



## REQUEST FOR PROPOSAL (RFP) COVER SHEET

DISCLAIMER: If you experience difficulty reading this document and require an accessible version optimized for a screen reader, please contact Name at 515-805-7778 or via email at [sherry.vanvugt@dom.iowa.gov](mailto:sherry.vanvugt@dom.iowa.gov) to obtain one.

Title Of the RFP:	Device Refurbishment Program		
RFP Number:	RFP-185-1585-2025		
Agency:	Iowa Department of Management		
State seeks to purchase:	An established and trusted device refurbisher to set up operation in Iowa to launch a refurbishing program. The program will also fund activities to recruit institutions and businesses to be part of the donation program, determine eligibility requirements, meet the needs of individuals, and establish efficient distribution methods for devices.		
Available to Political Subdivisions?	YES, including state and local governments and non-profit organizations as long as permissible under law. The resultant contracts may be made available to other States through cooperative purchasing entities.		
Potential number of years of the initial term of the Contract:	Four (4) years	Potential number of annual extensions:	No
Anticipated start date:	07/01/2025	Anticipated end date:	07/01/2029
Issuing Officer:			
<b>Name:</b> Sherry Van Vugt			
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<b>Mailing Address:</b> Department of Management Division of Information Technology Attn: Sherry Van Vugt 200 E. Grand Ave. Des Moines, Iowa 50309			
PROCUREMENT TIMETABLE—There are no exceptions to any deadlines for Respondents; however, the Agency reserves the right to change the dates/times at its sole discretion.			
Event or Action:		Date/Time (Central Time):	
State posts notice of solicitation on the TSB website:		02/24/2025	
State issues solicitation and posts to IMPACS – Iowa Management of Procurement and Contracts System:		02/26/2025 at 2:00pm	

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(OPTIONAL) Site visit (optional or mandatory) – note address	NA
Respondent's written questions, requests for clarification, and suggested changes are due:	03/12/2025 at 2:00pm
The agency's written response to questions, requests for clarifications, and suggested changes are due:	03/19/2025 at 4:00pm
Proposals Due:	04/09/2025 at 2:00pm
Anticipated Date to issue Notice of Intent to Award:	05/23/2025
Anticipated Date to Execute Contract:	07/01/2025
Important Websites:	NA
IMPACS Website where any Amendments/Addenda to this solicitation will be posted:	<a href="https://bids.scquest.com/apps/Router/PublicEvent?CustomerOrg=DASIowa">https://bids.scquest.com/apps/Router/PublicEvent?CustomerOrg=DASIowa</a>
Contract terms and conditions may be found:	Attachment #6 - Sample Contract
Firm Proposal Terms. Minimum number of days post-submission deadline that the Respondent guarantees all proposal terms, including price, will remain firm is:	180 days

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## 1. Introduction

### 1.1. Purpose

The Agency seeks proposals from Respondents to provide the goods and/or services identified on the solicitation cover sheet and as further described below. This solicitation is designed to provide Respondents with the information necessary for the preparation of competitive proposals. The solicitation process is for the Agency's benefit and is intended to provide the Agency with competitive information to assist in the selection process. Each Respondent is responsible for determining all factors necessary for the submission of a comprehensive proposal.

The solicitation is posted in the Iowa Management of Procurement and Contracts System (IMPACS): <https://bids.scquest.com/apps/Router/PublicEvent?CustomerOrg=DASIowa>. Respondents must create an account within IMPACS in order to engage in the solicitation process. Instructions are provided at the top of the webpage above.

Iowa Department of Management's (DOM) initiative will look to establish a device ecosystem and distribute (sold or given away) at least 75,000 refurbished or donated devices to eligible Iowans by the end of the contract.

This RFP seeks an established and trusted device refurbisher to set up operation(s) in Iowa to launch a refurbishing program. The program will also fund activities to work with the Department of Management to recruit institutions and businesses to be part of the donation program, determine eligibility requirements, meet the needs of individuals, and establish efficient distribution methods for devices. This work will potentially include collaboration with the State's community colleges and libraries.

The successful entity will ultimately be responsible for all aspects setting up and operating a sustainable refurbishing operation including but not limited to securing supply of material, refurbishing devices, warehousing material, shipping to distribution points, distribution of devices to eligible Iowans, and tracking appropriate data. The successful entity will also coordinate with the Department of Management during the contract period to identify and recruit institutions and businesses to be part of the donation program and understand potential barriers to participation. Additionally, the successful entity will coordinate with the Department of Management to determine eligibility requirements, needs of the individual, the application process, and distribution methods for the program.

### 1.2. Background

As technological Devices advance and the demands of society require online activities, Iowans will need to own and operate digital devices to fully participate in society. For some, the cost of acquiring these devices can be a burden. For others, understanding how best to use the devices and troubleshoot problems can be the biggest barrier. From the results of the statewide survey, facilitated sessions, and public meetings, it is clear that Iowans need more devices in the home to meet the needs of the entire household to achieve full participation in society. By working with institutions and businesses to capture a portion of the devices that cycle through their device replacement system, pass them through a certified refurbishing process, and distribute through trusted distribution points, qualifying Iowans can obtain necessary devices.

### 1.3. Definitions

In addition to any terms specifically defined elsewhere herein, for the purposes of this RFP and any resulting Contract, the following terms will mean:

**“Agency”** means the agency identified on the RFP cover sheet that is issuing the RFP and, as used and to the extent used in the Contract, any other agency(ies) or governmental entity(ies) of the State that purchases from the Contract once executed.

**“Contract”** means the contract(s) entered into with the successful Respondent(s) as identified on the RFP Cover Sheet and more fully described in Section 7 (Contract Terms and Conditions Summary).

**“Contractor”** or **“Vendor”** means the successful Respondent to this RFP that ultimately enters into a Contract as a result of this RFP.

**“Deliverables”** means all of the services, goods, products, software, data (including data collected on behalf of the Agency), work, work product, items, materials, and property to be created, developed, produced, delivered, performed, or provided by or on behalf of, or otherwise made available through the Contractor, directly or indirectly, in connection with any contract resulting from this solicitation.

**“IMPACS”** means the Iowa Management of Procurement and Contracts System - an eProcurement software program. Website: <https://bids.scquest.com/apps/Router/PublicEvent?CustomerOrg=DASIowa>

**“Proposal”** means the Respondent’s proposal submitted in response to the RFP.

**“Respondent”** means a potential Vendor submitting a Proposal in response to this RFP.

**“RFP”** means this Request for Proposal as amended, as well as any attachments, exhibits, schedules, or addenda hereto.

**“State”** means the State of Iowa, including the Agency identified on the Solicitation Cover Sheet and/or the Contract Declarations & Execution Page(s), and all state agencies, boards, and commissions, and any political subdivisions making purchases from the Contract as permitted by this solicitation.

## **2. Scope of Work**

This Section lists the scope related to this solicitation. By submitting a proposal, the Respondent agrees to meet all stated scope in this section and any other terms and conditions stated in this solicitation. Items in this section will be considered in the evaluation and scoring of the Respondent's technical proposal.

### **2.1. Detailed Scope of Work**

#### **2.1.1 Donated Devices**

Implement a strategy for acquiring donated devices from local and national organizations that can be used as a supply of Devices for the Digital Device Ecosystem. Device stock will be warehoused and maintained securely throughout the life of the contract. Describe previous relationship-building successes in obtaining the necessary material to allow a refurbishment system to work. Further, describe your plan for warehousing and maintaining security on device stock.

#### **2.1.2 Acceptable Devices, Technical Support, and Cost Structure**

**2.1.2.1** Devices will be large screen devices (laptops, Chromebooks, and/or tablets) refurbished to a like-new operational condition authorized by technicians or manufacturers. Describe the age and quality/expected lifespan of the devices. Specify what a refurbished device or computer is and how they are tested to ensure they meet quality standards before being made available for reuse.

**2.1.2.2** Devices will be offered with at least baseline software installations that provide immediate functionality to the consumer. Describe any baseline software installations that will be included on the Device.

**2.1.2.3** Devices will be refurbished to standards and controls including a commitment to accredited e-waste vendors/recyclers and standards for data sanitation and security. These standards will be followed by the successful Respondent to ensure donated devices are wiped clean to protect data from the donating organization. Describe refurbishment standards and controls, including a commitment to accredited e-waste vendors/recyclers and standards for data sanitation and security, to be followed by the entity to ensure donated devices are wiped clean to protect data from the donating organization.

**2.1.2.4** The successful Respondent will offer troubleshooting and technical support for individuals who receive a device including a staffed phone line providing support. Describe a plan to provide troubleshooting and technical support for individuals who receive a device.

**2.1.2.5** The successful Respondent will be responsible for implementing a cost structure to charge recipients for devices. Examples of potential cost structures may include but not limited to free device giveaways, tiered payment structures based on eligibility, and/or tiered payment structures based on quality of device(s). Describe the planned cost structure of devices charged to recipients. Include estimates of devices distributed in each identified category during the contract (at least 75,000 devices).

#### **2.1.3 Distribution Centers/Points**

The successful Respondent will implement a plan for distributing devices regionally throughout the state in a "Storefront" and via an online presence. This may include partnerships with organizations like libraries, non-profit organizations, community colleges,

and other community anchor institutions. This plan may also include special distribution events over the course of the contract to focus device distribution to specific covered populations and communities. Describe a plan for distributing devices regionally throughout the state in a “Storefront” and via an online presence.

## 2.2. Overview

Iowa Department of Management’s initiative will look to establish a device ecosystem and distribute (sold or given away) at least 75,000 refurbished or donated devices to eligible Iowans by the end of the contract associated with this grant. The Department of Management expects refurbishment and distribution of devices for this project to be done solely within the boundaries of the state. In circumstances where critical aspects of the refurbishment work cannot be found, performed, or replicated in Iowa, those parts of the process may take place outside of Iowa with preference to cost and mileage to partner facility. All aspects of work expected to be performed outside of the state must be articulated in the application.

The funding source for this contract will be from Digital Equity Act Capacity Grant funding. The successful Respondent will be responsible for fulfilling obligations outlined in the Capacity Grant Notice of Funding Opportunity for contractors. The NOFO can be found at the following: [ntia fy24 sdecgp nofo final.pdf](#)

## 2.3. Definitions

“**CFR 200**” means 2 CFR Part 200, also known as the Uniform Guidance, is a Code of Federal Regulations (CFR) document that establishes requirements for federal financial assistance: administrative requirements, cost principles, and audit requirements.

“**Device**” means large screen devices such as laptops, desktops, Chromebooks, and tablets.

“**Digital Device Ecosystem**” means Umbrella term for the component work of sustainable device refurbishment including supply or high quality free / low cost internet-capable devices that meet the needs and intended uses of residents, the preparation of said devices with an effective distribution system, and the deployment of devices to reach individuals in Covered Populations.

“**NOFO**” means Notice of Funding Opportunity.

“**NTIA**” means National Telecommunications and Information Administration – Administrating entity of the Digital Equity Act Capacity Grant, the source of funding for this opportunity.

“**NIST**” means National Institute for Science and Technology – a Federal entity assigned to budget and auditing for this grant.

“**Storefront**” means a physical location or locations within the state of Iowa where Iowans can physically pick up digital devices. This could include a separate brick and mortar building solely used for this work or partnerships using preexisting locations.

“**Covered Population**” – means one or more of the following 1) Individuals who live in “covered households” 2) Aging individuals 3) Incarcerated individuals other than individuals who are incarcerated in a federal correctional facility 4) Veterans 5) Individuals with disabilities 6) Individuals with a language barrier, including individuals who i) are English learners and ii) have low levels of literacy 7) Individuals who are members of a racial or ethnic minority group 8) Individuals who primarily reside in a rural area.

“**Refurbished device**” – means a refurbished device or computer is a previously owned product that has undergone thorough inspection, repair, and restoration to a like-new operational condition

by authorized technicians or manufacturers. These devices are then tested to ensure they meet quality standards before being made available for reuse, offering cost-effective alternatives to new equipment.

## 2.4. Applicable Laws, Rules, and Directives

The Digital Equity State Grant Agreement entered into by the State of Iowa on 1/8/2025, is available at Iowa [IMPACS](#). The Grant Agreement is incorporated herein by reference. Respondent must comply with all requirements imposed on DOM that by law must be passed through to subrecipients of funding.

## 2.5. Implementation

### 2.5.1 Program Eligibility

The successful Respondent will develop and implement a clear and accessible process for acquiring a Device including specific eligibility requirements, making sure residents can easily understand and meet the eligibility requirements. Additionally, the successful respondent will develop and implement a standardized needs assessment to better understand what a recipient will use the Device for in order to meet their needs.

### 2.5.2 Implementation Schedule

The successful Respondent will follow an implementation schedule, including proposed delivery dates for key tasks/outcomes outlined in the Scope of Work. The duration of the contract will be for four (4) years. Grantee will meet with DOM staff regularly, at least once per month as determined by DOM to provide regular updates on progress throughout the life of the contract. Written quarterly reports will be due on the 15th of the month following the end of the quarter, annual reports on the 15th of the first month following each of the first three years, and a final report during the final month of the final year of the contract. Provide a clear timeline for project phases that need to take place to set up operations (startup, refurbishment, distribution). Describe a proposed implementation schedule, including proposed delivery dates for key tasks/outcomes outlined in the Scope of Work

Milestones will be tracked through monthly meetings and quarterly reports. In addition to completing project phases to launch refurbishing and distribution, the overarching goal of distributing at least 75,000 devices to eligible Iowans, including at least 7,500 devices to each of the four zones described in Attachment #5 by the end of the contract will be tracked and reported quarterly. Create an implementation schedule, including proposed delivery dates for key tasks/outcomes outlined in the Scope of Work, in the following format:

(The following is for sample purposes only)

#	Milestone	Deliverable(s)	Schedule
1	Project Kick-Off Meeting	--	Effective Date + 5 days
2	Site Survey	Project Plan	Effective Date + 10 days
3	Training	Training Manual	Effective Date + 30 days
4	Acceptance Testing	--	Effective Date + 30 days



5	Project Completion		Effective Date + 45 days
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### 2.5.3 Reporting

The successful Respondent will produce a series of reports on at least a quarterly basis to track progress. Reports will include but not limited to: number and type of Devices donated; number and type of Devices distributed within each defined geographic zone; number of eligible Iowans receiving each type of Device; acknowledgement and certification of standards and controls including e-waste, sanitation, and security; number and nature of calls fielded for troubleshooting/technical support; and any revenue information based on sale of Devices.

## 2.6. Risk Management

The successful Respondent will employ risk management strategies to avoid hazards specific to the services provided. Describe your organizations approach to risk management and any programs you have in place to avoid hazards specific to the services provided.

## 2.7. Performance Measures

The successful Respondent will participate with the Department of Management in the following meetings unless otherwise changed by the Department of Management:

**2.7.1 Touch Base Meetings:** Meet with the Department of Management virtually at least once monthly.

**2.7.2 Site Visits:** Host Department of Management Staff at least twice annually for on-site visits of operations.

### 2.7.3 The Vendor will meet the following reporting timeframes:

**2.7.3.1 Quarterly Reports:** Submit by the 15th of the first month of each quarter.

**2.7.3.2 Annual Reports:** Submitted by the 15th of the first month of year following each of the first three years of the contract.

**2.7.3.3 Final Report:** Submitted during the final month of the contract as part of close out.

**2.7.3.4 Ad Hoc Reports:** The Vendor submits any requested ad hoc reports within fourteen (14) days of the request, or by the designated date/time requested by the Department of Management.

### 2.7.4 Vendor Plans

**2.7.4.1** The successful Respondent will submit any mobilization plans to the Department of Management for approval within 30 days after execution of this Contract, unless specified otherwise.

**2.7.4.2** The successful Respondent will document all operational procedure changes that may affect the Agency's contract within ten (10) business days of the change. The successful Respondent will provide the Agency with detailed documentation explaining all changes that



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may affect the Agency's contract and a timeline of when the changes will occur.

#### **2.7.5 Eligibility and Surveys**

**2.7.5.1** The successful Respondent will work with Department of Management to develop eligibility requirements, verify recipient eligibility, and report eligibility statistics in quarterly reports.

**2.7.5.2** The successful Respondent will work with the Department of Management to help administer surveys to recipients of devices to help better understand device needs and usage.

### **3. Administrative Information**

#### **3.1. Compliance with Solicitation**

It is the Respondent's responsibility to read this entire document, all attachments, and any addenda thereto and to comply with all requirements specified herein.

#### **3.2. Respondent Business Registration**

Successful Respondents must register with the Iowa Secretary of State before the Agency will enter into a contract with the successful Respondent; registration is not required before the Notice of Intent to Award ("NOIA") is issued. See the Secretary of State's [business filings page](#). Vendors are responsible for maintaining current and accurate registration information during the contract term.

#### **3.3. Restriction on Respondent Communication**

From the issue date of this solicitation until a NOIA is issued, Respondents may contact only the Issuing Officer concerning this solicitation. The Issuing Officer is the sole point of contact for the solicitation from the date of issuance until a NOIA is issued, except as otherwise directed by the Issuing Officer or as otherwise noted in the solicitation. The Issuing Officer will respond only to written questions regarding the procurement process. Oral questions related to the interpretation of this solicitation will not be accepted unless expressly noted otherwise. Respondents may be disqualified if they contact any State employee other than the Issuing Officer about the solicitation, except that Respondents may contact the State Targeted Small Business Office on issues related to the preference for Targeted Small Businesses. This section will not be construed as restricting communications related to the administration of any contract currently in effect between a Respondent and the State.

#### **3.4. Downloading the Solicitation from the Internet via IMPACS**

The solicitation documents and any addenda to the solicitation will be posted at the IMPACS website at <https://bids.scquest.com/apps/Router/PublicEvent?CustomerOrg=DASIowa>. The version of the solicitation posted on IMPACS is the official version. The Agency will only be bound by the official version of the solicitation documents. The Respondent is responsible for checking IMPACS periodically for addenda to this solicitation, particularly if the Respondent downloaded the solicitation, as the Respondent may not automatically receive addenda.

#### **3.5. Procurement Timetable**

The dates provided in the procurement timetable on the solicitation cover sheet and IMPACS are provided for informational and planning purposes. The Agency reserves the right to change the dates. If the Agency changes any of the deadlines for Respondent submissions, the Agency will issue an addendum to the solicitation and notify registered Respondents.

#### **3.6. Questions, Requests for Clarification, and Suggested Changes**

Respondents who indicate their intent to submit a response to the solicitation in IMPACS can submit written

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questions, clarifications, or proposed changes regarding the solicitation. Oral questions are not accepted. Respondents are not permitted to include assumptions in their proposals. Instead, respondents shall address any perceived ambiguity regarding this RFP through the question and answer process. Please reference the page and section numbers of the solicitation when submitting each question or comment. If the Agency will provide a written response, such response will be provided on or before the date listed on the solicitation cover sheet and IMPACS. If the Agency decides to adopt a suggestion that modifies the solicitation, the Agency will issue an addendum to the solicitation. Failure to raise a question, request for clarification, or suggestion through this process will constitute a waiver of any objection or argument as part of any subsequent vendor appeal. This waiver is intended to ensure the State is able to correct any material issues or errors in an efficient fashion and in a manner that is fair to all Respondents. Questions must be posted in IMPACS, and the Agency will post responses within IMPACS.

### 3.7. Submission of Proposals

The Respondent must submit the Proposal in the State's [IMPACS Electronic Procurement System](#) before the "Proposals Due" date and time listed on the RFP cover sheet. This is a mandatory specification and will not be waived by the Agency. Any Proposal received after this deadline will be rejected. Respondents submitting Proposals must allow ample upload time to ensure timely receipt of their Proposals. It is the Respondent's responsibility to ensure that the Proposal is received prior to the deadline. **Electronic mail and faxed Proposals will not be accepted.** There is a 50MB per file size limitation but no limit to the number of files.

Respondents must furnish all information necessary to enable the Agency to evaluate the Proposal.

The Respondent is solely responsible for the proposal's preparation costs. Oral information will not be considered and is not part of any proposal.

### 3.8. Release of Claims

By submitting a proposal, the Respondent agrees that it will not bring any claim or cause of action against the Agency based on any misunderstanding concerning the information provided in the solicitation or concerning the Agency's failure, negligent or otherwise, to provide the Respondent with pertinent information in this solicitation.

### 3.9. Disposition of Proposals

Except as otherwise provided herein, all proposals submitted in response to this solicitation become the property of the State and will not be returned to the Respondent. Once the Agency issues a Notice of Intent to Award the contract, the contents of all proposals will be subject to relevant open records laws, including but not limited to Iowa Code chapter 22. Respondents must complete Form 22 to assert confidentiality over relevant portions of submitted proposals.

### 3.10. Form 22 - Request for Confidentiality

The Agency's release of public records is governed by Iowa Code chapter 22 and corresponding fair information practices rules. Respondents must complete a confidentiality form (Form 22) within IMPACS detailing all claims Respondent makes regarding confidentiality. By claiming confidentiality within a

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submission, Respondent is asserting that the information *does, in fact, qualify for confidential treatment under Iowa or other applicable laws.*

Failure to request confidential treatment will be treated as a waiver of such claims. Blanket requests to maintain an entire proposal as confidential will be categorically rejected. Respondents may not request confidential treatment with respect to information or sections of their proposals specifically identified by the Agency in the solicitation as being non-confidential or subject to public disclosure.

In the event the Agency receives a public request for information marked confidential, the Agency will provide written notice to the Respondent seventy-two (72) hours prior to the release of the information to allow the Respondent time to seek injunctive relief.

### **3.11. Copyright Permission**

By submitting a proposal, the Respondent agrees that the Agency may copy the proposal to facilitate the evaluation of the proposal or to comply with open records laws to the extent required by law. By submitting a proposal, the Respondent represents and warrants that such copying will not violate any third-party intellectual property rights.

### **3.12. Amendment and Withdrawal of Proposal**

Respondents can amend or withdraw their proposals in IMPACS at any time before the submission deadline.

### **3.13. Late Proposals**

Late proposals, regardless of cause, will not be considered for evaluation. It is the Respondent's sole responsibility to ensure delivery prior to the deadline stated on the solicitation cover sheet and IMPACS.

### **3.14. Response Opening**

The Agency will open proposals after the deadline for submission of proposals has passed. The proposals will remain confidential until the Agency has issued a Notice of Intent to Award a Contract. See Iowa Admin. Code r. 129—10.15. However, the names of the Respondents who submitted timely proposals will be available after the proposal opening. The announcement of Respondents who submitted proposals by the deadline for submission does not mean that an individual proposal has been deemed technically compliant or accepted for evaluation.

### **3.15. Proposal Corrections**

Respondents are expected to follow the requirements set forth in this Solicitation. However, it is not the Agency's intent to disqualify proposals that suffer from correctable flaws. At the same time, it is important to maintain fairness for all Respondents in the procurement process. Therefore, the Agency reserves the right to, in its sole discretion, permit cure of variances, waive variances, or disqualify Respondents for reasons that impact the fairness of the competition. In the event that the Agency waives or permits cure of variances, such waiver or cure will not modify the Solicitation or excuse the Respondent from full compliance with the Solicitation and contract requirements.

### **3.16. Proposal Clarification**

The Agency reserves the right to contact a Respondent to seek clarification of a proposal. The clarification process cannot be used as a means to substantively rewrite a proposal, but the process can be used as a way to correct misstatements in the document or clarify inconsistencies. Proposal pricing cannot be altered through the clarification process outside of a BAFO. An individual authorized to legally bind the Respondent must sign responses to any request for clarification.

### **3.17. Respondent Presentations**

Respondents may be required to make a presentation. Determining the need for presentations and the location, order, and schedule of the presentations is at the Agency's sole discretion. The Agency may request a presentation for any proposal without the obligation to request presentations for all proposals. The presentation may include slides, graphics, and other media selected by the Respondent to illustrate the Respondent's proposal, provided that no new matter is introduced to the proposal. Proposal clarification may occur during the presentation.

### **3.18. Reference Checks**

The Agency may contact references as part of the proposal evaluation process and take information obtained through those contacts into consideration in the proposal evaluation process as part of the proposal evaluation process and take information obtained through those contacts into consideration in the proposal evaluation process.

### **3.19. Criminal History and Background Investigation**

The Agency reserves the right to perform a criminal history check and background investigation(s) of the Respondent, its officers, directors, shareholders, partners, and managerial and supervisory personnel who will be involved in the performance of the Contract. By submitting its proposal, Respondent hereby authorizes the Agency to conduct criminal history and/or other background investigation(s) of the Respondent, its officers, directors, shareholders, partners, and managerial and supervisory personnel who will be involved in the performance of the Contract and will fully cooperate with the Agency in obtaining any required waivers or releases required to complete any such criminal history check and background investigation(s).

### **3.20. Ancillary Information and Evaluators**

The Agency reserves the right to obtain and consider information from other sources concerning a Respondent, including but not limited to the Respondent's performance under other contracts, the qualifications of any subcontractor identified in the proposal, the Respondent's financial stability, past or pending litigation or debarments, and other publicly available information such as subject matter experts or information supplied from current contract managers or subject matter experts. Such information may be used in evaluating Respondent's proposal, verifying the information contained in the proposal, or assessing Respondent's qualifications and the qualifications of any subcontractor identified in the proposal. The Agency may consider information elicited in or supplied in response to one section of the solicitation when evaluating the Respondent's proposals in the context of other sections of the solicitation.

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Contract managers or other personnel who may have personal experience with prospective Respondents may possess extraordinarily valuable program expertise, such that they are valuable, if not indispensable, assets to an evaluation committee. Therefore, contract managers and other personnel may serve on the evaluation committee in evaluating proposals submitted in response to this solicitation. Contract managers and other personnel serving as evaluators will guard against the interjection of bias for or against other personnel who may have personal experience with prospective Respondents or any incumbent but, like all other evaluators, may consider their experiences with all Respondents and any other extrinsic evidence known to them if relevant to what is being evaluated.

### **3.21. Verification of Proposal Contents**

The Respondent's proposal is subject to verification. If the Agency finds any misleading or inaccurate information at any point during proceedings, it may reject the proposal, withdraw the NOIA, and award the contract to another Respondent. If misleading or inaccurate content is discovered after a contract is executed, the Agency may void the proposal or contract, terminate the contract, or pursue remedies such as suspension, debarment, or damages for breach of contract.

### **3.22. Best and Final Offer**

The Agency may request a best and final offer (BAFO) from Respondents during the evaluation process. If the Agency chooses to request a BAFO, the Issuing Officer will provide written instructions, and Respondents will have five (5) business days from the date of the Agency's request to submit their BAFOs. The BAFO must be accompanied by a transmittal letter signed by an authorized representative. Respondents will not be required to submit a BAFO if they believe the original offer is competitive; however, if a Respondent submits a BAFO, the BAFO will replace the original cost proposal in scoring.

### **3.23. Award Notice and Acceptance Period**

A Notice of Intent to Award (NOIA) the contract(s) will be sent to all Respondents submitting a timely proposal. Negotiation and execution of the contract(s) should be completed within thirty (30) days from the date of the NOIA or as soon as reasonably possible thereafter, depending on the complexity of the negotiations. The Agency expects timely completion of this process and may, in its sole discretion, cancel the award and proceed with another Respondent if an executed contract is not delivered within a reasonable timeframe.

### **3.24. Exclusivity**

Any contract resulting from this solicitation will not be an exclusive contract.

### **3.25. No Minimum Guaranteed**

The Agency does not guarantee any minimum level of purchases under the contract.

### **3.26. No Commitment to Contract/No Rights Until Execution**

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The Agency reserves the right to reject any or all proposals received in response to this solicitation at any time prior to the execution of the contract. Issuance of this solicitation in no way constitutes a commitment by the Agency to award a contract. No Respondent will acquire any legal or equitable rights regarding the contract unless and until the contract has been fully executed by the successful Respondent and the Agency. See Contract Terms & Conditions and Contract Administration – Section 7 for additional information on the contracting process and the terms and conditions governing any resulting contract.

### **3.27. Use of Subcontractors**

The Agency acknowledges that the successful Respondent may contract with third parties to perform any of the successful Respondent's obligations. The Agency reserves the right to provide prior approval for any subcontractor used to perform services under any contract that may result from this solicitation.

### **3.28. Restrictions on Gifts and Activities**

Iowa Code chapter 68B restricts gifts that may be offered or received by a State official or employee. Violations of chapter 68B or other attempts to bribe a public official may result in civil or criminal sanctions.

### **3.29. Respondent Continuing Disclosure Requirement**

To the extent that Respondent is required by this solicitation to report any incidents, including but not limited to contractual penalties, disbarments, or felony convictions, the disclosure obligation is continuing. Incidents occurring after the submission of a proposal and with respect to the successful respondent after the execution of a contract will be disclosed within thirty (30) days from the date of the incident, regardless of any appeal rights. Failure to disclose may result in proposal disqualification or contract termination. If an omission is brought to the attention of an Agency as part of the appeal process set forth below, and the omission is determined to be potentially material, the appropriate remedy is for the applicable tribunal to remand the matter back to the Agency for it to determine whether the omission was, in the Agency's sole discretion, material, and whether to cancel the award and award the contract to another respondent.

### **3.30. Appeals**

**3.30.1. Generally.** A Respondent whose proposal has been timely filed and who is aggrieved by the Notice of Intent to Award may appeal the decision by filing a written Notice of Intent to Appeal in accordance with Iowa Administrative Code rule 129–11.3 to the Issuing Officer. The Notice of Intent to Appeal must be filed within five (5) business days of the Notice of Intent to Award date. Following the Agency's receipt of the Notice of Intent to Appeal, the Agency will transmit to the Appellant the materials required by and in accordance with Iowa Administrative Code rule 129–11.3(2). An Appellant will not be entitled to additional discovery, materials, or information in furtherance of the Appeal unless and until the proceedings advance to a second-tier review in accordance with Iowa Administrative Code chapter 129-11.

**3.30.2. Appeal Bond/Security.** Pursuant to Iowa Admin. Code chapter 129, the bonds applicable to appeals from the NOIA are as follows:

**3.30.2.1.** First-tier appeal bond: 5% of the contract value, as determined by the Agency.



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**3.30.2.2.** Second-tier appeal bond: 25% of the contract value, as determined by the Agency.

**3.30.2.3.** Stay of proceedings bond: as required by rule.

All bonds are due on the date of the corresponding appeal or application for a stay of proceedings. The appellant forfeits an appeal bond or security if, as determined by the Agency, following resolution of the appeal, the appeal is determined to have had little or no factual or legal basis and was primarily filed to frustrate the procurement process or cause hardship for the Agency or another vendor. Failure to supply the Agency with an appeal bond or security required by this section will result in the dismissal of the appeal. An appeal bond or security may be by certified check, cashier's check, certificate of deposit, irrevocable letter of credit, bond, or other security acceptable to the Agency. These requirements will not be waived by the Agency.

### **3.31. Choice of Law and Forum**

This solicitation will be governed by the laws of the State of Iowa without giving effect to the choice of law principles of Iowa law. Any litigation in connection with this solicitation will be brought and maintained in the state or federal courts sitting in Polk County, Iowa.

### **3.32. Order of Precedence**

If there is a conflict between a specific provision in this solicitation or those in any resulting contract documents, the conflict will be resolved according to the following priority, ranked in descending order: (1) the contract; (2) the solicitation; (3) the proposal.

#### 4. Form and Content of Proposals

These instructions describe and define the format and content of the Proposal. They are designed to facilitate a uniform review process. Failure to adhere to the Proposal format may result in the rejection of the Proposal.

Subject	Specifications
<b>Proposal General Composition</b>	<ul style="list-style-type: none"> <li>The Proposal will be divided into two parts: (1) the Technical Proposal and (2) the Cost Proposal. The Technical Proposal and the Cost Proposal will be labeled as such as separate electronic files. The files will be labeled with the following information: <ul style="list-style-type: none"> <li><b>RFP-185-1585-2025 – Respondent Name – Technical Proposal</b></li> <li><b>RFP-185-1585-2025 – Respondent Name – Cost Proposal</b></li> </ul> </li> <li>Proposals shall be provided in PDF format. Files shall be text-based and not scanned image(s) and shall be searchable and not password protected or contain restrictions that prevent copying, saving, highlighting, or printing of the contents.</li> <li>All files must be attached to the Respondent's submission in <a href="#">IMPACS</a>.</li> <li>Proposals will not contain promotional or display materials.</li> <li>If a Respondent proposes more than one solution to the RFP, each will be labeled and submitted as a separate Proposal and evaluated separately.</li> <li>The Proposal will be submitted in digital format via <a href="#">IMPACS</a>. Proposals must be formatted for printing on 8.5" x 11" paper (one side only). Complex charts, graphs, and diagrams may be formatted for printing on legal-sized or larger paper.</li> <li>Proposals must be typewritten. The font must be 11 point or larger (excluding charts, graphs, or diagrams). Acceptable fonts include Times New Roman, Calibri, Arial, and Gill Sans MT.</li> <li>All pages in the Respondent's Proposal sections 1-5 are to be sequentially numbered from beginning to end (do not number these Proposal sections independently of each other). The contents in the Respondent's Proposal section 6 may be numbered independently of other sections.</li> </ul>
<b>Request for Confidential Treatment</b>	<ul style="list-style-type: none"> <li>If the Respondent designates any information in its Proposal as confidential pursuant to RFP Section 3, the Respondent must also submit a public copy of the Proposal from which confidential information has been redacted as provided in RFP Section 3. This copy must be marked "Public Copy". <b><i>Respondents WILL NOT seek confidential treatment of their Cost Proposal, in whole or in part.</i></b> <ul style="list-style-type: none"> <li><b>RFP-185-1585-2025 – Respondent Name – Public Copy</b></li> </ul> </li> <li>See RFP section 3.10 Form 22 – Request for Confidentiality for additional information regarding confidential treatment.</li> </ul>
<b>Exceptions to RFP/Contract Language</b>	<ul style="list-style-type: none"> <li>Exceptions to Terms and Conditions will be set forth in RFP Section 7.</li> <li>If the Respondent objects to any term or condition of the RFP or attached Sample Contract, Respondent must follow instructions set forth in Iowa IMPACS solicitation questions section, Group 2: Terms and Conditions.</li> </ul>

## 5. Technical and Cost Proposal Contents

This section lists the required Proposal contents related to this RFP. By submitting a Proposal, the Respondent agrees to meet all stated scope in Section 2 and any other terms and conditions stated in this solicitation. The following documents and responses will be included in the Proposal and Proposals should be organized into sections **in the same order provided below**. Proposals must use a separate page clearly labeled with the section number to separate each section of the response. If the Respondent chooses to provide attachments to respond to sections 1-6 below, please create a new clearly labeled attachment section immediately behind the applicable section.

### 5.1 Title Page

The Respondent will include a title page with an authorized representative along with the Proposal number.

### 5.2 Information to include in Section 1: Transmittal Letter

The transmittal letter serves as a cover letter for the Technical Proposal. The Respondent will prepare an executive summary and overview of the goods and/or services it is offering, including all the following information:

- 5.2.1 Statements that demonstrate that the Respondent has read, understands, and agrees with the terms and conditions of the solicitation, including all addenda and attachments hereto.
- 5.2.2 Confirmation that Respondent has read the Scope of Work and that the Respondent understands the scope and nature of the goods and/or services being solicited.
- 5.2.3 An overview of the goods and/or services Respondent is offering in response to this solicitation.
- 5.2.4 An overview of the Respondent's plans for complying with the specifications and requirements of this solicitation.
- 5.2.5 Any other summary information the Respondent deems to be pertinent.

An individual authorized to legally bind the Respondent will sign the transmittal letter and include the Respondent's mailing address, email address, and telephone number.

### 5.3 Information to include in Section 2: Table of Contents

Include a table of contents that includes references to all Attachments. Section numbers must be hyperlinked to the appropriate section within the Proposal.

### 5.4 Scored Technical Specifications

#### See Attachment #2 – Technical Proposal Points

Respondents are not required to address responsibilities specifically designated as Agency responsibilities. The Agency has wide latitude in scoring and is not obligated to score all aspects of Proposals submitted.

### 5.5 Information to include in Section 3: Scope of Work

The Respondent will address each component of the Scope of Work by first restating the component

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followed by details of the Respondent's planned approach immediately following the restated text. Proposal responses should provide sufficient detail so the Agency can understand and evaluate the Respondent's approach.

The Respondent represents and warrants that the proposed solution will remain available and viable for not less than ten (10) years from the date of Proposal and that the proposed solution will not be retired or discontinued before the expiration of such two (2) year window.

#### **5.6 Information to include in Section 4: Experience**

A history of successful device refurbishment programming is required to respond to this RFP. The State of Iowa seeks an established device refurbishing organization to permanently expand operations within the state.

- 5.6.1** Number of years in business.
- 5.6.2** Number of years of experience with providing the types of goods and/or services sought by the solicitation.
- 5.6.3** Certifications for or description of technical experience in providing the types of goods and/or services sought by the solicitation.
- 5.6.4** A list of all successful operations similar to those sought by this solicitation that the Respondent has provided to other businesses or governmental entities.
- 5.6.5** List past and current clients as references including number and type of devices refurbished and distributed

#### **5.7 Information to include in Section 5: Key Personnel**

The Respondent will provide resumes for all key personnel involved in providing the goods and/or services contemplated by this solicitation. The following information will be included in the resumes:

- 5.7.1** Full name.
- 5.7.2** Education.
- 5.7.3** Years of experience and employment history, particularly in relation to the solicitation's specifications.
- 5.7.4** Illustrate the lines of authority in two tables:
  - One showing overall operations
  - One showing staff who will provide services under this RFP

#### **5.8 Information to include in Section 6: RFP Forms**

The forms listed below are attachments to this RFP. Fully complete and submit these forms in Section 6 of the Respondent's proposal. See the Buyer Attachment section in Iowa IMPACS to download this attachment.

- Attachment #1: Respondent Information
- Attachment #3: Subcontractor Disclosure Form
- Attachment #6: Sample Contract

#### **5.9 Cost Proposal**

##### **5.9.1 Payment Terms**

Per Iowa Code § 8A.514 the State of Iowa is allowed at least sixty (60) days to pay an invoice submitted by a vendor.

**5.8.1.1** The successful Respondent will be paid fixed fees for services rendered in accordance with the pricing set forth in Attachment # X – Cost Proposal Form.

**5.8.1.2** Mobilization: The successful Respondent will be paid a one-time fixed fee for mobilization after the successful Respondent is established in Iowa, the Agency has completed a site visit and has approved the mobilization.

**5.8.1.3** The successful Respondent will be paid a quarterly fixed fee for Operations and Per Device Cost. The successful Respondent can request reimbursement on Per Device Costs on the first 75,000 devices. The successful Respondent will submit all reports and supporting documentation no later than the 15<sup>th</sup> day of the month following each quarter being reported showing it has met all requirements, deliverables and performance measures. The Agency will review all submitted documentation. Determination of whether requirements, deliverables and performance measures have been met is strictly and solely at the discretion of the Agency. The Agency will notify the successful Respondent of any performance concerns in a timely manner to allow for an opportunity to correct deficiencies prior to requesting an invoice. If the Agency determines the Contractor is in compliance, the Agency will request an invoice for 100% of the fixed quarterly amount. If the Agency determines the successful Respondent is not in compliance after remediation, the Agency will request an invoice for 95% of the fixed quarterly amount, withholding 5% for non-compliance.

**5.8.1.4** The Agency may withhold the last full quarterly payment due at the end of the contract until such time as the successful Respondent has completed contract close out duties and contract close out has been approved by the Agency.

## **5.9.2 Payment Methods**

The State of Iowa, in its sole discretion, will determine the method of payment for goods and/or services as part of any contract.

## **5.9.3 Cost Proposal Contents**

The Respondent's cost Proposal will include an all-inclusive, itemized total cost in U.S. Dollars (including all expenses, etc.). All pricing will be FOB Destination, freight cost, and all expenses included and based on Net 60 Days Payment Terms. A template is provided in IMPACS. Please attach additional pages to the cost Proposal to provide additional narrative support for the cost information. **Cost Proposals cannot be marked confidential.**

**5.8.3.1** Articulate your pricing model, including number/percent of devices that can be given away at no cost (depending on eligibility), and a sliding scale price point (depending on eligibility). Note that eligibility requirements will be determined based on Covered Population status and income, in conjunction with the State of Iowa Digital Equity team during initial phases of the contract.

## **5.9.4 Firm Offer**

The Respondent will guarantee that the goods and/or services offered in the Proposal are currently available and that all Proposal terms, including price, will remain firm for the number of days indicated on the solicitation cover sheet following the deadline for submitting Proposals.

## **6. Evaluation and Selection**

### **6.1. Introduction**

Proposals that are submitted in a timely manner and not rejected will be reviewed and evaluated in accordance with the Evaluation and Selection section of the solicitation to determine which proposal or proposals provide the greatest benefit to the State. The Agency will not necessarily award the Contract to the Respondent offering the lowest cost to the Agency. Instead, the Agency will award to the Respondent whose proposal the Agency believes will provide the best value to the State.

### **6.2. Evaluation Committee**

The Agency will conduct a comprehensive, fair, and impartial evaluation of proposals received in response to this solicitation. The Agency will use an evaluation committee to review and evaluate the technical proposals. Based on the evaluation results, the evaluation committee will recommend an award to the Agency decision-maker.

### **6.3. Technical Proposal Evaluation and Scoring**

Proposals deemed by the Issuing Officer to be responsive to the solicitation will be evaluated by the evaluation committee. The committee will evaluate technical proposals using a consensus scoring model and the solicitation's scoring rubric. Technical Proposals will be evaluated and scored by the evaluation committee based on the evaluation categories identified in the Scored Technical Specifications Section of Section 5 (Technical and Cost Proposal Contents) and in accordance with the relative weights accorded each evaluation category as set forth in the Attachment #2.

Technical proposals must receive at least 60% of the available points in order to be eligible to be awarded the contract. Respondents who do not receive at least 60% of the points available for the technical proposal will not have their cost proposals reviewed and will not be eligible for further consideration in the solicitation.

### **6.4. Cost Proposal Scoring**

The cost proposal for each respondent will be evaluated in comparison with the other cost proposals received; however, the number of points possible will be proportional to each respondent's technical evaluation score.

The technical evaluation points received (numerator) are divided by the technical evaluation points possible (denominator) and multiplied by the maximum number of points in the cost evaluation. This provides the total points possible for the respondent in the cost evaluation.

Points Possible for Respondent =

Technical Evaluation Points Received x Maximum Points in Cost Evaluation  
Technical Evaluation Points Possible

The lowest cost proposal (numerator) is divided by the cost proposal being evaluated (denominator) and

multiplied by the possible points for the respondent, which provides the cost evaluation points awarded.

Cost Evaluation Points Awarded =

Lowest Cost Proposal Received x Points Possible for Respondent Cost Proposal Being Evaluated

For example, suppose the cost evaluation has a maximum of 10 points. A respondent who receives 100% of the points possible in the technical evaluation can earn 100% of the points possible in the cost evaluation (e.g., 10 points). If the cost proposal is the lowest cost, the full 10 points will be awarded.

However, a respondent who receives only 50% of the points possible in the technical evaluation has the opportunity to earn only 50% of the points possible in the cost evaluation (e.g., 5 points).

If the cost proposal is the lowest cost, only 5 points are awarded, compared to the 10 points that could have been awarded if the respondent had received the highest technical evaluation score.

#### 6.4.1. Total Score

The Respondent's Technical Proposal points will be added to its Cost Proposal points to obtain the total points awarded for the proposal.

#### 6.4.2. Proposal Scoring and Evaluation Criteria

The evaluation committee will use the method described in this section to assist with determining the relative merits of each technical proposal.

##### Scoring Guide.

Points will be assigned to each evaluation component as follows, unless otherwise designated:

Excellent	5
Very Good	4
Good	3
Fair	2
Poor	1
Completely Inadequate	0

#### 6.4.3. Tied Score and Preferences

In the event of a tied score, the award will be determined as follows:

- (1) Whenever a tie involves an Iowa vendor and a vendor outside the state of Iowa, first preference will be given to the Iowa vendor. Ties involving Iowa-produced or Iowa-manufactured products and items produced or manufactured outside the state of Iowa will be resolved in favor of the Iowa product. Whenever a tie involves one or more Iowa vendors and one or more vendors outside the state of Iowa, the drawing process outlined in [subparagraph 10.12\(3\)\(e\)\(3\)](#) will be held among the Iowa vendors only.



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- (2) If a tie does not include an Iowa vendor or Iowa-produced or Iowa-manufactured product, preference will be given to a vendor based in the United States or products produced or manufactured in the United States over a vendor located or products produced or manufactured outside the United States.
- (3) If a tie neither includes an Iowa vendor or Iowa-produced or Iowa-manufactured product nor a United States vendor or United States-produced or United States-manufactured product, a drawing may be held in the presence of the vendors that tied or in front of at least three disinterested parties. All drawings will be documented. Iowa Admin. Code r. 129–10.13(3)(e).

#### **6.4.4. Recommendation of the Evaluation Committee.**

The evaluation committee will present a final ranking and recommendation(s) to the Award decision-maker for consideration. In making this recommendation, the committee is bound by the total scores awarded through the evaluation process. The Award decision-maker will either accept the committee's recommendation or reject the recommendation and cancel the solicitation.

## **7. Contract Terms & Conditions and Contract Administration**

- 7.1.** The resulting contract includes the RFP's specifications, requirements, and terms; any RFP amendments; the contract Terms and Conditions (Attachment #3); the offer of the successful Respondent contained in its Proposal; and any other terms deemed necessary by the Agency, including those listed in sections 7.5 and 7.6.
- 7.2.** The Contract terms and conditions for the successful Respondent are included in this RFP as Attachment #3 and posted in the [IMPACS](#) solicitation.
- 7.3.** If the Respondent takes exception to any Terms and Conditions, the Respondent must submit a separate electronic file consisting of a redlined Microsoft Word document of the Terms and Conditions. Any exceptions should be accompanied by an explanation for the modification. Objections raised during the solicitation process may be considered during the evaluation and contract negotiations. Objections not raised during the solicitation process are waived and will not be considered at later stages. The Agency's receipt of objections to the Terms and Conditions does not imply acceptance or agreement to any proposed objections. The Contract(s) awarded by the Agency will include the specifications, terms, and conditions outlined in the original solicitation. It may also include any written changes or clarifications made by the Agency through amendments or addenda, the successful Respondent's proposal, and any other necessary terms decided by the Agency.
- 7.4.** Objections raised during the solicitation process may be considered during the evaluation and contract negotiations. A Proposal that includes substantive objections may result in the Agency rejecting the Proposal. The Agency reserves the right to either award a Contract(s) without further negotiation with the successful Respondent or to negotiate Contract terms with the successful Respondent if the best interests of the State would be served. As such, if any proposed modifications are not determined to be in the best interests of the State or appear to pose a substantial impediment to reaching an agreement, the Agency may, in its sole discretion:
  - 7.4.1.** Issue a Notice of Intent to Award in favor of the successful Respondent but decline to agree to or further negotiate any proposed modifications to terms and conditions identified by the Respondent in its Proposal.
  - 7.4.2.** Issue a Notice of Intent to Award in favor of the successful Respondent and identify in the Notice proposed modifications to terms and conditions identified by the Respondent in its Proposal with which the agency will or will not agree or further negotiate.
  - 7.4.3.** Enter open-ended negotiations with the successful Respondent, provided that any such negotiations will be limited to the proposed modifications to terms and conditions identified by the Respondent in its Proposal.
  - 7.4.4.** Change the Agency's recommendation for Award and issue a Notice of Intent to Award to a Respondent whose proposal does not pose as great of a challenge to the Agency.

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Any ambiguity, vagueness, inconsistency, or conflict, either internal to such modification(s) or arising when read in conjunction with other portions of the Contract, will be construed strictly in favor of the State. Only those proposed modifications identified in the Notice of Intent to Award issued by the Agency as terms and conditions with which the agency will or will not agree or further negotiate will be part of the Contract, and the State may ignore all proposed modifications, accept one or more and ignore others, accept all or, through negotiations after an award, agree to compromise language concerning one or more proposed modifications to be incorporated into a final Contract between the parties. By executing and submitting its Proposal in response to this RFP, the Respondent understands and agrees that the State may exercise its discretion not to consider any or all proposed modifications from the Respondent and may accept the Respondent's proposal under the terms and conditions of this RFP and the Terms and Conditions.

## **7.5. Contractual Terms and Conditions – No Material Changes/Non-Negotiable**

Notwithstanding anything in this RFP to the contrary, Respondent may not take exception to or propose including language in any resulting contract that conflicts with or is otherwise inconsistent with the following:

### **7.5.1. Indemnification**

Without specific authority to do so, the State or agencies cannot enter into agreements indemnifying Respondents or any other entity against third-party claims. A clause that intends to seek indemnification from the State, whether or not the clause contains the words "indemnity" or "indemnify," is not a clause to which the State may agree. The State will not agree to the clause that includes the language "to the extent permitted by law" because, as explained, the State cannot indemnify Respondents to any extent.

### **7.5.2. Limitation of Liability**

Iowa Code section 8A.311(22) and 11 Iowa Admin. Code chapter 120 establishes the rules to allow for the State to agree to a contractual limitation of vendor liability clause in limited circumstances. Any request by Respondent for the State to limit damages not in accordance with Iowa law or administrative rules is a request with which the State cannot agree.

### **7.5.3. Attorney General Representation and Jurisdiction & Venue**

Iowa Code chapter 13 establishes that the Iowa Attorney General is the State's attorney for all purposes, including management of litigation and claims against the state. The State may not preempt the Attorney General's authority by agreeing in advance to control the way litigation may be managed in the event of a dispute. Likewise, the State cannot agree to the jurisdiction or laws of another state or its courts, cannot agree to venue in another state, and cannot agree to participate in any form of alternative dispute resolution.

### **7.5.4. Confidentiality**

All Iowa state agencies are subject to Iowa public records laws. The State cannot agree to contractual terms that attempt to prevent it from disclosing or disseminating records that constitute public records under Iowa Code chapter 22.

**7.5.5. Unliquidated Expenses (i.e., Attorney Fees, Add-ons, or Cost Increases)**

The State may not agree to clauses that obligate it to pay for claims that might exceed its current funding appropriation. The State may only obligate funds appropriated to it by the Iowa Legislative Assembly and may only obligate those funds for the purposes for which the funds were appropriated.

**7.6. Special Terms and Conditions****7.6.1. Term Length**

If appropriate, the Contract term may be described as completion and acceptance of all requirements within the scope of work rather than a specific length of time (regardless of the existence of a project schedule).

The Contract will have an initial term of four years, beginning on the date of contract execution (the "Effective Date"). At the end of the Contract's initial term, the State will have the option, in its sole discretion, to renew the Contract on the same terms and conditions for up to a total of four (4) years. The State will give the successful Respondent written notice of its intent on whether to exercise each option no later than sixty (60) days before the end of the Contract's then-current term.

**7.6.2. Payment Terms****7.6.2.1. Payment Methods**

The State of Iowa, in its sole discretion, will determine the method of payment for goods and/or services as part of the Contract. The State Pcard and EAP are preferred payment methods, but payments may be made using any of the following methods: Pcard/EAP, EFT/ACH, or State Warrant. Respondents will indicate in their Cost Proposals all of the payment methods they will accept. This information will not be scored as part of the Cost Proposal or evaluated as part of the Technical Proposal.

**7.6.2.2. Electronic Funds Transfer (EFT) by Automated Clearing House (ACH)**

The State of Iowa may make payment by EFT by ACH. Payments are deposited into the financial institution of the claimant's choice three working days from the issue date of the direct deposit. [https://das.iowa.gov/sites/default/files/acct\\_sae/man\\_for\\_ref/forms/eft\\_authorization\\_form.pdf](https://das.iowa.gov/sites/default/files/acct_sae/man_for_ref/forms/eft_authorization_form.pdf)

**7.6.2.3. State Warrant**

The State of Iowa's warrant drawn on the Treasurer of State is used to pay claims against the departments of the State of Iowa. The warrant is issued upon receipt of proper documentation from the issuing department

**7.6.2.4. Credit card or ePayables**

The State of Iowa's Purchasing Cards (Pcards) and ePayable solution (EAP) are commercial

payment methods utilizing the VISA credit card network. The State of Iowa will not accept price changes or pay additional fees if the Respondent uses the Pcard or EAP payment methods. Pcard-accepting Respondents must abide by the State of Iowa's Terms of Pcard Acceptance. Respondents must provide a statement regarding their ability to meet the requirements in this subsection, as well as identify their transaction reporting capabilities (Level I, II, or III).

#### **7.6.2.5. Terms and Conditions for State of Iowa Purchasing Cards**

The State of Iowa will pay the successful Respondent's invoices using its Purchasing Card Program (Pcard) whenever possible. The Pcard is a VISA credit card issued by U.S. Bank to allow authorized employees to make purchases on behalf of the State. It is a faster, more convenient alternative to traditional invoicing and remittance processing, allowing US Bank to pay the successful Respondent directly, generally within 48 hours of the transaction. The successful Respondent will comply with security measures for Pcard payments including:

- 7.6.2.5.1.** The successful Respondent will comply with [Payment Card Industry Data Security Standard \(PCI DSS\)](#) to ensure confidential card information is not compromised;
- 7.6.2.5.2.** The successful Respondent will adhere to [Fair and Accurate Credit Transactions Act](#) requirements that limit the amount of consumer and account information shared for greater security protection;
- 7.6.2.5.3.** The successful Respondent will not write down card numbers or store card information. When accepting orders by phone, the successful Respondent will process the transaction during the call and send itemized receipts (excluding card numbers) to the cardholder by fax, email, or mail (with postage prepaid);
- 7.6.2.5.4.** The successful Respondent will process payment for items when an order is placed only for items currently in stock and available for shipment and only for services already rendered;
- 7.6.2.5.5.** The successful Respondent will confirm that the name of the purchaser matches the name on the card;
- 7.6.2.5.6.** The successful Respondent will ensure Internet orders are processed via secure websites featuring Verisign, TRUSTe, BBBOnline, or "https" in the Web URL address;
- 7.6.2.5.7.** The successful Respondent will shred any documentation with credit card numbers.

#### **7.6.2.6. Payment Terms**

Per Iowa Code 8A.514 the State of Iowa is allowed sixty (60) days to pay an invoice submitted by a

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Contractor.

#### 7.6.2.7. Respondent Discounts

The Respondents will state in their Cost Proposals whether they offer any payment discounts.

#### 7.6.2.8. Prompt Payment Discount

If an incentive for earlier payment is offered, the state can agree to pay in less than sixty (60) days.

#### 7.6.2.9. Invoices

Any invoices submitted must comply with applicable rules concerning payment of claims, including but not limited to those set forth in Iowa Administrative Code chapter 11—41.

### 7.6.3. Insurance

The Contract will require the successful Respondent to maintain insurance coverage(s) in accordance with the insurance provisions of the General Terms and Conditions and of the type and in the minimum amounts set forth below unless otherwise required by the Agency.

Type of Insurance	LIMIT	AMOUNT
General Liability (including contractual liability) written on an occurrence basis	General Aggregate Products	\$2 million
	– Comp/Op Aggregate	\$1 Million
	Personal injury	\$1 Million
	Each Occurrence	\$1 Million
Automobile Liability (including contractual liability) written on an occurrence basis	Combined single limit	\$1 Million
Excess Liability, Umbrella Form	Each Occurrence	\$1 Million
	Aggregate	\$1 Million
Errors and Omissions Insurance	Each Occurrence	\$1 Million
Property Damage	Each Occurrence	\$1 Million
	Aggregate	\$1 Million
Workers Compensation and Employer Liability	As Required by Iowa law	A required by Iowa law
Cyber Liability		\$5 Million

Acceptance of the insurance certificates by the Agency will not act to relieve the successful Respondent of

any obligation under the Contract. It will be the responsibility of the successful Respondent to keep the respective insurance policies and coverages current and in force during the life of the Contract. The successful Respondent will be responsible for all premiums and deductibles and for any inadequacy, absence, or limitation of coverage. The successful Respondent will have no claim or other recourse against the State or the Agency for any costs or loss attributable to any of the foregoing, all of which will be borne solely by the successful Respondent. Notwithstanding any other provision of the Contract, the successful Respondent will be fully responsible and liable for meeting and fulfilling all of its obligations under this section of the Contract.

#### **7.6.4. Performance Security**

The Contract may require the Respondent to provide security for performance [e.g. performance bond, escrow, letter of credit, liquidated damages]. Agency will retain ten percent (10%) of each payment due under the Contract. The agency will pay the retained amount only after all Deliverables have been completed by the successful Respondent and accepted by the Agency.

#### **7.6.5. Quarterly Report**

The successful Respondent will provide an electronic detailed quarterly report on all sales made under this agreement within the State of Iowa via E-Mail to the Iowa Department of Management, <mailto:ITContracts@dom.iowa.gov>. The report file format will be compatible with Microsoft Excel. At a minimum, the report will include the date of sale, customer name and address, full product description, SKU Numbers, quantity, invoice number, unit, and extended invoice prices. The State reserves the right to request more detailed information (ad-hoc reporting) at any time and on an individual or specific basis for a specific product, department, time frame, or a range of products, departments, or time frames.

##### Quarterly Reporting Schedule:

Quarter 1 (July 1 – Sept 30) Due Oct 31

Quarter 2 (Oct 1 – Dec 31) Due Jan 31

Quarter 3 (Jan 1 – Mar 31) Due Apr 30

Quarter 4 (Apr 1 – Jun 30) Due July 31

#### **7.6.6. Administrative Fee**

Without affecting the approved Goods or Services prices or discounts specified in the Master Agreement, the State of Iowa will receive a one percent (1.00%) administrative fee on all sales made within the State of Iowa against this agreement. The administration fee due to the State of Iowa will be paid quarterly by the successful Respondent directly to the State, made payable to the "Iowa Department of Management."

State of Iowa – Department of Management  
Attention: CFO  
200 E. Grand Avenue, Suite 100  
Des Moines, IA 50309

#### **7.6.7. Order of Precedence**



Solicitation No.:

Title:

If there is a conflict or inconsistency between any documents comprising the Terms and Conditions, such conflict or inconsistency will be resolved according to the following priority, ranked in descending order:

- (1)** any terms in this Section 7 (Contract Terms and Conditions & Administration);
- (2)** the General Terms and Conditions to the extent referenced and linked to on the RFP cover page of the Contract;
- (3)** if the General Terms and Conditions are not linked to on the RFP cover page, any terms and conditions attached to and accompanying this RFP as Attachment 3; and
- (4)** any terms and conditions specifically set forth in this Section 7 (Contract Terms and Conditions & Administration) under a subsection with a title other than Special Terms & Conditions.

Solicitation No.:

Title:

**Attachment #1: Respondent Information**

*See the Buyer Attachment section in Iowa IMPACS to download this attachment*

*The space below is RESERVED.*

## Attachment #2: Technical Proposal Points

**There are 1100 total points available.  
The Technical Proposal has 800 possible points, Presentation/Demonstration (if applicable)  
has 100 points, and the Cost Proposal has 200 possible points.**

### Technical Score

Scored Criteria	Section # of the RFP	Possible Points Awarded
Donated Devices	2.1.1	100
Acceptable Devices – Quality of Devices	2.1.2.1	40
Acceptable Devices – Baseline Software	2.1.2.2	40
Acceptable Devices – Refurbishing Standards	2.1.2.3	40
Acceptable Devices – Trouble Shooting / Tech Support	2.1.2.4	100
Acceptable Devices – Cost Structure	2.1.2.5	70
Distribution Centers/Points	2.1.3	100
Program Eligibility	2.5.1	40
Implementation Schedule	2.5.2	100
Risk Management	2.6	70
Experience	5.6	100
<b>TOTAL:</b>		<b>800</b>

### Oral Presentation/Demonstration ScoreS

Overview of Respondent's Proposal	60
Response to Agenda Questions	20
Response to Additional Questions	20
<b>TOTAL:</b>	<b>100</b>

The evaluation committee will score proposals during the evaluation meeting based on the criteria established in the solicitation. Proposals must be evaluated based on the criteria listed in the solicitation. The evaluation committee scores each proposal, criteria by criteria. To the degree necessary, each section should be discussed to include the positives, negatives, concerns, and other information regarding the section of the proposal. Once the discussion is concluded, the committee will come to a consensus on a score for those criteria. The committee will repeat until all criteria are scored. The Issuing Officer will record the final score for each scored requirement.

Solicitation No.:

Title:

**Attachment #3: Subcontractor Disclosure Form**

*See the Buyer Attachment section in Iowa IMPACS to download this attachment*

*The space below is RESERVED.*

Solicitation No.:

Title:

**Attachment #4: Cost Proposal Form**

*See the Buyer Attachment section in Iowa IMPACS to download this attachment*

*The space below is RESERVED.*

## Attachment #5: Digital Device Map and Table

This initiative aims to reduce the number of households that lack enough devices to meet the needs of everyone in their family. That question was asked in the Statewide Survey conducted as part of the State of Iowa [Digital Equity Plan](#), as follows:

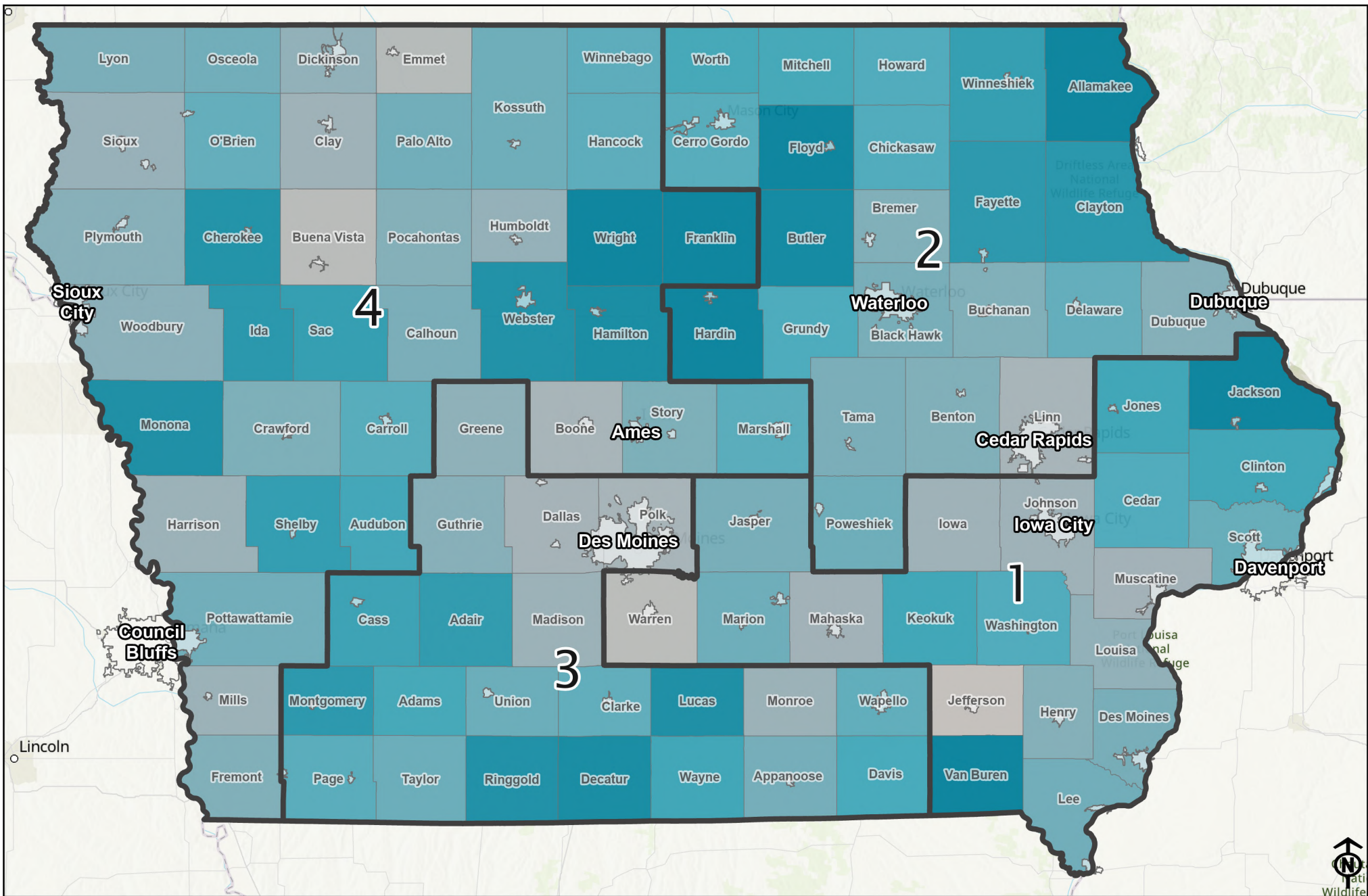
“Does your household have enough computer devices available to meet the needs of those living in your home?”  
Figure 22, Page 27 of Iowa’s Digital Equity Plan.

About 88% of Iowans responded that they had enough devices at home to meet the needs of all individuals in the home. The goal of 75,000 devices aims to reduce the percent of respondents that say they don’t have enough devices by the end of 2029 in half (goal of 94% positive response rate), explained further on Page 94 of Iowa’s Digital Equity Plan.

The attached map shows the State of Iowa divided into four zones based on US Congressional District boundaries. Each county is shaded based on the percent of the population 25 years and over who are at least high school graduates that live in households with no computer. This data is pulled from the US Census Bureau’s American Community Survey (ACS) 2019-2023. While this question is not a perfect replication to the question asked in the Statewide Survey for the Digital Equity Plan, it does serve as an excellent proxy with county-level precision on where Iowans need devices relative to others.



Zone 1 is Southeastern Iowa containing the cities of Davenport and Iowa City. Zone 2 is Northeastern Iowa containing the cities of Waterloo, Cedar Rapids, and Dubuque. Zone 3 includes Des Moines and West Des Moines and much of Southcentral and Southwest Iowa. Zone 4 is Northwestern and Western Iowa and includes Sioux City and Council Bluffs. This map roughly divides the state equally with respect to population. The accompanying table lists all 99 counties in three sets of columns. Each set of columns contains the name of the county in one column, the total population of individuals 25 and over with at least a high school equivalency in the second column, and the subset of those individuals that do not have a computer in that county in the third column.

Within the 75,000 statewide device distribution goal, it is expected that each of the four zones will have a minimum of 7,500 devices (10%) distributed to each. Understanding that distribution of devices cannot be easily achieved logistically from the outset, the minimums per zone are not 25% of the total. However, it is important to distribute beyond one central point to serve as many Iowans as possible as the refurbishing entity establishes its presence and distribution strategy.

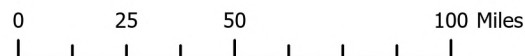
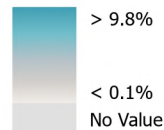


## US Congressional District-based Zone Boundaries

Proposed zone boundary lines drawn based on US Congressional District boundaries. County boundaries are depicted using U.S. Census Bureau's American Community Survey (ACS) 2019-2023 5-year estimates of Percent of Population 25 Years and Over who are High School Graduates (Includes Equivalency) or Have Some College or Associate's Degree in Households that Have No Computer.

-  Iowa US House of Representative Districts
-  Urban Areas

Percent of Population 25 Years and Over who are High School Graduates (Includes Equivalency) or Have Some College or Associate's Degree in Households that Have No Computer





County Name	Total Pop >25 Years in HH	Total Pop w/ No Comp- uter	County Name	Total Pop >25 Years in HH	Total Pop w/ No Comp- uter	County Name	Total Pop >25 Years in HH	Total Pop w/ No Comp- uter
Adair	5,107	416	Floyd	10,560	1,047	Monona	5,963	513
Adams	2,557	188	Franklin	6,656	766	Monroe	5,054	230
Allamakee	9,414	981	Fremont	4,596	233	Montgomery	7,024	587
Appanoose	8,638	718	Greene	6,111	308	Muscatine	28,195	1,123
Audubon	3,924	328	Grundy	8,441	534	O'Brien	9,243	555
Benton	17,641	865	Guthrie	7,536	355	Osceola	4,186	294
Black Hawk	81,458	3,970	Hamilton	10,268	885	Page	10,349	669
Boone	18,603	675	Hancock	7,481	485	Palo Alto	5,863	323
Bremer	16,308	753	Hardin	11,882	1,231	Plymouth	17,138	775
Buchanan	13,698	941	Harrison	9,936	478	Pocahontas	4,749	240
Buena Vista	12,734	310	Henry	12,683	699	Polk	326,525	10,231
Butler	9,907	901	Howard	6,150	604	Pottawattamie	62,283	3,494
Calhoun	6,380	337	Humboldt	6,524	346	Poweshiek	11,894	684
Carroll	13,607	919	Ida	4,570	322	Ringgold	3,050	274
Cass	8,969	599	Iowa	11,310	472	Sac	6,742	526
Cedar	12,960	786	Jackson	13,543	1,279	Scott	117,053	5,737
Cerro Gordo	29,871	1,816	Jasper	25,009	1,265	Shelby	8,038	571
Cherokee	7,939	639	Jefferson	11,041	322	Sioux	20,906	977
Chickasaw	7,999	592	Johnson	90,520	2,626	Story	51,697	1,737
Clarke	6,282	448	Jones	13,957	1,019	Tama	11,409	578
Clay	11,150	418	Keokuk	6,835	479	Taylor	4,005	287
Clayton	11,929	1,170	Kossuth	10,103	632	Union	7,965	518
Clinton	31,584	2,400	Lee	22,783	1,271	Van Buren	4,980	655
Crawford	10,338	523	Linn	154,495	5,061	Wapello	23,574	1,406
Dallas	67,950	1,814	Louisa	7,371	364	Warren	34,956	918
Davis	5,599	1,017	Lucas	6,008	556	Washington	14,934	978
Decatur	4,667	512	Lyon	7,555	409	Wayne	4,264	526
Delaware	11,941	1,036	Madison	11,238	605	Webster	23,062	1,906
Des Moines	26,450	1,427	Mahaska	14,229	663	Winnebago	7,004	400
Dickinson	13,094	562	Marion	21,903	1,263	Winneshiek	13,186	887
Dubuque	64,764	2,926	Marshall	25,297	1,535	Woodbury	66,179	3,495
Emmet	6,425	206	Mills	9,817	357	Worth	5,281	490
Fayette	13,153	1,004	Mitchell	7,019	511	Wright	8,394	749

Solicitation No.:

Title:

**Attachment #6: Sample Contract**

*Please see the sample contract starting on the next page.*

*The space below is RESERVED*

**State of Iowa IT Agreement**  
**Contract Declaration and Execution**  
[[ Contract Number ]]

1. Agreement – General Information and Term			
<b>Agreement #</b>	[[ Contract Number ]]		
<b>Title of Agreement (“Agreement”)</b>	[[ Contract Name ]]		
<b>Start Date</b>	[[ Start Date ]]		
<b>End Date</b>	[[ End Date ]]		
<b>Renewal Term</b>	[[ Renewal Term ]]		
<b>Number of Renewals</b>	[[Number of renewals available]]		
2. Vendor Information			
<b>Vendor:</b>	[[ Name (Primary Second Party) ]]		
<b>Sales Contact:</b>	[[Name]]	[[email]]	[[phone]]
<b>Contract Manager:</b>	[[ Contact Name (Primary Second Party Contact) ]]	[[ Contact E-mail (Primary Second Party Contact) ]]	[[ Contact Phone Number (Primary Second Party Contact) ]]
<b>Addresses:</b>	<u>Main Address:</u>  [[ ]]	<u>Billing Address:</u>  [[ ]]	<u>Notice Address:</u>  [[ ]]
<b>SAM Unique Entity Identifier:</b> [[ ]]	<b>Iowa Secretary of State Business Number:</b> [[ ]]	<b>Organized/Incorporated under the laws of:</b> [[State name]]	<b>Vendor Security Framework - Attachment B:</b> [[ ]]
3. Agency Information			
<b>Issuer:</b>	State of Iowa, by and through the Iowa Department of Management (“DOM”)		
<b>Contract Manager:</b>	[[ Contact Name (Primary First Party Contact) ]]	[[ Contact E-mail (Primary First Party Contact) ]]	[[ Contact Phone Number (Primary First Party Contact) ]]
<b>Addresses:</b>	<u>Contact and Billing Address:</u>  Iowa Department of Management Attn: Business Services 200 E. Grand Avenue Ste.100 Des Moines, IA 50309  email: <a href="mailto:ITContracts@dom.iowa.gov">ITContracts@dom.iowa.gov</a>	<u>Main Address and Formal Notices Address:</u>  Iowa Department of Management Attn: Office of General Counsel 1007 E Grand Ave G13 Des Moines, IA 50319  email: <a href="mailto:domlegalnotices@iowa.gov">domlegalnotices@iowa.gov</a>	



#### 4. Contract Summary

[[ Summary ]]

#### 5. Documents Incorporated/Order of Precedence

1. This Agreement and all attachments and external documents identified below are incorporated by this reference and together comprise the terms and conditions governing the relationship between the Parties, to be interpreted in the following order of precedence:
  - A. Ancillary agreements unique to a Purchasing Entity making purchases hereunder that specifically address state, local, or federal regulatory or compliance concerns and which may be incorporated via a Purchasing Instrument;
  - B. The following incorporated terms, to the extent expressly designated as applicable in a Purchasing Instrument:
    - i. The IT Business Associate Agreement (“BAA”), which may be updated from time to time to conform with applicable federal laws, a current version of which is available at: <https://ocio.iowa.gov/document/20220224-baa-it>;
    - ii. The IRS Publication 1075 Exhibit 7, which may be updated from time to time to conform with applicable laws, a current version of which is available at: <https://ocio.iowa.gov/document/irs-pub1075-ex7>;
    - iii. The Federal Certifications, which may be updated from time to time to confirm with applicable federal law, a current version of which is available at [https://ocio.iowa.gov/sites/default/files/federal\\_certifications\\_20230816.pdf](https://ocio.iowa.gov/sites/default/files/federal_certifications_20230816.pdf).
    - iv. Iowa Code chapter 8F.
  - C. These General Terms and Conditions;
  - D. The terms of any Purchasing Instruments executed hereunder.

**State of Iowa IT Agreement**  
**Contract Declaration and Execution**  
[[ Contract Number ]]

**6. Signatures**

**IN WITNESS WHEREOF**, in consideration of the mutual covenants set forth above and for other good and valuable consideration, the receipt, adequacy, and legal sufficiency of which are hereby acknowledged, the Parties have caused their respective duly authorized representatives to execute this Agreement, which is effective as the latest date shown: THE "START DATE" OR THE DATE BELOW SIGNED BY THE STATE OF IOWA.

<b>Vendor/Contractor</b>	<b>State of Iowa</b>
[[ Name (Primary Second Party) ]]	The Department of Management
Authorized signature:	Authorized signature:
Date:	Date:
Printed Name:	Printed Name:
Title:	Title:
Address:	Address:
Email:	Email:

**Attachment A**

**General Terms and Conditions**

The parties may be referred to herein individually as a “**Party**” or collectively as the “**Parties.**” The Parties agree to the following:

**1. Overview.**

- 1.1. Term. The initial term of this Agreement is as stated on the Contract Declaration and Execution Section (CD&E), unless terminated earlier in accordance with the terms of this Agreement. After the expiration of the initial term, DOM may, in its sole discretion, unilaterally renew this Agreement for the number of annual renewals stated on the CD&E. The initial term and any available renewals shall be referred to as the “**Term.**”
- 1.2. Relationship between this Agreement and Individual Purchasing Instruments. Each Purchasing Instrument executed hereunder shall be deemed, upon its execution, to incorporate the terms and conditions of this Agreement and shall constitute a separate, distinct, and independent Agreement between Vendor and the applicable Purchasing Entity. To the extent a Purchasing Entity other than DOM makes a purchase hereunder pursuant to a Purchasing Instrument executed by it, such Purchasing Entity shall be solely responsible for any payments due, duties, and obligations otherwise owed Vendor under the separate Purchasing Instrument. In addition, notwithstanding any other provision of this Agreement to the contrary, DOM bears no obligation or liability for any other Purchasing Entity’s losses, liabilities, or obligations, including Vendor’s failure to perform, arising out of or relating in any way to this Agreement. Likewise, the State of Iowa generally bears no obligation or liability for any political subdivision or other non-State Entity’s losses, liabilities, or obligations, including the Vendor’s failure to perform, arising out of or relating in any way to this Agreement.

**2. Definitions.** In addition to any other terms that may be defined elsewhere in this Agreement, the following terms shall have the following meanings:

- 2.1. “**Acceptance**” means the Purchasing Entity has determined a portion of the Deliverables satisfies its Acceptance Tests. “**Final Acceptance**” means the Purchasing Entity has determined all Deliverables satisfy the Purchasing Entity’s Acceptance Tests. “**Non-acceptance**” means the Purchasing Entity has determined that a portion of or all of the Deliverables have not satisfied the Purchasing Entity’s Acceptance Tests.
- 2.2. “**Acceptance Criteria**” means the Specifications, goals, performance measures or standards, testing results, requirements, technical standards, representations, or other criteria designated by the Purchasing Entity and against which Acceptance Tests are conducted, including any of the foregoing stated or expressed in this Agreement, a Purchasing Instrument, the RFP, the Proposal, any Documentation, and any applicable state, federal, foreign, and local laws, rules, and regulations.
- 2.3. “**Acceptance Tests**” or “**Acceptance Testing**” means the tests, reviews, and other activities that are performed by or on behalf of the Purchasing Entity to determine whether any or all Deliverables meet Acceptance Criteria or otherwise satisfy the Purchasing Entity, as determined by the Purchasing Entity in its sole discretion.
- 2.4. “**AI**” or “**Artificial Intelligence**” means a machine-based system that infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments.

- 2.5. **“Authorized Contractors”** means independent contractors, consultants, or other third parties (including other Governmental Entities) that are retained, hired, or utilized by the Purchasing Entity in any way to assist the Purchasing Entity with any Deliverables provided hereunder.
- 2.6. **“Confidential Information”** means, subject to any applicable federal, state, or local laws and regulations, including Iowa Code Chapter 22, any confidential or proprietary information or trade secrets disclosed by either Party (**“Disclosing Party”**) to the other Party (**“Receiving Party”**) that, at the time of disclosure, is designated as confidential (or like designation), is disclosed in circumstances of confidence, or would be understood by the Parties, exercising reasonable business judgment, to be confidential. Confidential Information does not include any information that: (i) was previously and rightfully in the possession of the Receiving Party from a source other than the Disclosing Party; (ii) was known to the Receiving Party prior to the disclosure of the information by the Disclosing Party; (iii) was disclosed to the Receiving Party without restriction by an independent third party having a legal right to disclose the information; (iv) is in the public domain; (v) is independently developed by the Receiving Party without any reliance on Confidential Information disclosed by the Disclosing Party; (vi) is disclosed or is required or authorized to be disclosed in compliance with applicable law; or (vii) is disclosed by the Receiving Party with the written consent of the Disclosing Party.
- 2.7. **“Customer Data”** means all information, data (including de-identified and aggregated data), materials, or documents (including Confidential Information and Personal Data) originating with, disclosed by, provided by, made accessible by, or otherwise obtained by or from the Purchasing Entity, the State of Iowa, or users, directly or indirectly, including from any Authorized Contractors of any of the foregoing, related to this Agreement in any way whatsoever, regardless of form, including all information, data, materials, or documents accessed, used, or developed by Vendor in connection with any Customer-Owned Deliverables provided hereunder and all originals and copies of any of the foregoing.
- 2.8. **“Customer Property”** means any property, whether tangible or intangible, of or belonging to the Purchasing Entity, including Customer Data and Customer-Owned Deliverables, software, hardware, programs, or other property possessed, owned, or otherwise controlled, maintained, or licensed by the Purchasing Entity, including third party Software or Third Party Intellectual Property.
- 2.9. **“Customer-Owned Deliverables”** means any Deliverables discovered, created, or developed by Vendor at the direction of the Purchasing Entity or for a specific project under this Agreement, including all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables, including copyrights, patents, trademarks, trade secrets, trade dress, mask work, utility design, derivative works, and all other rights and interests therein or related thereto, including any underlying Source Code and related Documentation.
- 2.10. **“Deficiency”** means a defect, flaw, error, bug, failure, omission, interruption of service, or other problem of any nature whatsoever related to a Deliverable(s) including any failure of a Deliverable(s) to conform to or meet an applicable Specification. Deficiency also includes the lack of something essential or necessary for completeness or proper functioning of a Deliverable(s).
- 2.11. **“Deliverables”** means all of the services, goods, software, work, work product, items, materials, and property to be created, developed, produced, delivered, performed, or provided by or on behalf of, or otherwise made available through, Vendor, directly or indirectly, in connection with this Agreement.
- 2.12. **“Documentation”** means any and all technical information, commentary, explanations,



design documents, system architecture documents, database layouts, code, test materials, training materials, guides, manuals, worksheets, notes, work papers, and all other information, documentation, and materials discovered, created, or developed by Vendor hereunder or otherwise related to or used in conjunction with any Deliverables in any medium, including hard copy, electronic, digital, and magnetically, or optically encoded media.

- 2.13. **“DOM”** means the State of Iowa Department of Management and, unless the context clearly indicates otherwise, any independent contractors, consultants, or other third parties (including other governmental entities) who are retained, hired, or utilized by DOM in furtherance of this Agreement.
- 2.14. **“Personal Data”** means any information relating to an identified or identifiable person, including, but not limited to, Social Security or other government-issued identification numbers, federal or state tax information, “Personal Information” as defined in Iowa Code 715C, account security information, financial account information, credit/debit/gift or other payment card information, account passwords, intellectual property, document identification number, and sensitive or personal data (or equivalent terminology) as defined under any applicable law regarding privacy, data protection, information security obligations, or the Processing of Personal Data.
- 2.15. **“Process”** or **“Processing”** shall mean any operation or set of operations performed upon the Personal Data, whether or not by automatic means, including collection, recording, organization, use, transfer, disclosure, storage, manipulation, combination, and deletion of Personal Data.
- 2.16. **“Proposal”** means the Vendor’s response to the RFP.
- 2.17. **“Purchasing Entity”** means the governmental entity that signs a Purchasing Instrument and, unless the context clearly indicates otherwise, any independent contractors, consultants, or other third parties who are retained, hired, or utilized by the Purchasing Entity in furtherance of the Purchasing Instrument or this Agreement.
- 2.18. **“Purchasing Instrument”** means an individual transactional document executed hereunder for the purchase of Deliverable(s) pursuant to this Agreement, regardless of form, and which identifies the specific Deliverable(s) to be purchased and any Acceptance Criteria or Specifications related thereto.
- 2.19. **“Source Code”** means the human-readable source code, source program, scripts, in any language or form, for or related to any software. Source Code includes all source code listings, instructions (including compile instructions), programmer’s notes, commentary, and all related technical information and Documentation, including all such information and Documentation that is necessary or useful for purposes of maintaining, repairing, or making modifications, or updates, upgrades, bug fixes, patches, or additions to the Deliverable.
- 2.20. **“Specifications”** means any and all requirements, technical standards, performance standards, representations, warranties, and other criteria related to any Deliverables, described or stated in this Agreement (including any exhibit or Documentation attached to, or provided in connection with, this Agreement), any Purchasing Instrument(s), the RFP, the Proposal, and, solely to the extent not inconsistent with the foregoing, the Documentation.
- 2.21. **“Third Party Intellectual Property”** shall mean intellectual property, including third party Software, licensed, made, conceived, or developed by a third party and provided or used by or on behalf of the Purchasing Entity or Vendor.
- 2.22. **“Vendor”** means the entity identified on the CD&E including any employees, agents, independent contractors, or any other staff or personnel acting on behalf of or at the direction

of Vendor, which personnel may alternatively be referred to as “**Vendor Personnel**”, and which includes any Vendor contractor performing or providing services or Deliverables under this Agreement.

### 3. Services and Deliverables.

#### 3.1. Performance.

3.1.1. *Generally.* The Vendor will perform all work and provide all Deliverables in accordance with this Agreement, as well as any associated Purchasing Instrument.

#### 3.1.2. *Purchasing Instruments.*

3.1.2.1. *Generally.* The Parties may execute individual Purchasing Instrument(s) identifying specific Deliverables to be provided hereunder. Once a Purchasing Instrument has been executed, the Vendor will carry out and complete the duties and responsibilities set forth in the applicable Purchasing Instrument in accordance with the terms of this Agreement as well as any additional or substitute terms provided in the specific Purchasing Instrument.

3.1.2.2. *Effect of Purchasing Instruments.* An entity purchasing off of this Agreement may agree to additional terms and conditions in a Purchasing Instruments that are in conflict with or inconsistent with the terms and conditions of this Agreement. Such Purchasing Instrument terms apply only to the scope of work identified in the Purchasing Instrument and do not alter the agreed terms in this Agreement. Notwithstanding the foregoing, the following terms of this Agreement shall always control regardless of any contrary terms that may be in a Purchasing Instrument:

3.1.2.2.1. Information contained on the CD&E;

3.1.2.2.2. The definition of Confidential Information;

3.1.2.2.3. Set-off obligations under section 4.8;

3.1.2.2.4. Compliance with the Law under section 7.7;

3.1.2.2.5. No Conflicts obligations under section 7.8;

3.1.2.2.6. Termination provisions in section 9;

3.1.2.2.7. Provisions of the Data Protection Addendum;

3.1.2.2.8. The General Provisions set forth in Section 11.

#### 3.1.3. *Delivery.*

3.1.3.1. *Risk of Loss.* To the extent any Deliverable(s), including any hardware or equipment, are mailed or shipped, Vendor shall bear all freight, shipping, handling, and insurance costs for the delivery and shall bear all risk of loss that may occur prior to the Purchasing Entity’s Acceptance.

3.1.3.2. *Documentation.* Vendor will, at no charge to the Purchasing Entity, provide to the Purchasing Entity all Documentation related to the Deliverable(s) unless otherwise agreed to by the Purchasing Entity in writing.

- 3.1.3.3. *Source Code.* If the Purchasing Entity is paying for the development of Source Code pursuant to a Purchasing Instrument, Vendor will deliver to the Purchasing Entity all such Source Code, as well as any other Source Code associated with Deliverables as agreed to by the Parties in a Purchasing Instrument. The Vendor relinquishes all rights to the Source Code developed for the Purchasing Entity pursuant to a Purchasing Instrument and grants to the Purchasing Entity all such intellectual property rights to such Source Code. This provision does not apply to Source Code developed independently by Vendor or a third party.

#### 4. Compensation and Additional Rights and Remedies.

- 4.1. Pricing/Compensation. The fees for the services and/or Deliverables provided by the Vendor shall be in accordance with the obligations of this Agreement and the applicable Purchasing Instrument.
- 4.2. No Additional Fees. Other than as permitted by Section 4.1 (Pricing/Compensation) or by Purchasing Instrument, the Purchasing Entity shall not be obligated to pay any other amounts to the Vendor, specifically including travel, lodging, and related expenses. In no event shall the Purchasing Entity be responsible for payment of Vendor's performance costs incurred in connection with this Agreement, including but not limited to equipment, supplies, personnel, salaries, benefits, insurance, training, conferences, telephone, utilities, start-up costs, and all other operational and administrative costs and expenses. To the extent any Purchasing Instrument calls for reimbursement of travel, such travel charges may never exceed the amounts allowed under DAS-SAE travel policy, DAS-SAE Title 210. (available at: <https://das.iowa.gov/state-employees/travel-and-relocation/210-travel>). For vendors, travel reimbursement may not exceed the amounts that would be payable under DAS-SAE 210.245. (available at: [https://das.iowa.gov/sites/default/files/acct\\_sae/sae\\_manual/210/210-245.pdf](https://das.iowa.gov/sites/default/files/acct_sae/sae_manual/210/210-245.pdf)). In addition, in-state lodging reimbursement is limited to providers certified by the Iowa Department of Public Safety's Human Trafficking Prevention Training.
- 4.3. Satisfactory Performance. Vendor is not entitled to payment for any services or Deliverable(s), in whole or in part, provided under this Agreement or any Purchasing Instrument(s) if the Purchasing Entity reasonably determines that such services or Deliverable(s) have not been satisfactorily or completely delivered or performed.
- 4.4. Payment does not Imply Acceptance. Payment, including final payment, shall not be construed as acceptance of any services or Deliverables with Deficiencies or incomplete work, and Vendor shall remain responsible for compliance with its contractual obligations. Vendor's acceptance of the last payment from the Purchasing Entity shall operate as a release of any and all claims related to this Agreement concerning the Purchasing Entity's obligations under this Agreement.
- 4.5. Invoices. Upon receipt of written notice of Acceptance from the Purchasing Entity Vendor shall submit an invoice to the Purchasing Entity requesting payment of the fees or other compensation to which it is entitled pursuant to the applicable Purchasing Instrument, less any agreed upon Retained Amount(s) or other applicable offsets. The Purchasing Entity will verify Vendor's performance/provisioning of services or Deliverable(s) outlined in the invoice before making payment. The Purchasing Entity shall pay all approved invoices in arrears and, to the extent applicable, in conformance with Iowa Code section 8A.514 and corresponding implementing rules, regulations, and policies. The Purchasing Entity may pay in less than 60 days, but an election to pay in less than 60 days shall not, to the extent applicable, act as an implied waiver of Iowa Code section 8A.514. Notwithstanding anything herein to the contrary, the Purchasing Entity shall have the right to dispute any invoice submitted for payment and withhold payment of any disputed amount if the Purchasing Entity believes the

invoice is inaccurate or incorrect in any way. Vendor shall submit all invoices for payment to the Purchasing Entity, by August 1 for all services performed in the preceding state fiscal year (the State fiscal year ends June 30). If the Vendor seeks payment for end of state fiscal year claims submitted after August 1, the Vendor may submit the late claims, but the Purchasing Entity will only reimburse the claims if funding is available and the Purchasing Entity is legally authorized to make payment. If funding is not available after the end of the state fiscal year, the Vendor may submit the claim to the Iowa State Appeal Board for a final decision regarding reimbursement of the claim.

- 4.6. Retention. To secure Vendor's performance under this Agreement, a Purchasing Entity may retain a mutually agreed upon percentage of the fees or other compensation associated with each Deliverable provided under a Purchasing Instrument ("**Retained Amounts**") until all Deliverables under such Purchasing Instrument have been provided and the Purchasing Entity has given its Final Acceptance. Retained Amounts shall be payable upon the Purchasing Entity's delivery of written notice of Final Acceptance, subject to the terms and conditions hereof.
- 4.7. Erroneous Payments and Credits. The Vendor shall promptly pay or refund to the Purchasing Entity the full amount of any overpayment or erroneous payment within 10 business days after either discovery by the Vendor or notification by the Purchasing Entity of the overpayment or erroneous payment. If the Vendor fails to provide a timely refund pursuant to this obligation, a simple interest of 1% per month may be charged on the outstanding balance unless 1% exceeds the maximum amount allowed by applicable law, in which case interest shall accrue at the maximum rate allowed by law.
- 4.8. Set-off Against Sums Owed by Vendor. The State may offset payments owed Vendor under this Agreement by sums the Vendor owes the State or any of its subdivisions in any context.  
  
The Vendor agrees that this provision constitutes proper and timely notice under any applicable laws governing offset.
- 4.9. Withholding Payments. In addition to pursuing any other remedy provided herein or by law, the Purchasing Entity may withhold compensation or payments to Vendor, in whole or in part, without penalty or legal liability to the Purchasing Entity or work stoppage by Vendor, in the event Vendor fails to perform pursuant to this Agreement, or fails to provide Deliverables that meet or conform to contractual obligations. No interest shall accrue or be paid to Vendor for withheld sums.
- 4.10. Correction/Cure.
  - 4.10.1. Upon notice of Deficiency in any Deliverable(s), the Vendor shall promptly correct the Deficiency and repair the affected Deliverable(s) and provide the Purchasing Entity with all relevant Documentation.
  - 4.10.2. The Purchasing Entity may correct any Deficiencies with respect to any Deliverable(s) or cure any Vendor breach under this Agreement without prejudice to any other remedy it may have if Vendor fails to correct such Deficiencies as required in this Agreement or if Vendor otherwise fails to perform pursuant to the Agreement. The Purchasing Entity may procure the Deliverable(s) reasonably necessary to correct any Deficiencies or cure any Vendor breach, in which event the Vendor shall reimburse the Purchasing Entity for the actual costs incurred in curing the issue. In addition, the Vendor shall cooperate with the Purchasing Entity or any third parties retained by the Purchasing Entity to cure such breach, including by allowing access to any of the Vendor's pertinent materials, work product, or intellectual property.
- 4.11. Repayment Obligation. In the event that any State of Iowa funds or federal funds are deferred or disallowed as a result of any audits, or found to have been expended in violation of the laws

applicable to the expenditure of such funds, and where such findings are due in whole or in part to Vendor's action or omission, Vendor will be liable to the Purchasing Entity for the full amount of any claim disallowed (or the amount of funds expended in violation of such applicable laws) and for all related penalties incurred. If the State of Iowa or any federal agency concludes Vendor has been paid for any cost that is unallowable, unallocable, or unreasonable under this Agreement, Vendor will be liable to the Purchasing Entity for such cost. Vendor shall pay to the Purchasing Entity all amounts for which the Vendor is liable under this section within 20 business days of receiving the Purchasing Entity's written demand or written notice. The Purchasing Entity may withhold any payment under this Agreement if Vendor fails to timely make any payment required by this section.

- 4.12. Taxes. Vendor shall be responsible for paying any taxes incurred by Vendor in the performance of this Agreement. The State of Iowa, DOM, and the Purchasing Entity are exempt from the payment of sales and other taxes: [https://das.iowa.gov/sites/default/files/acct\\_sae/man\\_for\\_ref/forms/sales\\_tax\\_exempt\\_letter.pdf](https://das.iowa.gov/sites/default/files/acct_sae/man_for_ref/forms/sales_tax_exempt_letter.pdf).

## 5. Acceptance Tests and Project Management.

- 5.1. All Deliverables must undergo the Purchasing Entity's Acceptance Testing as described in this section. If alternative Acceptance Testing processes are described in a Purchasing Instrument(s), the process set forth in the Purchasing Instrument will prevail. After the Vendor completes work on a Deliverable, it must inform the Purchasing Entity that the Deliverable is ready for testing. If the Purchasing Entity requests assistance during testing, the Vendor will assist without levying additional fees or other amounts. The Purchasing Entity will then test

the Deliverable(s) to verify that each Deliverable conforms to its Acceptance Criteria. It will then inform the Vendor of Acceptance or Non-Acceptance. If the Purchasing Entity determines Non-Acceptance, the Vendor has ten (10) days to correct the issues and submit the work again for retesting. If the Purchasing Entity again does not provide Acceptance, the Purchasing Entity may pursue any of the following remedies:

- 5.1.1. Require Vendor to correct and repair such Deliverable(s) within such period of time as the Purchasing Entity may specify in a written notice to the Vendor;
- 5.1.2. Refuse to accept such Deliverable(s) without penalty or legal liability and without any obligation to pay any fees or other amounts associated with such Deliverable(s), or receive a refund of any fees or amounts already paid with respect to such Deliverable(s);
- 5.1.3. Accept such Deliverable(s) on the condition that any fees or other amounts payable with respect thereto shall be reduced or discounted to reflect, to the Purchasing Entity's satisfaction, the Deficiencies present therein and any reduced value or functionality of such Deliverable(s), or the costs likely to be incurred by the Purchasing Entity to correct such Deficiencies; or
- 5.1.4. Terminate the applicable Purchasing Instrument or seek any and all available remedies, including damages. Such termination may occur without prior notice or an opportunity to cure.

The Purchasing Entity's right to exercise the foregoing rights and remedies, including termination of the applicable Purchasing Instrument, shall remain in effect through notice of Final Acceptance of all Deliverables. The Vendor's receipt of any notice of Acceptance, including Final Acceptance, with respect to any Deliverable(s) shall not be construed as a waiver of any of the Purchasing Entity's rights to enforce the terms of this Agreement or require performance in the event Vendor breaches this Agreement or any Deficiency is later discovered with respect to such Deliverable(s).



5.2. Project Management and Reporting.

- 5.2.1. *Vendor or Project Manager.* To the extent that a Project Manager is called for in a Purchasing Instrument, the Vendor must obtain the Purchasing Entity's approval of a designated Project Manager. The Project Manager must have authority sufficient to ensure timely performance under the Purchasing Instrument and make binding decisions for the Vendor. Any written commitment by Vendor's Project Manager and persons designated by them in writing for this purpose, within the scope of this Agreement, shall be binding upon Vendor.
- 5.2.2. *Review Meetings.* Unless a different schedule is established in the Purchasing Instrument, the Vendor's Project Manager will meet monthly with the Purchasing Entity to discuss contractual progress and performance issues. At each review meeting, the Vendor's Project Manager shall provide a status report, which will describe any problems or concerns encountered since the last meeting. At the next scheduled meeting after which any Party has identified a problem in writing, the Vendor shall provide a report of steps taken to resolve identified problems, together with the anticipated completion dates of such activities. Any Party may recommend alternative courses of action or changes that will facilitate problem resolution. The Vendor shall maintain records of such reports and other communications and provide them to the Purchasing Entity upon request.
- 5.2.3. *Reports.* Review meeting reports must be in a Purchasing Entity-approved format and include detail concerning the previous period's activities, including problems encountered and their disposition, results of tests, whether or not deadlines were met, the status of services or Deliverables, any problems that may have arisen that need to be addressed before proceeding to the next period's activities, and any other information the Purchasing Entity may request.
- 5.2.4. *Problem Reporting Omissions.* The Purchasing Entity's receipt of a report that identifies any problems does not relieve the Vendor of any obligation under this Agreement or waive any other remedy available to the Purchasing Entity.

6. **Ownership and Intellectual Property.**

- 6.1. Ownership of Vendor-Owned Deliverables. Except as specifically granted herein, in a Purchasing Instrument, or in a related instrument, Vendor shall own all Deliverables that were independently and exclusively developed by Vendor and provided hereunder prior to the Effective Date of this Agreement ("**Vendor-Owned Deliverables**"). The Purchasing Entity makes no ownership claim to Vendor-Owned Deliverables or to products that the Vendor simply licenses to the Purchasing Entity. To the extent Vendor-Owned Deliverables are included in a Deliverable unless otherwise stated in the Purchasing Instrument, the Purchasing Entity shall be granted licenses to the Vendor-Owned Deliverables that shall be consistent with and coterminous with any license obtained to use the Deliverable itself.
- 6.2. Ownership and Assignment of Customer-Owned Deliverables. Vendor hereby irrevocably assigns, transfers, and conveys to the Purchasing Entity all rights, title, and interest in and to Customer-Owned Deliverables, excluding any Vendor-Owned Deliverables included in the Customer-Owned Deliverables, as long as the Vendor-Owned Deliverables are identified in advance, and the Purchasing Entity agrees to the inclusion of Vendor-Owned Deliverables in advance.
- 6.3. Waiver. To the extent any of Vendor's rights in any Customer-Owned Deliverables are not subject to assignment or transfer hereunder, including any moral rights or any rights of attribution or integrity, Vendor hereby irrevocably and unconditionally waives all such rights and enforcement thereof and agrees not to challenge the Purchasing Entity's rights in and to

## Customer-Owned Deliverables.

- 6.4. Information Technology Assurances. At the State of Iowa's or the Purchasing Entity's request, Vendor will, both during and after the termination or expiration of this Agreement, execute and deliver such instruments, provide all facts known to it, and take such other action as may be requested by the State of Iowa or Purchasing Entity to perfect its interest in Customer-Owned Deliverables. In the event the Purchasing Entity is unable, after reasonable effort, to secure Vendor's signature on any letters patent, copyright, or other analogous protection relating to the Customer-Owned Deliverables, Vendor hereby irrevocably designates and appoints the Purchasing Entity and its duly authorized officers, employees, and agents, as their agent and attorney-in-fact, to act for and on its behalf to execute and file any such application or applications and to do such other acts to further the prosecution and issuance of letters patent, copyright registrations, and other analogous protection, including extensions and renewals thereon, with the same legal force and effect as if executed by Vendor.
- 6.5. Third Party Intellectual Property. Except as otherwise agreed to by the Parties in writing, in the event a Customer-Owned Deliverable includes Third Party Intellectual Property, Vendor shall ensure such Deliverable is licensed to the Purchasing Entity pursuant to a Purchasing Entity-approved license agreement. Unless otherwise agreed to by the Purchasing Entity in writing, such license shall be an irrevocable, nonexclusive, perpetual, royalty-free, fully paid-up license to use, reproduce, prepare derivative works based upon, distribute copies of, perform, display, and host the Third Party Intellectual Property, and to authorize others to do the same on the Purchasing Entity's behalf.
- 6.6. Customer Property. Vendor may have access to Customer Property to the extent necessary to carry out its responsibilities under the Agreement and must comply with any and all the license terms, conditions, or restrictions applicable to any Customer Property.

**7. Representations, Warranties, and Covenants.**

- 7.1. Non-exclusivity. Unless expressly stated otherwise in a Purchasing Instrument, express remedies in this Section are not exclusive, and the Purchasing Entity preserves all rights to seek any and all remedies available to it under law both during and after expiration or termination of the Agreement or Purchasing Instrument.
- 7.2. Implied Warranties. To the extent applicable, and unless otherwise stated in a Purchasing Instrument, all warranties implied by law are preserved.
- 7.3. Deliverables Free of Deficiencies. Unless stated otherwise in a Purchasing Instrument, the Vendor guarantees that the Deliverables will be free from material Deficiencies and errors and will meet all Acceptance Criteria and express performance criteria. If the Purchasing Entity identifies any material Deficiencies, the Vendor must fix or replace the affected Deliverables at its own expense. The Vendor will assist the Purchasing Entity, promptly report any known issues, and correct Deliverables, even if the Deliverable(s) have been previously accepted.
- 7.4. Quiet Enjoyment. Vendor represents and warrants that: (i) it owns, possesses, holds, and has received or secured all rights, permits, permissions, licenses, and authority necessary to provide Deliverables to the Purchasing Entity hereunder and to assign, grant, and convey the rights, benefits, licenses and other rights assigned, granted, or conveyed to the Purchasing Entity hereunder without violating any rights of any third party; (ii) it has not previously and will not grant any rights in any Deliverables to any third party that are inconsistent with the rights granted to the Purchasing Entity herein; and (iii) the Purchasing Entity shall peacefully and quietly have, hold, possess, use, and enjoy the Deliverables without suit, disruption, or interruption.



- 7.5. Intellectual Property. The Vendor represents and warrants that the Deliverables and the Purchasing Entity's use of the Deliverables for their authorized use will not infringe on any intellectual property rights of third parties. Vendor also ensures there are no known claims of infringement, violation, or misappropriation of intellectual property rights or trade secrets concerning Deliverables. If such claims arise, Vendor will, at its own expense: (i) secure the right or license for the Purchasing Entity to continue using the Deliverables; (ii) replace the problematic parts with an equivalent; (iii) modify or replace the affected portion with a non-infringing alternative; or (iv) refund all fees paid by the Purchasing Entity for the affected Deliverables.
- 7.6. Workmanlike Manner. The Vendor represents, and warrants that all services to be provided under this Agreement or a Purchasing Instrument will be carried out in a workmanlike manner by qualified personnel, and the work must align with the terms of the Agreement and Purchasing Instrument as well as industry standards for similar tasks. In cases where no specification exists, the Parties agree to follow generally accepted industry standards. If the Purchasing Entity identifies services not meeting these standards, the Vendor will re-perform them at no extra cost. The Vendor will refund any fees paid by the Purchasing Entity for any services were not satisfactorily provided and cannot otherwise be cured.
- 7.7. Compliance with Laws. The Vendor represents and warrants that the Vendor and Vendor-provided Deliverables will at all relevant times comply with all applicable State and federal laws.
- 7.8. No Conflicts. Vendor represents, warrants, and covenants that no relationship exists or will exist during the Term of the Agreement between Vendor and the State or any of its divisions or entities that is or may constitute a conflict of interest or appearance of impropriety, or that would conflict in any manner or degree with the performance of its obligations under this Agreement. To the extent applicable, the provisions of Iowa Code Chapter 68B shall apply to this Agreement and any Purchasing Instruments executed hereunder, and Vendor shall not engage in or permit any third party to engage in any conduct that would violate that chapter.
- 7.9. Documentation. The Vendor represents and warrants that during the Term, the Documentation will accurately describe the functional and operational characteristics of any Deliverable and that the Documentation is detailed and complete such that it will allow a reasonably skilled operator to use and operate the Deliverables.
- 7.10. Sole Ownership. Vendor represents and warrants that the Purchasing Entity shall acquire sole ownership of all Customer-Owned Deliverables, free from any rights or interests of Vendor or of any third party. Vendor shall not retain any copies of any Customer-Owned Deliverables.

## 8. Indemnification.

- 8.1. Indemnification Generally. Vendor shall indemnify and hold harmless DOM, the State of Iowa, the Purchasing Entity, and their employees, officers, or representatives ("Indemnitees") from and against any third-party claims, legal actions, judgments, penalties, fines, recoupments, or other costs, including costs of counsel, in any way arising out of Vendor's performance or attempted performance under this Agreement. The Purchasing Entity shall have the right to participate in its own defense through a representative of the Iowa Department of Justice. Settlement offers made on behalf of the applicable Purchasing Entity must be approved by the applicable Purchasing Entity.
- 8.2. Infringement Claim Additional Remedy. If the Deliverables become or are likely to become the subject of a claim, then, in addition to paying any damages and attorney fees as required above, Vendor shall, at its option, either:
  - 8.2.1. Immediately replace or modify the Deliverables, without loss of material

functionality or performance, to make them non-infringing, or

8.2.2. Immediately procure for the Purchasing Entity the right to continue using the Deliverables.

8.3. Any costs associated with implementing either of the above alternatives will be borne by Vendor.

## 9. Termination.

9.1. Termination for Cause by the State. DOM may terminate this Agreement, and any Purchasing Entity may terminate a Purchasing Instrument(s) entered into under this Agreement, upon written notice of Vendor's breach of any material term of the Agreement or associated Purchasing Instrument, if the breach is not cured within the time period specified in the notice

of breach. In addition, DOM may terminate this Agreement or a Purchasing Entity may terminate an associated Purchasing Instrument without advance notice if:

- 9.1.1. Vendor makes false statements in connection with the Agreement,
- 9.1.2. Vendor, its staff, or its subcontractors have engaged in criminal conduct including fraud, misappropriation, embezzlement, or malfeasance,
- 9.1.3. Vendor takes any steps, as determined in DOM's or the applicable Purchasing Entity's discretion, towards dissolution or suspension of business,
- 9.1.4. Vendor's authority to do business here or elsewhere is threatened or lost,
- 9.1.5. Vendor has failed to comply with applicable laws when performing pursuant to the Agreement or Purchasing Instrument,
- 9.1.6. Vendor's ability to perform is materially impacted by third-party claims of intellectual property violations by Vendor, or
- 9.1.7. Vendor's actions may expose DOM, the State of Iowa, or a Purchasing Entity to material liability.

Vendor shall notify DOM or the applicable Purchasing Entity of any events that could give rise to DOM's right to terminate this Agreement or a Purchasing Instrument for cause.

9.2. Termination for Cause by Vendor. Vendor may only terminate an applicable Purchasing Instrument or this Agreement upon written notice of the Purchasing Entity's breach of any material term of this Agreement if the breach is not cured within 60 days of the Purchasing Entity's receipt of Vendor's written notice.

9.3. Termination for Convenience. Following 30 days' written notice, a Purchasing Entity may terminate a Purchasing Instrument in whole or in part without cause. DOM may terminate this Agreement in whole or in part upon 30 days' written notice without cause.

9.4. Termination Due to Lack of Funds or Change in Law. Notwithstanding anything in this Agreement to the contrary, DOM may terminate this Agreement or a Purchasing Entity may terminate a Purchasing Instrument, in whole or in part, without penalty or liability and without any advance notice if:

- 9.4.1. DOM or the Purchasing Entity determines that it has not been appropriated sufficient funds or funds have been reduced, unallocated, or delayed such that DOM or the Purchasing Entity cannot, in the entity's sole discretion, meet its obligations,
- 9.4.2. DOM or the Purchasing Entity's authority has been withdrawn or materially altered, or its duties, programs or responsibilities are modified or materially altered, or
- 9.4.3. there is a judicial decision that materially or adversely affects DOM's or a Purchasing

Entity's ability to fulfill obligations under this Agreement or any applicable Purchasing Instrument.

- 9.5. Limitation of Payment Obligations. If DOM terminates this Agreement or a Purchasing Entity terminates a Purchasing Instrument for cause, DOM or the applicable Purchasing Entity retains the right to contest amounts that remain unpaid as of the date of termination. In all other termination contexts, the Purchasing Entity will pay those amounts due for goods or services accepted by the Purchasing Entity for which the Purchasing Entity is obligated to pay up to the date of termination to the extent that funds to make these payments are legally available. Payment is contingent on submission and acceptance of invoices for sums due.

Under no circumstances will the Purchasing Entity be liable for sums not expressly owed under the terms of the Agreement or a Purchasing Instrument.

- 9.6. Vendor's Termination or Expiration Duties. As it relates to this Agreement or any associated Purchasing Instrument, upon receipt of a notice of termination, upon expiration, or upon request of DOM or a Purchasing Entity, Vendor must:

- 9.6.1. cease work under the Agreement or Purchasing Instrument and take all appropriate actions to limit disbursements and minimize costs;
- 9.6.2. provide a report to the Purchasing Entity addressing the Purchasing Entity's information needs, including the status of all work performed under the Agreement;
- 9.6.3. cease using and return any Customer Property or Customer-Owned Deliverables;
- 9.6.4. comply with the Purchasing Entity's directions concerning Customer Data;
- 9.6.5. return or refund any Purchasing Entity payments for goods or services not provided to the Purchasing Entity;
- 9.6.6. provide all Deliverables to the extent the Purchasing Entity has a property interest in the Deliverable; and
- 9.6.7. continue to perform and provide such goods and/or services under this Agreement as the Purchasing Entity may request for a transition period of up to 365 days from the effective date of such termination or expiration and collaborate with the Purchasing Entity and any replacement contractor. As part of such request, the Purchasing Entity will inform Vendor of the number of days needed for transition ("**Transition Period**"). During the Transition Period, the Purchasing Entity agrees to pay Vendor any fees to which Vendor would be entitled under this Agreement for goods and/or services performed or provided during such period. In the event the Purchasing Entity's request for transition assistance does not require Vendor to continue providing all of the goods and/or services under this Agreement or applicable Purchasing Instrument, the Parties will negotiate in good faith a downward adjustment in the fees owed the Vendor.

## **10. Use of Artificial Intelligence.**

- 10.1. Advance Approval for AI Usage. Vendor shall obtain prior written approval from the Purchasing Entity before utilizing artificial intelligence (AI) technologies in the provision of services under this Agreement or Purchasing Instruments entered into pursuant to this Agreement. The Vendor shall clearly identify in writing the specific AI technologies to be employed, their intended functions, and their potential impact on service delivery.
- 10.2. Documentation of AI Utilization. In cases where computer code is generated, written, or modified using AI technologies, the Vendor shall ensure that the sections of code influenced by AI are thoroughly documented with appropriate comments indicating that they are the result of AI utilization. This Documentation shall be provided along with any Deliverables

that include AI-derived code.

- 10.3. AI Training Data Usage. The Vendor shall not employ Customer Data or Confidential Data to train AI systems without obtaining prior written approval from the Purchasing Entity. The intended usage of such data for AI training must align with existing data usage rights, and the Vendor shall ensure that data privacy and security are maintained throughout the process.
- 10.4. Data Normalization to Prevent Discrimination. The Vendor shall include within a submitted Plan of Action and Milestones (POAM) a detailed outline of the measures to be taken for data normalization in AI training. This normalization process shall be designed to prevent algorithmic discrimination and ensure fair and equitable outcomes.
- 10.5. Evaluation of Third-Party AI Offerings. Should the Vendor intend to employ third-party AI offerings in the execution of this Agreement or Purchasing Instruments entered into pursuant to this Agreement, the Vendor must provide a comprehensive explanation of how such AI technologies have been trained to avoid algorithmic discrimination, safeguard data privacy, and ensure system safety and effectiveness. The Vendor shall also provide advanced notice and clarification to any individuals whose data might be used for future AI training.
- 10.6. Human Alternatives and Fail-Safe Mechanisms. In instances where AI technologies fail to adequately fulfill the service requirements, the Vendor shall ensure the provision of human-operated alternatives that are capable of meeting the needs of the circumstance. These alternatives shall be readily available to ensure seamless service continuity.
- 10.7. Human Vetting of AI Output. Prior to finalizing any output generated by AI technologies, the Vendor shall subject such output to thorough human evaluation and interaction. This evaluation shall assess the accuracy, relevance, and appropriateness of AI-generated content, ensuring the delivery of high-quality, reliable results.
- 10.8. Compliance and Reporting. The Vendor shall adhere to all applicable laws, regulations, and standards governing the use of AI technologies in the context of the Agreement. The Vendor shall provide regular reports to the Purchasing Entity detailing the usage, performance, and outcomes of AI technologies as per the terms of this clause.

## 11. General Provisions.

- 11.1. Immigration Status. The Vendor is responsible for ensuring compliance with all Visa requirements. The Purchasing Entity requires the Vendor to conduct E-Verify employment-eligibility verifications of Vendor personnel working under this Agreement at the Vendor's cost. The Vendor shall provide to the Purchasing Entity with the E-Verify results as directed.
- 11.2. No Publicity. The Vendor is prohibited, both during the term of the Agreement and after the Agreement's termination or expiration, from publicizing this contractual arrangement relationship or in any way using, as applicable, DOM's or the Purchasing Entity's name, logo, or other identifying information without prior written consent.
- 11.3. Independent Contractor. The Vendor is an independent contractor performing services for a Purchasing Entity and shall not be considered an employee, partner, or agent of the Purchasing Entity. Vendor personnel are not employees of the State of Iowa simply by virtue of work performed under this Agreement. The Vendor is responsible for all taxes, licenses, insurance, and other obligations arising from their status as an independent contractor.
- 11.4. Amendments. This Agreement or any Purchasing Instrument may be amended from time to time by mutual written consent of the Parties. The Parties expressly agree that no amendments or modifications to this Agreement shall be affected through transactional documents. Notwithstanding the above, specific Purchasing Instruments may modify the terms of the

Agreement as necessary to affect the Parties' intent with respect to such Purchasing Instrument. However, any such modifications shall be limited to the scope of the Purchasing Instrument. Terms associated with transactional documents (e.g., invoices), as well as terms

such as "shrink wrap" or "clickwrap" agreements, will have no force and effect unless reduced to a formal Amendment signed by both parties.

- 11.5. No Third-Party Beneficiaries. There are no intended third-party beneficiaries to this Agreement.
- 11.6. Choice of Law and Forum. This Agreement shall be governed by the laws of the State of Iowa, without giving effect to the choice of law principles of Iowa law. Any litigation in connection with this Agreement shall be brought and maintained in the state or federal courts sitting in Polk County, Iowa.
- 11.7. Assignment and Delegation. This Agreement may not be assigned, transferred, or conveyed in whole or in part without the prior written consent of the other Party, except that DOM may assign, transfer, or convey this Agreement, in whole or in part, to any entity that succeeds its duties hereunder or otherwise assumes responsibility for functions or duties currently assumed by DOM.
- 11.8. Use of Third Parties. None of the Deliverables to be provided by Vendor pursuant to this Agreement shall be subcontracted or delegated to any third party without the prior written consent of a Purchasing Entity. Such consent shall not be deemed in any way to provide for the incurrence of any additional obligation of a Purchasing Entity, whether financial or otherwise. Any subcontract to which a Purchasing Entity has consented shall be in writing and shall in no way alter the terms and conditions of this Agreement. All subcontracts shall be subject to the terms and conditions of this Agreement and to any conditions of approval that a Purchasing Entity may deem necessary.
- 11.9. Integration. This Agreement supersedes former agreements for the goods and/or services addressed in the Agreement and represents the entire agreement between the Parties. Neither Party is relying on any representation that may have been made that is not included in this Agreement.
- 11.10. Waiver. The parties may agree in writing to waive some aspect of Vendor performance. Failure by one Party to require performance under the Agreement by the other Party does not affect the right to enforce the Agreement's terms or claim breach concerning subsequent Agreement compliance issues.
- 11.11. Notices. Any legal notices required by the Agreement, or a Purchasing Instrument, shall be given in writing by registered or certified mail with proof of receipt, or overnight delivery, which shall be addressed to each party's Notice Address. To the extent a Purchasing Instrument is executed by a Purchasing Entity other than DOM, the Vendor shall additionally notice the Purchasing Entity at the billing address set forth on the applicable Purchasing Instrument. From time to time, the parties may change the name and address of a party designated in the Notice Address. Such changes shall be in writing to the other party. Notices shall be deemed to have been provided at the time it is actually received in the case of hand delivery; within one day in the case of overnight delivery; or within five days after it is deposited in the U.S. Mail.
- 11.12. Cumulative Rights. The various rights, powers, options, elections, and remedies of DOM or any Purchasing Entity provided for in this Agreement shall be construed as cumulative.
- 11.13. Severability. If any provision of this Agreement is determined by a court to be invalid or



unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Agreement.

- 11.14. Time is of the Essence. Time is of the essence with respect to the Vendor's performance of its obligations under this Agreement. Vendor shall ensure that all Vendor Personnel providing services and Deliverables hereunder are responsive to the Purchasing Entity's requirements and requests in all respects, including in accordance with any specific timelines identified in a duly executed Purchasing Instrument.
- 11.15. Authorization. The Vendor represents and warrants that it has the right, power, and authority to enter into and perform its obligations under this Agreement and that it has taken all requisite action to approve the execution, delivery, and performance of this Agreement, and this Agreement constitutes a legal, valid, and binding obligation of the Vendor, enforceable in accordance with its terms.
- 11.16. Successors in Interest. All terms, provisions, and conditions of the Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors, assigns, and legal representatives.
- 11.17. Records Retention and Access. The Vendor shall maintain records that sufficiently and properly document the Vendor's performance under this Agreement, including records that document all fees and other amounts charged during the Term of this Agreement, for a period of at least five years following the later of the date of final payment, termination, or expiration of this Agreement, or the completion of any audit. The Vendor shall permit the Auditor of the State of Iowa or any authorized representative of the Purchasing Entity, and where federal funds are involved, any authorized representative of the United States government, at no charge, to access and examine, audit, excerpt, and transcribe any pertinent records of the Vendor, however stored, relating to the Vendor's performance under this Agreement. The Vendor shall require Vendor contractors to agree to the same provisions as set forth in this subsection.
- 11.18. Right of Inspection/Vendor Compliance. The Purchasing Entity may inspect the Vendor's books and records at reasonable times in order to monitor the performance of this Agreement or a Purchasing Instrument, including but not limited to any request that the Vendor provide a copy of its affirmative action program, containing goals and time specifications in accordance with Iowa Admin. Code ch. 11-121. All subcontracts shall contain provisions that allow the same. The Vendor shall promptly comply with and correct any deficiencies noted in any audit and promptly implement any recommendations requested by the Purchasing Entity. The Vendor shall not impose any charge or fee in connection with any such audit.
- 11.19. Headings and Captions. The Parties acknowledge that the headings and captions used in this Agreement are for convenience and reference purposes only. They are not intended to have any legal or substantive significance or alter the meaning or interpretation of the provisions they precede.
- 11.20. Multiple Counterparts and Electronic Signatures. This Agreement may be executed in several counterparts, each of which shall be considered an original and all of which, when taken together, shall constitute one contract binding on all Parties. The Parties agree to accept electronic signatures in lieu of "wet" signatures on Agreement documents in accordance with Iowa Code chapter 554D or other applicable law.

- 11.21. Not a Joint Venture. Nothing in this Agreement shall be construed as creating or constituting a partnership, joint venture, or other association of any kind implying the establishment of an agent/principal relationship between the Parties.
- 11.22. Attachments. The Parties agree that if any document is attached hereto by the Parties, and referred to herein, then the same shall be deemed incorporated herein by reference as if fully set forth herein.
- 11.23. Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement.
- 11.24. Force Majeure. If one Party is unable to fulfill its obligations under this Agreement due to circumstances beyond its control, including unforeseeable events that no one could have predicted or prevented, such as acts of God, war, civil disturbances, or other catastrophic events, that Party will not be considered in breach of this Agreement. These circumstances must be abnormal and unforeseeable, and the Party affected must have taken all necessary precautions to prevent them. However, financial difficulties, legal restrictions, strikes, labor unrest, supply chain disruptions, internet failure, power outages, hacker attacks, viruses, and Security Breaches are not considered force majeure events. If a delay or inability to perform is caused by a subcontractor hired by the Party, the Party cannot use force majeure as an excuse unless the subcontractor is also affected by a force majeure event. If a force majeure event affects the Party's performance, the Party will make its best efforts to provide an alternative, if possible, comparable solution. The Purchasing Entity will determine whether the alternative solution is comparable. The Party invoking force majeure must immediately inform the other Party about the event causing the delay and the reasons behind it. Both Parties will work together to minimize the impact of the delay and the scope of work affected by the unforeseen events. If the Vendor's performance obligations have specific deadlines, those deadlines will be extended by the amount of time lost due to the force majeure event.
- 11.25. Administrative Fees and Reporting.
- 11.25.1. Vendor shall provide a 1.00% administrative fee on all sales made through this Agreement, without affecting authorized prices/rates. This 1.00% administrative fee shall be paid quarterly to the Iowa Department of Management, Attn: Business Services Division Administrator, at the billing address located in CD&E section. Payment shall be made in accordance with the following schedule:

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

- 11.25.2. The Vendor shall submit a quarterly report via email to **ITContracts@dom.iowa.gov** detailing all sales in the State of Iowa and identifying the Purchasing Entity, the Purchasing Instrument number, and the State of Iowa Contract number.



- 11.26. Title to Property. Title to all property furnished by the Purchasing Entity to the Vendor to facilitate the performance of this Agreement and any Customer-Owned Deliverables shall remain the sole property of the Purchasing Entity, as applicable. The Vendor shall be responsible for the proper custody and care of any such property and may not encumber such property or otherwise use such property for monetary gain. All such property shall only be used by the Vendor for purposes of fulfilling its obligations under this Agreement and shall be returned to the Purchasing Entity at the conclusion of the Agreement.
- 11.27. Exclusivity. This Agreement is not exclusive. DOM or the Purchasing Entity may obtain similar or identical goods or services from other vendors.
- 11.28. Award of Related Agreements. A Purchasing Entity may undertake or award supplemental or successor agreements for work related to this Agreement or under a Purchasing Instrument. Vendor shall cooperate fully with Authorized Contractors who may be engaged by a Purchasing Entity in connection with a Purchasing Instrument.
- 11.29. Attorney's Fees and Costs. If the Vendor is found to be in breach of its obligations under this Agreement by a court or tribunal of competent jurisdiction or if the Vendor fails to successfully defend against any legal action arising out of or relating to this Agreement, the Vendor shall be liable for and shall promptly reimburse the Purchasing Entity for all reasonable attorney's fees, court costs, and any other related expenses incurred by the Purchasing Entity in enforcing its rights or remedies under this Agreement.
- 11.30. Survival. Expiration or termination of this Agreement or a Purchasing Instrument for any reason will not release either Party from any duties, liabilities, or obligations that expressly survive termination or that by their very nature would be intended to be applicable following expiration or termination of the Agreement. Provisions that expressly survive include:
  - 11.30.1.1. Section 4 (Compensation and Additional Rights and Remedies);
  - 11.30.1.2. Section 6 (Ownership and Intellectual Property);
  - 11.30.1.3. Section 7 (Representations, Warranties, and Covenants);
  - 11.30.1.4. Section 8 (Indemnification);
  - 11.30.1.5. Section 9 (Term and Termination);
  - 11.30.1.6. Section 10 (Use of Artificial Intelligence);
  - 11.30.1.7. Section 11 (General Provisions); and
  - 11.30.1.8. Attachment B (Data Protection Addendum).

## 12. Insurance.

- 12.1. Insurance Requirement. The Vendor shall, at its sole expense, maintain in full force and effect, insurance covering its work of the type and in amounts required by this attachment. Vendor's insurance shall, among other things, insure against any loss or damage resulting from or related to Vendor's performance of the Agreement regardless of the date the claim is filed or expiration of the policy. All insurance policies required by this Exhibit shall: (a) remain in full force and effect for the entire Term of the Agreement; and (b) not be reduced, changed (to the detriment of DOM, the Purchasing Entity, or any governmental entities), or canceled (without being simultaneously replaced by another policy meeting the requirements of this Exhibit).

- 12.2. Exclusion. The following insurance obligations do not apply in any setting in which a Vendor only provides licensed software to the Purchasing Entity and does not have access to Customer Data through that relationship.
- 12.3. Insurance Policies. Unless otherwise requested by the Purchasing Entity, the Vendor shall cause to be issued insurance policies with the coverages set forth below:

<u><b>Type of Insurance</b></u>	<u><b>Limit</b></u>	<u><b>Amount</b></u>
General Liability (including contractual liability) written on an occurrence basis	General Aggregate Products – Comp/Op Aggregate Personal injury Each Occurrence	\$2 million  \$1 million \$1 million \$1 million
Excess Liability, umbrella form	Each Occurrence Aggregate	\$1 million \$1 million
Technology Errors and Omissions Insurance	Each Occurrence Aggregate	\$5 million \$15 million
Workers Compensation and Employer Liability	As Required by Iowa law	\$2 million
Cyber Liability / Network Security	Each Occurrence Aggregate	\$5 million \$5 million

- 12.4. Claims Provision. All insurance policies required by this Exhibit, with the exception of the policy for Errors and Omissions Insurance, must provide coverage on an “occurrence basis” for all claims arising from activities occurring during the term of the policy, regardless of the date the claim is filed or expiration of the policy. The policy for Errors and Omissions Insurance will provide coverage on a “claims made” basis, provided, however, that such policy includes an extended reporting period or tail coverage acceptable to the Purchasing Entity.
- 12.5. Certificates of Coverage. The Vendor shall submit certificates of the insurance, which indicate coverage and notice provisions as required by this Contract, to the Agency upon execution of this Contract. Send the Certificate of Insurance (COI) to the DOM contract email address: **ITContracts@dom.iowa.gov**. Include in the COI the following additions:

COI - Description of Operations box shall state:

The State of Iowa and the Iowa Department of Management are named as additional insured. No insurance cancellation shall be made without at least thirty (30) days prior written notice to the State of Iowa and the Iowa Department of Management.

COI - The Certificate Holder box shall state:

State of Iowa - Department of Management  
200 East Grand Avenue  
Des Moines, IA 50309

**Attachment B - Data Protection Addendum**

**1. Definitions:**

- 1.1. **“Security Breach”** means the loss of control, compromise, unauthorized use, unauthorized disclosure, unauthorized acquisition, or any similar occurrence where: a person other than an authorized user accesses personally identifiable information; or an authorized user accesses Customer Data for a reason other than an authorized purpose.
- 1.2. **“Security Incident”** means an occurrence that actually or potentially jeopardizes the confidentiality, integrity, or availability of (1) Customer Data, and/or (2) an information system or the information the system Processes, stores, or transmits or that constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies.

**2. Confidentiality**

- 2.1. Customer Data. The Purchasing Entity owns and has exclusive rights to all Customer Data. Vendor must treat all Customer Data as Confidential Information, keep it secure, and not disclose or use it for any purpose other than providing goods or services under the Agreement. All uses for commercial or political purposes are strictly forbidden. Vendor must comply with any restrictions on use or disclosure outlined in the Agreement or applicable law. Vendor may only retain Customer Data for purposes of performing pursuant to the Purchasing Instrument or by prior written approval of the Purchasing Entity. The Vendor may be held civilly or criminally liable for improper use or disclosure of Customer Data. The Vendor shall not link any data provided by DOM or a Purchasing Entity with any other data systems or data sets without prior written permission from the applicable entity.
- 2.2. Vendor Confidential Information. Unless otherwise required by applicable law, the Purchasing Entity will not intentionally disclose Vendor’s Confidential Information to a third party (excluding the Purchasing Entity’s Authorized Contractors) without the Vendor’s prior written consent.
- 2.3. Return or Destruction. Upon completion of duties under this Agreement or upon the specific direction of either party, the other party shall return or destroy Confidential Information and/or Customer Data and not retain any copies thereof, subject to any retention obligations imposed by law. If immediate destruction is not possible, the party retaining such information shall return or destroy the retained information as soon as feasible and shall certify that the retained information will be safeguarded to prevent unauthorized disclosures until it has been purged. Once all Confidential Information and/or Customer Data has been completely purged, the party purging the information shall provide certification of destruction in accordance with methods approved by the National Institute of Standards and Technology.
- 2.4. Compelled Disclosures. In the event that a subpoena or other legal process is served upon either party for Customer Data held by Vendor or for Vendor Confidential Information held by a Purchasing Entity, the party shall promptly notify the other party and cooperate in any lawful effort to defend against the disclosure.
- 2.5. Open Records and Electronic Discovery Requests. Vendor must assist the Purchasing Entity by providing information needed to comply with open records laws (including Iowa Code Chapter 22) or in connection with any legal process or proceeding. Vendor’s assistance in this regard must be provided timely and designed to meet the timing obligations imposed by law.

Vendor will ensure Customer Data is stored and maintained so as to avoid spoliation or other electronic discovery issues.

**3. Security/Privacy.**

- 3.1. Data Protection. Vendor shall safeguard the confidentiality, integrity, and availability of Customer Data, Customer Property, and the Deliverables. In so doing, Vendor shall implement and maintain reasonable and appropriate administrative, technical, and physical security measures to safeguard against unauthorized access, disclosure, theft, or modification of Customer Data, Customer Property, and Deliverables.
- 3.2. Compliance with Security Plan. Vendor represents and warrants that it will adhere to the cybersecurity plan adopted pursuant to the Vendor Security Framework identified in the CD&E. Vendor will ensure that its internal policies, procedures, and practices align with the objectives and requirements set forth in the cybersecurity plan and the Vendor Security Framework. The identified Vendor Security Framework may be changed or updated from time to time by mutual agreement of the Parties.
- 3.3. Compliance Reporting. Annually during the Term, a Purchasing Entity may request, and Vendor shall provide, evidence of compliance with the applicable security framework with which Vendor complies.
- 3.4. Encryption. All Customer Data shall be encrypted at rest and in transit with controlled access, and the Deliverables shall use TLS 1.2 or higher. Unless otherwise expressly provided herein or otherwise agreed to by the Parties in writing, Vendor is responsible for encryption of Customer Data in its possession. Additionally, Vendor shall ensure hard drive encryption consistent with validated cryptography standards as referenced in Federal Information Processing Standards (FIPS) 140-3, Security Requirements for Cryptographic Modules for all Customer Data, unless the Purchasing Entity approves in writing the storage of Customer Data on a portable device that does not satisfy these standards.
- 3.5. CONUS Obligation. Storage, Processing, transmission, retention, or other maintenance of Customer Data at rest and all backups shall occur solely in the continental United States of America. Vendor shall not allow Vendor personnel to store, Process, or retain Customer Data on any portable devices, including personal computers, tablets, or cell phones, except to the extent such devices are used and permanently stored or backed up at all times only in the continental United States of America.
- 3.6. Import and Export of Data. Purchasing Entity must have the ability at all times to extract Customer Data and other information from any Vendor systems housing such information or data. Vendor must assist with such extracts when necessary, must not interfere with such extracts, must ensure extracts are provided at no additional charge to the Purchasing Entity, and must make sure that data can be exported in a commercially reasonable format so that the Purchasing Entity can then import data into other systems. Regarding exporting data and information, the Vendor must ensure that the Purchasing Entity receives the requested data or information within seven days of making a request. The format of the exported data should be as specified by the Purchasing Entity or, if not feasible, in a commercially reasonable format.
- 3.7. Security Audits. During the Term, DOM or the Purchasing Entity or their representatives may perform security audits/scans of Vendor's environment used to provide Deliverables. Vulnerabilities will be measured using standards set forth at <https://cve.mitre.org/>. Vendor agrees to remediate vulnerabilities identified through such audits within the following timeframes: (a) Critical vulnerabilities: 15 days; (b) Serious vulnerabilities: 30 days.

- 3.8. Access to Security Logs and Reports. Vendor shall provide security logs and reports to DOM and/or the Purchasing Entity in a mutually agreeable format upon request. Such reports shall include, at minimum, latency statistics, user access summaries, user access IP address summaries, and user access history and security logs related to Customer Data.
- 3.9. Authentication Protocol Standards Compliance. Vendor shall align Deliverables with the State's preferred authentication protocol methodology or integrate with the State's preferred authentication protocol tool. DOM may authorize an exception to this obligation through prior written approval.
- 3.10. WAF Implementation. The Vendor shall deploy a Web Application Firewall (WAF) to protect all web applications covered under this SOW. The WAF solution shall be maintained in accordance with industry best practices and standards, including regular updates and patches to ensure the highest level of protection against the latest threats.
- 3.11. Personnel Safeguards.
  - 3.11.1. *Background Checks.*
    - 3.11.1.1. *Minimum Requirements.* Vendor shall comply with its internal background check policies. Where Vendor does not have an internal background check policy, or in the event Vendor's background check policy is inadequate based on the nature of Customer Data stored or processed by Vendor, Vendor agrees to comply with DOM background check policy. Vendor shall provide DOM and the Purchasing Entity with these background check results in a mutually agreeable form and manner prior to Vendor staff performing services pursuant to this Agreement or a Purchasing Instrument. In the event of an adverse finding, Vendor personnel may be disqualified from performing services under the Agreement in the sole discretion of the applicable Purchasing Entity.
    - 3.11.1.2. *Costs.* Vendor is responsible for all costs associated with any Vendor personnel background checks, regardless of who performs the background checks.
    - 3.11.1.3. *Additional Screening.* DOM and the Purchasing Entity reserves the right to subject Vendor personnel to additional background checks at any time prior to or during any engagement. Such background checks may include a work history, financial review, request for criminal history data, or local or state criminal history check, national criminal history check through the Federal Bureau of Investigation ("FBI"), or other background check requirements imposed or permitted by law, rule, regulation, order, or policy. Vendor personnel may be required to authorize the release of the results of criminal history checks, including those through the FBI, to one or more other governmental entities. Such background checks may be conducted by the Purchasing Entity or its Authorized Contractors. The Purchasing Entity may also require Vendor to conduct a work history or financial review of Vendor personnel. Vendor shall provide DOM and the Purchasing Entity with these background check results in a mutually agreeable form and manner prior to the commencement of any engagement by Vendor personnel.
    - 3.11.1.4. *Right to Remove Individuals.* The Purchasing Entity and DOM shall have the right at any time to require that the Vendor remove from interaction with the

Purchasing Entity or DOM, as applicable, any Vendor representative who the Purchasing Entity or DOM believes is detrimental to its working relationship with the Vendor. The Purchasing Entity or DOM will provide the Vendor with notice of its determination and the reasons it requests the removal. If the Purchasing Entity or DOM signifies that a potential security violation exists with respect to the request, the Vendor shall immediately remove such individual. The Vendor shall not assign the person to any aspect of this Agreement or future work orders without the Purchasing Entity's or DOM's consent.

- 3.11.2. *Security Awareness Training.* Vendor personnel providing services to DOM or a Purchasing Entity are required to attend annual security awareness training addressing the importance of securing, safeguarding, and otherwise appropriately handling Customer Property, including Customer Data. Any such security awareness training shall minimally conform with applicable DOM Security Awareness Training policies or requirements. Where a Purchasing Instrument requires compliance with training requirements imposed by federal partners, the Vendor agrees to comply with the more stringent training requirements.
- 3.11.3. *Separation of Job Duties and Non-disclosure.* Vendor shall diligently monitor and enforce separation of job duties, and limit access to and knowledge of Customer Property and Customer Data to those Vendor personnel to which such access and knowledge is absolutely necessary to provide the Deliverables hereunder. Vendor personnel may be required to sign the Purchasing Entity's standard confidentiality or non-disclosure agreement(s), or other confidentiality or non-disclosure agreement(s), including as may be required by applicable law, rule, regulation, or policy.

#### 4. **Security Incidents and Breaches.**

##### 4.1. **Security Incident or Data Breach Notification:**

- 4.1.1. *Reporting Requirements.* Vendor must report Security Incidents and Security Breaches (collectively "Security Events") to the contact identified in the applicable Purchasing Instrument(s) as well as to the State of Iowa Security Operations Center ("SOC"):

**Email:** [soc@iowa.gov](mailto:soc@iowa.gov)

**Local:** 515-725-1296

**Toll-free:** 1-855-422-4357

- 4.1.2. *Notification Timeframes.* The Vendor shall notify the SOC of Security Events within the shorter of (a) 72 hours, (b) the timeframe listed in the Purchasing Instrument, or (c) the timeframe imposed by applicable law. Vendor shall only delay notification to DOM and the Purchasing Entity of a Security Event when required to do so by applicable law.
- 4.2. **Investigations in Response to Security Events.** The Vendor agrees at its sole expense to take all steps necessary to promptly remedy any Security Event and to fully cooperate with DOM and the Purchasing Entity in investigating and mitigating any damage from such Security Events. Upon notice of any Security Event, the Vendor will immediately institute appropriate controls to maintain and preserve all electronic evidence relating to the Security Event. As soon as practicable during the investigation, the Vendor will deliver to the SOC a Security Event assessment and the Vendor's plans for future mitigation. When DOM notifies Vendor



that the investigation into any Security Event has concluded, Vendor will deliver to DOM and the Purchasing Entity a final root cause assessment and future incident mitigation plan as soon as practicable. Vendor agrees that it will not notify any regulatory authority relating to any Security Event unless DOM and the Purchasing Entity specifically request Vendor do so in writing, or unless otherwise required to do so by applicable law.

- 4.3. Consumer Notification Obligation. Vendor shall be responsible for all applicable consumer notification requirements in the event of a Security Event caused in whole or in part by Vendor.
- 4.4. Exposure for Damages related to Security Events. Vendor shall be responsible for all damages arising directly or indirectly, in whole or in part, out of any Vendor act or omission related to a Security Event. Any such damages shall be construed as direct damages for purposes of this Agreement, and such damages expressly include any costs, expenses, damages, fines, legal fees (including the time and expense of the Iowa Attorney General's Office), and court costs related to the Security Event.

**5. Disaster Recovery and Business Continuity.**

- 5.1. Creation, Maintenance, and Testing. The Vendor shall maintain a Business Continuity and Disaster Recovery Plan for the Deliverables ("Plan"), test the Plan at least yearly, and implement the Plan in the event of any unplanned interruption. The Plan, compliance history, and testing results will be forwarded to the Purchasing Entity upon request. Throughout the Term, the Vendor shall maintain disaster avoidance procedures designed to safeguard the Customer Data, the data processing capability, and the availability of the Deliverables. Additional disaster recovery and business continuity requirements may be set forth in individual Purchasing Instruments.
- 5.2. Activation of Plan. The Vendor shall immediately notify DOM and the Purchasing Entity of any disaster or other event that results in the activation of the Plan. If Vendor fails to reinstate the Deliverables impacted by any such disaster within the periods of time set forth in the Plan, DOM or Purchasing Entity, as applicable, may immediately terminate this Agreement or applicable Purchasing Instrument as a non-curable breach and without any penalty or liability. Termination under this section is in addition to any other remedies available hereunder. Force Majeure provisions of the Agreement shall not limit Vendor's obligations under this section.
- 5.3. Backup and Recovery. Except as otherwise set forth in a Purchasing Instrument or Service Level Agreement, the Vendor shall maintain a contemporaneous backup of Customer Data such that the data shall be restored within twenty-four hours at any point in time. Additionally, unless otherwise provided in a Purchasing Instrument or applicable Service Level Agreement, Vendor shall store a backup of Customer Data in a facility at least as secure as the production facility no less than daily, and maintain the security of Customer Data consistent with the security requirements set forth in this Agreement. Backups of Customer Data shall not be considered in calculating storage used by DOM or a Purchasing Entity in the event that fees are calculated based on storage used or amount of data transfer under the Agreement. All costs of data restoration shall be borne by the Vendor.

- 6. Survives Termination. Vendor's duties, obligations, and liabilities as set forth in this Data Protection Addendum shall survive termination of this Agreement.