http://www.pandc.nc.gov/>.
18. **RECIPROCAL PREFERENCE:** G.S. 143-59 establishes a reciprocal preference law to discourage other states from applying in-state preferences against North Carolina's resident offerors. The "Principal Place of Business" is defined as the principal place from which the trade or business of the offeror is directed or managed.

NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS
(Contractual and Consultant Services)

1. **GOVERNING LAW:** This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina.
2. **SITUS:** The place of this contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined
3. **INDEPENDENT CONTRACTOR:** The Contractor shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with the Agency.
4. **KEY PERSONNEL:** The Contractor shall not substitute key personnel assigned to the performance of this contract without prior written approval by the Agency's Contract Administrator. The individuals designated as key personnel for purposes of this contract are those specified in the Contractor's proposal.
5. **SUBCONTRACTING:** Work proposed to be performed under this contract by the Contractor or its employees shall not be subcontracted without prior written approval of the Agency's Contract Administrator. Acceptance of an offeror's proposal shall include any subcontractor(s) specified therein.
6. **PERFORMANCE AND DEFAULT:** If, through any cause, the Contractor shall fail to fulfill in timely and proper manner the obligations under this agreement, the Agency shall thereupon have the right to terminate this contract by giving written notice to the Contractor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items under this contract prepared by the Contractor shall, at the option of the Agency, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials. Notwithstanding, the Contractor shall not be relieved of liability to the Agency for damages sustained by the Agency by virtue of any breach of this agreement, and the Agency may withhold any payment due the Contractor for the purpose of setoff until such time as the exact amount of damages due the Agency from such breach can be determined.

In case of default by the Contractor, the State may procure the services from other sources and hold the Contractor responsible for any excess cost occasioned thereby. The State reserves the right to require a performance bond or other acceptable alternative performance guarantees from successful offeror without expense to the State.

In addition, in the event of default by the Contractor under this contract, the State may immediately cease doing business with the Contractor, immediately terminate for cause all existing contracts the State has with the Contractor, and de-bar the Contractor from doing future business with the State

Upon the Contractor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Contractor, the State may immediately terminate, for cause, this contract and all other existing contracts the Contractor has with the State, and de-bar the Contractor from doing future business

Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

7. **TERMINATION:** The Agency may terminate this agreement at any time by 30 days notice in writing from the Agency to the Contractor. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Agency, become its property. If the contract is terminated by the Agency as provided herein, the Contractor shall be paid for services satisfactorily completed, less payment or compensation previously made.
8. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice(s) or acceptance of services, whichever is later, or in accordance with any special payment schedule identified in this RFP. The using agency is responsible for all payments to the contractor under the contract. Payment by some agencies may be made by procurement card and it shall be accepted by the contractor for payment if the contractor accepts that card (Visa, Mastercard, etc.) from other customers. If payment is made by procurement card, then payment may be processed immediately by the contractor.
9. **AVAILABILITY OF FUNDS:** Any and all payments to the Contractor are dependent upon and subject to the availability of funds to the Agency for the purpose set forth in this agreement.
10. **CONFIDENTIALITY:** Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Contractor under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the Agency.
11. **CARE OF PROPERTY:** The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished it for use in connection with the performance of this contract or purchased by it for this contract and will reimburse the State for loss of damage of such property.
12. **COPYRIGHT:** No deliverable items produced in whole or in part under this agreement shall be the subject of an application for copyright by or on behalf of the Contractor.

13. **ACCESS TO PERSONS AND RECORDS:** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7. The Contractor shall retain all records for a period of three years following completion of the contract.
14. **ASSIGNMENT:** No assignment of the Contractor's obligations nor the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the State may:
 - a. Forward the contractor's payment check(s) directly to any person or entity designated by the Contractor, or
 - b. Include any person or entity designated by Contractor as a joint payee on the Contractor's payment check(s).In no event shall such approval and action obligate the State to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of all contract obligations.
15. **COMPLIANCE WITH LAWS:** The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.
16. **AFFIRMATIVE ACTION:** The Contractor shall take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or disability.
17. **INSURANCE:** During the term of the contract, the contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the contractor shall provide and maintain the following coverage and limits:
 - a. Worker's Compensation - The contractor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$150,000.00, covering all of Contractor's employees who are engaged in any work under the contract. If any work is subcontracted, the contractor shall require the subcontractor to provide the same coverage for any of its employees engaged in any work under the contract.
 - b. Commercial General Liability - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability).
 - c. Automobile - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the contract. The minimum combined single limit shall be \$150,000.00 bodily injury and property damage; \$150,000.00 uninsured/under insured motorist; and \$1,000.00 medical payment.

Providing and maintaining adequate insurance coverage is a material obligation of the contractor and is of the essence of this contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The contractor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the contractor shall not be interpreted as limiting the contractor's liability and obligations under the contract.

18. **ADVERTISING:** The offeror shall not use the award of a contract as part of any news release or commercial advertising.
19. **ENTIRE AGREEMENT:** This contract and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This Request for Proposals, any addenda thereto, and the offeror's proposal are incorporated herein by reference as though set forth verbatim.

All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.
20. **AMENDMENTS:** This contract may be amended only by written amendments duly executed by the Agency and the Contractor. The NC Division of Purchase and Contract shall give prior approval to any amendment to a contract awarded through that office.
21. **TAXES:** G.S. 143-59.1 bars the Secretary of Administration from entering into contracts with vendors if the vendor or its affiliates meet one of the conditions of G. S. 105-164.8(b) and refuse to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the proposal document the vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.