

**STATE OF SOUTH DAKOTA**  
**Bureau of Finance and Management**  
**500 East Capitol Avenue**  
**Pierre, SD 57501**

**Request for Proposal (RFP) for**  
**Enterprise Resource Planning (ERP) Independent Verification and Validation Services (IV&V)**

**PROPOSALS ARE DUE NO LATER THAN**  
**January 12, 2024 (5:00PM CST) ~~January 8, 2024 (5:00 p.m. CST)~~**

RFP #: 23RFP9328

State POC: Jason Lutz

EMAIL: [ERP@state.sd.us](mailto:ERP@state.sd.us)

**READ CAREFULLY**

FIRM NAME: \_\_\_\_\_ AUTHORIZED SIGNATURE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ TYPE OR PRINT NAME: \_\_\_\_\_

CITY/STATE: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

ZIP (9 DIGITS): \_\_\_\_\_ FAX NO: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

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**PRIMARY CONTACT INFORMATION**

CONTACT NAME: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

FAX NO: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

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**Addendum #1: Due date is January 8, 2024, 5:00 p.m. C.S.T.**

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## 1.0 GENERAL INFORMATION

### 1.1 PURPOSE OF REQUEST FOR PROPOSAL (RFP)

The purpose of this RFP is to solicit proposals from qualified professional advisory firms to provide independent verification and validation (IV&V) services related to the implementation of a new organization-wide Enterprise Resource Planning (ERP) system for the State of South Dakota (State). The chosen contractor will aid the State and its partners in minimizing risk associated with the implementation of the ERP system by providing actionable recommendations seeking to improve project health and compliance as specified herein, together with such other related functions and duties as directed by the State.

### 1.2 BUREAU OF INFORMATION AND TELECOMMUNICATIONS (BIT) STANDARD CONTRACT TERMS AND CONDITIONS

Any contract or agreement resulting from this RFP will include the State's standard I/T contract terms listed in Appendix A, along with any additional contract terms as negotiated by the parties. As part of the negotiation process the contract terms listed in Appendix A may be altered or deleted. The offeror must indicate in its response any issues it has with specific contract terms. If the offeror does not indicate that there are any issues with any contract terms, then the State will assume those terms are acceptable to the offeror.

### 1.3 ISSUING OFFICE AND RFP REFERENCE NUMBER

The Bureau of Finance and Management (BFM) is the issuing office for this document and all subsequent addenda relating to it, on behalf of the State of South Dakota. The reference number for this transaction is RFP# 23RFP9328. This number must be referred to on all proposals, correspondence, and documentation relating to the RFP.

### 1.4 LETTER OF INTENT

All interested offerors must submit a **Letter of Intent** to respond to this RFP.

The Letter of Intent must be received by BFM no later than December 15, 2023, at 5:00PM CST. The Letter of Intent may be submitted to Jason Lutz via email at [ERP@state.sd.us](mailto:ERP@state.sd.us). Please place the following in the subject line of your email: "**Letter of Intent for RFP# 23RFP9328**".

### 1.5 SCHEDULE OF ACTIVITIES (SUBJECT TO CHANGE)

- **RFP Publication:** December 4, 2023

- **Letter of Intent Response Due (5:00PM CST):** December 15, 2023
- **Deadline for Submission of Written Inquiries (5:00PM CST):** December 20, 2023
- **Responses to Offeror Questions (5:00PM CST):** December 29, 2023
- **Proposal Submission (5:00PM CST):** January 8, 2024
- **Demonstrations and Presentations (if required):** Weeks of January 15<sup>th</sup> and 22<sup>nd</sup>, 2024
- **Anticipated Award Decision/Contract Negotiation:** Week of January 29<sup>th</sup>, 2024

## 1.6 SUBMITTING YOUR PROPOSAL

All proposals must be completed and received by BFM by the date and time indicated in the schedule of activities.

Proposals received after the deadline will be late and ineligible for consideration.

Each offeror must provide BFM an electronic version of the proposal. The electronic version should be provided in MS WORD or in PDF format to [ERP@state.sd.us](mailto:ERP@state.sd.us). The email, including attachments, must be limited to 20MB in size. If multiple email messages are necessary in order to meet the attachment size limitation, the file name and the subject of the email message must be “(Your Name) – RFP #23RFP9328 Proposal – x of y”, where “x” represents the number of the component out of a total of “y” total components of the proposal (e.g., if a total of 3 components submitted as attachments to 3 messages: 1 of 3, 2 of 3, and 3 of 3).

All proposals must be signed, in ink, by an officer of the offeror, legally authorized to bind the offeror to the proposal, and sealed in the form intended by the respondent. Proposals that are not properly signed may be rejected. The first page of the RFP must accompany the proposal submission, completed, and signed.

No proposal shall be accepted from, or no contract or purchase order shall be awarded to any person, firm, or corporation that is in arrears upon any obligations to the State of South Dakota, or that otherwise may be deemed irresponsible or unreliable by the State of South Dakota.

## 1.7 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

By signing and submitting this proposal, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation, by any Federal department or agency, from transactions involving the use of Federal funds. Where the offeror is unable to certify to any of the statements in this certification, the offeror shall attach an explanation to its offer.

## 1.8 NON-DISCRIMINATION STATEMENT

The State of South Dakota requires that all contractors, vendors, and suppliers doing business with any State agency, department, or institution, provide a statement of non-discrimination. By signing and submitting their proposal, the offeror certifies they do not discriminate in their employment practices with regard to race, color, creed, religion, age, sex, ancestry, national origin, or disability.

## 1.9 RESTRICTION OF BOYCOTT OF ISRAEL

For contractors, vendors, suppliers, or subcontractors with five (5) or more employees who enter into a contract with the State of South Dakota that involves the expenditure of one hundred thousand dollars (\$100,000) or more, by submitting a response to this solicitation or agreeing to contract with the State, the bidder or offeror certifies and agrees that the following information is correct:

The bidder or offeror, in preparing its response or offer or in considering proposals submitted from qualified, potential vendors, suppliers, and subcontractors, or in the solicitation, selection, or commercial treatment of any vendor, supplier, or subcontractor, has not refused to transact business activities, has not terminated business activities, and has not taken other similar actions intended to limit its commercial relations, related to the subject matter of the bid or offer, with a person or entity on the basis of Israeli national origin, or residence or incorporation in Israel or its territories, with the specific intent to accomplish a boycott or divestment of Israel in a discriminatory manner. It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to reject the bid or response submitted by the bidder or offeror on this project and terminate any contract awarded based on the bid or response. The successful bidder or offeror further agrees to provide immediate written notice to the contracting executive branch agency if during the term of the contract it no longer complies with this certification and agrees such noncompliance may be grounds for contract termination.

## 1.10 RESTRICTION OF PROHIBITED ENTITY

For contractors, vendors, suppliers, or subcontractors who enter into a contract with the State of South Dakota by submitting a response to this solicitation or agreeing to contract with the State, the bidder or offeror certifies and agrees that the following information is correct:

The bidder or offeror, in preparing its response or offer or in considering proposals submitted from qualified, potential vendors, suppliers, and subcontractors, or in the solicitation, selection, or commercial treatment of any vendor, supplier, or subcontractor, is not a prohibited entity, regardless of its principal place of business, that is ultimately owned or controlled, directly or indirectly, by a foreign national, a foreign parent entity, or foreign government from China, Iran, North Korea, Russia, Cuba, or Venezuela, as defined by SDCL 5-18-A. It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to reject the bid or response submitted by the bidder or offeror on this project and terminate any contract awarded based on the bid or response. The successful bidder or offeror further agrees to provide immediate written notice to the contracting executive branch agency if during

the term of the contract it no longer complies with this certification and agrees such noncompliance may be grounds for contract termination.

### 1.11 CERTIFICATION OF NO STATE LEGISLATOR INTEREST

Offeror (i) understands that neither a state legislator nor a business in which a state legislator has an ownership interest may be directly or indirectly interested in any contract with the State that was authorized by any law passed during the term for which that legislator was elected, or within one year thereafter, and (ii) has read South Dakota Constitution Article 3, Section 12 and has had the opportunity to seek independent legal advice on the applicability of that provision to any Agreement entered into as a result of this RFP. By signing an Agreement pursuant to this RFP, offeror hereby certifies that the Agreement is not made in violation of the South Dakota Constitution Article 3, Section 12.

### 1.12 MODIFICATION OR WITHDRAWAL OF PROPOSALS

Proposals may be modified or withdrawn by the offeror prior to the established due date and time.

No oral, telephonic, telegraphic, or facsimile responses or modifications to informal, formal bids, or Request for Proposals will be considered.

### 1.13 OFFEROR INQUIRIES

All written questions should be sent to: [ERP@state.sd.us](mailto:ERP@state.sd.us). Only questions submitted via email will be accepted.

Each offeror may submit questions via email concerning this RFP to obtain clarification of requirements. No questions will be accepted after the date and time indicated in the above schedule of activities. Email questions to the email address listed above with the subject line "RFP# 23RFP9328". The questions and their answers will be sent to all offerors that submitted Letters of Intent, submitted questions, or requested the questions and answers via email before the proposal submittal date and will be sent by the date and time indicated in the above calendar of events. Offeror may not rely on any other statements, either of a written or oral nature, that alter any specification or other term or condition of this RFP that have not originated from the State's RFP contact. Offerors will be notified in the same manner as indicated above regarding any modifications to this RFP.

### 1.14 PROPRIETARY INFORMATION

The proposal of the successful offeror(s) becomes public information. Proprietary information can be protected under limited circumstances such as client lists and non-public financial statements. An entire proposal may not be marked as proprietary. Offerors must clearly identify in the Executive Summary and mark in the body of the proposal any specific

proprietary information they are requesting to be protected. The Executive Summary must contain specific justification explaining why the information is to be protected. Proposals may be reviewed and evaluated by any person at the discretion of the State. All materials submitted become the property of the State and may be returned only at the State's option.

### **1.15 LENGTH OF CONTRACT**

The contract will begin on the effective date of the contract and the initial contract period shall be for two (2) years. The State shall have the right to renew the contract annually for up to three (3) one-year time extensions. The extension(s) will not be automatic.

### **1.16 GOVERNING LAW**

Venue for any and all legal action regarding or arising out of the transaction covered herein shall be solely in the State of South Dakota. The laws of South Dakota shall govern this transaction.

### **1.17 DISCUSSIONS WITH OFFERORS (ORAL PRESENTATIONS/DEMONSTRATIONS)**

At its discretion, the State may require a presentation or demonstration by an offeror to clarify a proposal. However, the State may award a contract based on the initial proposals received without a presentation or demonstration by the offeror. If presentations or demonstrations are required, they will be scheduled after the submission of proposals. Presentations and demonstrations will be made at the offeror's expense. In the event presentations or demonstrations are required, the State anticipates utilizing remote meeting technology.

### **1.18 NEGOTIATIONS**

This process is a Request for Proposal/Competitive Negotiation process. Each proposal shall be evaluated, and each offeror shall be available for negotiation meetings at the State's request. The State reserves the right to negotiate on any component of every proposal submitted. From the time the proposals are submitted until the formal award of a contract, each proposal is considered a working document and as such, will be kept confidential. The negotiation discussions will also be held as confidential until such time as the award is completed.

## **2.0 ENTERPRISE RESOURCE PLANNING (ERP) INDEPENDENT VERIFICATION AND VALIDATION SERVICES (IV&V) MINIMUM QUALIFICATION**

The following minimum qualification is established for a firm to qualify to provide IV&V services for the State's ERP modernization project. The offeror should describe how their firm meets the following minimum qualification:



1. Have provided, or are in the process of providing, IV&V services on at least three (3) engagements for the implementation of entity-wide ERP projects for governments meeting one of the following conditions:
  - a. U.S. state government; **or a**
  - b. U.S. city or county government or a public institution of higher education of comparable size and complexity to the State. For the purposes of this RFP, “comparable size and complexity” is defined as an annual budget of at least \$1 billion and a minimum of 8,000 full-time employees.

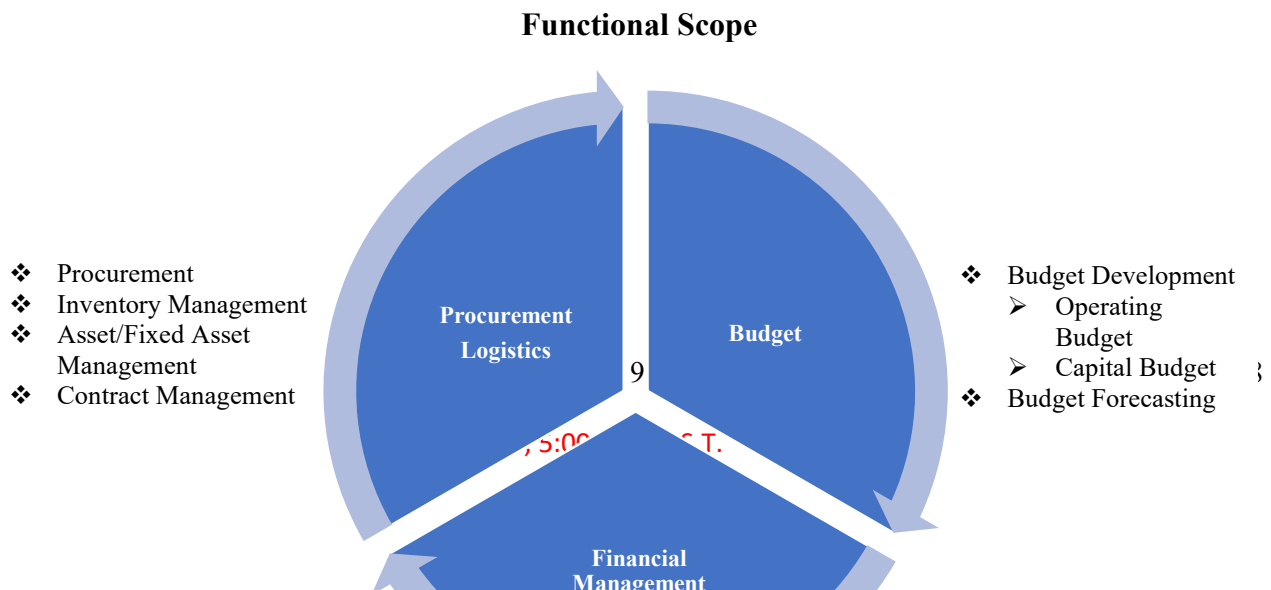
### 3.0 PROJECT BISON DETAIL

#### 3.1 BACKGROUND

The State has launched Project BISON (Business Information System for Operational Needs) to modernize its existing financial systems infrastructure and business processes. Currently, state agencies rely on outdated IT systems and processes to conduct financial, budget, and procurement management functions. This creates inefficiencies, expense, and risk across daily operations. To better serve the people of South Dakota and keep pace with industry best practices, the State must modernize its existing legacy systems and processes.

The State intends to replace its legacy Budget, Financial Management, Financial Reporting, and Procurement/Logistics systems. Additionally, the State seeks to modernize the underlying technical infrastructure supporting the system. The State’s ideal solution is one in which best practices inherent in the solution can be adopted by the State with no customization of the underlying software. The intended solution will be delivered on a modern, scalable technology platform that will allow the State’s investment in new systems to be functionally and technically viable for the foreseeable future.

It is assumed that a new ERP system will be implemented statewide at all agencies, departments, etc. for which it is business-justified to do so. The functional scope of the ERP initiative includes the functional areas of Financial Management, Budget, and Procurement/Logistics.



In August 2023, the State issued an RFP for ERP software and system integration services (RFP # 23RFP8918) to acquire and implement a SaaS (Software as a Service) ERP system organization wide. The State is planning to implement one of the following three ERP cloud solutions:

- CGI Advantage
- INFOR CloudSuite
- Oracle Fusion Cloud

The State anticipates a contract award for software and system integration services in early 2024. The State expects respondents to have the same level of capability to provide IV&V services regardless of the solution selected.

Additionally, the State is engaged with a professional advisory firm, Information Services Group, Inc. (ISG), for project management office (PMO) services relating to the upcoming implementation of the forthcoming ERP system for the State. ISG will provide the State with project management, consulting, and technical services throughout the implementation phase of the project.

## 3.2 GOALS AND OBJECTIVES

The overall vision of the ERP modernization project is to identify, implement, and sustain an ERP system that modernizes and transforms the way South Dakota conducts its financial business. The following project goals and objectives include efforts to:

- Reduce the State's sizable technology risk exposure resulting from software obsolescence, hardware/technical infrastructure obsolescence, and the increasing scarcity of technical resources;
- Resolve much of the fragmentation of the State's existing administrative systems environment, which hinders process efficiency due to dual data entry, system reconciliations, data-synchronization adjustments, reporting from fragmented data sources, etc.;

- Incorporate functionality that meets or exceeds federal security standards (e.g., NIST, FedRAMP Moderate), and provide security functions such as role-based segregation of duties and configurable approval rules that significantly strengthen financial controls;
- Provide for a single Procurement system that would be fully integrated with the financial management, asset management, and inventory functions, thereby improving process efficiency and control;
- Provide for better tracking and management of the State’s projects and assets;
- Achieve process standardization based on best practices across the State through the implementation of a unified technology platform;
- Provide for the reduction of paper-based processes by leveraging electronic workflow, approval, document management, and retention capabilities where appropriate;
- Provide for the capturing and production of consistent, expandable set of data;
- Provide a more flexible solution to meet evolving business requirements (e.g., compliance with Governmental Accounting Standards Board [GASB] guidance) that is configurable by business users and does not require software developers to adjust/maintain system rules; and
- Provide for enhanced compliance with Section 508 of the Americans with Disabilities Act regarding accessibility.

#### **4.0 STANDARD CONTRACT TERMS AND CONDITIONS**

Any contract or agreement resulting from this RFP will include the State’s standard terms and conditions as listed below, along with any additional terms and conditions as negotiated by the parties:

1. The Contractor will perform those services described in the Scope of Work, attached hereto as Section 5 of the RFP and by this reference incorporated herein.
2. The Contractor’s services under this Agreement shall commence on \_\_\_\_\_ and end on \_\_\_\_\_, unless sooner terminated pursuant to the terms hereof.
3. When providing services pursuant to this Agreement, the Contractor may use some State equipment, supplies and facilities. The State, at its sole discretion as to time, number of services, and whether to provide services, may provide to the Contractor limited office space, meeting space, or printing, fax, or copying service during the term of this Agreement. The Contractor will provide the State with its Employer Identification Number, Federal Tax Identification Number or Social Security Number upon execution of this Agreement.
4. The State will make payment for services upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed \$ \_\_\_\_\_.

The State will not pay Contractor's expenses as a separate item. Payment will be made pursuant to itemized invoices submitted with a signed state voucher. Payment will be made consistent with SDCL chapter 5-26.

5. The Contractor agrees to indemnify and hold the State of South Dakota, its officers, agents, and employees, harmless from and against any and all actions, suits, damages, liability, or other proceedings that may arise as the result of performing services hereunder. This section does not require the Contractor to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents, or employees.
6. The Contractor, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits as follows:

A. Commercial General Liability Insurance:

The Contractor shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1 million for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.

B. Professional Liability Insurance or Miscellaneous Professional Liability Insurance:

The Contractor agrees to procure and maintain professional liability insurance or miscellaneous professional liability insurance with a limit not less than \$1 million.

C. Business Automobile Liability Insurance:

The Contractor shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1 million for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

D. Workers' Compensation Insurance:

The Contractor shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

Before beginning work under this Agreement, Contractor shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement. In the event a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of the policy, the Contractor agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Contractor shall furnish copies of insurance policies if requested by the State.

7. While performing services hereunder, the Contractor is an independent contractor and not an officer, agent, or employee of the State of South Dakota.
8. Contractor agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject Contractor or the State to liability. Contractor shall report any such event to the State immediately upon discovery.

Contractor's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Contractor's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Contractor to report any event to law enforcement or other entities under the requirements of any applicable law.

9. This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Contractor breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time with or without notice. If termination for such a default is affected by the State, any payments due to Contractor at the time of termination may be adjusted to cover any additional costs to the State because of Contractor's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by Contractor it is determined that Contractor was not at fault, then the Contractor shall be paid for eligible services rendered and expenses incurred up to the date of termination.
10. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.
11. This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof and be signed by an authorized representative of each of the parties hereto.
12. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
13. The Contractor will comply with all federal, state, and local laws, regulations, ordinances, guidelines, permits, and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.
14. The Contractor may not use subcontractors to perform the services described herein without the express prior written consent of the State. The Contractor will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Contractor will cause its subcontractors, agents, and employees to comply, with applicable federal,

state and local laws, regulations, ordinances, guidelines, permits, and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

15. Contractor hereby acknowledges and agrees that all reports, plans, specifications, technical data, miscellaneous drawings, software system programs and documentation, procedures, or files, operating instructions and procedures, source code(s) and documentation, including those necessary to upgrade and maintain the software program, and all information contained therein provided to the State by the Contractor in connection with its performance of services under this Agreement shall belong to and is the property of the State and will not be used in any way by the Contractor without the written consent of the State. Papers, reports, forms, software programs, source code(s) and other material which are a part of the work under this Agreement will not be copyrighted without written approval of the State.
16. The Contractor certifies that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment or suspension, or declared ineligible from participating in transactions by the federal government or any state or local government department or agency. Contractor further agrees that it will immediately notify the State if during the term of this Agreement Contractor or its principals become subject to debarment, suspension or ineligibility from participating in transactions by the federal government, or by any state or local government department or agency.
17. Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to \_\_\_\_\_ on behalf of the State, and by and to \_\_\_\_\_, on behalf of the Contractor, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.
18. In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.
19. All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

## 5.0 SCOPE OF WORK

## 5.1 OVERVIEW

As described in Section 1.1 PURPOSE OF REQUEST FOR PROPOSAL (RFP) of this document, this request is intended to solicit proposals from qualified professional advisory firms to provide IV&V services related to the implementation of a new organization-wide ERP system for the State. The chosen contractor will aid the State and its partners in minimizing risk associated with the implementation of the ERP system by working cooperatively and collaboratively with the State and all key State partners by providing actionable recommendations seeking to improve project health and compliance as specified herein, together with such other related functions and duties as directed by the State. Key State partners include the project management office (PMO) services advisory firm (ISG), software vendor (to be determined), and system integration vendor (to be determined).

The ideal contractor will have:

- Proven experience providing IV&V services for governmental ERP projects;
- Experience in early identification of risks associated with governmental ERP projects;
- Experience offering public sector clients effective risk mitigation strategies;
- Experience reviewing key project deliverables from multiple partners within a public sector ERP project; and
- Experience providing validation support services to aid public sector entities in ensuring new ERP solutions meet defined business needs.

The selected contractor will have excellent operational and technical project management depth in areas of interest to the State under this RFP and must be a highly effective communicator. They will have significant experience with public sector organizations.

The State expects the selected contractor to propose no more than 1.5 FTEs to provide the IV&V services listed in Section 5.2. Furthermore, the State expects the selected contractor to provide its services both on-site in Pierre, SD and remotely. The State anticipates no more than 25% of services to be delivered on-site. Within the proposal, the offeror should detail the projected amount of on-site presence corresponding to the project activities and proposed staff roles.

For the purposes of this RFP, offerors should base timelines on project kickoff occurring in the second quarter of 2024 (April – June) and system go-live taking place at the beginning of Fiscal Year 2027 (July 1, 2026).

## 5.2 IV&V RESPONSIBILITIES

IV&V responsibilities shall include the regular review of State and key partner processes, deliverables, and artifacts for the project. The State anticipates a regular cadence of IV&V review and reporting from the selected vendor. Respondents should include their suggested reporting cadence within its proposal (i.e., monthly assessments with weekly activity reports), while acknowledging that flexibility will likely be required. The State and selected vendor will mutually agree on scheduled reporting and meeting cadence. The selected offeror must apply



industry best practices and develop methodology for the proactive recommendation of risk mitigation strategies.

The selected contractor shall review work products for quality, accuracy, completeness, and contractual adherence. Written reviews shall identify issues that may present a risk to the project, including schedule, cost, and technical inconsistencies, or errors. The selected contractor is also expected to establish an IV&V process focused on continual project improvement, including sharing best practices with the State to facilitate the continuous improvement of overall project health.

Specific IV&V tasks include but are not limited to:

### ***Contracting Review***

- If the schedule permits, the State intends to engage the successful vendor to review the contract and statement of work for to-be-awarded software and system integration vendors and offer recommendations to the State based on past experience. This effort may include participation in an observatory fashion in meetings with project leadership regarding contract negotiations.

### ***Project Plan Completeness***

- Evaluate project management plans and procedures to verify they are developed, communicated with proper audiences, implemented, monitored, and completed.
- Verify project status is accurately tracked through evaluation of reporting plan, meeting cadence, and project reports.
- Verify project issue tracking mechanism effectively documents issues as they arise and tracks the issues to closure.
- Evaluate project risk management plans to verify proper identification of risks and development of mitigation plans.
- Evaluate scope control plans and procedures associated with the system design process.
- Verify appropriate processes and tools are in place to manage system changes, including formal logging and consideration of change requests.
- Evaluate and recommend improvements to the project's Quality Assurance procedures.
- Verify the quality of all project products are monitored by formal review and approval.
- Verify project milestones and major completion dates are planned, monitored, and met.

### ***Project Timeline and Staffing***

- Evaluate project estimating and scheduling process to verify that budget and resources are adequate for the work to be performed within the planned timeframes.
- Review schedules to verify adequate time and resources are being assigned for project activities.

### ***Change Management, Communication, and Training***

- Review project organizational change management strategy and make recommendations.
- Evaluate and provide feedback concerning level of success of change management efforts during each phase of the project.



- Review project communications strategy and make recommendations.
- Review project training strategy and make recommendations.
- Evaluate and verify that sufficient knowledge transfer to State end-users has taken place throughout project lifecycle for future maintenance and operation of the new solution.

### ***Requirements and Design Management***

- Evaluate the project's process and procedures for managing requirements and offer recommendations for improvement.
- 
- Verify system requirements can be tracked through testing phases to ensure that the system performs as intended.
- Evaluate the system design deliverables for adherence to industry best standards.
- Evaluate completeness and accuracy of system configuration documentation.
- Evaluate how well the system design and subsequent configuration takes advantage of the inherent best practices within the solution.

### ***Security, Interface, and Data Conversion***

- Analyze project's security and risk analysis and offer feedback.
- Verify project restrictions on system and data access are sufficiently documented and followed.
- Verify system interfaces are properly documented and adequately described (function, format, frequency, etc.).
- Evaluate proposed plans and procedures for data conversion effort.
- Verify that procedures are documented and followed to review and validate converted data for completeness and accuracy.
- Offer recommendations on maintaining the integrity of data and making the conversion process more efficient.

### ***Testing and Acceptance***

- Review and evaluate project testing plans, including test environment management, tools, and procedures used for validation testing of system modules and offer recommendations based on industry standards.
- Verify the test process achieves appropriate levels of test coverage and test results are verified and documented, including the formal logging of errors identified in testing.
- Evaluate the level of test automation and offer feedback on appropriateness of increasing or decreasing levels.
- Verify acceptance procedures and criteria are sufficiently defined, reviewed, and approved prior to testing.
- Verify acceptance procedures outline the process for correcting modules that do not pass acceptance testing.
- Verify system performance requirements satisfy State needs.
- Review and offer recommendation on Go/No-Go criteria prepared by System Integrator.

In addition to the responsibilities and duties enumerated above, the successful firm will perform all other duties and responsibilities assigned by the State related to project risk minimization during the implementation of the new ERP system. Offerors are also encouraged to recommend additional IV&V responsibilities not itemized within the RFP for State consideration. The final listing of responsibilities will be mutually agreed upon in the final statement of work with the awarded firm.

## **6.0 OFFEROR RESOURCES**

Offeror should provide the following information regarding the resources to be committed to the project:

### **1. Project Organization Chart**

- a. List names, job titles, and the city and state in which an individual will work on this project.

### **2. Staff Resumes and References**

- a. Resumes and references of key personnel. For the purposes of this RFP, key personnel are those who are accountable for the completion of one or more major deliverables or are responsible for the completion of the project. Provide resume details for all key personnel by listing the following in the order in which it appears.
  - i. Name
  - ii. Title
  - iii. Contact information (telephone, email)
  - iv. Work address
  - v. Project responsibilities (as they pertain to this project)
  - vi. Percentage of time designated to this project
  - vii. Brief listing of work experience in reverse chronological order for past ten years (only provide company name, job title(s)/position(s) held, date started, and date left each position, brief description of job duties, responsibilities, and significant accomplishments)
  - viii. IV&V project experience
  - ix. Technical background relative to this project
  - x. Experience in similar projects, including name of project and role individual played

- xi. Technical knowledge
- xii. Education
- xiii. Relevant certifications
- xiv. Three professional references (name, telephone number, company name, relationship to individual)

## 7.0 FORMAT OF SUBMISSION

### 7.1 SUBMISSION OVERVIEW

All proposals should be prepared simply and economically and provide a direct, concise explanation of the offeror's proposal and qualifications. Elaborate brochures, sales literature, and other presentations unnecessary to a complete and effective proposal are not desired.

The offeror is cautioned that it is the offeror's sole responsibility to submit information related to the evaluation categories and that the State of South Dakota is under no obligation to solicit such information if it is not included with the proposal. The offeror's failure to submit such information may cause an adverse impact on the evaluation of the proposal. The offeror should respond to each point in Section 5.0 SCOPE OF WORK and Section 7.6 DELIVERABLES in the order they were presented.

Offerors must direct all questions or comments regarding the RFP or the evaluation to the buyer of record indicated on the first page of this RFP. Offerors and their agents may not contact any state employee other than the buyer of record regarding any of these matters during the solicitation and evaluation process. Inappropriate contacts are grounds for suspension and exclusion from specific procurements. Offerors and their agents who have questions regarding this matter should email the buyer of record at [ERP@state.sd.us](mailto:ERP@state.sd.us).

The offeror may be required to submit a copy of its most recent audited financial statements upon the State's request.

The proposal should be page numbered and should have an index or a table of contents referencing the appropriate page number. Each of the sections listed below should be tabbed.

Offerors are cautioned that use of the State Seal in any of their documents is illegal as per South Dakota Codified Law §1-6-3.1 *Use of seal or facsimile without authorization prohibited – Violation as misdemeanor. No person may reproduce, duplicate, or otherwise use the official seal of the State of South Dakota, or its facsimile, adopted and described in §§ 1-6-1 and 1-6-2 for any for-profit, commercial purpose without specific authorization from the secretary of state. A violation of this section is a Class 1 misdemeanor.*

Proposals should be prepared using the following headings and in the order that they are presented below. Please reference the section for details on what should be included in your proposal.

1. Statement of Understanding of Project
2. Corporate Qualifications
3. Relevant Project Experience
4. Project Plan
5. Deliverables
6. Team Organization and Staffing
7. Response to State's Contract Terms
8. Background Checks
9. Costs

## 7.2 STATEMENT OF UNDERSTANDING OF PROJECT

To demonstrate comprehension of the project, the offeror should summarize their understanding of what the work is and what the work will entail. This should include, but not be limited to, the offeror's understanding of the purpose and scope of the project, critical success factors and potential problems related to the project, and the offeror's understanding of the deliverables. The offeror should include their specialized expertise, capabilities, and technical competence as demonstrated by the proposed approach and methodology to meet the project requirements. This section should be limited to no more than two pages.

## 7.3 CORPORATE QUALIFICATIONS

Please provide responses to each of the following questions in your proposal

1. What year was your firm established?
2. Has your firm ever done business under a different name and, if so, what was the name?
3. What is the total number of employees in the firm?
4. How many employees of your firm have the skill set to support this effort?
5. How many of those employees are accessible to your organization for active support?
6. How many of those employees are involved in on-site project work?
7. What is your firm's availability to the project locale?
8. What is your firm's familiarity to the project locale?
9. Has your firm ever done business with the State of South Dakota? If so, please provide references.
10. What is your Company's web site?

## 7.4 RELEVANT PROJECT EXPERIENCE

Provide details about three public sector ERP implementation projects in which the offeror has provided IV&V services. Project examples should include the following details, so the State fully understands the goal of the projects:

- A. Entity Name
- B. Entity Address, including City, State, and Zip Code
- C. Entity Contact(s)
  - Name; Title; Telephone Number; Email Address
- D. Project dates (start to finish)
- E. Offeror's scope of work for the project
- F. Responsibilities of the offeror in the project
- G. Deliverables provided by the offeror
- H. Methodologies employed by the offeror
- I. Was there any litigation or adverse contract action regarding contract performance? (If "Yes", please provide explanation)
- J. Price and cost data

## 7.5 PROJECT PLAN

Provide a project plan that indicates how you will complete the required deliverables and services and addresses the following:

1. Proposed IV&V techniques
2. Number of offeror's staff needed
3. Tasks to be performed
  - Number of hours each task will require
  - Deliverables created by each task
  - Dates by which each task will be completed (dates should be indicated in terms of elapsed time from project inception)
4. Resources assigned to each task
5. Required State staffing support
  - Outline task dependencies

Microsoft Project is the standard scheduling tool for the State of South Dakota. The schedule should be a separate document, provided in Microsoft Excel, and submitted as an attachment to your proposal.

## 7.6 DELIVERABLES

This section should constitute the major portion of the work to be performed. Provide a complete narrative detailing the assessment of the work to be performed, approach and methods to provide the requirements of this RFP, the offeror's ability to fulfill the requirements of this RFP, IV&V techniques, specialized services, availability to the project locale, familiarity with the project locale, and a description of any options or alternatives proposed. This should demonstrate that the offeror understands the desired overall performance expectations. This response should identify each requirement being addressed as enumerated in Section 5.2 IV&V RESPONSIBILITIES. If you have an alternative methodology or deliverables you would like to propose, please include a detailed description of the alternative methodology or deliverables and how they will meet or exceed the essential requirements of the methodology and deliverables described in Section 5.2 IV&V RESPONSIBILITIES.

## 7.7 TEAM ORGANIZATION AND STAFFING

See Section 6.0 OFFEROR RESOURCES.

## 7.8 RESPONSE TO STATE'S CONTRACT AND TERMS

The Offeror must state if there are any issues with the contract terms in Section 4.0: STANDARD CONTRACT AND TERMS AND CONDITIONS or APPENDIX A: I/T CONTRACT TERMS. The issues should be fully described along with any proposed changes.

## 7.9 BACKGROUND CHECKS

(Company name here) acknowledges and affirms that it understands that the (company name here) employees who have access to production Personally Identifiable Information (PII), data protected under the Family Educational Rights and Privacy Act (FERPA), Protected Health Information (PHI), Federal Tax Information (FTI), any information defined under state statute as confidential or have access to secure facilities will have fingerprint-based background checks. These background checks will be used to check the criminal history records of the State as well as the Federal Bureau of Investigation's records. (Company name here) acknowledges and affirms that this requirement will extend to include any Subcontractor's, Agents, Assigns and or Affiliated Entities employees.

## 7.10 COST PROPOSAL

All costs related to the provisions of the required services must be included in each cost proposal offered. The offeror must submit a statement in the Proposal that attests the offeror’s willingness and ability to perform the work described in this RFP for the price being offered.

### 1. STAFFING

Name	Role	Total Hours on Project	Total Hours on Site	Hourly Rate	Total
				Total:	

### 2. TRAVEL AND EXPENDITURE TABLES

Name	Method of Travel	Cost per trip	Number of Trips	Total Cost
			Total:	

Name	Lodging Cost per night	Number of Nights	Lodging Cost	Per diem	Number of Days	Per diem Cost	Total Cost
Totals:							

NOTE: The State requests that vendors accept state per diem. Lodging and per diem rates can be found at <https://bhr.sd.gov/files/travelrates.pdf>.

### 3. OTHER COSTS

Show any other costs:

	One Time	Year 1	Year 2	Year 3	Totals
Other...					
Other...					
Totals					

## 8.0 PROPOSAL EVALUATION AND AWARD PROCESS

### 8.1 EVALUATION

After determining that a proposal satisfied the mandatory requirement stated in the RFP (Section 2.0), the evaluator(s) shall use subjective judgment in conducting a comparative assessment of the proposal by considering each of the following criteria:

#### 1. Understanding of the Project – 5%

- The Offeror must provide a response stating that they have read and understand Section 5.0 SCOPE OF WORK.

#### 2. Corporate Qualifications – 20%

- Specialized expertise, capabilities, and technical competence as demonstrated by the proposed approach and methodology to meet the resource staffing requirements.
  - The experience and reliability of the offeror’s organization are considered subjectively in the evaluation process. Therefore, the offeror is advised to submit any information which documents successful and reliable experience in past performances, specifically those performances related to the requirements of this RFP.
- Knowledge and skills identified to the meet the goals and objectives, as identified in Section 3.2 GOALS AND OBJECTIVES, of this RFP, excellent customer relations, and experience working in teams.
  - The qualifications of personnel proposed by the offeror to perform the requirements of this RFP will be subjectively evaluated. Therefore, the offeror should submit detailed information related to the experience and qualifications, including education and training, of proposed personnel.
- Resources available to perform the work, including any specialized services, within the specified time limits for the project.



- Availability to the project locale.
- Familiarity with the project locale, such as working with other state government entities and how they function.

### **3. Relevant Project Experience – 25%**

- Record of past performance, including price and cost data from previous projects, quality of work, ability to meet schedules, cost control, and contract administration.
- Ability and proven history in handling special project constraints.
  - The offeror must provide details about three (3) recent projects that the offeror was awarded and then provided services that are similar to this project. Project examples should include sufficient detail, so BFM fully understands the goal of the project.

### **4. Project Plan, Approach, and Timeline – 30%**

- The offeror must provide a detailed project plan describing how they would meet the project objectives set forth in Section 5.0 SCOPE OF WORK. The project plan should include a detailed response describing their methodology for providing each deliverable and completing each task and activity. The offeror should include other information that describes how the offeror will complete the project and meet the goals set by the agency.

### **5. Cost – 20%**

- Fixed bid price for providing activities and services specified in this RFP.

The State reserves the right to reject any or all proposals, waive technicalities, and make award(s) as deemed to be in the best interest of the State of South Dakota.

## **8.2 BEST AND FINAL OFFERS**

The State reserves the right to request best and final offers. If so, the State will initiate the request for best and final offers; best and final offers may not be initiated by an offeror. Best and final offers may not be necessary if the State is satisfied with the proposals received.

If best and final offers are sought, the State will document which offerors will be notified and provide them opportunity to submit best and final offers. Requests for best and final offers will be sent stating any specific areas to be covered and the date and time in which the best and final offer must be returned. Conditions, terms, or price of the proposal may be altered and otherwise changed, provided the changes are within the scope of the request for proposals and instructions contained in the request for best and final offer. If the offeror does not submit a best and final offer or a notice of withdrawal, the offeror's previous proposal will be considered that offeror's best and final proposal. After best and final offers are received, final evaluations will be conducted.

### 8.3 AWARD

The requesting agency and the highest ranked offeror shall mutually discuss and refine the scope of services for the project and shall negotiate terms, including compensation and performance schedule.

1. If the agency and the highest ranked offeror are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the agency, the agency shall, either orally or in writing, terminate negotiations with the offeror. The agency may then negotiate with the next highest ranked offeror.
2. The negotiation process may continue through successive offerors, according to agency ranking, until an agreement is reached, or the agency terminates the contracting process.

## APPENDIX A: I/T CONTRACT TERMS

### **Bureau of Information and Telecommunications Required IT Contract Terms**

**Any contract resulting from this RFP will include the State's required IT terms and conditions as listed below, along with any additional terms and conditions as negotiated by the parties. Due to the changing landscape of IT security and data privacy, the State reserves the right to add additional IT terms and conditions or modify the IT terms and conditions listed below to the resulting contract:**

Pursuant to South Dakota Codified Law § 1-33-44, the Bureau of Information and Telecommunications ("BIT") oversees the acquisition of office systems technology, software, and services; telecommunication equipment, software, and services; and data processing equipment, software, and services for departments, agencies, commissions, institutions, and other units of state government. As part of its duties as the Executive Branch's centralized IT agency, BIT requires the contract terms and conditions of this Exhibit XX. For purposes of this Exhibit, [Vendor Name] will be referred to as the "Vendor."

It is understood and agreed to by all parties that BIT has reviewed and approved only this Exhibit. Due to the ever-changing security and regulatory landscape in IT and data privacy, before renewal of this Agreement BIT must review and approve the clauses found in this Exhibit as being the then current version of the clauses and if any additional required clauses are needed. Changes to clauses in this Exhibit must be approved in writing by all parties before they go into effect and a renewal of this Agreement is possible.

The Parties agree, when used in this Exhibit, the term "Vendor" will mean the Vendor and the Vendor's employees, subcontractors, agents, assigns, and affiliated entities.

## **Section I. Confidentiality of Information**

For purposes of this paragraph, "State Proprietary Information" will include all information disclosed to the Vendor by the State. The Vendor will not disclose any State Proprietary Information to any third person for any reason without the express written permission of a State officer or employee with authority to authorize the disclosure. The Vendor must not: (i) disclose any State Proprietary Information to any third person unless otherwise specifically allowed under this Agreement; (ii) make any use of State Proprietary Information except to exercise rights and perform obligations under this Agreement; (iii) make State Proprietary Information available to any of its employees, officers, agents, or third party consultants except those who have a need to access such information and who have agreed to obligations of confidentiality at least as strict as those set out in this Agreement. The Vendor is held to the same standard of care in guarding State Proprietary Information as it applies to its own confidential or proprietary information and materials of a similar nature, and no less than holding State Proprietary Information in the strictest confidence. The Vendor must protect the confidentiality of the State's information from the time of receipt to the time that such information is either returned to the State or destroyed to the extent that it cannot be recalled or reproduced. The Vendor agrees to return all information received from the State to the State's custody upon the end of the term of this Agreement, unless otherwise agreed in a writing signed by both parties. State Proprietary Information will not include information that:

- A. was in the public domain at the time it was disclosed to the Vendor,
- B. was known to the Vendor without restriction at the time of disclosure from the State,
- C. that was disclosed with the prior written approval of State's officers or employees having authority to disclose such information,
- D. was independently developed by the Vendor without the benefit or influence of the State's information, and

E. becomes known to the Vendor without restriction from a source not connected to the State of South Dakota.

State's Proprietary Information can include names, social security numbers, employer numbers, addresses and other data about applicants, employers or other clients to whom the State provides services of any kind. The Vendor understands that this information is confidential and protected under State law. The Parties mutually agree that neither of them nor any subcontractors, agents, assigns, or affiliated entities will disclose the contents of this Agreement except as required by applicable law or as necessary to carry out the terms of the Agreement or to enforce that Party's rights under this Agreement. The Vendor acknowledges that the State and its agencies are public entities and thus may be bound by South Dakota open meetings and open records laws. It is therefore not a breach of this Agreement for the State to take any action that the State reasonably believes is necessary to comply with South Dakota open records or open meetings laws.

## **Section II. Cyber Liability Insurance**

The Vendor will maintain cyber liability insurance with liability limits in the amount of \$3 million to protect all State Data the Vendor receives as part of the project covered by this agreement including State Data that may reside on devices, including laptops and smart phones, utilized by Vendor employees, whether the device is owned by the employee or the Vendor. If the Vendor has a contract with a third-party to host any State Data the Vendor receives as part of the project under this Agreement, then the Vendor will include a requirement for cyber liability insurance as part of the contract between the Vendor and the third-party hosting the data in question. The third-party cyber liability insurance coverage will include State Data that resides on devices, including laptops and smart phones, utilized by third-party employees, whether the device is owned by the employee or the third-party Vendor. The cyber liability insurance will cover expenses related to the management of a data breach incident, the investigation, recovery and restoration of lost data, data subject notification, call management, credit checking for data subjects, legal costs, and regulatory fines. Before beginning work under this Agreement, the Vendor will furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement and which provide that such insurance may not be canceled, except on 30 days prior written notice to the State. The Vendor will furnish copies of insurance policies if requested by the State. The insurance will stay in effect for three years after the work covered by this Agreement is completed.

## **Section III. Rejection or Ejection of Vendor**

The State, at its option, may require the vetting of any of the Vendor, and the Vendor's subcontractors, agents, Assigns, or affiliated entities. The Vendor is required to assist in this process as needed.

The State reserves the right to reject any person from participating in the project or require the Vendor to remove from the project any person the State believes is detrimental to the project or is considered by the State to be a security risk. The State will provide the Vendor with notice of its determination, and the reasons for the rejection or removal if requested by the Vendor. If the State

signifies that a potential security violation exists with respect to the request, the Vendor must immediately remove the individual from the project.

#### **Section IV. Non-Disclosure and Separation of Duties**

The Vendor will enforce separation of job duties and require non-disclosure agreements of all staff that have or can have access to State Data or the hardware that State Data resides on. The Vendor will limit staff knowledge to those staff who duties that require them to have access to the State Data or the hardware the State Data resides on.

#### **Section V. Cessation of Business**

The Vendor will notify the State of impending cessation of its business or that of a tiered provider and the Vendor's contingency plan. This plan should include the immediate transfer of any previously escrowed assets and data and State access to the Vendor's facilities to remove or destroy any state-owned assets and data. The Vendor will implement its exit plan and take all necessary actions to ensure a smooth transition of service with minimal disruption to the State. The Vendor will provide a fully documented service description and perform and document a gap analysis by examining any differences between its services and those to be provided by its successor. The Vendor will also provide a full inventory and configuration of servers, routers, other hardware, and software involved in service delivery along with supporting documentation, indicating which if any of these are owned by or dedicated to the State. The Vendor will work closely with its successor to ensure a successful transition to the new equipment, with minimal downtime and impact on the State, all such work to be coordinated and performed in advance of the formal, final transition date.

#### **Section VI. Legal Requests for Data**

Except as otherwise expressly prohibited by law, the Vendor will:

- A. Immediately notify the State of any subpoenas, warrants, or other legal orders, demands or requests received by the Vendor seeking State Data maintained by the Vendor,
- B. Consult with the State regarding the Vendor's response,
- C. Cooperate with the State's requests in connection with efforts by the State to intervene and quash or modify the legal order, demand or request, and
- D. Upon the State's request, provide the State with a copy of both the demand or request and its proposed or actual response.

#### **Section VII. eDiscovery**

The Vendor will contact the State upon receipt of any electronic discovery, litigation holds, discovery searches, and expert testimonies related to, or which in any way might reasonably require access to State Data. The Vendor will not respond to service of process, and other legal requests related to the State without first notifying the State unless prohibited by law from providing such notice.

## **Section VIII. Audit Requirements**

The Vendor warrants and agrees it is aware of and complies with all audit requirements relating to the classification of State Data the Vendor stores, processes, and accesses. Depending on the data classification, this may require the Vendor to grant physical access to the data hosting facilities to the State or a federal agency. The Vendor will notify the State of any request for physical access to a facility that hosts or processes State Data by any entity other than the State.

## **Section IX. Independent Audit**

The Vendor will disclose any independent audits that are performed on any of the Vendor's systems tied to storing, accessing, and processing State Data. This information on an independent audit(s) must be provided to the State in any event, whether the audit or certification process is successfully completed or not. The Vendor will provide a copy of the findings of the audit(s) to the State. Compliance with this Section may be met if the Vendor provides a copy of the Vendor's SOC 2 Type II report to the State upon request.

## **Section X. Security Incident Notification for Non-Health Information**

The Vendor will implement, maintain, and update Security Incident procedures that comply with all State standards and Federal and State requirements. A Security Incident is a violation of any BIT security or privacy policies or contract agreements involving sensitive information, or the imminent threat of a violation. The BIT security policies can be found in the Information Technology Security Policy ("ITSP") attached as Exhibit \_\_\_\_\_. The State requires notification of a Security Incident involving any of the State's sensitive data in the Vendor's possession. State Data is any data produced or provided by the State as well as any data produced or provided for the State by a third-party. The parties agree that, to the extent probes and reconnaissance scans common to the industry constitute Security Incidents, this Agreement constitutes notice by the Vendor of the ongoing existence and occurrence of such Security Incidents for which no additional notice to the State will be required. Probes and scans include, without limitation, pings and other broadcast attacks in the Vendor's firewall, port scans, and unsuccessful log-on attempts, if such probes and reconnaissance scans do not result in a Security Incident as defined above. Except as required by other legal requirements the Vendor will only provide notice of the incident to the State. The State will determine if notification to the public will be by the State or by the Vendor. The method and content of the notification of the affected parties will be coordinated with, and is subject to approval by the State, unless required otherwise by legal requirements. If the State decides that the Vendor will be distributing, broadcasting to or otherwise releasing information on the Security Incident to the news media, the State will decide to whom the information will be sent, and the State must approve the content of any information on the Security Incident before it may be distributed, broadcast, or otherwise released. The Vendor must reimburse the State for any costs associated with the notification, distributing, broadcasting, or otherwise releasing information on the Security Incident.

- A. The Vendor must notify the State contact within 12 hours of the Vendor becoming aware that a Security Incident has occurred. If notification of a Security Incident to the State contact is delayed because it may impede a criminal investigation or jeopardize homeland or federal security, notification must be given to the State within 12 hours after law-enforcement provides permission for the release of information on the Security Incident.
- B. Notification of a Security Incident at a minimum is to consist of the nature of the data exposed, the time the incident occurred, and a general description of the circumstances of the incident. If all of the information is not available for the notification within the specified time period, the Vendor must provide the State with all of the available information along with the reason for the incomplete notification. A delay in excess of 12 hours is acceptable only if it is necessitated by other legal requirements.
- C. At the State's discretion within 12 hours the Vendor must provide to the State all data available including:
  - 1. name of and contact information for the Vendor's Point of Contact for the Security Incident,
  - 2. date and time of the Security Incident,
  - 3. date and time the Security Incident was discovered,
  - 4. description of the Security Incident including the data involved, being as specific as possible,
  - 5. the potential number of records, and if unknown the range of records,
  - 6. address where the Security Incident occurred, and
  - 7. the nature of the technologies involved. If not all of the information is available for the notification within the specified time period, the Vendor must provide the State with all of the available information along with the reason for the incomplete information. A delay in excess of 12 hours is acceptable only if it is necessitated by other legal requirements.
- D. If the Security Incident falls within the scope of South Dakota Codified Law Chapter 22-40, the Vendor is required to comply with South Dakota law.

The requirements of subsection D of this Section do not replace the requirements of subsections A, B, and C, but are in addition to them.

## **Section XI. Handling of Security Incident for Non-Health Information**

At the State's discretion, the Vendor will preserve all evidence regarding a security incident including but not limited to communications, documents, and logs. The Vendor will also:

- A. fully investigate the incident,
- B. cooperate fully with the State's investigation of, analysis of, and response to the incident,
- C. make a best effort to implement necessary remedial measures as soon as it is possible, and



- D. document responsive actions taken related to the Security Incident, including any post-incident review of events and actions taken to implement changes in business practices in providing the services covered by this Agreement.

If, at the State's discretion the Security Incident was due to the actions or inactions of the Vendor and at the Vendor's expense the Vendor will use a credit monitoring service, call center, forensics company, advisors, or public relations firm whose services are acceptable to the State. At the State's discretion the Vendor will offer two years of credit monitoring to each person whose data was compromised. The State will set the scope of any investigation. The State reserves the right to require the Vendor undergo a risk assessment where the State will determine the methodology and scope of the assessment and who will perform the assessment (a third-party vendor may be used). Any risk assessment required by this Section will be at the Vendor's expense.

If the Vendor is required by federal law or regulation to conduct a Security Incident or data breach investigation, the results of the investigation must be reported to the State within 12 hours of the investigation report being completed. If the Vendor is required by federal law or regulation to notify the affected parties, the State must also be notified, unless otherwise required by law.

Notwithstanding any other provision of this Agreement, and in addition to any other remedies available to the State under law or equity, the Vendor will reimburse the State in full for all costs incurred by the State in investigation and remediation of the Security Incident including, but not limited, to providing notification to regulatory agencies or other entities as required by law or contract. The Vendor will also pay all legal fees, audit costs, fines, and other fees imposed by regulatory agencies or contracting partners as a result of the Security Incident.

## **Section XII. Adverse Event**

The Vendor must notify the State contact within three days if the Vendor becomes aware that an Adverse Event has occurred. An Adverse Event is the unauthorized use of system privileges, unauthorized access to State Data, execution of malware, physical intrusions and electronic intrusions that may include network, applications, servers, workstations, and social engineering of staff. If the Adverse Event was the result of the Vendor's actions or inactions, the State can require a risk assessment of the Vendor the State mandating the methodology to be used as well as the scope. At the State's discretion a risk assessment may be performed by a third party at the Vendor's expense. State Data is any data produced or provided by the State as well as any data produced or provided for the State by a third-party.

## **Section XIII. Security Acknowledgment Form**

The Vendor will be required to sign the Security Acknowledgement Form which is attached to this Agreement as Exhibit \_\_\_\_\_. The signed Security Acknowledgement Form must be submitted to the State and approved by the South Dakota Bureau of Information and Telecommunications and communicated to the Vendor by the State contact before work on the contract may begin. This Security Acknowledgment Form constitutes the agreement of the Vendor to be responsible and



liable for ensuring that the Vendor, the Vendor's employee(s), and subcontractor's, agents, assigns and affiliated entities and all of their employee(s), participating in the work will abide by the terms of the Information Technology Security Policy (ITSP) attached to this Agreement. Failure to abide by the requirements of the ITSP or the Security Acknowledgement Form can be considered a breach of this Agreement at the discretion of the State. It is also a breach of this Agreement, at the discretion of the State, if the Vendor does not sign another Security Acknowledgement Form covering any employee(s) and any subcontractor's, agent's, assign's, or affiliated entities' employee(s), any of whom are participating in the work covered by this Agreement, and who begin working under this Agreement after the project has begun. Any disciplining of the Vendor's, Vendor's employee(s), or subcontractor's, agent's, assign's, or affiliated entities' employee(s) due to a failure to abide by the terms of the Security Acknowledgement Form will be done at the discretion of the Vendor or subcontractors, agents, assigns, or affiliated entities and in accordance with the Vendor's or subcontractor's, agent's, assign's, and affiliated entities' personnel policies. Regardless of the actions taken by the Vendor and subcontractors, agents, assigns, and affiliated entities, the State will retain the right to require at the State's discretion the removal of the employee(s) from the project covered by this Agreement.

#### **Section XIV. Background Investigations**

The State requires any person who writes or modifies State-owned software, alters hardware, configures software of State-owned technology resources, has access to source code or protected Personally Identifiable Information (PII) or other confidential information, or has access to secure areas to undergo fingerprint-based background investigations. These fingerprints will be used to check the criminal history records of both the State of South Dakota and the Federal Bureau of Investigation. These background investigations must be performed by the State with support from the State's law enforcement resources. The State will supply the fingerprint cards and prescribe the procedure to be used to process the fingerprint cards. Project plans should allow 2-4 weeks to complete this process.

If work assignments change after the initiation of the project covered by this Agreement so that a new person will be writing or modifying State-owned software, altering hardware, configuring software of State-owned technology resources, have access to source code or protected PII or other confidential information, or have access to secure areas, background investigations must be performed on the individual who will complete any of the referenced tasks. The State reserves the right to require the Vendor to prohibit any person from performing work under this Agreement whenever the State believes that having the person performing work under this Agreement is detrimental to the project or is considered by the State to be a security risk, based on the results of the background investigation. The State will provide the Vendor with notice of this determination.

#### **Section XV. Data Location and Offshore Services**

The Vendor must provide its services to the State as well as storage of State Data solely from data centers located in the continental United States. The Vendor will not provide access to State Data to any entity or person(s) located outside the continental United States that are not named in this Agreement without prior written permission from the State. This restriction also applies to disaster

recovery; any disaster recovery plan must provide for data storage entirely within the continental United States.

## **Section XVI. Vendor Training Requirements**

The Vendor, Vendor's employee(s), and Vendor's subcontractors, agents, assigns, affiliated entities and their employee(s), must successfully complete, at the time of hire a cyber-security training program. The training must include but is not limited to:

- A. legal requirements for handling data,
- B. media sanitation,
- C. strong password protection,
- D. social engineering, or the psychological manipulation of persons into performing actions that are inconsistent with security practices or that cause the divulging of confidential information, and
- E. security incident response.

## **Section XVII. Data Sanitization**

At the end of the project covered by this Agreement the Vendor, and Vendor's subcontractors, agents, assigns, and affiliated entities will return the State Data or securely dispose of all State Data in all forms, this can include State Data on media such as paper, punched cards, magnetic tape, magnetic disks, solid state devices, or optical discs. This State Data must be permanently deleted by either purging the data or destroying the medium on which the State Data is found according to the methods given in the most current version of NIST 800-88. Certificates of Sanitization for Offsite Data (See [bit.sd.gov/vendor/default.aspx](http://bit.sd.gov/vendor/default.aspx) for copy of certificate) must be completed by the Vendor and given to the State contact. The State will review the completed Certificates of Sanitization for Offsite Data. If the State is not satisfied by the data sanitization then the Vendor will use a process and procedure that does satisfy the State.

This contract clause remains in effect for as long as the Vendor, and Vendor's subcontractors, agents, assigns, and affiliated entities have the State Data, even after the Agreement is terminated or the project is completed.

## **Section XVIII. Use of Portable Devices**

The Vendor must prohibit its employees, agents, affiliates, and subcontractors from storing State Data on portable devices, including personal computers, except for devices that are used and kept only at the Vendor's data center(s). All portable devices used for storing State Data must be password protected and encrypted.

## **Section XIX. Remote Access**

The Vendor will prohibit its employees, agents, affiliates, and subcontractors from accessing State Data remotely except as necessary to provide the services under this Agreement and

consistent with all contractual and legal requirements. The accounts used for remote access cannot be shared accounts and must include multifactor authentication. If the State Data that is being remotely accessed is legally protected data or considered sensitive by the State, then:

- A. The device used must be password protected,
- B. The data is not put onto mobile media (such as flash drives),
- C. No non-electronic copies are made of the data, and
- D. A log must be maintained by the Vendor detailing the data which was accessed, when it was accessed, and by whom it was accessed.

The Vendor must follow the State's data sanitization standards, as outlined in this Agreement's Data Sanitization clause, when the remotely accessed data is no longer needed on the device used to access the data.

## **Section XX. Data Encryption**

If State Data will be remotely accessed or stored outside the State's IT infrastructure, the Vendor warrants that the data will be encrypted in transit (including via any web interface) and at rest at no less than AES256 level of encryption with at least SHA256 hashing.

## **Section XXI. Rights, Use, and License of and to State Data**

The parties agree that all rights, including all intellectual property rights, in and to State Data will remain the exclusive property of the State. The State grants the Vendor a limited, nonexclusive license to use the State Data solely for the purpose of performing its obligations under this Agreement. This Agreement does not give a party any rights, implied or otherwise, to the other's data, content, or intellectual property, except as expressly stated in the Agreement.

Protection of personal privacy and State Data must be an integral part of the business activities of the Vendor to ensure there is no inappropriate or unauthorized use of State Data at any time. To this end, the Vendor must safeguard the confidentiality, integrity, and availability of State Data and comply with the following conditions:

- A. The Vendor will implement and maintain appropriate administrative, technical, and organizational security measures to safeguard against unauthorized access, disclosure, use, or theft of Personally Identifiable Information (PII), data protected under the Family Educational Rights and Privacy Act (FERPA), Protected Health Information (PHI), Federal Tax Information (FTI), or any information that is confidential under applicable federal, state, or international law, rule, regulation, or ordinance. Such security measures will be in accordance with recognized industry practice and not less protective than the measures the Vendor applies to its own non-public data.
- B. The Vendor will not copy, disclose, retain, or use State Data for any purpose other than to fulfill its obligations under this Agreement.
- C. The Vendor will not use State Data for the Vendor's own benefit and will not engage in data mining of State Data or communications, whether through automated or manual means,

except as specifically and expressly required by law or authorized in writing by the State through a State employee or officer specifically authorized to grant such use of State Data.

## **Section XXII. Third Party Hosting**

If the Vendor has the State's data hosted by another party, the Vendor must provide the State the name of this party. The Vendor must provide the State with contact information for this third party and the location of their data center(s). The Vendor must receive from the third party written assurances that the State's data will always reside in the continental United States and provide these written assurances to the State. This restriction includes the data being viewed or accessed by the third-party's employees or contractors. If during the term of this Agreement the Vendor changes from the Vendor hosting the data to a third-party hosting the data or changes third-party hosting provider, the Vendor will provide the State with 180 days' advance notice of this change and at that time provide the State with the information required above.

## **Section XXIII. Securing of Data**

All facilities used to store and process State Data will employ industry best practices, including appropriate administrative, physical, and technical safeguards to secure such data from unauthorized access, disclosure, alteration, and use. Such measures will be no less protective than those used to secure the Vendor's own data of a similar type, and in no event less than commercially reasonable in view of the type and nature of the data involved.

## **Section XXIV. Banned Services**

The Vendor warrants that any hardware or hardware components used to provide the services covered by this Agreement were not manufactured by Huawei Technologies Company or ZTE Corporation, or any subsidiary or affiliate of such entities. Any company considered to be a security risk by the government of the United States under the International Emergency Economic Powers Act or in a United States appropriation bill will be included in this ban.

## **Section XXV. Multifactor Authentication for Hosted Systems**

If the Vendor is hosting on their system or performing Software as a Service where there is the potential for the Vendor or the Vendor's subcontractor to see protected State Data, then Multifactor Authentication (MFA) must be used before this data can be accessed. The Vendor's MFA, at a minimum must adhere to the requirements of *Level 3 Authentication Assurance for MFA* as defined in NIST 800-63.

## **ATTACHMENT A: INFORMATION TECHNOLOGY SECURITY POLICY**

ATTACHMENT B: CONTRACTOR SECURITY ACKNOWLEDGEMENT FORM