



**The State of New Mexico  
General Services Department/State Purchasing Division**

In furtherance of the



**Request for Proposals  
(AS AMENDED)**

**New Mexico Solicitation Number 40-000-14-00059**

**WSCA-NASPO Master Agreement for  
On-Line Auction Services**

March 14, 2014

**REQUEST FOR PROPOSAL  
On-Line Auction Services**

**Solicitation # 40-000-14-00059**

**Section 1: WSCA-NASPO Solicitation - General Information**

**Description of Request for Proposals (RFP)**

The State of New Mexico, General Services Department/State Purchasing Division, is requesting proposals for On-Line Auction Services in furtherance of the WSCA-NASPO Cooperative Purchasing Program (WSCA-NASPO). The purpose of this request for proposals is to establish Master Agreements with qualified Offerors to provide an on-line auction service that will provide a detailed audit record of all activity and provide an on-line auctioning capability for bidding to extend multiple days. The desired solution is for an approach encompassing one of three tiers, or any combination of the three tiers that will comprise both the vendor's product (the on-line auction system) as well as the vendor's services for all Participating States in either a simple use of an Offeror's website as a marketing, publicizing tool by a Participating Entity (Tier One), a website and accounting operation (Tier Two), or a full turnkey operation (Tier Three). The services resulting from the award of this solicitation are to be available to all participating state entities, cities, counties, higher education, school districts and other political subdivisions on an as needed basis under the same cost and terms and conditions agreed to in the Master Agreement.

It is anticipated that this RFP may result in Master Agreement awards to a single Offeror or multiple Offerors, but in no case more than up to two Offerors in each Tier, in the Lead State's discretion. The term of Master Agreements resulting from this RFP may be in any increments desired by the Lead State but in no case may exceed eight (8) years.

This RFP is designed to provide interested Offerors with sufficient information to submit proposals meeting minimum requirements, but is not intended to limit a proposal's content or exclude any relevant or essential data. Offerors are encouraged to expand upon the specifications to add service and value consistent with state requirements.

**RFP Objective**

The objective of this RFP is to obtain best value, and in some cases achieve more favorable pricing, than are obtainable by an individual state or local government entity because of the collective volume of potential purchases by numerous state and local government entities. The savings realized by the contractor in managing one

comprehensive WSCA-NASPO Master Agreement rather than numerous state and local contracts should result in the most attractive service level and discounts available in the marketplace.

The Master Agreement(s) resulting from this procurement may be used by state governments (including departments, agencies, institutions), institutions of higher education, political subdivisions (i.e., colleges, school districts, counties, cities, etc.), and other eligible entities subject to approval of the individual state procurement director and compliance with local statutory and regulatory provisions (“Purchasing Entities”).

This will be a new solicitation for a Master Agreement for the State of New Mexico and WSCA-NASPO.

While the primary purpose of this solicitation is to select an Offeror(s) who can offer the Products or Services for all Participating States, Offerors are permitted to submit a proposal on more limited geographical areas, but not less than one entire Participating State. Offerors must clearly describe the geographical limits (e.g. by State name) if proposing a geographical area less than that of all Participating States. However, if an Offeror elects to submit a Proposal for a single State then the Offeror must be willing to supply the entire State and will not be allowed to add additional States following award or at any time during the term of the contract or any renewals.

The Lead State/Sourcing Team, with the assistance as deemed advisable of the relevant Participating State (or relevant group of Participating States), may evaluate and select an Offeror for award in more limited geographical areas (e.g. a single state) where judged to be in the best interests of the Participating Entity involved.

### **Issuing Office and Solicitation Number**

The State of New Mexico General Services Department/State Purchasing Division is the issuing office for this document and all subsequent addenda relating to it. The reference number for the transaction is Solicitation # 40-000-14-00059. This number must be referred to on all proposals, correspondence, and documentation relating to the RFP.

### **WSCA-NASPO Background Information**

WSCA-NASPO is a cooperative purchasing program of all 50 states, the District of Columbia and the organized US territories. WSCA-NASPO Cooperative Purchasing Organization LLC is a nonprofit subsidiary of the National Association of State Procurement Officials (NASPO) that facilitates administration of the cooperative purchasing program. NASPO is a non-profit association dedicated to strengthening the procurement community through education, research, and communication. It is made up of the directors of the central purchasing offices in each of the 50 states, the District of Columbia and the territories of the United States. For more information consult the following websites [www.wsca-naspo.org](http://www.wsca-naspo.org) and [www.naspo.org](http://www.naspo.org)

## **Lead State**

The State of New Mexico is the Lead State as that term is used in the WSCA-NASPO Master Agreement Terms and Conditions. The Procurement Manager designated by WSCA-NASPO and the State of New Mexico General Services Department/State Purchasing Division is:

Paul Kippert, Procurement Manager  
State of New Mexico, General Services Department/State Purchasing Division  
Joseph Montoya Building, Room 2016  
1100 St. Francis Drive  
Santa Fe, New Mexico 87505  
paul.kippert@state.nm.us  
Phone: 505-827-2331  
Fax: 505-827-2484

## **DEFINITION OF TERMINOLOGY**

This section contains definitions of terms used throughout this procurement document, including appropriate abbreviations.

“Agency” means the State Purchasing Division of the General Services Department or that State Agency sponsoring the Procurement action.

“Authorized Purchaser” means an individual authorized by a Participating Entity to place orders against this contract.

“Award” means the final execution of the contract document resulting from this Request for Proposals.

“Business Hours” means 8:00 AM thru 5:00 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.

“Close of Business” means 5:00 PM Mountain Standard or Daylight Time, whichever is in effect on the date given.

"Contract" means any agreement for the procurement of items of tangible personal property, services or construction.

"Contractor" means any business having a contract with a state agency or local public body.

"Determination" means the written documentation of a decision of a Procurement Manager including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

"Desirable" – the terms "may", "can", "should", "preferably", or "prefers" identify a desirable

or discretionary item or factor

“Final Execution” means that the last required signature on the documents needed to make the agreement binding upon all parties has been obtained.

“Finalist” means an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

“Hourly Rate” means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate.

“IT” means Information Technology

"Mandatory" – the terms "must", "shall", "will", "is required", or "are required", identify a mandatory item or factor. Failure to meet a mandatory item or factor will result in the rejection of the Offeror’s proposal as non-responsive to this Request for Proposals.

“Minor Technical Irregularities” means anything in the proposal that does not affect the price quality and quantity or any other mandatory requirement.

"Multiple Source Award" means an award of an indefinite quantity contract for one or more similar services, items of tangible personal property or construction to more than one Offeror.

"Offeror" is any person, corporation, or partnership who chooses to submit a proposal.

“Participating Entity” means an entity which is authorized by a Participating Addendum through WSCA-NASPO so that the entity may leverage the agreement entered into by the State of New Mexico and the successful Offeror(s) pursuant to this Request for Proposals. Definitions and additional information about participation in the Master Agreement are in the WSCA-NASPO Master Agreement Terms and Conditions.

"Price Agreement" means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property, services or construction to a state agency or a local public body or Participating Entity which issues a purchase order, if the purchase order is within the quantity limitations of the contract, if any.

"Procurement Manager (sometimes Procurement Officer)" means any person or designee authorized by a state agency or local public body to enter into or administer contracts and make written determinations with respect thereto.

"Procuring Agency" means all State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law, as well as Participating Entities through WSCA-NASPO.

“Project” means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project acceptance is given by the project executive sponsor.

"Request for Proposals (RFP)" means all documents, including those attached or incorporated by reference, used for soliciting proposals.

"Responsible Offeror" means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, or items of tangible personal property described in the proposal.

"Responsive Offer" or means an offer which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to price, quality, quantity or delivery requirements.

"Sourcing Team" means a body appointed to perform the evaluation of Offerors' proposals.

"Sourcing Team Report" means a report prepared by the Procurement Manager and the Sourcing Team for contract award. It will contain written determinations resulting from the procurement.

“SPD” means the State Purchasing Division of the New Mexico State General Services Department.

"Staff" means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors' company.

“State (the State)” means the State of New Mexico.

“State Agency” means any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of this state. “State agency” includes the purchasing division of the General Services Department and the State Purchasing Agent but does not include local public bodies.

"State Purchasing Agent" means the director of the Purchasing Division of the General Services Department.

“WSCA-NASPO” means the WSCA-NASPO Cooperative Purchasing Program. Definitions and additional information about participating in WSCA-NASPO Master Agreements are in the WSCA-NASPO Master Agreement Terms and Conditions.

## Schedule of Events

Solicitation Release:	(March 14, 2014)
Distribution List:	(March 25, 2104)
Pre-Proposal Conference:	(March 25, 2014)
Question Deadline:	(March 31, 2014)
<b>ANSWER DEADLINE:</b>	<b>(APRIL 4, 2014)</b>
Closing Date:	(April 17, 2014)
Live Demonstrations by Finalists:	(TBD, if applicable)
Anticipated Award Date:	(May 6, 2014)

All times are Mountain Standard time unless indicated otherwise.

## EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown in above.

### 1. Issuance of RFP

This RFP is being issued by the New Mexico General Services Department/State Purchasing Division in conjunction with WSCA-NASPO Cooperative Purchasing Program (WSCA-NASPO) on the date listed above in the Schedule of Events.

### 2. Distribution List Response Due

Potential Offerors should hand deliver, return by facsimile or certified mail the "Acknowledgement of Receipt of Request for Proposals Form" that accompanies this document, ATTACHMENT D, to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned to the Procurement Manager by 3:00 pm MST or MDT on the date listed above in the Schedule of Events.

The procurement distribution list will be used for the distribution of written responses to questions. Failure to return the Acknowledgement of Receipt form shall constitute a presumption of receipt and rejection of the RFP, and the potential Offeror' s organization name shall not appear on the distribution list.

### 3. Pre-Proposal Conference

A pre-proposal conference will be held as indicated in the Sequence of Events beginning at 10 A.M. Mountain Standard Time/Daylight Time in the State Purchasing Bid Room located at 1100 St. Francis Drive, Santa Fe, New Mexico. Potential Offeror(s) are encouraged to submit written questions in advance of the conference

to the Procurement Manager. The identity of the organization submitting the question(s) will not be revealed. Additional written questions may be submitted at the conference. All written questions will be addressed in writing on the date listed in the Sequence of Events. A public log will be kept of the names of potential Offeror(s) that attended the pre-proposal conference.

Attendance at the pre-proposal conference is highly recommended, but not a prerequisite for submission of a proposal.

#### **4. Deadline to Submit Written Questions**

Potential Offerors may submit written questions to the Procurement Manager as to the intent or clarity of this RFP until 5:00 P.M. Mountain Standard Time/Daylight Time as indicated in the Sequence of Events. All written questions must be addressed to the Procurement Manager.

#### **5. Response to Written Questions**

Written responses to written questions will be distributed as indicated in the sequence of events to all potential Offerors whose organization name appears on the procurement distribution list. An e-mail copy will be sent to all Offerors that provide Acknowledgement of Receipt Forms described above before the deadline. In addition, answers will be posted to:

<http://www.generalservices.state.nm.us/statepurchasing/>

#### **6. Submission of Proposal**

***ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 3:00 PM MOUNTAIN STANDARD TIME/DAYLIGHT TIME ON APRIL 17, 2014.*** Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal.

**Proposals must be addressed and delivered to the Procurement Manager at the address listed above. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are responding to the On-Line Auction RFP and Number. Proposals submitted by facsimile, or other electronic means, will not be accepted.**

A public log will be kept of the names of all Offer organizations that submitted proposals. Pursuant to Section 13-1-116 NMSA 1978, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract awarded pursuant to this Request for Proposals has been fully executed.



## **7. Proposal Evaluation**

A Sourcing Team will perform the evaluation of proposals. This process will take place as quickly as possible subsequent to the Closing Date as listed in the Schedule of Events above. During this time, the Procurement Manager may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals. However, proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

## **8. Live Demonstrations**

Finalist Offerors may be chosen in order to present a Live Demonstration of their system. Dates and times will be set later. The demonstrations will be conducted by the Sourcing Team members who may be at various locations for the demonstration. The Offeror must ensure that their demonstration will be conducive to viewing by all members of the Sourcing Team despite their remote locations. Finalist Offerors will be awarded points for the Live Demonstrations in accordance with the Evaluation Criteria set forth within this Request for Proposals. These points will be added to other scores in order to arrive at a final score for each Offeror. Final Awarded Offerors will be chosen based on these point totals. However, the most advantageous proposal to the State of New Mexico and WSCA-NASPO may or may not have received the most points (see #10 below).

## **9. Finalize Contractual Agreements**

Any Contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s) as per the date listed above as the Anticipated Award Date in the Sequence of Events, or as soon thereafter as possible. This date is subject to change at the discretion of the Procurement Manager. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the time specified, the State reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

## **10. Contract Awards**

After review of the Sourcing Team Report and the signed contractual agreement, the Agency Procurement office will award as per the schedule above as listed in the Sequence of Events or as soon as possible thereafter. This date is subject to change at the discretion of the Procurement Manager.

**The contract shall be awarded to the Offeror (or Offerors) whose proposals are most advantageous to the State of New Mexico and WSCA-NASPO, taking into consideration the evaluation factors set forth in this RFP. The most advantageous proposal may or may not have received the most points. The**

**award is subject to appropriate Lead State approvals.**

## **11. Protest Deadline**

Any protest by an Offeror must be timely and in conformance with Section 13-1-172 NMSA 1978 and applicable procurement regulations. The 15 calendar day protest period shall begin on the day following the award of contracts and will end at 5:00 P.M. Mountain Standard Time/Daylight Time on the 15<sup>th</sup> day. Protests must be written and must include the name and address of the protestor and the request for proposal number. Emailed protests will NOT be accepted. The written protest must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be delivered to the State Purchasing Agent:

Mr. Larry Maxwell  
State Purchasing Agent  
Joseph Montoya Building, Room 2016  
1100 St. Francis Drive  
Santa Fe, New Mexico 87505  
(505) 827-0482  
Larence.Maxwell@state.nm.us

Protests received after the deadline will not be accepted.

## **RFP Addenda**

The Lead State accepts no responsibility for a prospective Offeror not receiving solicitation documents and/or revisions to the solicitation. It is the responsibility of the prospective Offeror to monitor the General Services/State Purchasing website to obtain RFP addenda or other information relating to the RFP. The website address is:  
<http://www.generalservices.state.nm.us/statepurchasing/>.

## **GENERAL REQUIREMENTS REGARDING THIS REQUEST FOR PROPOSALS**

### **1. Acceptance of Conditions Governing the Procurement**

Potential Offerors must indicate their acceptance of the Conditions Governing the Procurement section in the letter of transmittal. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in this RFP.

### **2. Incurring Cost**

Any cost incurred by the potential Offeror in preparation, transmittal, and/or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror. Any cost incurred by the Offeror for set up and demonstration of the proposed equipment and/or system shall be borne solely by

the Offeror.

### **3. Prime Contractor Responsibility**

Any contract that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of any contract with an agency which may derive from this RFP. The agency hiring a vendor from the contract will make payments only to the prime contractor.

### **4. Subcontractors/Consent**

The use of subcontractors is allowed. The prime contractor shall be wholly responsible for the entire performance of the contractual agreement whether or not subcontractors are used. Additionally, the prime contractor must receive approval, in writing, from the agency awarding any resultant contract, before any subcontractor is used during the term of this agreement.

### **5. Amended Proposals**

An Offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. The Agency personnel will not merge, collate, or assemble proposal materials.

### **6. Offeror's Rights to Withdraw Proposal**

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request addressed to the Procurement Manager and signed by the Offeror's duly authorized representative.

The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

### **7. Proposal Offer Firm**

Responses to this RFP, including proposal prices for services, will be considered firm for one hundred eighty (180) days after the due date for receipt of proposals.

### **8. Disclosure of Proposal Contents**

Proposals will be kept confidential until negotiations and award are completed by the Agency. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is clearly marked proprietary or confidential. The Procurement Manager will not disclose or make public any pages

of a proposal on which the potential Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements.

Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Confidential data is normally restricted to confidential financial information concerning the Offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, Sections 57-3A-1 to 57-3A-7 NMSA 1978. The price of products offered or services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, the Agency shall examine the Offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the Proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

## **9. No Obligation**

This RFP in no manner obligates the State of New Mexico or any of its Agencies to the use of Offeror services until a valid written contract is awarded and approved by appropriate authorities.

## **10. Termination**

This RFP may be canceled at any time up until the time of award of the Master Agreement(s) if the Lead State determines such action to be in the collective best interests of Participating States.

## **11. Sufficient Appropriation**

Any Master Agreement awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such terminations will be effected by sending written notice to the Contractor. The Agency's decision as to whether sufficient appropriations and authorizations are available will be accepted by the Contractor as final.

## **12. Legal Review**

The Agency requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror concerns must be promptly submitted in writing to the attention of the Procurement Manager.

### **13. Governing Law**

This procurement is conducted by the Lead State General Services Department/State Purchasing Division, in accordance with the Lead State Procurement Code. The Procurement Code is available at

(<http://www.generalservices.state.nm.us/statepurchasing/Policies.aspx> ).

This procurement (i.e. the award of the Master Agreement) shall be governed by the laws of the Lead State. The laws of the State of New Mexico shall govern Orders placed under this Agreement in New Mexico, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-1 (G). By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement. Choice of law and venue governing disputes involving Participating Addenda or Orders by Participating Agencies or Purchasing Entities other than the state of New Mexico are established by the applicable Participating Addendum or the WSCA-NASPO Master Agreement Terms and Conditions, Attachment A.

### **14. Basis for Proposal**

Only information supplied, in writing, by the Agency through the Procurement Manager or in this RFP should be used as the basis for the preparation of Offeror proposals.

### **15. Contract Terms and Conditions**

The contract between an agency and a contractor will follow the format specified by the Agency and contain the terms and conditions set forth in the attached Sample Contract. However, the contracting agency reserves the right to negotiate with any Offeror provisions in addition to those contained in this RFP (Sample Contract). The contents of this RFP, as revised and/or supplemented, and the successful Offeror's proposal will be incorporated into and become part of any resultant contract.

The Lead State discourages exceptions to contract terms and conditions in the RFP, attached Participating Entity terms and conditions (if any), and the WSCA-NASPO Master Agreement Terms and Conditions. Exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of the Lead State (and its Sourcing Team), the proposal appears to be conditioned on the exception or correction of what is deemed to be a deficiency or unacceptable exception would require a substantial proposal rewrite to correct.

Offerors should identify or seek to clarify any problems with contract language or any other document contained within this RFP through their written inquiries about the RFP using the question and answer process in Section 1.

Moreover, Offerors are cautioned that award may be made on receipt of initial proposals without clarification or an opportunity for discussion, and the nature of exceptions would be evaluated. Further, the nature of exceptions will be considered in the competitive range determination if one is conducted. Exceptions will be evaluated to determine the extent to which the alternative language or approach poses unreasonable, additional risk to the state, is judged to inhibit achieving the objectives of the RFP, or whose ambiguity makes evaluation difficult and a fair resolution (available to all vendors) impractical given the timeframe for the RFP.

Offerors must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the Agency.

## **16. Contract Deviations**

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the Agency and the Offeror selected and shall not be deemed an opportunity to amend the Offeror's proposal.

## **17. Offeror Qualifications**

The Sourcing Team may make such investigations as necessary to determine the ability of the potential Offeror to adhere to the requirements specified within this RFP. The Sourcing Team will reject the proposal of any potential Offeror who is not a Responsible Offeror or fails to submit a responsive offer as defined in Sections 13-1-83 and 13-1-85 NMSA 1978.

## **18. Right to Waive Minor Irregularities**

The Lead State in its sole discretion reserves the right to waive minor irregularities in the proposal, which include but are not limited to corrections of deficiencies or clarification of ambiguities that in the judgment of the Lead State do not require a comprehensive proposal rewrite or do not affect price, quantity or quality. The Lead State also reserves the right in its sole discretion to waive certain mandatory requirements provided that all of the otherwise responsive proposals fail to meet the same mandatory requirements and the failure to do so does not materially affect the procurement.

### **Clarifications and Discussions with Offerors**

Clarifications not amounting to proposal revisions may, in the Lead State's sole discretion, be conducted with Offerors who submit Proposals for the purpose of determining if a proposal is responsive and reasonably susceptible to being selected for award. The Procurement Manager may communicate with an Offeror to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Clarifications are those communications that do not result in a material change to the proposal.

The Lead State reserves the right to award on receipt of initial proposals (as clarified) without an opportunity for discussion, so Offerors are encouraged to submit their most favorable proposal at the time established for receipt of proposals. Offerors shall be accorded fair and equal treatment with respect to any opportunity for clarification(s). In conducting discussions regarding clarification(s), there shall be no disclosure of any information derived from proposals submitted by competing vendors.

Unless otherwise specified in this RFP, the apparently successful Offeror may be required to submit for the most current reported period and a reasonable number of previous years (in order of preference): an audited statement; a financial statement reviewed by a certified public accountant; a third-party prepared financial statement if an audited or reviewed statement is not available; or another financial statement prepared in the routine course of the Offeror's business, to assist the Lead State in making its determination of Offeror responsibility in the context of the categories and geographical scope being proposed.

## **19. Post Award Formalization of the Contract**

The Lead State reserves the right during negotiation of the Master Agreement to adjust terms and conditions that would not (in the State's judgment) have a material effect on price, quantity, quality, schedule, scope of work, or risk to the Lead State, with materiality defined in terms of the effect on the evaluation and award. In any event, the Lead State reserves the right to accept contract or pricing changes that are more favorable to the Lead State.

If no Master Agreement is reached with the apparent awardee, the Lead State may negotiate with other Offerors or make no award under this RFP. Moreover, the Lead State reserves the right to reconsider any proposal submitted at any phase of the procurement.

## **20. Notice of Penalties**

The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil, misdemeanor and felony criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

## **21. Agency Rights**

Unless otherwise specified in the solicitation, the Lead State may accept any item or combination of items as specified in the solicitation or of any proposal unless the Offeror expressly restricts an item or combination of items in its proposal and conditions its response on receiving all items for which it provided a proposal. In the event that the Offeror so restricts its proposal, the Lead State may consider the Offeror's restriction and evaluate whether the award on such basis will result in the best value to the Lead State and WSCA-NASPO. The Lead State may otherwise

determine at their sole discretion that such restriction is non-responsive and renders the Offeror ineligible for further evaluation.

## **22. Right to Publish**

Throughout the duration of this procurement process and Master Agreement term, Offerors and their authorized contractors must secure from the Procurement Manager prior approval for the release of any information that pertains to the potential work or activities covered by this procurement or the Master Agreement. The Offerors shall not make any representations of WSCA-NASPO's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent. Failure to adhere to this requirement may result in disqualification of the Offeror's proposal or termination of the Master Agreement for cause.

## **23. Ownership of Proposals**

All documents submitted in response to the RFP shall become property of the State of New Mexico.

## **24. Electronic mail address required**

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence. (See also Section, Response to Written Questions).

## **25. Use of Electronic Versions of this RFP**

This RFP is being made available by electronic means. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the agency, the Offeror acknowledges that the version maintained by the agency shall govern. Please refer to:  
<http://www.generalservices.state.nm.us/statepurchasing/>.

## **26. New Mexico Employees Health Coverage**

1. For New Mexico to participate, if the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.
2. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health



insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

3. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs.
4. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it): these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000.

## **27. Campaign Contribution Disclosure Form**

For New Mexico to participate, Offeror must complete, sign, and return the attached Campaign Contribution Disclosure Form as a part of their proposal. This requirement applies regardless whether a covered contribution was made or not made for the positions of Governor and Lieutenant Governor of New Mexico. Failure to complete and return the signed unaltered form will result in disqualification.

## **28. Pay Equity Reporting Requirements (For New Mexico Participation)**

“If the Offeror has ten (10) or more employees OR eight (8) or more employees in the same job classification, Offeror must complete and submit the required reporting form (PE10-249) if they are awarded a contract.

“For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, Offeror must also agree to complete and submit the required form annually within thirty (30) calendar days of the annual bid or proposal submittal anniversary date and, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract.

“Should Offeror not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, offer must agree to provide the required report within ninety (90) calendar days of meeting or exceeding the size requirement.

“Offeror must also agree to levy these reporting requirements on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Offeror must further agree that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, offer will submit the required report, for each such subcontractor, within ninety (90) calendar days of that subcontractor meeting or exceeding the size requirement.”

**OFFEROR MUST SUBMIT AN AFFIRMATIVE STATEMENT OF CONCURRENCE WITH THIS REQUIREMENT.**

**29. Disclosure Regarding Responsibility**

Any prospective Bidder/ Offeror (hereafter Offeror) and/or any of its Principals who seek to enter into a contract greater than twenty thousand dollars (\$20,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agree to disclose whether they, or any principal of their company:

- A. Are presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body.
- B. Have within a three-year period preceding this offer, been convicted of or had civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public ( federal, state or local) contract or subcontract; violation of Federal or state antitrust statutes related to the submission of offers; or commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property.
- C. Are presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with, commission of any of the offenses enumerated in paragraph B of this disclosure.
- D. Have preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds \$3,000.00 of which the liability remains unsatisfied.
  - 1. Taxes are considered delinquent if both of the following criteria apply:
    - a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
    - b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
- E. Have within a three year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.

Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.

The Offeror shall provide immediate written notice to the Procurement Manager if, at any time prior to contract award, the Offeror learns that its disclosure was erroneous when submitting or became erroneous by reason of changed circumstances.

A disclosure that any of the items in this requirement exist will not necessarily result in withholding an award under this solicitation. However, the disclosure will be considered in the determination of the Offeror's responsibility. Failure of the Offeror to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.

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

The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts. If during the performance of the contract, the contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the contractor must provide immediate written notice to the Procurement Manager or Buyer. If it is later determined that the Offeror knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the State Purchasing Agent or Central Purchasing Officer may terminate the involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

### **30. Conflict of Interest; Governmental Conduct Act.**

The Offeror warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Offeror certifies requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer or state employee or former state employee have been followed.

### **Participating States**

In addition to the lead State conducting this solicitation, the following Participating States have requested to be named in this RFP as potential users of the resulting Master Agreement: Hawaii, Montana, North Dakota, Mississippi, Nevada, Utah and Oregon. Other states and entities may potentially sign on after the award process. State-specific terms and conditions that will govern each state's Participating Addendum are included in Attachment B.

## **Historical Usage**

This is a new Master Agreement for the Lead State and WSCA-NASPO. Therefore, annual usage data is not available and no minimum or maximum level of sales volume guaranteed or implied.

## **Term of Master Agreement**

The initial term of the Master Agreement(s) resulting from this RFP will be for a period of two years at the discretion of the Lead State in conjunction with WSCA-NASPO, but in no case shall the Master Agreement and all extensions of the Master Agreement exceed eight years total. If the original period is less than eight years, the Master Agreement(s) may be extended beyond the original contract period for any number of additional years up to eight years but in no case shall the Master Agreement and all extensions of the Master Agreement exceed eight years total. Any extensions of the Master Agreement shall be at the discretion of the Lead State in conjunction with WSCA-NASPO, and by mutual agreement of the parties, and upon review of requirements of Participating States, current market conditions, and Contractor performance.

## **WSCA-NASPO Administrative Fee**

The contractor must pay a WSCA-NASPO administrative fee of one quarter of one percent (.25%) in accordance with the terms and conditions of section 26 of Attachment A.t.

Additionally, some Participating Entities may require that an additional fee as defined in a Participating Entity's Participating Addendum be paid directly to the State on purchases made by Purchasing Entities within that State. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated in a Participating Addendum. The Contractor may adjust the Master Agreement price and/or rates accordingly for purchases made by Purchasing Entities within State. All such agreements may not affect the WSCA-NASPO fee or the costs paid by the procuring agencies outside the jurisdiction of the WSCA-NASPO State requesting the additional fee.

## **WSCA-NASPO Usage Reporting Requirement**

All Offerors will be required to provide summary and detailed usage reports to the contract manager. The requirements are in Section 27 of Attachment A. I

## **WSCA-NASPO eMarket Center**

To be eligible for contract award, the Offeror agrees, by submission of a Proposal, to cooperate with WSCA-NASPO and SciQuest (and any authorized agent or successor entity to SciQuest) with providing unique information and ordering instructions. Refer to Appendix A, Section 36, WSCA-NASPO Master Agreement Terms and Conditions for the prescribed requirements

## **WSCA-NASPO Master Agreement**

WSCA-NASPO Master Agreement(s) resulting from this RFP will constitute the final agreement except for negotiated terms and conditions specific to a Participating Entity's Participating Addendum.

Any Master Agreement resulting from this RFP will include, but not be limited to, WSCA-NASPO Standard Terms & Conditions (Attachment A) as modified in this RFP,

Additional Terms and Conditions specific to a State will be addressed in the Participating Addendum. Please refer to Attachment B for the Lead State Special Terms and Conditions that apply to this solicitation. (.Please refer to Attachment J for other States Special Terms and Conditions – If Applicable).

## **Section 2: Scope of Work**

Offerors must identify in their response how their company meets (or exceeds) all requirements listed in section 2 of this RFP solicitation.

### **Offeror Profile**

Provide the following information specific to your company (no more than five pages):

- a. Your company's full name
  - b. Primary business address
  - c. Describe your company ownership structure
  - d. Employee size (number of employees)
  - e. Website (provide a screen shot with the company URL)
  - f. Sales contact information
  - g. Your client retention rate during the past 3 years
  - h. A brief history of your company and the year it was founded
  - i. Describe your company's growth during the past three years.
1. **OBJECTIVE**

The successful Offeror shall provide an on-line auction system which will meet the requirements of at least one of the three Tiers outlined in this solicitation.

2. **AUCTION SERVICES**

**MINIMUM REQUIREMENTS:**

This section contains the minimum requirements that must be met in order to be considered for the evaluation phase. All of the items described in this section are mandatory and non-negotiable. All Offerors must provide a statement of concurrence that they possess the ability to satisfy these requirements in the proposal submitted for consideration.

**a. Minimum Experience**

Offeror must have been in business for a minimum of five years providing on-line auction services on a state basis, and must have public sector experience.

**b. Licensing Requirements**

Offerors must be in full compliance with all licensing requirements in the Lead State. As a courtesy to those states which have expressed Intent to Participate, specific licensing and certification requirements will be set forth in the Intent to Participate agreements. Further, specific states or other authorized Participating Entities may have additional licensing and/or certification requirements that would be addressed in Participating Addenda.

**c. Multi-Accounts within a Purchasing Entity**

Participating Entities may have different Purchasing Entities utilizing the goods and/or services provided by Offeror(s). Therefore, Offeror(s) must be able to process multiple individual accounts and unique users within a Participating Entity. Individual Participating Entities shall set forth in their Participating Addenda the methodologies that Participating Entity desires to be used for the delivery of payments/fees/etc. from the Contractor for those items auctioned.

**d. Payment Types**

Offeror must possess the capability to accept mailed and electronic payments/P-Cards for Tiers 2 and 3. No additional transaction fees will apply to this Master Agreement. **OTHER METHODS OF REMITTANCE CAN BE CONSIDERED BUT OFFEROR MUST THOROUGHLY EXPLAIN THEIR METHODOLOGY.**

**TECHNICAL REQUIREMENTS**

**Generally:**

- A. This Request for Proposals may be used by different Participating Entities for different levels of services as described below in the three-tiered approach. Tier One would encompass solely the use of the Offeror's website as a marketing, publicizing tool. Tier Two would encompass use of an Offeror's website and accounting operation. Tier Three would be for a full turnkey operation.
- B. Offerors may submit proposals on any of the three tiers or any combination of the three tiers at their discretion. Each offer must be submitted in regard to each tier. That is, if an Offeror wishes to submit a proposal on all three tiers, technical and cost specifications for each tier must be submitted separately in the Offeror's proposal.

## **TIER ONE: USE OF WEBSITE ONLY**

Offerors shall provide a written narrative explaining how Offeror shall meet the requirements stated in the following items:

1. All hardware, software and servers needed to operate the online auction service will be provided by the Contractor. The Contractor must give the Lead State and Participating Entity full access to their assigned online auction account and the Lead State or other Participating Entity must be allowed to load their auction items via a common internet browser. In the alternative, the Offeror must be able to create the listing in a timely fashion (especially for Tier Three, but Participating Entities in other Tiers may wish to leverage this service as well.) The system should be available to the Lead State or other Participating Entity 24 hours a day, 7 days a week. Items the Lead State or other Participating Entity wishes to sell can be loaded at any time that best suits the schedule of the Lead State or other Participating Entity. Offeror must submit a statement of concurrence with this requirement.
2. The Contractor will provide and absorb all cost of a secure hosting facility to operate the online auction system and allow the Lead State or other Participating Entity full access to the account. The Lead State or other Participating Entity will not be required to install any additional computer hardware or software at their location. The only requirements will be that the Lead State or other Participating Entity have an internet connection via a common web browser and a digital camera. The auction service shall not interact with any Lead State or other Participating Entity computer hardware, software or data base systems other than accessing its account through a common web browser. Offeror must submit a statement of concurrence with this requirement.
3. All maintenance and upgrades to the hardware and software that the Contractor provides over the term of the contract shall be made at no cost to the Lead State or other Participating Entity. Offeror must submit a statement of concurrence with this requirement.
4. The Contractor will supply all operating software and applications needed for the auction site to function. Offeror must submit a statement of concurrence with this requirement.
5. All connectivity to the internet shall be accessible through industry standard internet connections, web browsers and email. The system must allow access from Windows based systems. Offeror must submit a statement of concurrence with this requirement.

6. Contractor shall provide all support, including email and telephone support needed to operate the auction site. Live, 24/7 support via online chat, email or toll-free phone. Offeror must submit a statement of concurrence with this requirement.
7. Contractor shall provide all security systems, anti-virus and firewalls capable of preventing the hacking of any auction information from the auction servers, capable of preventing the assimilation or distribution of viruses and other programs and capable of preventing any bidder from learning the identity of any other bidder. Offeror must submit a written narrative explaining how the Offeror shall meet this requirement. The information supplied in this narrative will be scored.
8. Contractor shall provide contingency plans to backup information and recover information. The Contractor shall have a disaster recovery plan that covers internet failure, electricity failure or systems failures.
9. The system should allow the Lead State or other Participating Entity to post their own Terms and Conditions for each asset offered for sale and also provide a quick link to the Lead State or other Participating Entity Terms and Conditions. The systems must also provide a section for posting special instructions such as when payment should be made, etc. Offeror must submit a statement of concurrence with this requirement.
10. The Contractor's system should allow the Lead State or other Participating Entity to charge freight costs if the bidder is unable to pick up the winning bid items. Offeror must submit a statement of concurrence with this requirement.
11. The Contractor's systems must be capable of withdrawing and cancelling an auction without penalty. The Contractor shall describe its system of notifying bidders if an auction has been withdrawn and cancelled.
12. Offerors shall state the relevant experience of the company and person(s) who will be actively engaged in providing services to the Lead State or other Participating Entity. Offerors shall indicate for whom the service was performed, dates of service, and contact information.
  12. a. References – Offeror must provide a minimum of three (3) references for similar services outlined in this RFP including all New Mexico references. References must be submitted on the form in Attachment H. Please note that if the references are not received by the submission deadline, a "0" shall be factored into the Offeror's scoring for that particular reference.
  12. b Management Summary – Offerors must outline their History/Experience performing internet auctions including length of time in business, etc. Offerors must provide copies of registration to operate a business in the State Of New Mexico. Offerors must describe individual staff responsibilities with lines of authority and how



staff shall interface with Lead State or other Participating Entity staff. Offerors must illustrate the hours dedicated to meet the requirements and items described in the scope of services, including resumes and qualifications of Key Personnel assigned to service the Lead State or other Participating Entities.

13. Understanding of the problem and technical approach.

- a. Offerors shall describe their Scope of Services with an explanation of technical approaches and a detailed outline of the proposed program for executing the requirements of the RFP's technical scope and for achieving project objectives, including the range(s) of time between notice being given by the Lead State or a Participating Entity and the posting of the item on Offeror's website.
- b. Offerors should demonstrate an awareness of the difficulties in the completion of this undertaking, and a plan for surmounting them. Special attention should be given to methodological issues that will be encountered in such a project.

14. Treatment of the Issues:

In this section, the Offeror may also comment, if deemed appropriate, on any aspect of the Request for Proposal including suggestions on possible alternative approaches to the coverage, definition, development, and organization of the issues presented in the "Minimum Requirements". This response is at the discretion of the Offeror and will not be scored but used for informational purposes by the committee.

15. Financial Statement:

The Offerors must submit copies of financial statements prepared and compiled by a CPA for the past two (2) years or audited financial statements for the past two (2) years. The financial statements include the balance sheet, income statement, statement of changes in net worth and statement of cash flow.

16. Client Base:

Offerors shall provide current information regarding their established database of bidders and sellers in the Participating Entity's requested area, as well as nationally. Information shall include total number of bidders and auctions, breakdown of bidders with blocks or negative reputations, total number of bidders who have won auctions for the last five (5) years. Additionally, Offerors shall provide all above data broken down by commodity and region as well as sold auction breakdown by final price.

17. Professional Affiliations:

Offerors shall provide information on any and all associations or professional organizations with which they are affiliated.

18. Licensure and Insurance

Offeror must be properly licensed and insured. Offerors shall provide proof of required licensing, as applicable, in Lead State or other Participating Entity, including all applicable licensure and bonding for the proposed services at the time of contracting.

TRAINING:

Offerors shall provide a written narrative explaining how Offeror shall meet the requirements stated in items 20 through 21 below:

19. Explain specific methodology to be used for start-up support to ensure initial agency data is uploaded properly for proper use and management of auctions including but not limited to user access rights and restrictions (including authorization workflows), and buyer and buyer-groups rights and restrictions (if applicable).
20. Explain your online training environment to facilitate training new user through hands-on tutorials. Please include the names and types of courses with brief descriptions, the number of courses provided, and the length of each course.
21. Explain your regular and ad-hoc training, instruction, and documentation to the Lead State or other Participating Entity jurisdictions and to potential buyers on using online auctions services. Please give details about the type of training that will be provided with the service, including technical support and training materials for each type of user (i.e., procuring entity or buyer).

CUSTOMER SUPPORT:

Offerors shall provide a written narrative explaining how Offeror shall meet the requirements stated in items 22 and 23 below:

22. Offerors shall indicate their level of support (days of the week, times of the day) as differentiated from consultation, via online chat, email or toll-free phone.
23. Offerors shall indicate how the frequently asked questions section of Offeror's website is handled, how questions are added,

information/questions updated, etc. Please include a listing of current FAQs from Offeror's website.

#### SECURITY AND FRAUD CONTROL:

Offerors shall provide a written narrative explaining how Offeror shall meet the requirements stated in items 24 through 26 below:

24. Provide verifiable receipts for buyer upon payment (buyer's certificate). Please provide the specifics of Offeror's process for issuing buyer's certificates. Sample documents should be attached to the proposal.
25. Provide company policy and/or system restriction on buyer's use of bidding agents. Provide **COMPLETE** fraud detection/prevention details.
26. Describe security services and support (physical and system) specific to the Auction System proposed for this RFP. Include privacy protection available to buyers and sellers. Physical security pertains to any servers, staff and facilities that support the Offerors' operations.

#### OPERATIONAL RELIABILITY:

Offerors shall provide a written narrative explaining how Offeror shall meet the requirements stated in items 27 through 29 below:

27. Describe any software upgrade capability including frequency of new version releases and whether upgrades would be available to customers, including cost model for the upgrades, etc. Also provide information on EULAs for the proposed software.
28. Provide system uptime percentage, as well as expected downtime maintenance schedule.
29. Provide method of system monitoring to ensure optimal performance.
30. Offer system backup and plan to support auction if system is unavailable. A description should be included with the Proposal.

#### MARKETING:

Offerors shall provide a written narrative explaining how Offeror shall meet the requirements stated in items 31 through 33 below:

31. Provide a description of Offeror's regular marketing services employed to improve revenue.
32. Provide any marketing plan (include commodity breakdowns, advertising tools/outlets, estimated costs, if applicable).
33. Provide samples of past marketing efforts that have proven successful with details on that success (improvements in sales, prices, etc.).

#### REPORTING:

Offerors shall provide a written narrative explaining how Offeror shall meet the requirements stated in item 34 below:

34. Provide samples of on-line reporting for Participating Entities. Provide an affirmative statement that such reports are capable of being customized for use by Participating Entities in accordance with their requirements and needs.
- 

### **TIER TWO: USE OF WEBSITE AND ACCOUNTING**

Offerors shall provide a written narrative explaining how Offeror shall meet the requirements stated in the following items (please note that Offerors must fully respond to all specifications listed under Tier One as well as the following if Offeror wishes to propose on Tier Two):

#### ACCOUNTING

1. The successful Offeror shall provide a complete accounting of items from pick up to final sale or disposition. Please provide samples of reports of such accounting of items. The successful Offeror shall be fully responsible for the collection of monies and reimbursement to the Participating Entity. The successful Offeror shall collect and process all taxes due.
2. The successful Offeror shall keep records of all financial matters pertaining to the sales in accordance with generally accepted accounting principles. The financial records must be made available to representatives of the Lead State or other Participating Entity or any other governmental agency with jurisdiction to audit. The records must

be maintained for a period of five (5) years after the term of the Master Agreement. A statement of concurrence is required for this item.

## REVENUE COLLECTION AND PAYMENTS

Offerors shall provide a written narrative explaining how Offeror shall meet the requirements stated in items 3 and 4 below:

3. Provide information regarding revenue collection through check, money order and credit card payments. It is **PREFERABLE that payment can be processed by each of these means; HOWEVER, OTHER METHODS OF PAYMENT WILL BE CONSIDERED IN EVALUATIONS.** Offerors shall discuss fees for each method of payment. Proposals shall indicate the process for each type of transaction, including any transactional threshold limitations, and fraud/credit card charge-back liability.
4. Payment remittance to the Lead State or other Participating Entity. Detail the process of transmitting payments to the Lead State or other Participating Entity.

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## TIER THREE: COMPLETE TURNKEY OPERATION

Offerors shall provide a written narrative explaining how Offeror shall meet the requirements stated in the following items (please note that Offerors must fully respond to all specifications listed under Tier One and Tier Two as well as the following if Offeror wishes to propose on Tier Three):

### CREATING LISTING

Offeror shall post photos and details of items on the website. Offeror shall perform all work in auctioning, transporting and administration of the property. Further, Offeror shall collect the funds and reimburse Participating Entity for the sale upon Offeror's receipt of funds for the sale. Participating Entity further desires Offeror to supply a report regarding all property sold by Participating Entity at the same time as funds are transferred to the Participating Entity. Offeror must submit samples of such reports. Offeror shall describe in detail how Offeror will perform all the tasks listed in this requirement. **Transporting and Administration may be defined as follows: transporting includes receiving the property from the office at which it is located and delivering it to the end purchaser in whatever form is required by the property (this could mean mailing, personal delivery, etc.); administration includes**

taking care of the property so that it is sold in the same condition in which it was received by the Contractor as well as ensuring that any licenses or other required documentation is performed in a timely manner. Further, Administration would include any warehousing and storage of property between the time it is received by the Contractor and the time it is delivered and accepted by the end purchaser.

#### CONSULTING SERVICES:

The successful Offeror's staff must be available for consultation (such as providing advice on how better to use Offeror's services for better results, increased sales, etc.) as differentiated from maintenance and support (see Tier One, Customer Support) with Lead State or other Participating Entity staff on an as-needed basis between 8:00 AM and 5:00 PM in the prevailing time zone of the Participating Entity, Monday through Friday. Offeror must submit a detailed narrative regarding how Offeror will perform this requirement.

#### SITE VISIT:

The Lead State or other Participating Entity, upon request, can coordinate a site visit to include IT, Administration, Accounting, Warehouse and Storage. Offeror must submit a statement of concurrence that Offeror is able and willing to perform this function.

### Section 3: Solicitation Requirements and Information

#### Proposal Content and Format Requirements

**OFFERORS MUST SUBMIT ONE ORIGINAL BINDER ONE (1) AND ONE (1) ORIGINAL BINDER 2. FURTHER, OFFERORS MUST SUBMIT FIVE (5) COPIES OF BINDER 1 AND FIVE (5) COPIES OF BINDER 2. FURTHER, OFFERORS MUST SUBMIT ONE (1) ELECTRONIC COPY OF BINDER 1's CONTENTS AND ONE (1) ELECTRONIC COPY OF BINDER 2's CONTENTS. ELECTRONIC COPIES MAY BE ON DISC OR FLASH DRIVE.**

Proposals must be detailed and concise. Each Proposal must be labeled and organized in a manner that is congruent with the requirements and terminology used in this RFP and must include a point by point response, structured in form and reference to the RFP, addressing all requirements and the Scope of Work elements. All narrative responses must be kept to ten pages or less.

Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material should be minimal. The Proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated.

## 1. Technical and Cost Proposals

### Technical Proposal (Binder 1):

- a) Signed Letter of Transmittal
- b) Table of Contents
- c) Proposal Summary (Optional)
- d) Response to Specifications **(except cost information which shall be included in Cost Proposal/Binder 2 only)**
- e) Response to Contract Terms and Conditions
- f) Offeror's Additional Terms and Conditions
- g) Campaign Contribution Form
- h) Signed Employee Health Coverage Form
- i) Signed Affidavit pursuant to Governmental Conduct Act (If applies)
- j) Resident Vendor or Resident Veteran Certificate (If applies)
- k) Resident Veterans Preference Certification (If applies)
- l) Conflict of Interest Affidavit (If applies)
- m) Other Supporting Material (Optional)

### Cost Proposal (Binder 2):

Completed Cost Proposal Form, Attachment C

Within each section of the Proposal, Offerors should address the items in the order in which they appear in this RFP. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of the Proposal. **All discussion of proposed costs, rates or expenses must occur only in Binder #2 on the cost response form.**

Any Proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

The Proposal summary may be included by potential Offerors to provide the Sourcing Team with an overview of the Proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal.

## 2. Letter of Transmittal

Offeror's Proposal must be accompanied by the Letter of Transmittal Form located in ATTACHMENT G which must be completed and signed by an individual person authorized to obligate the company. The letter of transmittal **MUST** include all of the following.

1. Identify the submitting business entity.

2. Identify the name, title, telephone, and e-mail address of the person authorized by the Offeror organization to contractually obligate the business entity providing the Offer.
3. Identify the name, title, telephone, and e-mail address of the person authorized to negotiate the contract on behalf of the organization (if different than (2) above).
4. Identify the names, titles, telephone, and e-mail addresses of persons to be contacted for clarification/questions regarding proposal content.
5. Identify sub-contractors (if any) anticipated to be utilized in the performance of any resultant contract award.
6. Describe the relationship with any other entity which will be used in the performance of this awarded contract.
7. Identify the following with a check mark and signature where required:
  - a. **Explicitly** indicate acceptance of the Conditions Governing the Procurement stated;
  - b. **Explicitly** indicate acceptance of the Evaluation Factors and Weights of this RFP; and
  - c. Acknowledge receipt of any and all amendments to this RFP.
8. Be signed by the person identified in number 2 above.



## Section 4: Evaluation and the Basis for Award

### Evaluation Process

The following table and paragraphs summarize the evaluation factors and the maximum point values assigned to each. Failure to comply with a mandatory specification will result in disqualification of an Offeror's Proposal.

The award of the On-Line Auction Contract shall be made to the responsible Offeror or Offerors whose proposal(s) is/are most advantageous to the Agency taking into consideration the following weighted evaluation factors. Please note, however, that a serious deficiency in any one criterion may be grounds for rejection and that the listing of cost as an evaluation factor does not require the Agency to select the Offeror who submits the lowest cost proposal. The Lead State shall have the right to obtain, from any and all sources, information concerning an Offeror, which is deemed pertinent to the RFP and to consider such information in evaluating an Offeror's proposal. The following is a summary of items where Offerors can be awarded evaluation points. These weighted factors shall be used in the evaluation of the individual Offeror responses.

In the initial phase of the evaluation process, the proposal Lead State will review all Proposals timely received. Non-responsive proposals not conforming to RFP requirements will be eliminated from further consideration.

### **Phase 1: Mandatory Specifications**

Proposals will be evaluated to ensure they meet the Mandatory Specifications of this RFP which require a Pass/Fail determination. Any proposal which fails to meet any Mandatory Specification will be considered non-responsive and eliminated from all further evaluation.

<b>Mandatory Specifications</b>	<b>Pass/Fail</b>
1) Employee Pay Equity Reporting	Pass/Fail
2) Campaign Contribution Disclosure Form	Pass/Fail
3) New Mexico Employee Health Coverage Form	Pass/Fail
4) Letter of Transmittal	Pass/Fail
5) Mandatory Technical Specifications	
Offeror has been in business for a minimum of five (5) years providing on-line auction services on a state basis, and must have specific public sector experience	Pass/Fail
Offeror is in full compliance with all licensing requirements for the Lead State	Pass/Fail
Offeror has affirmatively stated that Offeror is capable of processing multiple accounts within a Participating Entity (requirement for Tiers Two and Three Only)	Pass/Fail
Offeror has affirmatively stated that Offeror	

Can accept mailed and electronic payments (including P-Cards) (requirement for Tiers Two and Three only)	Pass/Fail
Submission of Financial Statements	Pass/Fail

**Phase 2: Technical Specifications Evaluation**

Proposals will be evaluated against the following weighted evaluation criteria:

- a. Cost **500** Total Points (must be at least 30% of total points)
- b. Ability to Meet Scope of Work/Technical Requirements  
 Tier One = **400** Total Points  
 Tier Two = **600** Total Points  
 Tier Three = **900** Total Points
- c. Demonstrated Experience and Capabilities **150** Total Points
- d. Expertise of Key Personnel **100** Total Points
- e. References **50** Total Points
- f. Lead State Preferences (for Resident Business Preference: 50; for Resident Veteran Preferences in accordance with statutory requirements: 70, 80, or 100 points in addition to the 1000 base points for all other evaluation factors; PLEASE NOTE: no preference will be awarded without inclusion of required preference documentation)

**Phase 3: Cost Proposal Evaluation:**

**For ALL TIERS:**

<u>Evaluation Criteria</u>	<u>Points</u>
Cost	500 Points

Evaluation of Cost Proposals:

Offerors shall list their Commission Percentage as well as all other associated costs they intend to place upon the Lead State or other Participating Entity in the Offeror’s Cost Proposal (see Attachment C). These costs should then be used to come to a single complete cost for each of the following five scenarios (NOTE: the Sourcing Team reserves the right to correct any errors it finds in the application of the costs from the Cost Proposal Sheets to the particular scenarios):

**TIER ONE SCENARIOS**

Scenario One

Agency has a Crown Victoria police cruiser that sells for three thousand dollars. Participating Entity desires to post photos and details of the automobile on the website. Participating Entity will perform all work in auctioning, transporting and administration of the property, including handling of titles and funds.

#### Scenario Two

Participating Entity has a dump truck that sells for twelve thousand dollars. Participating Entity desires to post photos and details of the truck on the website. Participating Entity will perform all work in auctioning, transporting and administration of the property, including handling of titles and funds.

#### Scenario Three

Participating Entity has a lot consisting of three desks and five filing cabinets that sells for one hundred dollars. Participating Entity desires to post photos and details of the furniture on the website. Participating Entity will perform all work in auctioning, transporting and administration of the property.

#### Scenario Four

Participating Entity has a pallet of computers that sells for seven hundred dollars. Participating Entity desires to post photos and details of the computer on the website. Participating Entity will perform all work in auctioning, transporting and administration of the property.

#### Scenario Five

Participating Entity has a Bell helicopter that sells for one hundred thousand dollars. Participating Entity desires to post photos and details of the specialty equipment on the website. Participating Entity will perform all work in auctioning, transporting and administration of the property.

### **TIER TWO SCENARIOS**

#### Scenario One

Participating Entity has a Crown Victoria police cruiser that sells for three thousand dollars. Participating Entity desires to post photos and details of the automobile on the website. Participating Entity will perform all work in auctioning, transporting and administration of the property, including titles. However, Participating Entity desires vendor to collect the funds and reimburse Participating Entity for the sale upon vendor's receipt of funds for the sale. Participating Entity further desires vendor to supply a report regarding all property sold by Participating Entity at the same time as funds are transferred to the Participating Entity.

#### Scenario Two

Participating Entity has a dump truck that sells for twelve thousand dollars. Participating Entity desires to post photos and details of the truck on the website. Participating Entity will perform all work in auctioning, transporting and administration of the property, including handling of titles. However, Participating Entity desires vendor to collect the funds and reimburse Participating Entity for the sale upon vendor's receipt of funds for the sale. Participating Entity further desires vendor to supply a report regarding all property sold by Participating Entity at the same time as funds are transferred to the Participating Entity.

#### Scenario Three

Participating Entity has a lot consisting of three desks and five filing cabinets that sells for one hundred dollars. Participating Entity desires to post photos and details of the furniture on the website. Participating Entity will perform all work in auctioning, transporting and administration of the property. However, Participating Entity desires vendor to collect the funds and reimburse Participating Entity for the sale upon vendor's receipt of funds for the sale. Participating Entity further desires vendor to supply a report regarding all property sold by Participating Entity at the same time as funds are transferred to the Participating Entity.

#### Scenario Four

Participating Entity has a pallet of computers that sells for seven hundred dollars. Participating Entity desires to post photos and details of the computer on the website. Participating Entity will perform all work in auctioning, transporting and administration of the property. However, Participating Entity desires vendor to collect the funds and reimburse Participating Entity for the sale upon vendor's receipt of funds for the sale. Participating Entity further desires vendor to supply a report regarding all property sold by Participating Entity at the same time as funds are transferred to the Participating Entity.

#### Scenario Five

Participating Entity has a Bell helicopter that sells for one hundred thousand dollars. Participating Entity desires to post photos and details of the specialty equipment on the website. Participating Entity will perform all work in auctioning, transporting and administration of the property, including handling of titles. However, Participating Entity desires vendor to collect the funds and reimburse Participating Entity for the sale upon vendor's receipt of funds for the sale. Participating Entity further desires vendor to supply a report regarding all property sold by Participating Entity at the same time as funds are transferred to the Participating Entity.

### **TIER THREE SCENARIOS**

#### Scenario One

Participating Entity has a Crown Victoria police cruiser that sells for three thousand dollars. Participating Entity desires vendor to post photos and details of the automobile on the website. Participating Entity desires vendor to perform all work in auctioning, transporting (TRANSPORTING WOULD INCLUDE A TOWING FEE FOR FIFTY MILES) and administration of the property. Further, Participating Entity desires vendor to collect the funds and reimburse Participating Entity for the sale upon vendor's receipt of funds for the sale. Participating Entity further desires vendor to supply a report regarding all property sold by Participating Entity at the same time as funds are transferred to the Participating Entity.

#### Scenario Two

Participating Entity has a dump truck that sells for twelve thousand dollars. Participating Entity desires vendor to post photos and details of the truck on the website. Participating Entity desires vendor to perform all work in auctioning, transporting **(TRANSPORTING WOULD INCLUDE A TOWING FEE FOR ONE HUNDRED MILES)** and administration of the property. Further, Participating Entity desires vendor to collect the funds and reimburse Participating Entity for the sale upon vendor's receipt of funds for the sale. Participating Entity further desires vendor to supply a report regarding all property sold by Participating Entity at the same time as funds are transferred to the Participating Entity.

#### Scenario Three

Participating Entity has a lot consisting of three desks and five filing cabinets that sells for one hundred dollars. Participating Entity desires vendor to post photos and details of the furniture on the website. Participating Entity desires vendor to perform all work in auctioning, transporting and administration of the property. Further, Participating Entity desires vendor to collect the funds and reimburse Participating Entity for the sale upon vendor's receipt of funds for the sale. Participating Entity further desires vendor to supply a report regarding all property sold by Participating Entity at the same time as funds are transferred to the Participating Entity.

#### Scenario Four

Participating Entity has a pallet of computers that sells for seven hundred dollars. Participating Entity desires vendor to post photos and details of the computers on the website. Participating Entity desires vendor to perform all work in auctioning, transporting and administration of the property. Further, Participating Entity desires vendor to collect the funds and reimburse Participating Entity for the sale upon vendor's receipt of funds for the sale. Participating Entity further desires vendor to supply a report regarding all property sold by Participating Entity at the same time as funds are transferred to the Participating Entity.

#### Scenario Five

Participating Entity has a Bell helicopter that sells for one hundred thousand dollars. Participating Entity desires vendor to post photos and details of the specialty equipment on the website. Participating Entity desires vendor to perform all work in auctioning, transporting **(TRANSPORTING WOULD INCLUDE A TOWING FEE FOR FIFTY MILES)** and administration of the property. Further, Participating Entity desires vendor to collect the funds and reimburse Participating Entity for the sale upon vendor's receipt of funds for the sale. Participating Entity further desires vendor to supply a report regarding all property sold by Participating Entity at the same time as funds are transferred to the Participating Entity.

The costs arrived at in each of the five scenarios will be added together and averaged for each Offeror. The average cost will then be used in the following formula to award cost points:

$$\frac{\text{Lowest Responsive Costs (Averaged)}}{\text{This Offeror's Costs (Averaged)}} \times 300 \text{ Points}$$

All other Offeror Costs to State listed on the Cost Response Form will be added together and this sum shall be used in the following formula:

$$\frac{\text{Lowest Responsive Costs}}{\text{This Offeror's Costs}} \times 100 \text{ Points}$$

All other Offeror Costs to Buyers listed on the Cost Response Form will be added together and this sum shall be used in the following formula:

$$\frac{\text{Lowest Responsive Costs}}{\text{This Offeror's Costs}} \times 100 \text{ Points}$$

The three will then be added to give the total number of points awarded for the Offeror's Cost Proposal.



## **Attachment A**

# **WCSA-NASPO Master Agreement Terms and Conditions**

### **1. Master Agreement Order of Precedence**

a. Any Order placed under this Master Agreement shall consist of the following documents:

- (1) A Participating Entity's Participating Addendum ("PA");
- (2) WCSA-NASPO Master Agreement Terms & Conditions;
- (3) A Purchase Order issued against the Master Agreement;
- (4) The Statement of Work;
- (5) The Solicitation; and
- (6) Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.

b. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.

### **2. Definitions**

**Acceptance** means a written notice from a Purchasing Entity to Contractor advising Contractor that the Product has passed its Acceptance Testing. Acceptance of a Product for which acceptance testing is not required shall occur following the completion of delivery, installation, if required, and a reasonable time for inspection of the Product, unless the Purchasing Entity provides a written notice of rejection to Contractor.

**Acceptance Testing** means the process for ascertaining that the Product meets the

standards set forth in the section titled Standard of Performance and Acceptance, prior to Acceptance by the Purchasing Entity.

**Agreement Administrator** means the individual appointed by the State Purchasing Agent to administer the Master Agreement.

**Contractor** means the person or entity delivering Products or performing services under the terms and conditions set forth in this Master Agreement.

**Embedded Software** means one or more software applications which permanently reside on a computing device.

**Intellectual Property** means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.

**Lead State** means the State centrally administering any resulting Master Agreement(s).

**Master Agreement** means the underlying agreement executed by and between the Lead State, acting on behalf of WSCA-NASPO, and the Contractor, as now or hereafter amended.

**Order** or **Purchase Order** means any purchase order, sales order, contract or other document used by a Purchasing Entity to order the Products.

**Participating Addendum** means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any other additional Participating Entity specific language or other requirements, e.g. ordering procedures specific to the Participating Entity, other terms and conditions.

**Participating Entity** means a state, or other legal entity, properly authorized to enter into a Participating Addendum.

**Participating State** means a state, the District of Columbia, or one of the territories of the United States that is listed in the Request for Proposal as intending to participate. A Participating State is not required to participate through execution of a Participating Addendum. Upon execution of the Participating Addendum, a Participating State becomes a Participating Entity.

**Product** means any equipment, software (including embedded software), documentation, service or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Products, supplies and services, and products and services are used interchangeably in these terms and conditions.

**Products and Services Schedule** refers to the complete list of products and services offered under this Agreement and the price for each. Product and service descriptions



may be amended with the prior approval of the Agreement Administrator. New products and services shall not be added to the Products and Services Schedule.

**Purchasing Entity** means a state, city, county, district, other political subdivision of a State, and a nonprofit organization under the laws of some states if authorized by a Participating Addendum, who issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

**State Purchasing Agent** means the purchasing agent for the State of New Mexico or a designated representative. May be used interchangeably with "State Purchasing Agent" or "SPA".

**WSCA-NASPO** is the WSCA-NASPO Cooperative Purchasing Program, facilitated by the WSCA-NASPO Cooperative Purchasing Organization LLC, a 501(c)(3) limited liability company that is a subsidiary organization the National Association of State Procurement Officials (NASPO), the sole member of WSCA-NASPO. The WSCA-NASPO Cooperative Purchasing Organization facilitates administration of the cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states and the District of Columbia. The WSCA-NASPO Cooperative Development Team is identified in the Master Agreement as the recipient of reports and may be performing contract administration functions as assigned by the Lead State.

### **3. Term of the Master Agreement**

The initial term of this Master Agreement is for two (2) years from the date of execution by the Lead State signatory. This Master Agreement may be extended beyond the original contract period for six (6) additional years at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance.

### **4. Amendments**

The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the Lead State.

### **5. Assignment/Subcontracts**

a. Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.

b. The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties to the WSCA-NASPO Cooperative Purchasing Organization LLC.

## **6. Price and Rate Guarantee Period**

All prices and rates must be guaranteed for the initial term of the Master Agreement. Following the initial Master Agreement period, any request for price or rate adjustment must be for an equal guarantee period, and must be made at least 90 days prior to the effective date. Requests for price or rate adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement shall not be effective unless approved by the Lead State. No retroactive adjustments to prices or rates will be allowed.

## **7. Cancellation**

Unless otherwise stated, this Master Agreement may be canceled by either party upon 60 days written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon 30 days written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision shall not affect the rights and obligations attending orders outstanding at the time of cancellation, including any right of and Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, and rights attending any warranty or default in performance in association with any Order. Cancellation of the Master Agreement due to Contractor default may be immediate.

## **8. Confidentiality, Non-Disclosure, and Injunctive Relief**

a. Confidentiality. Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity's or Purchasing Entity's clients. Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including, but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information. Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity or; (6) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.

b. Non-Disclosure. Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential

Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement. Contractor shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person. Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information. Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of the performance of this Master Agreement.

c. Injunctive Relief. Contractor acknowledges that breach of this section, including disclosure of any Confidential Information, will cause irreparable injury to Purchasing Entity that is inadequately compensable in damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.

d. Purchasing Entity Law. These provisions shall be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.

## **9. Right to Publish**

Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the release of any information that pertains to the potential work or activities covered by the Master Agreement. The Contractor shall not make any representations of WSCA-NASPO's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent. Failure to adhere to this requirement may result in termination of the Master Agreement for cause.

## **10. Defaults and Remedies**

a. The occurrence of any of the following events shall be an event of default under this Master Agreement:

- (1) Nonperformance of contractual requirements; or
- (2) A material breach of any term or condition of this Master Agreement; or
- (3) Any certification, representation or warranty by Contractor in response to the solicitation or in this Master Agreement that proves to be untrue or materially misleading; or
- (4) Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or
- (5) Any default specified in another section of this Master Agreement.

b. Upon the occurrence of an event of default, Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of 15 calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.

c. If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and Lead State shall have the right to exercise any or all of the following remedies:

- (1) Exercise any remedy provided by law; and
- (2) Terminate this Master Agreement and any related Contracts or portions thereof; and
- (3) Impose liquidated damages as provided in this Master Agreement; and
- (4) Suspend Contractor from being able to respond to future bid solicitations; and
- (5) Suspend Contractor's performance; and
- (6) Withhold payment until the default is remedied.

d. Unless other specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in a Purchase Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions shall be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

## **11. Shipping and Delivery.**

a. The prices are the delivered price to any Purchasing Entity. All deliveries shall be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain the Contractor's until final inspection and acceptance when responsibility shall pass to the Buyer except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount, if any, will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered shall be shipped without charge.

b. All deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. Inside Delivery refers to a delivery to other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Any damage to the building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Offeror. If damage does occur, it is the responsibility of the Offeror to immediately notify the Purchasing Entity placing the Order.

c. All products must be delivered in the manufacturer's standard package. Costs shall include all packing and/or crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton shall be marked with the commodity, brand, quantity, item code number and the Ordering Entity's Purchase Order number.

## **12. Changes in Contractor Representation**

The Contractor must notify the Lead State of changes in the Contractor's key administrative personnel, in writing within 10 calendar days of the change. The Lead State reserves the right to approve changes in key personnel, as identified in the Contractor's proposal. The Contractor agrees to propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

## **13. Force Majeure**

Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The Lead State may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of the Master Agreement.

## **14. Indemnification**

a. The Contractor shall defend, indemnify and hold harmless WSCA-NASPO, the Lead State, Participating Entities, and Purchasing Entities, along with their officers, agents, and employees as well as any person or entity for which they may be liable, from and against claims, damages or causes of action including reasonable attorneys' fees and

related costs for any death, injury, or damage to property arising from act(s), error(s), or omission(s) of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to the performance under the Master Agreement.

b. Indemnification – Intellectual Property. The Contractor shall defend, indemnify and hold harmless WSCA-NASPO, the Lead State, Participating Entities, Purchasing Entities, along with their officers, agents, and employees as well as any person or entity for which they may be liable ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use, infringes Intellectual Property rights ("Intellectual Property Claim").

(1) The Contractor's obligations under this section shall not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:

(a) provided by the Contractor or the Contractor's subsidiaries or affiliates;

(b) specified by the Contractor to work with the Product; or

(c) reasonably required, in order to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or

(d) It would be reasonably expected to use the Product in combination with such product, system or method.

(2) The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of it. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible. The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of it and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim. Unless otherwise agreed in writing, this section is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

## **15. Independent Contractor**

The Contractor shall be an independent contractor. Contractor shall have no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and agrees not to hold itself out as agent except as expressly set forth herein or as expressly agreed in any Participating Addendum.

## **16. Individual Customers**

Except to the extent modified by a Participating Addendum, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement, including but not limited to, any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.

## **17. Insurance**

a. Unless otherwise agreed in a Participating Addendum, Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of Best's Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.

b. Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below, with no deductible for each of the following categories:

(1) Commercial General Liability covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal industry (including death), advertising liability, and property damage, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;

(2) Consignment Coverage at an amount commensurate with the value of the Participating Entity's property in the care, custody or control of the Contractor. Such coverage will be required only for Tier 2 and Tier 3 activity.

(3) Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.

c. Contractor shall pay premiums on all insurance policies. Such policies shall also

reference this Master Agreement and shall have a condition that they not be revoked by the insurer until thirty (30) calendar days after notice of intended revocation thereof shall have been given to Purchasing Entity and Participating Entity by the Contractor.

d. Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) names the Participating States identified in the Request for Proposal as additional insureds, (2) provides that no material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy shall have effect unless the named Participating State has been given at least thirty (30) days prior written notice, and (3) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of any Participating State as secondary and noncontributory. Unless otherwise agreed in any Participating Addendum, the Participating Entity's rights and Contractor's obligations are the same as those specified in the first sentence of this subsection. Before performance of any Purchase Order issued after execution of a Participating Addendum authorizing it, the Contractor shall provide to a Purchasing Entity or Participating Entity who requests it the same information described in this subsection.

e. Contractor shall furnish to the Lead State, Participating Entity, and, on request, the Purchasing Entity copies of certificates of all required insurance within thirty (30) calendar days of the execution of this Master Agreement, the execution of a Participating Addendum, or the Purchase Order's effective date and prior to performing any work. The insurance certificate shall provide the following information: the name and address of the insured; name, address, telephone number and signature of the authorized agent; name of the insurance company (authorized to operate in all states); a description of coverage in detailed standard terminology (including policy period, policy number, limits of liability, exclusions and endorsements); and an acknowledgment of the requirement for notice of cancellation. Copies of renewal certificates of all required insurance shall be furnished within thirty (30) days after any renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this section. Failure to provide evidence of coverage may, at sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.

f. Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

## **18. Laws and Regulations**

Any and all Products offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

## **19. License of Pre-Existing Intellectual Property**

Contractor grants to the Purchasing Entity a nonexclusive, perpetual, royalty-free, irrevocable, unlimited license to publish, translate, reproduce, modify, deliver, perform, display, and dispose of the Intellectual Property, and its derivatives, used or delivered



under this Master Agreement, but not created under it (“Pre-existing Intellectual Property”). The license shall be subject to any third party rights in the Pre-existing Intellectual Property. Contractor shall obtain, at its own expense, on behalf of the Purchasing Entity, written consent of the owner for the licensed Pre-existing Intellectual Property.

## **20. No Waiver of Sovereign Immunity**

In no event shall this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of a Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

This section applies to a claim brought against the Participating State only to the extent Congress has appropriately abrogated the Participating State’s sovereign immunity and is not consent by the Participating State to be sued in federal court. This section is also not a waiver by the Participating State of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

## **21. Ordering**

a. Master Agreement order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

b. The resulting Master Agreements permit Purchasing Entities to define project-specific requirements and informally compete the requirement among companies having a Master Agreement on an “as needed” basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to Purchasing Entity rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Agency may select the quote that it considers most advantageous, cost and other factors considered.

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## **22. Participants**

a. Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed. The WSCA-NASPO Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating

Addendum), except to the extent altered, modified, supplemented or amended by a Participating Addendum. By way of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g. purchase order or contract) used by the Purchasing Entity to place the Order.

b. Use of specific WSCA-NASPO cooperative Master Agreements by state agencies, political subdivisions and other Participating Entities (including cooperatives) authorized by individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.

c. Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. Financial obligations of Participating States are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating States incur no financial obligations on behalf of political subdivisions.

d. WSCA-NASPO Cooperative Purchasing Organization LLC is not a party to the Master Agreement. It is a nonprofit cooperative purchasing organization assisting states in administering the WSCA/NASPO cooperative purchasing program for state government departments, institutions, agencies and political subdivisions (e.g., colleges, school districts, counties, cities, etc.) for all 50 states, the District of Columbia and the territories of the United States.

e. State Participating Addenda or other Participating Addenda shall not be construed to amend the terms of this Master Agreement between the Lead State and Contractor.

f. Participating Entities who are not states may under some circumstances sign their own Participating Addendum, subject to the approval of participation by the Chief Procurement Official of the state where the Participating Entity is located.

## **23. Payment**

Payment for completion of a contract order is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance. Payments will be remitted by mail. Payments may be made via a State or political subdivision

“Purchasing Card” with no additional charge.

#### **24. Public Information.**

This Master Agreement and all related documents are subject to disclosure pursuant to the Purchasing Entity’s public information laws.

#### **25. Records Administration and Audit.**

a. The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and orders placed by Purchasing Entities under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of five (5) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Agreement, whichever is later, to assure compliance with the terms hereof or to evaluate performance hereunder.

b. Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or orders or underpayment of fees found as a result of the examination of the Contractor’s records.

c. The rights and obligations herein right exist in addition to any quality assurance obligation in the Master Agreement requiring the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

#### **26. Administrative Fees**

a. The Contractor shall pay to the WSCA-NASPO Cooperative Purchasing Organization, or its assignee, a WSCA-NASPO Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than 60 days following the end of each calendar quarter. The WSCA-NASPO Administrative Fee shall be submitted quarterly and is based on sales of products and services (less any charges for taxes or shipping) and other revenues (including commissions charged). The WSCA-NASPO Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with proposal.

b. Additionally, some states may require an additional fee be paid directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated into the Participating Addendum that is made a part of the Master Agreement. The

Contractor may adjust the Master Agreement pricing accordingly for purchases made by Purchasing Entities within the jurisdiction of the state. All such agreements shall not affect the WSCA-NASPO Administrative Fee or the prices paid by the Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

## **27. WSCA-NASPO Summary and Detailed Usage Reports**

In addition to other reports that may be required by this solicitation, the Contractor shall provide the following WSCA-NASPO reports.

a. Summary Sales Data. The Contractor shall submit quarterly sales reports directly to WSCA-NASPO using the WSCA-NASPO Quarterly Sales/Administrative Fee Reporting Tool found at <http://www.naspo.org/WNCPO/Calculator.aspx>. Any/all sales made under the contract shall be reported as cumulative totals by state. Even if Contractor experiences zero sales during a calendar quarter, a report is still required. Reports shall be due no later than 30 day following the end of the calendar quarter (as specified in the reporting tool). "Sales" includes all revenues (including commissions charged).

b. Detailed Sales Data. Contractor shall also report detailed sales data by: (1) state; (2) entity/customer type, e.g. local government, higher education, K12, non-profit; (3) Purchasing Entity name; (4) Purchasing Entity bill-to and ship-to locations; (4) Purchasing Entity and Contractor Purchase Order identifier/number(s); (5) Purchase Order Type (e.g. sales order, credit, return, upgrade, determined by industry practices); (6) Purchase Order date; (7) Ship Date; (8) and line item description, including product number if used. The report shall be submitted in any form required by the solicitation. Reports are due on a quarterly basis and must be received by the Lead State and WSCA-NASPO Cooperative Development Team no later than thirty (30) days after the end of the reporting period. Reports shall be delivered to the Lead State and to the WSCA-NASPO Cooperative Development Team electronically through a designated portal, email, CD-ROM, flash drive or other method as determined by the Lead State. Detailed sales data reports shall include sales information for all sales under Participating Addenda executed under this Master Agreement. The format for the detailed sales data report is in shown in Section 27 of Attachment A.

c. Reportable sales for the summary sales data report and detailed sales data report includes sales to employees for personal use where authorized by the solicitation and the Participating Addendum. Report data for employees should be limited to ONLY the state and entity they are participating under the authority of (state and agency, city, county, school district, etc.) and the amount of sales. No personal identification numbers, e.g. names, addresses, **social security numbers or any other numerical identifier**, may be submitted with any report.

d. Timely submission of these reports is a material requirement of the Master Agreement. The recipient of the reports shall have exclusive ownership of the media containing the reports. The Lead State and WSCA-NASPO shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.

## **28. Standard of Performance, Inspection and Acceptance.**

Any standard of performance under this Master Agreement applies to all Products purchased under this Master Agreement, including any additional, replacement, or substitute Product(s) and any Product(s) which are modified by or with the written approval of Contractor after Acceptance by the Purchasing Entity. The Acceptance Testing period shall be thirty (30) calendar days or other time period identified in the solicitation or the Participating Addendum, starting from the day after the Product is delivered or, if installed, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing. If the Product does not meet the standard of performance during the initial period of Acceptance Testing, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met. Upon rejection, the Contractor will have fifteen (15) calendar days to cure the standard of performance issue(s). If after the cure period, the Product still has not met the standard of performance, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor. Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section. No Product shall be accepted and no charges shall be paid until the standard of performance is met. The warranty period will begin upon Acceptance.

If Products under this Master Agreement involve primarily the purchase of services and a standard of performance within the meaning of the previous paragraph is not prescribed, the following terms shall apply.

- A. "Services," as used in this subsection, include services performed, workmanship, and material furnished or utilized in the performance of services.
- B. The Contractor shall provide and maintain an inspection system acceptable to the State Purchasing Agent or other party to this Agreement covering the services under this Master Agreement. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the State Purchasing Agent or other party to this Agreement during the term of performance of this Agreement and for as long thereafter as the Agreement requires.
- C. The State Purchasing Agent or other Purchasing Entity has the right to inspect and test all services contemplated under this Agreement to the extent practicable at all times and places during the term of the Agreement. The State Purchasing Agent or other party to this Agreement shall perform inspections and tests in a manner that will not unduly delay or interfere with Contractor's performance.

- D. If the State Purchasing Agent or other Purchasing Entity performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.
- E. If any part of the services do not conform with the requirements of this Agreement, the State Purchasing Agent or other Purchasing Entity may require the Contractor to re-perform the services in conformity with the requirements of this Agreement at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the State Purchasing Agent or other Purchasing Entity may:
  - (1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements of this Agreement; and
  - (2) reduce the contract price, fee, or commission payable to reflect the reduced value of the services performed.
- F. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the State Purchasing Agent or Purchasing Entity may:
  - (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the State Purchasing Agent or other party to this Agreement that is directly related to the performance of such service; or
  - (2) terminate the contract for default.

THE PROVISIONS OF THIS ARTICLE ARE NOT EXCLUSIVE AND DO NOT WAIVE THE STATE PURCHASING AGENT'S OR OTHER PURCHASING ENTITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

## **29. Warranty**

The Contractor warrants for a period of one year from the date of Acceptance that: (a) the Product performs according to all specific claims that the Contractor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the Purchasing Entity has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects. Upon breach of the warranty, the Contractor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of

its essential purpose, the Contractor will refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

### **30. System Failure or Damage**

In the event of system failure or damage caused by the Contractor or its Product, the Contractor agrees to use its best efforts to restore or assist in restoring the system to operational capacity.

### **31. Title of Product**

Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Product free and clear of all liens, encumbrances, or other security interests. Transfer of title to the Product shall include an irrevocable and perpetual license to use any Embedded Software in the Product. If Purchasing Entity subsequently transfers title of the Product to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license shall be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.

### **32. Waiver of Breach**

Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies shall not operate as a waiver under this Master Agreement or Participating Addendum. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order shall not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, Participating Addendum, or Purchase Order.

### **33. Assignment of Antitrust Rights**

Contractor irrevocably assigns to a Participating Entity any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided to the Contractor for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at a Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

### **34. Debarment**

The Contractor certifies that neither it nor its principals are presently debarred,

suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

### **35. Governing Law and Venue**

a. The procurement, evaluation, and award of the Master Agreement shall be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. The construction and effect of the Master Agreement after award shall be governed by the law of the state serving as Lead State (in most cases also the Lead State). The construction and effect of any Participating Addendum or Order against the Master Agreement shall be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.

b. Unless otherwise specified in the RFP, the venue for any protest, claim, dispute or action relating to the procurement, evaluation, and award is in the Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement shall be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum shall be in the Purchasing Entity's State.

c. If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to the procurement, evaluation, award, or contract performance or administration if the Lead State is a party; the Participating State if a named party; the Participating Entity state if a named party; or the Purchasing Entity state if a named party.

### **36. WSCA-NASPO eMarket Center**

In July 2011, WSCA-NASPO entered into a multi-year agreement with SciQuest, Inc. whereby SciQuest will provide certain electronic catalog hosting and management services to enable eligible WSCA-NASPO entity's customers to access a central online website to view and/or shop the goods and services available from existing WSCA-NASPO Cooperative Contracts. The central online website is referred to as the WSCA-NASPO eMarket Center.

The Contractor will have visibility in the eMarket Center through Ordering Instructions. These Ordering Instructions are available at no cost to the Contractor and provided customers information regarding the Contractors website and ordering information. At a minimum, the Contractor agrees to the following timeline: WSCA-NASPO eMarket Center Site Admin shall provide a written request to the Contractor to begin Ordering Instruction process. The Contractor shall have thirty (30) days from receipt of written request to work with WSCA-NASPO to provide any unique information and ordering instructions that the Contractor would like the customer to have.



## **Attachment B (Other Participating Addenda Terms and Conditions)**

### New Mexico Additional Terms and Conditions

1. **Status of Contractor**

The Contractor, and Contractor's agents and employees, are independent Contractors for the agency and are not employees of the State of New Mexico. The Contractor, and Contractor's agents and employees, shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are personally reportable by the Contractor for income tax purposes, including without limitation, self-employment tax and business income tax. The Contractor agrees not to purport to bind the State of New Mexico unless the Contractor has written authority to do so, and then only within the strict limits of that authority.

2. **Non-Collusion**

In signing this Agreement, the Contractor certifies the Contractor has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the State Purchasing Agent or agency or entity.

3. **Release**

The Contractor, upon final payment of the amount due under this Master Agreement, releases the agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Master Agreement. The Contractor agrees not to purport to bind the State of New Mexico, unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

4. **New Mexico Employees Health Coverage**

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

B. Contractor agrees to maintain a record of the number of employees who

have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: <http://insurenewmexico.state.nm.us/>.

## 5. **Workers' Compensation**

The Contractor agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If the Contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the agency.

## 6. **Employee Pay Equity Reporting**

Contractor agrees if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this contract, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If contractor has (250) or more employees contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first. Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90 days) of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter. Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will submit the required report, for each such subcontractor, within ninety (90 days) of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even

though contractor itself may not meet the size requirement for reporting and be required to report itself.

Notwithstanding the foregoing, if this Contract was procured pursuant to a solicitation, and if Contractor has already submitted the required report accompanying their response to such solicitation, the report does not need to be re-submitted with this Agreement.

7. **Administrative Fees**

The Contractor agrees to provide a utilization report on all sales and/or services and other revenues (including commissions charged) and fees to the agreement administrator in accordance with the following schedule:

<u>Period End</u>	<u>Report Due</u>
September 30	October 31
December 31	January 31
March 31	April 30
June 30	July 31

The periodic report shall include the gross total sales and other revenues (including commissions charged) for the period subtotaled by procuring agency or local public body name. Please note that the SPD is interested in the distinction between sales to state agencies and those to local public bodies (such as cities and counties) to evaluate to whom SPD contracts are most beneficial. Such information will aid in strategically sourcing future procurements to ensure SPD is meeting the needs of its customers. **The reports shall be accompanied with a check payable to the State Purchasing Division for an amount equal to the three quarters of one percent (0.75%) of the total sales and other revenues (including commissions charged) for the period.**

# Attachment C

## COST PROPOSAL FORM

Pricing and Cost Structure

### Cost Proposal Sheet for TIER ONE

#### RATE OF COMMISSION PROPOSAL SHEET

(Complete Cost is to be submitted separately from Offeror's reply to the Technical Specifications of this RFP.)

COMMISSION ON SALES – To remain fixed for the term of the Agreement.

#### AUCTION GROSS:

Under \$5,000	_____	%
\$5,000-\$20,000	_____	%
\$20,000-\$50,000	_____	%
Above \$50,000	_____	%

COMMISSION for vehicles up to \$3,000	_____	%
COMMISSION for vehicles over \$3,000	_____	%

#### OTHER COSTS TO SELLING ENTITIES:

Please list any costs that would be charged separately to the selling entity for any additional services offered (add lines if necessary).

Costs to remain fixed for the term of the Agreement.

ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____

**OTHER COSTS TO BUYERS:**

Please list any costs that would be charged separately for any additional services offered (add lines if necessary).

Costs to remain fixed for the term of the Agreement.

ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____

**Scenario Costs**

**TIER ONE**

**Total Cost Tier One Scenario 1:** \_\_\_\_\_

**Total Cost Tier One Scenario 2:** \_\_\_\_\_

**Total Cost Tier One Scenario 3:** \_\_\_\_\_

**Total Cost Tier One Scenario 4:** \_\_\_\_\_

**Total Cost Tier One Scenario 5:** \_\_\_\_\_

Pricing and Cost Structure

**Cost Proposal Sheet for TIER TWO**

**RATE OF COMMISSION PROPOSAL SHEET**

(Complete Cost is to be submitted separately from Offeror's reply to the Technical Specifications of this RFP.)

COMMISSION ON SALES – To remain fixed for the term of the Agreement.

**AUCTION GROSS:**

Under \$5,000	_____	%
\$5,000-\$20,000	_____	%
\$20,000-\$50,000	_____	%
Above \$50,000	_____	%

COMMISSION for vehicles up to \$3,000	_____	%
COMMISSION for vehicles over \$3,000	_____	%

**OTHER COSTS TO SELLING ENTITIES:**

Please list any costs that would be charged separately for any additional services offered (add lines if necessary).

Costs to remain fixed for the term of the Agreement.

ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____

**OTHER COSTS TO BUYERS:**

Please list any costs that would be charged separately for any additional services offered (add lines if necessary).

Costs to remain fixed for the term of the Agreement.

ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____

**Scenario Costs**

**TIER TWO**

**Total Cost Tier Two Scenario 1:** \_\_\_\_\_

**Total Cost Tier Two Scenario 2:** \_\_\_\_\_

**Total Cost Tier Two Scenario 3:** \_\_\_\_\_

**Total Cost Tier Two Scenario 4:** \_\_\_\_\_

**Total Cost Tier Two Scenario 5:** \_\_\_\_\_

Pricing and Cost Structure

**Cost Proposal Sheet for TIER THREE**

RATE OF COMMISSION PROPOSAL SHEET

(Complete Cost is to be submitted separately from Offeror's reply to the Technical Specifications of this RFP.)

COMMISSION ON SALES – To remain fixed for the term of the Agreement.

AUCTION GROSS:

Under \$5,000	_____	%
\$5,000-\$20,000	_____	%
\$20,000-\$50,000	_____	%
Above \$50,000	_____	%

COMMISSION for vehicles up to \$3,000	_____	%
COMMISSION for vehicles over \$3,000	_____	%

OTHER COSTS TO SELLING ENTITIES:

Please list any costs that would be charged separately for any additional services offered (add lines if necessary).

Costs to remain fixed for the term of the Agreement.

ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____



**OTHER COSTS TO BUYERS:**

Please list any costs that would be charged separately for any additional services offered (add lines if necessary).

Costs to remain fixed for the term of the Agreement.

ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____
ITEM: _____	COST: _____

**TIER THREE**

**Total Cost Tier Three Scenario 1:** \_\_\_\_\_

**Total Cost Tier Three Scenario 2:** \_\_\_\_\_

**Total Cost Tier Three Scenario 3:** \_\_\_\_\_

**Total Cost Tier Three Scenario 4:** \_\_\_\_\_

**Total Cost Tier Three Scenario 5:** \_\_\_\_\_

# ATTACHMENT D

## REQUEST FOR PROPOSAL

On-Line Auction Request For Proposals

### 40-000-14-00059 ACKNOWLEDGEMENT OF RECEIPT FORM

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that s/he has received a complete copy, beginning with the title page and ending with ATTACHMENT J.

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than March 25, 2014. Only potential Offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all Offeror written questions and the written responses to those questions as well as RFP amendments, if any are issued.

FIRM:

\_\_\_\_\_

REPRESENTED BY:

\_\_\_\_\_

TITLE: \_\_\_\_\_ PHONE NO.: \_\_\_\_\_

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

\_\_\_\_\_

ADDRESS:

\_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

This name and address will be used for all correspondence related to the Request for Proposal.

Firm does/does not (circle one) intend to respond to this Request for Proposal.

Paul Kippert, Procurement Manager

On-Line Auction RFP, # 40-000-14-00059  
State Purchasing Division  
1100 St. Francis Dr. Room 2016  
Santa Fe, NM 87505  
Fax: 505-827-2484  
E-mail: [paul.kippert@state.nm.us](mailto:paul.kippert@state.nm.us)

**ATTACHMENT E**  
**CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

## Campaign Contribution Disclosure Form

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state agency or local public body for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body shall void an executed contract or cancel a solicitation or proposed award for a proposed contract if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

**THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.**

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to either statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of

individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“Family member” means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

“Pendency of the procurement process” means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

“Person” means any corporation, partnership, individual, joint venture, association or any other private legal entity.

“Prospective contractor” means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

“Representative of a prospective contractor” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

**DISCLOSURE OF CONTRIBUTIONS:**

Contribution Made By: \_\_\_\_\_

Relation to Prospective Contractor:  
\_\_\_\_\_

Name of Applicable Public Official: \_\_\_\_\_

Date Contribution(s) Made:  
\_\_\_\_\_

Amount(s) of Contribution(s)  
\_\_\_\_\_

Nature of Contribution(s)  
\_\_\_\_\_  
\_\_\_\_\_

Purpose of Contribution(s)  
\_\_\_\_\_  
\_\_\_\_\_

(Attach extra pages if necessary)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title (position)

—OR—

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title (Position)

**ATTACHMENT F**  
**NEW MEXICO EMPLOYEES HEALTH COVERAGE FORM**



## New Mexico Employees Health Coverage Form

1. If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.
  
2. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.
  
3. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with appropriate information regarding such programs.
  
4. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000, \$500,000 or \$1,000,000.

By signing below, Offeror agrees to be bound by the terms stated in this form:

Signature of Offeror: \_\_\_\_\_ Date \_\_\_\_\_

**ATTACHMENT G**  
**LETTER OF TRANSMITTAL FORM**

## Letter of Transmittal Form

RFP#: \_\_\_\_\_

Offeror Name: \_\_\_\_\_

Items #1 to #7 EACH MUST BE COMPLETED IN FULL Failure to respond to all seven items WILL RESULT IN THE DISQUALIFICATION OF THE PROPOSAL!

1. **Identity (Name) and Mailing Address** of the submitting organization:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. For the person authorized by the organization to contractually obligate the business entity:

Name \_\_\_\_\_

Title \_\_\_\_\_

E-Mail Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

3. For the person authorized by the organization to negotiate on behalf of the business entity regarding this Offer (if different from above):

Name \_\_\_\_\_

Title \_\_\_\_\_

E-Mail Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

4. For the person authorized by the organization to contractually clarify/respond to queries regarding this Offer (if different from either of the above):

Name \_\_\_\_\_

Title \_\_\_\_\_

E-Mail Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

5. Use of Sub-Contractors (Select one)

\_\_\_\_ No sub-contractors will be used in the performance of any resultant contract OR

\_\_\_\_ The following sub-contractors will be used in the performance of any resultant contract:

\_\_\_\_\_  
(Attach extra sheets, as needed)

6. Please describe any relationship with any entity (other than Subcontractors listed in (5) above) which will be used in the performance of any resultant contract:

\_\_\_\_\_  
(Attach extra sheets, as needed)

7. \_\_\_\_ On behalf of the submitting organization named in item #1, above, I accept the Conditions Governing the Procurement **AS LISTED IN THE SECTION ENTITLED GENERAL REQUIREMENTS REGARDING THIS REQUEST FOR PROPOSALS FOUND BEGINNING ON PAGE 10 AND AS STATED THROUGHOUT THIS RFP.**

\_\_\_\_ I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in **SECTION IV** of this RFP.

\_\_\_\_ I acknowledge receipt of any and all amendments to this RFP.

\_\_\_\_\_  
\_\_\_\_\_

Authorized Signature and Date (Must be signed by the person identified in item #2, above.)

## **ATTACHMENT H**

### **REFERENCE QUESTIONNAIRE**

The State of New Mexico, as a part of the RFP process, requires Offerors to submit a minimum of three (3) business references as required within this document. The purpose of these references is to document Offeror's experience relevant to the scope of work in an effort to establish Offeror's responsibility.

Offeror is required to send the following reference form to each business reference listed. The business reference, in turn, is requested to submit the Reference Form directly to:

Paul Kippert Procurement Manager  
On-Line Auction RFP, #40-000-14-00059 State Purchasing Division  
1100 St. Francis Dr. Room 2016  
Santa Fe, NM 87505  
Fax: 505-827-2484

by the RFP submission deadline for inclusion in the evaluation process. The form and information provided will become a part of the submitted proposal. Business references provided may be contacted for validation of content provided.

**RFP #40-000-14-00059 REFERENCE QUESTIONNAIRE  
FOR:**

---

(Name of Offeror)

This form is being submitted to your company for completion as a business reference for the company listed above. This form is to be returned to the State of New Mexico, General Services Department/State Purchasing Division via facsimile or e-mail at:

Name: Paul Kippert, Procurement Manager  
 Address: State Purchasing Division  
 1100 St. Francis Dr. Room 2016  
 Santa Fe, NM 87505  
 Telephone: 505-827-2331  
 Fax: 505-827-2484  
 Email: paul.kippert@state.nm.us

no later than April 17, 2014, and **must not** be returned to the company requesting the reference.

For questions or concerns regarding this form, please contact the State of New Mexico Procurement Manager listed above. When contacting us, please be sure to include the Request for Proposal number listed at the top of this page.

**CONFIDENTIAL INFORMATION WHEN COMPLETED**

<b>Company providing reference:</b>	
<b>Contact name and title/position</b>	
<b>Contact telephone number</b>	
<b>Contact e-mail address</b>	

QUESTIONS:

- In what capacity have you worked with this vendor in the past?  
COMMENTS:

- How would you rate this firm's knowledge and expertise?  
 \_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)  
 COMMENTS:

3. How would you rate the vendor's flexibility relative to changes in the project scope and timelines?  
\_\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)  
COMMENTS:

4. What is your level of satisfaction with hard-copy materials produced by the vendor?  
\_\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)  
COMMENTS:

5. How would you rate the dynamics/interaction between the vendor and your staff?  
\_\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)  
COMMENTS:

6. Who were the vendor's principal representatives involved in your project and how would you rate them individually? Would you comment on the skills, knowledge, behaviors or other factors on which you based the rating?  
(3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

Name: \_\_\_\_\_ Rating:

Name: \_\_\_\_\_ Rating:

Name: \_\_\_\_\_ Rating:

Name: \_\_\_\_\_ Rating:

COMMENTS:

7. How satisfied are you with the products developed by the vendor?  
\_\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)  
COMMENTS:

8. With which aspect(s) of this vendor's services are you most satisfied?  
COMMENTS:
  
9. With which aspect(s) of this vendor's services are you least satisfied?  
COMMENTS:
  
10. Would you recommend this vendor's services to your organization again?  
COMMENTS:

**ATTACHMENT I**  
**RESIDENT VETERANS CERTIFICATION**  
**(if applicable)**



## Resident Veterans Preference Certification

\_\_\_\_\_ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement:

**Please check one box only**

- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$1M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.
- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$1M but less than \$5M allowing me the 8% preference discount on this bid or proposal. I understand that knowingly giving false or misleading information about this fact constitutes a crime.
- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference discount on this bid or proposal. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

"I agree to submit a report, or reports, to the State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

"In conjunction with this procurement and the requirements of this business' application for a Resident Veteran Business Preference/Resident Veteran Contractor Preference under Sections 13-1-21 or 13-1-22 NMSA 1978, when awarded a contract which was on the basis of having such veterans preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award amount as a purchase from a public body or as a public works contract from a public body as the case may be.

"I understand that knowingly giving false or misleading information on this report constitutes a crime."

I declare under penalty of perjury that this statement is true to the best of my knowledge. I understand that giving false or misleading statements about material fact regarding this matter constitutes a crime.

\_\_\_\_\_  
(Signature of Business Representative)\* (Date)

\*Must be an authorized signatory for the Business. The representations made in checking the boxes constitutes a material representation by the business that is subject to protest and may result in denial of an award or termination of award of the procurement involved if the statements are proven to be incorrect.

## **Attachment J – Other States Special Terms and Conditions.**

These are for informational purposes only and will be negotiated with each individual state after award of the Master Agreement. All states and other Participating Entities reserve the right to add additional terms and conditions to a participating addendums.

RFP 40-000-00-00059 Online Auction Services – Questions and Answers

#	RFP Reference	Question	Answer
1.		Please specify the number of originals and copies of the proposal which are to be submitted.	Please see Amended RFP.
2.		Will the entity (seller) be willing to provide photographs of the online auction items?	Yes.
3.		<p><b>Page 29 TIER THREE CREATING LISTING</b>  <i>Offeror shall perform all work in auctioning, <b>transporting and administration</b> of the property.</i>  <b>Q:</b> The phrase “<b>transporting and administration</b>” appears repeatedly in Tier Three services, yet there are no specifications provided which define the meaning of transporting, nor of storage requirements or what type of property administration is required. <b>What specific transporting and administration services are required?</b></p>	Please see Amended RFP.
4.		<p><b>Page 30 SITE VISIT</b>  <i>The Lead State or other Participating Entity, upon request, can coordinate a site visit to include IT, Administration, Accounting, <b>Warehouse and Storage</b>.</i>  <b>Q:</b> Requirements for warehouse and storage are not specified. <b>What are the specifications for warehouse and storage requirements?</b></p>	This means whatever warehouse and storage facilities, if any, the Offeror possesses.
5.		<b>Page 46 17.b.</b>	Please see Amended RFP.

RFP 40-000-00-00059 Online Auction Services – Questions and Answers

		<p><i>(2) Consignment Coverage at an amount commensurate with the value of the Participating Entity’s <b>property in the care, custody or control</b> of the Contractor. Such coverage will be required only for Tier 2 and Tier 3 activity.</i></p> <p><b>Q:</b> Warehousing and storage are not specified for any of the three Tiers, therefore, please explain what property might be in the care, custody or control of an online auction contractor.</p>	
6.		<p><b>Pages 50 &amp; 58 Administrative Fees</b>  Page 50 The Administrative fee to WSCA-NASPO is described as being <b>“one-quarter of one percent (0.25% or 0.0025)”</b>  <b>AND</b> Attachment B, Page 58 Section 7 Administrative Fees states the following:  <i>The reports shall be accompanied with a check payable to the State Purchasing Division for an amount equal to the <b>three quarters of one percent (0.75%)</b> of the total sales and other revenues (including commissions charged) for the period.</i>  <b>Q:</b> Does this mean that the Administrative Fees paid to WSCA-NASPO and the State Purchasing Division of New Mexico will total 1.0% on a quarterly basis?  <b>Q:</b> Will the Administrative Fees paid to each participating agency consistently be 0.75%, or are those fees to be negotiated individually?</p>	<p>Yes, the fees are separate and required by both entities (0.25% to WSCA-NASPO <b>AND</b> 0.75% to the state of New Mexico).</p> <p>Other participating entities are free to negotiate their own Administrative Fees, although the WSCA-NASPO Administrative Fee would remain constant across all states.</p>
7.		<p><b>Page 74 – Letter of Transmittal Form</b>  Item # 7 states the following:  <i>7.____ On behalf of the submitting organization named in item #1, above, I accept the <b>Conditions Governing the Procurement</b> as required in <b>Section II, Paragraph C.I.</b></i>  ____ <i>I concur that submission of our proposal constitutes acceptance of the <b>Evaluation Factors</b> contained in <b>Section V</b> of this RFP.</i>  The section numbers and paragraph cited are not present in the solicitation (except in the Letter of Transmittal Form). Those references create uncertainty regarding the locations within <i>this solicitation of the <b>Conditions</b> and <b>Factors</b>.</i>  <b>Q.</b> In order to foster informed responses, will you please provide the relevant section and page number in <i>this solicitation for <b>Conditions Governing the Procurement</b> and the <b>Evaluation Factors</b>?</i></p>	<p>Please see Amended RFP.</p>

RFP 40-000-00-00059 Online Auction Services – Questions and Answers

8.		If we have exceptions to the requirements or Terms & Conditions, what is the process for presenting those to the Procurement Department? Do we submit exceptions in Tier 1 – Tech Requirements, Item # 14 listed on page 25?	Please see #15 beginning on page 13.
9.		We intend to respond to this RFP, but we are not incorporated in NM nor do we have a physical presence in NM. What documentation/forms do we need to fill out to still be compliant with the Licensing Requirement of the Minimum Requirements as listed on page 22? We contacted several departments within the State and the Taxation and Revenue Dept., but no one we spoke to seemed to have a clear idea of what the requirements might be for our situation.	Licensing requirements to do business in any participating entity are the responsibility of the Offeror.
10.		Page 22 – Minimum Requirements: letter d, Payment Types – With a full-service Tier 3 response, we will process payments from winning bidders before remitting the balance of our clients proceeds to them on monthly basis. In this case, payment to us is not a factor because we remit the payments instead. Will this be taken into consideration on our response?	Please see Amended RFP.
11.		Some of the Tier 1 requirements seem they will have an answer of “N/A” or “not-applicable” if responding to the Tier 3 program. If we are to provide a full-service, online auction program, some items such as software updates would not be pertinent. How do we respond to the items we think are not applicable under the Tier 3 process?	Please provide a narrative that explains what requirements the Offeror views as “Not Applicable” and why this would be so.
12.		For many of the items under Tier 1, it says “Offeror must submit a statement of concurrence with this requirement.” Is this the only language expected for these items, or do you want us to expand and explain our situation for each item? a. If we respond with “N/A”, will that disqualify us from the RFP?	A statement of concurrence cannot be “Not Applicable.” An Offeror must explicitly state they concur with the requirement.
13.		Page 23 – Tier 1: Tech Requirements, Item # 6 – If we are proposing a Tier 3 structure and we will be conducting and maintaining the online auctions, do you still require 24-7 consultation support?	24-7 support is for maintenance of the system as distinguished from Tier 3 Consultation support which is described as being from 8 a.m. to 5 p.m. in the prevailing time zone of the participating entity.

RFP 40-000-00-00059 Online Auction Services – Questions and Answers

14.		Page 24 – Tier 1: Tech Requirements, Item # 9 – We have property for many clients nationwide. We do not identify property by clients on our site. If we are proposing a Tier 3 structure, is this T’s & C’s requirement negotiable?	The phrase “vendor to supply a report regarding all property sold” refers to the Participating Entity’s property. Beyond that, the requirement stated in #9 uses the word “should” which constitutes a “desirable” specification; such specifications can be negotiated.
15.		Page 25 – Tier 1: Financial Statements, Item # 15 – Our Accounting Department will not have two years’ worth of audited financials ready to provide by the deadline of this RFP. We can provide audited financials further back than 2 years and unaudited financials for the last two years. Is this requirement negotiable?	If the statements were prepared by a CPA, this also is acceptable as stated under #15 of the Tier One requirements list.
16.		Page 25 – Tier 1: Client Base, Item # 16 – This requirement says we “shall provide all above data broken down by commodity and region...” Does region refer to the region of the seller/participating entity? Or, does it refer to the region of the winning bidder/buyer? a. In addition, what do mean by “region”? Is that the state? Or is less specific, like “Northeast US”?	Earlier in that description it states “the Participating Entity’s requested area, as well as nationally.” This would be the same criteria for the “region” mentioned later.
17.		Page 27 -- Tier 1: Security and Fraud Control, Item # 25 – With a full-service Tier 3 approach to Online Auction Services, could you please clarify what is meant by “counterfeit receipts” and how might you expect that could come about in a Tier 3 situation?	Please see Amended RFP.
18.		Page 29 – Tier 2: Accounting Requirements, Item 3 – If we propose a Tier 3 structure, we will collect all payments and then distribute back to clients. We process PayPal and credit cards on our site, and we work with customers to do a wire transfer for big ticket items. However, we do not process checks or money orders. Is this requirement negotiable?	Please see Amended RFP.
19.		Page 30 – Section 3: Solicitation Requirements and Information – “All narrative responses must be kept to ten (10) pages or less.” Does this page count include all items (a – m) under #1: Technical Response on this page?	The 10 page limit is 10 pages per each element that requires a response.  The 10 page limit would not include the Financial Statements.

RFP 40-000-00-00059 Online Auction Services – Questions and Answers

		<ul style="list-style-type: none"> <li>a. Do you require us to respond to all elements on Tiers 1 – 3 (a total of 41 response items) plus all other elements listed for Binder 1 in the 10 pages or less?</li> <li>b. Does the 10 page limit include the financial statements as required under Item # 15 on page 25?</li> </ul>	
20.		<p>Page 21 – Section 2: Scope of Work – The “Offer Profile” listed on this page – are the five (5) pages for this profile in addition to all answers to The Technical Requirements and returned attachments? Where does this Profile fit into the contents of Binder 1 listed on page 30? Do these five pages fit into the 10 pages somehow?</p>	<p>Yes, the Offer Profile is separate from and in addition to the other requirements. The five pages do not count against any of the 10 page limits for any of the other requirements.</p>
21.		<p>Page 35 – Tier Three Scenarios – With a Tier 3 scenario we provide towing of vehicle assets to our closest yard before auctioning off online. Depending on the distance from the Participating Entity’s yard to our yard, there may be a tow fee. How would you like us to calculate the Total Cost without knowing the distance to determine the tow fee?</p>	<p>Please see Amended RFP.</p>
22.		<p>Page 51 – Attachment A: Master Agreement Terms &amp; Conditions # 27.b – “Reports shall be delivered to the Lead State and to the WSCA-NASPO Cooperative Development Team electronically through a designated portal, email, CD-ROM, flash drive, or other method as determined by the Lead State.”</p> <ul style="list-style-type: none"> <li>a. Does the State of New Mexico know which method they will expect the reports to be delivered?</li> <li>b. It says the format for the “Detailed Sales Data Report” can be found in Section 27 of Attachment A. Does this mean the link to the WSCA-NASPO quarterly reporting tool in 27.a is where we can find the template for the Detailed Sales Data as well as the Summary Sales Data?</li> <li>c. Since this agreement is for Online Auction Services where commissions are factored in based on Winning Bids as opposed to selling standard products and services, how do you want us to calculate “Sales”? For our business, we consider Gross Revenue from Sales to be the full amount of a Winning Bid, but that number is prior to separating out the proceeds due back to the client agency.</li> </ul>	<ul style="list-style-type: none"> <li>a) New Mexico has not determined this as yet. Other states will make their own determinations regarding this requirement.</li> <li>b) Yes.</li> <li>c) In terms of reporting “sales,” whatever methodology the Offeror employs in their everyday general business practices would be acceptable for their response. Therefore, if an Offeror computes “Gross Revenue from Sales” to be the full amount of a Winning Bid, then that would be acceptable as explained as being Offeror’s standard business practice in the Offeror’s response.</li> </ul>

RFP 40-000-00-00059 Online Auction Services – Questions and Answers

23.		Page 52 – Attachment A: Master Agreement Terms & Conditions # 28.B & C – Could you please clarify what is meant by “inspection system” as it pertains to the type of services for this Master Agreement?	Whatever system the Offeror has in place to ensure the quality of business performance would suffice as an “inspection system” for purposes of this Agreement.
24.		Page 58 – Attachment B: Participating Entity Addendum (New Mexico), # 7 – To clarify, the fee listed in this section of the NM Addendum should be returned to the New Mexico State Purchasing Division (SPD) for the amount of sales for <i>only</i> participating entities in the State of New Mexico, correct?	Yes.
25.		How often will the State of New Mexico be having Online Auctions? (Monthly? Quarterly?)	No information available – but please keep in mind this is a procurement that could be leveraged by multiple states.
26.		Is the State of New Mexico/General Services Department doing Online Auctions?	No information available – but please keep in mind this is a procurement that could be leveraged by multiple states.
27.		If Yes, who is the State of New Mexico/General Services Department using?	No information available – but please keep in mind this is a procurement that could be leveraged by multiple states.
28.		How much in Commission is the State of new Mexico/General Service Department paying for Tier 1, Tier 2, & Tier 3?	No information available – but please keep in mind this is a procurement that could be leveraged by multiple states.
29.		What is the Dollar value that the State of New Mexico/General Services Department has sold at Online Auction for Office Surplus?	No information available – but please keep in mind this is a procurement that could be leveraged by multiple states.
30.		What is the Dollar value that the State of New Mexico/General Services Department has sold at Online Auction for Vehicles?	No information available – but please keep in mind this is a procurement that could be leveraged by multiple states.
31.		What is the Dollar value that the State of New Mexico/General Services Department has sold at Online Auction for Heavy Construction Equipment?	No information available – but please keep in mind this is a procurement that could be leveraged by multiple states.



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32.		Why is the State of New Mexico using WSCA-NASPO Cooperative Purchasing Organization for this RFP?	In order to obtain a wider base of using Participating Entities and, therefore, presumably, a better set of offers from interested Offerors.
33.		Does Offeror need to be a member of the WSCA-NASPO to win this RFP?	There are no members, in terms of businesses, for WSCA-NASPO. Any interested Offeror may submit a proposal in response to a WSCA-NASPO RFP.
34.		May Offeror obtain a member list of WSCA-NASPO?	There are no members, in terms of businesses, for WSCA-NASPO. Any interested Offeror may submit a proposal in response to a WSCA-NASPO RFP.
35.		Does the State of New Mexico/General Services do any Onsite Public Auctions?	No information available – but please keep in mind this is a procurement that could be leveraged by multiple states.
36.		Does the Contractor have to pick up the cost for Transportation?	Yes for Tier Three.
37.		Will there be a No Premium Fee?	Please include all fees and costs in the Cost Response and Market Basket Scenarios.
38.		If a vendor meets all 4 of the Minimum/Mandatory requirements, does the vendor also have to meet all the other requirements in order to qualify for an award under this RFP? Or, are vendors simply required to explain how they propose to handle the other non-mandatory requirements contained within the scope of work?	Offerors need to meet all mandatory requirements in order to qualify for any award. For non-mandatory requirements, the Offeror need only explain how they propose to handle the non-mandatory requirement if awarded.
39.		Does this mean that the narrative for each numbered requirement must be less than ten (10) pages or that all combined narrative responses for all requirements must be kept to a total of ten (10) pages or less?	Each numbered requirement must be 10 pages or less.
40.		Should the “Cost Response Form” and Binder #2 be in a separately sealed envelope from Binder #1?	All binders may be in the same package when sent. They will be separated here before given out to the Sourcing Team members for evaluation.

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41.		<p><b>Question A:</b> Please define “the Participating Entity’s requested area” in the first sentence of this requirement. Since this RFP could potentially serve the entire United States, does “the Participating Entity’s requested area” mean the State of New Mexico (Lead State), the Southwest region, the entire United States, or some other area? Also, is this information requested for each “Participating Entity”? If so, please provide definitions of each Participating Entity and its requested areas.</p> <p><b>Question B:</b> In the final sentence of this requirement (“<b>Additionally, Offerors shall provide all above data broken down by commodity and region as well as sold auction breakdown by final price</b>”), what are the defined “regions” for which the RFP is requesting information?</p> <p><b>Question C:</b> Please define “sold auction breakdown by final price.” Should the Offeror provide specific data (an encompassing list of the final sale price of every item sold in the past 5 years), or can be grouped in reasonable price ranges?</p> <p><b>Question D:</b> If the RFP is indeed requesting the final selling price of each item sold for the past (5) years, can this report be provided via electronic means such as a CD, thumb drive or other portable electronic device?</p>	<p>A.) The Participating Entity’s requested area is left to the discretion of each Participating Entity. Participating Entities could be states, local public bodies, etc.</p> <p>B.) Regions are at the Participating Entity’s discretion.</p> <p>C.) Groupings would be acceptable.</p> <p>D.) Since groupings are acceptable, it should be submitted in hardcopy.</p>
42.		How many copies of the Technical Response and The Cost Proposal should be submitted?	Please see Amended RFP.
43.		Is it a requirement that the RFP response be presented in 3-ring binders, or will spiral-bound (using binding combs) presentation books be allowed?	Spiral-bound presentation books are acceptable.
44.		<p><u>Regarding Section 2, Tier One requirements, #6 (Page 23):</u> The RFP states “<b>Contractor shall provide all support, including ... Live, 24/7 support via online chat, email or toll-free phone.</b>”</p> <p><b>Question A:</b> Is the “support” referenced in this requirement intended to be support between the Participating State and the Contractor, or support between the</p>	<p>A) This would be support for the Participating Entity.</p> <p>B) The scenario presented in Question B would be acceptable.</p>

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		<p>Contractor and the Auction Bidders?</p> <p><b>Question B:</b> Is “24/7 Live Support” a mandatory requirement, or may “support” be defined to include the ability for customer service to be contacted via email or toll-free phone after normal business hours, with customer service response provided the following business day?</p>	
45.		<p><u>Regarding Section 2, Tier Two, #3 (Page 29):</u> The RFP states, “<b>Provide information regarding revenue collection through check, money order and credit card payments. It is a requirement that payment can be processed by each of these means.</b>”</p> <p><b>Question:</b> If the Offeror does accept credit cards but does not accept checks or money orders from Buyers, but will propose alternative payments that have been successful for many years, will the Offeror be disqualified?</p>	Please see Amended RFP.
46.		<p><u>Regarding Section 2, Tier Two requirements, #1 (Page 28):</u> The RFP verbiage states, “<b>The successful Offeror shall collect and process all taxes due.</b>”</p> <p><b>Question:</b> Is it required that the Contractor collect and remit sales taxes to the revenue department in the Client State’s revenue department, or is it a mandatory requirement that the Contractor remit taxes to the Client State itself?</p>	Most states will require the Contractor to collect and remit taxes where due. Each state should address this in their individual contracts with the selected vendors.
47.		<p>Will a Buyer Premium (which is added to invoices and paid by buyers) be allowed?</p>	Buyer Premiums will be allowed.
48.		<p>Page 20 – WSCA-NASPO Administrative Fee: Can you please clarify what amount this fee is computed on? Please provide an example of how this fee is calculated given that we are providing auction services. If an item sells on the auction site and the Winning Bid is \$100, but 90% of that amount goes back to the entity, what amount is the .25% based on? Is it based on our \$10 commission of the item?</p>	The Administrative Fees are based on the Contractor’s commission.

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49.		What were your previous (3) years of sales from auctioned assets?	This RFP is a matter of first impression for WSCA-NASPO so there is no historical information available.
50.		Who was the previous auctioneer/auction company?	This RFP is a matter of first impression for WSCA-NASPO so there is no historical information available.
51.		What was the commission rate of previous auctioneer/ auction company?	This RFP is a matter of first impression for WSCA-NASPO so there is no historical information available.
52.		What other charges did the previous auctioneer/ auction company charge? (i.e. advertising/marketing)	This RFP is a matter of first impression for WSCA-NASPO so there is no historical information available.
53.			