State of Delaware

Radiologic and X-Ray Equipment and Software

Request for Proposal

Contract No. DTCC20001-XRAY

February 19, 2020

- Deadline to Respond -
March 19, 2020
3:00 PM (Local Time)

STATE OF DELAWARE
Delaware Technical Community College

CONTRACT NO. DTCC20001-XRAY

ALL VENDORS:

The enclosed packet contains a "REQUEST FOR PROPOSAL" for **Radiological and X-Ray Equipment and Software** . The proposal consists of the following:

Contents:

I. INTRODUCTION

II. SCOPE OF WORK

III. FORMAT FOR PROPOSAL

IV. PROPOSAL EVALUATION PROCEDURES

V. MANDATORY PREBID MEETING

VI. DEFINITIONS AND GENERAL PROVISIONS

VII. PROPOSAL REPLY SECTION

ATTACHMENTS

Appendix A – STATEMENT OF WORK AND TECHNICAL SPECIFICATIONS

Appendix B – PRICING FORMS

Appendix C - DTCC CONTRACT TEMPLATE

**** Ctrl+Click on the headings above will take you directly to the section.**

All properly sealed and marked proposals are to be sent to the State of Delaware and received no later than 3:00pm (Local Time) on March 19, 2020.

Proposals must be mailed or delivered to:

Delaware Technical Community College
George Campus
Attn: Ada Brown, SE308-A
300 N. Orange St.
Wilmington, DE 19801

Please review and follow the information and instructions contained in the General Provisions and this Request for Proposal (RFP). Should you need additional information, please call Ada Brown at 302-657-5174 abrown24@dtcc.edu.

INTRODUCTION

A. PURPOSE

The purpose of this Request for Proposal is to obtain sealed proposals for Radiological and X-Ray Equipment and Software.
It is the goal of this Request for Proposal to identify a vendor(s) and execute a contract to purchase and install equipment and software.

1. COMPETITIVE SEALED PROPOSAL

It has been determined by Delaware Technical Community College, pursuant to **Delaware Code Title 29, Chapter 6924 (a)** that this solicitation be offered as a request for competitive sealed proposals because the use of competitive sealed bidding is not practical and/or not in the best interest of the State. The use of competitive sealed proposals is necessary to:

- Use a contract other than a fixed-price type; or
- Conduct oral or written discussions with vendors concerning technical and price aspects of their proposals; or
- Afford vendors an opportunity to revise their proposals through best and final offers; or
- Compare the different price, quality and contractual factors of the proposals submitted; or
- Award a contract in which price is not the determining factor.

2. CONTRACT REQUIREMENTS

This contract will be issued to retrofit the existing radiology lab with updated image receptors and supporting imaging software. This would include 2 receptors (one built into the x-ray table and a wireless detector for chest/non-table imaging) as well as necessary accessary equipment and software needed for positioning and proper utilization of the detectors. This contract will include service and maintenance.

3. AGENCY USE CONTRACT

Pursuant to 29 Del. C. §6904(e) respectively, if no state contract exists for a certain good or service, covered agencies may procure that certain good or service under another agency's contract so long as the arrangement is agreeable to all parties. Agencies, other than covered agencies, may also procure such goods or services under another agency's contract when the arrangement is agreeable to all parties.

4. MULTIPLE SOURCE AWARD

The Agency reserves the right to award this contract to more than one vendor pursuant to 29 Del.C. §6926.

5. POTENTIAL CONTRACT OVERLAP

Vendors shall be advised that the State, at its sole discretion, shall retain the right to solicit for goods and/or services as required by its agencies and as it serves the best interest of the State. As needs are identified, there may exist instances where contract deliverables, and/or goods or services to be solicited and subsequently awarded, overlap previous awards. The State reserves the right to reject

any or all bids in whole or in part, to make partial awards, to award to multiple vendors during the same period, to award by types, on a zone-by-zone basis or on an item-by-item or lump sum basis item by item, or lump sum total, whichever may be most advantageous to the State of Delaware.

6. SUPPLEMENTAL SOLICITATION
The State reserves the right to advertise a supplemental solicitation during the term of the Agreement if deemed in the best interest of the State.

7. CONTRACT PERIOD

Each Vendor's contract shall be valid for a three (3) year term from June 1, 2020 through May 31, 2023. Each contract may be renewed for two (2) one (1) year periods through negotiation between the Vendor and Delaware Technical Community College. Negotiation may be initiated no later than ninety (90) days prior to the termination of the current agreement.

Delaware Technical Community College reserves the right to extend this contract on a month-to-month basis for a period of up to three months after the term of the full contract has been completed.

B. KEY RFP DATES/MILESTONES

The following dates and milestones apply to this RFP and subsequent contract award. Vendors are advised that these dates and milestones are not absolute and may change due to unplanned events during the bid proposal and award process.

Activity	Due Date
RFP Availability to Vendors	February 19, 2020
Written Questions Due No Later Than (NLT)	February 28, 2020
Written Answers Due/Posted to Website NLT	March 6, 2020
Proposals Due NLT	March 19, 2020 by 3:00pm Local Time
Public Proposal Opening	March 19, 2020 by 3:00pm Local Time
Proposal Evaluation/Presentations as required	As Required
Vendor Best & Final Discussions, as required	As Required
Contract Award	Will occur within 90 days of bid opening

C. INQUIRIES & QUESTIONS

We welcome your interest in working with us, and we will be pleased to answer any questions you may have in formulating your response to this Request for Proposal.

All questions with regard to the interpretation of this solicitation, drawings, or specifications, or any other aspect of this RFP must be received in writing within two (2) weeks of the posting. All questions will be answered in writing within five (5) business days of receipt of question and posted on http://bids.delaware.gov/ website. All questions must make specific reference to the section(s) and page numbers from this RFP where applicable. Oral explanations or instructions will not be binding.

D. RFP DESIGNATED CONTACT

All requests, questions, or other communications about this RFP shall be made in writing to the State of Delaware. Address all communications to the person listed below; communications made to other State of Delaware personnel or attempting to ask questions by phone or in person will not be allowed or

recognized as valid and may disqualify the vendor. Vendors should rely only on written statements issued by the RFP designated contact.

Ada Brown
Allied Health/Science Department
300 N. Orange St, Wilmington, DE 19801
Abrown24@dtcc.edu

To ensure that written requests are received and answered in a timely manner, electronic mail (e-mail) correspondence is acceptable, but other forms of delivery, such as postal and courier services can also be used.

E. CONTACT WITH STATE EMPLOYEE

Direct contact with Delaware Technical Community College employees other than the Agency RFP Designated Contact regarding this RFP is expressly prohibited without prior consent. Vendors directly contacting Delaware Technical Community College employees risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently doing business in the State who require contact in the normal course of doing that business.

II. SCOPE OF WORK

A. OVERVIEW

The Vendor(s) shall provide all equipment, materials, labor, and support to supplement the Agency's need for **Radiological and X-Ray Equipment and Software** as described herein. The contract will require the Vendor(s) to cooperate with the ordering agency to insure Delaware Technical Community College receives the most current state-of-the-art material and/or services.

B. BACKGROUND

Delaware Technical and Community College will be retrofitting the existing radiology lab with updated image receptors and supporting imaging software. This would include two (2) receptors (one built into the x-ray lab table and a wireless detector for chest/non-table imaging) as well as necessary accessory equipment and software needed for positioning and proper utilization of the detectors. This contract will include service and maintenance.

C. STATEMENT OF NEEDS

The current method of image reception in the lab (R – Computed Radiography) is outdated and is being phased out in clinical practice. It is being replaced by DR – Direct Radiography. The reason for the change in the practice of radiography is that DR results in lower radiation dose to the patient and a more efficient process of obtaining radiographic images. This transition from CR to DR is also being driven by Medicare reimbursement to hospitals and imaging centers. Medicare will fully reimburse DR and only partially reimburse for CR. This upgrade to our lab will provide our students with the method of medical imaging currently being used in the profession.

D. DETAILED REQUIREMENTS

The technical requirements of this RFP are stated in Appendix A. Vendors must provide pricing for the items listed in the Excel Spreadsheet, Appendix B.

III. FORMAT FOR PROPOSAL

A. INTRODUCTION

This section prescribes the mandatory format for the presentation of a proposal in response to this RFP. Each Vendor must provide every component listed in the order shown in this RFP, using the format prescribed for each component. A proposal may be rejected if it is incomplete or conditional.

B. PROPOSAL RESPONSE

The Request for Proposal may contain pre-printed forms for use by the vendor in submitting its proposal. The forms required by this solicitation shall be considered mandatory, prevailing documents.

When preprinted forms are used, the forms shall contain basic information such as description of the item and the estimated quantities and shall have blank spaces for use by the vendor for entering information such as unit bid price, total bid price, as applicable.

The Vendor's proposal shall be written in ink or typewritten on the form provided, and any corrections or erasures MUST be initialed by vendor's representative completing the bid submission.

If items are listed with a zero quantity, Vendor shall state unit price ONLY (intended for open end purchases where estimated requirements are not known). The proposal shall show a total bid price for each item bid and the total bid price of the proposal excluding zero quantity items.

Vendors' proposal must respond to each and every requirement outlined in the RFP criteria in order to be considered responsive. Proposals must be clear and concise.

C. NON-CONFORMING PROPOSALS

Non-conforming proposals will not be considered. Non-conforming proposals are defined as those that do not meet the requirements of this RFP. The determination of whether an RFP requirement is substantive or a mere formality shall reside solely within the State of Delaware.

D. CONCISE PROPOSALS

The State of Delaware discourages overly lengthy and costly proposals. It is the desire that proposals be prepared in a straightforward and concise manner. Unnecessarily elaborate brochures or other promotional materials beyond those sufficient to present a complete and effective proposal are not desired. The State of Delaware's interest is in the quality and responsiveness of the proposal.

E. COVER LETTER

Each proposal will have a cover letter on the letterhead of the company or organization submitting the proposal. The cover letter must briefly summarize the Vendor's ability to provide the services specified in

the RFP. The cover letter shall be signed by a representative who has the legal capacity to enter the organization into a formal contract with Delaware Technical Community College.

F. TABLE OF CONTENTS

Each proposal must include a Table of Contents with page numbers for each of the required components of the proposal.

G. DESCRIPTION OF SERVICES AND QUALIFICATIONS

Each proposal must contain a detailed description of how the Vendor will provide the goods and services outlined in this RFP. This part of the proposal may also include descriptions of any enhancements or additional services or qualifications the Vendor will provide that are not mentioned in this RFP.

H. DISCOUNT

Vendors are invited to offer in their proposal value added discounts (i.e. speed to pay discounts for specific payment terms). Cash or separate discounts should be computed and incorporated into unit bid price(s).

I. SAMPLES OR BROCHURES

Samples or brochures may be required by the agency for evaluation purposes. They shall be such as to permit the Agency to compare and determine if the item offered complies with the intent of the specifications.

J. ACKNOWLEDGEMENT OF UNDERSTANDING OF TERMS

By submitting a bid, each Vendor shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and exhibits hereto, and has fully informed itself as to all existing conditions and limitations.

K. BID BOND REQUIREMENT

The Bid Bond requirement has been waived.

L. PERFORMANCE BOND REQUIREMENT

The Performance Bond requirement has been waived.

M. NUMBER OF COPIES WITH MAILING OF PROPOSAL

To be considered, all proposals must be submitted in writing and respond to the items outlined in this RFP. The State reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with _1__ paper copies and _4__ electronic copies on CD or DVD media disk. One of the copies shall be marked “Master Copy” and will contain original signatures in all locations requiring an vendor signature. The remaining copies do not require original signatures. CD or DVD media disk must also contain the completed Appendix B Excel sheets, in Excel format.

All properly sealed and marked proposals are to be sent to the State of Delaware and received no later than 3:00 PM (Local Time) on March 19, 2020. The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), US Mail, or by hand to:

Delaware Technical Community College
George Campus
Attn: Ada Brown, SE308-A
300 N. Orange St.
Wilmington, DE 19801

Any proposal submitted by US Mail shall be sent by either certified or registered mail. Any proposal received after the date and time deadline referenced above shall not be considered and shall be returned unopened. The proposing vendor bears the risk of delays in delivery. The contents of any proposal shall not be disclosed as to be made available to competing entities during the negotiation process.

Upon receipt of vendor proposals, each vendor shall be presumed to be thoroughly familiar with all specifications and requirements of this RFP. The failure or omission to examine any form, instrument or document shall in no way relieve vendors from any obligation in respect to this RFP.

The State reserves the right to award the proposed contract to multiple Vendors if the Head of the Agency determines that such an award is in the best interest of the State.

N. PROPOSAL EXPIRATION DATE

Prices quoted in the proposal shall remain fixed and binding on the bidder at least through June 30, 2020. Delaware Technical Community College reserves the right to ask for an extension of time if needed.

O. WITHDRAWAL OF PROPOSALS

A Vendor may withdraw its proposal unopened after it has been deposited, if such a request is made prior to the time set for the opening of the proposal.

P. PROPOSAL MODIFICATIONS

Any changes, amendments or modifications to a submitted proposal requires that the original proposal be withdrawn, **prior** to the time set for the submission of the proposal, and a new proposal submitted **prior** to the deadline for submission of proposals.

Changes, amendments or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

Q. LATE PROPOSALS

Proposals received after the specified date and time will not be accepted or considered. To guard against premature opening, sealed proposals shall be submitted, plainly marked with the proposal title, vendor name, and time and date of the proposal opening. Evaluation of the proposals is expected to begin shortly after the proposal due date. To document compliance with the deadline, the proposal will be date and time stamped upon receipt.

R. ADDENDA TO THE REQUEST FOR PROPOSAL (RFP)

If it becomes necessary to revise any part of this RFP, revisions will be posted at http://bids.delaware.gov/ . By submitting an offer to the State, vendors have acknowledged receipt, understanding and commitment to comply with all materials, revisions, and addenda related to the Request for Proposal.

S. INCURRED EXPENSES

The State will not be responsible for any expenses incurred by the vendor in preparing and submitting a proposal.

T. ECONOMY OF PREPARATION

Proposals should be prepared simply and economically, providing a straight-forward, concise description of the Vendor's offer to meet the requirements of the RFP.

U. DISCREPANCIES AND OMISSIONS

Vendor is fully responsible for the completeness and accuracy of their proposal, and for examining this RFP and all addenda. Failure to do so will be at the sole risk of vendor. Should vendor find discrepancies, omissions, unclear or ambiguous intent or meaning, or should any questions arise concerning this RFP, vendor shall notify the State of Delaware's Designated Contact, in writing, of such findings at least ten (10) days before the proposal opening. This will allow issuance of any necessary addenda. It will also help prevent the opening of a defective proposal and exposure of vendor's proposal upon which award could not be made. All unresolved issues should be addressed in the proposal.

Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the Designated Contact, in writing, no later than ten (10) calendar days prior to the time set for opening of the proposals.

V. EXCEPTIONS

Bidders may elect to take **minor exception** to the terms and conditions of this RFP by completing Attachment 3. Delaware Technical Community College shall evaluate each exception according to the intent of the terms and conditions contained herein, but Delaware Technical Community College must reject exceptions that do not conform to State bid law and/or create inequality in the treatment of bidders. Exceptions shall be considered only if they are submitted with the bid or before the date and time of the bid opening.

Exceptions must be submitted utilizing Attachment 3 to be considered. Exceptions listed elsewhere in the Vendor's proposal will not be considered. Delaware Technical Community College maintains sole discretion to reject any vendor exceptions that are submitted.

W. BUSINESS REFERENCES

Provide at least three (3) business references consisting of current or previous customers of similar scope and value using Attachment 6. Include business name, mailing address, contact name and phone number, number of years doing business with, and type of work performed. Personal references cannot be considered.

X. DOCUMENT(S) EXECUTION

All vendors must complete and submit with its proposal the non-collusion statement that is enclosed with this Request for Proposal labeled as Attachment 2. The awarded vendor(s) will be presented with the contract form for signature and seal, if appropriate. Both of these documents shall be executed by a representative who has the legal capacity to enter the organization into a formal contract with Delaware Technical Community College.

The State of Delaware requires completion of the Delaware Substitute Form W-9 to make payments to vendors. Successful completion of this form enables the creation of a State of Delaware vendor record. The Taxpayer ID (SSN or EIN) and Applicant (vendor) name are submitted to the Internal Revenue Service for "matching." If the Taxpayer ID and name do not match, the vendor record cannot be approved.

It is the applicant's responsibility to select the appropriate 1099 Withholding Type and Class. If incorporated, a business is not subject to 1099 reporting unless the business is providing legal or medical services.

Any questions about completing this form or specific comments about a form that you have submitted, please contact RFP Designated Contact by phone at 302-657-5174 or email at abrown24@dtcc.edu.

Y. SUBCONTRACTS

Subcontracting is permitted under this RFP and contract. However, every subcontractor shall be identified in the Proposal using Attachment 7.

Z. CONFIDENTIALITY

Subject to applicable law or the order of a court of competent jurisdiction to the contrary, all documents submitted as part of the vendor's proposal will be treated as confidential during the evaluation process. As such, vendor proposals will not be available for review by anyone other than the State of Delaware/Proposal Evaluation Team or its designated agents. There shall be no disclosure of any vendor's information to a competing vendor prior to award of the contract unless such disclosure is required by law or by order of a court of competent jurisdiction.

The State of Delaware and its constituent agencies are required to comply with the State of Delaware Freedom of Information Act, 29 *Del. C.* § 10001, *et seq.* ("FOIA"). FOIA requires that the State of Delaware's records are public records (unless otherwise declared by FOIA or other law to be exempt from disclosure) and are subject to inspection and copying by any person upon a written request. Once a proposal is received by the State of Delaware and a decision on contract award is made, the content of selected and non-selected vendor proposals will likely become subject to FOIA's public disclosure obligations.

The State of Delaware wishes to create a business-friendly environment and procurement process. As such, the State respects the vendor community's desire to protect its intellectual property, trade secrets, and confidential business information (collectively referred to herein as "confidential business information"). Proposals must contain sufficient information to be evaluated. If a vendor feels that they cannot submit their proposal without including confidential business information, they must adhere to the following procedure or their proposal may be deemed unresponsive, may not be recommended for selection, and any applicable protection for the vendor's confidential business information may be lost.

In order to allow the State to assess its ability to protect a vendor's confidential business information, vendors will be permitted to designate appropriate portions of their proposal as confidential business information.

Vendor(s) may submit portions of a proposal considered to be confidential business information in a separate, sealed envelope labeled "Confidential Business Information" and include the specific RFP number. The envelope must contain a letter from the Vendor's legal counsel describing the documents in the envelope, representing in good faith that the information in each document is not "public record" as defined by 29 Del. C. § 10002, and briefly stating the reasons that each document meets the said definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, the State of Delaware will open the envelope to determine whether the procedure described above has been followed. A vendor's allegation as to its confidential business information shall not be binding on the State. The State shall independently determine the validity of any vendor designation as set forth in this section. Any vendor submitting a proposal or using the procedures discussed herein expressly accepts the State's absolute right and duty to independently assess the legal and factual validity of any information designated as confidential business information. Accordingly, Vendor(s) assume the risk that confidential business information included within a proposal may enter the public domain.

AA. PRICE NOT CONFIDENTIAL

Vendors shall be advised that as a publicly bid contract, no Vendor shall retain the right to declare their pricing confidential.

BB. ATTACHMENTS

Attachment 1 – No Proposal Reply Form
Attachment 2 – Non-Collusion Statement
Attachment 3 – Exceptions
Attachment 4 – Company Profile and Capabilities
Attachment 5 – Confidentiality and Proprietary Information
Attachment 6 – Business References
Attachment 7 – Subcontractor Information Form
Attachment 8 – Proposal Reply Requirements
Appendix A – Scope of Work details
Appendix B – Pricing Form(s) and Instructions (if applicable)
Appendix C – DTCC Contract Template

IV. PROPOSAL EVALUATION PROCEDURES

A. GENERAL ADMINISTRATION

1. STATE'S RIGHT TO REJECT PROPOSALS

Delaware Technical Community College reserves the right to reject any or all proposals in whole or in part, to make multiple awards, partial awards, award by types, item by item, or lump sum total, whichever is determined to be the most advantageous to the State of Delaware. Vendors submitting proposals may be afforded an opportunity for discussion. Vendors may be requested to provide a best and final offer during the negotiation process. Negotiations may be conducted with responsible Vendors who submit proposals found to be reasonably likely to be selected for award. The contents of any proposal shall not be disclosed so as to be available to competing vendors during the negotiation process.

2. STATE'S RIGHT TO CANCEL SOLICITATION

Delaware Technical Community College reserves the right to cancel this solicitation at any time during the procurement process, for any reason or for no reason. The State of Delaware makes no commitments expressed or implied, that this process will result in a business transaction with any vendor.

This RFP does not constitute an offer by Delaware Technical Community College. Vendor's participation in this process may result in Delaware Technical Community College selecting your organization to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by Delaware Technical Community College to execute a contract nor to continue negotiations. Delaware Technical Community College may terminate negotiations at any time and for any reason, or for no reason.

3. FORMAL CONTRACT AND PURCHASE ORDER

No employee of the Contractor(s) is to begin any work prior to receipt of both a fully executed contract and a State of Delaware Purchase Order signed by authorized representatives of the agency requesting service, properly processed through the State of Delaware Accounting Office. A purchase order, telephone call, email, fax, or State credit card shall serve as the authorization to proceed with work in accordance with the bid specifications and the special instructions, once it is received by the Contractor(s).

4. DELIVERY OF PROPOSALS

Proposals shall be delivered in sealed envelopes, and shall bear on the outside the name and address of the Vendor as well as the designation of the contract. Proposals forwarded by U.S. Mail shall be sent first class to the address stated in this RFP. Proposals forwarded by delivery service other than the U.S. Mail or hand delivered must be delivered to the applicable addresses also stated in this RFP. All bids must clearly display the bid number on the envelope.

Delaware Technical Community College
George Campus
Attn: Ada Brown, SE308-A
300 N. Orange St.
Wilmington, DE 19801

All proposals will be accepted at the time and place set in the RFP. Vendor bears the risk of delays in delivery and any delivery costs for returned proposals. Proposals received after the time set for public opening will be returned unopened.

5. PUBLIC OPENING OF PROPOSALS

The proposals shall be publicly opened at the time and place specified by the Agency. Vendors or their authorized representatives are invited to be present.

Only the vendor's name and address will be read aloud during the bid opening process.

6. DISQUALIFICATION OF VENDORS

Any one or more of the following causes may be considered as sufficient for the disqualification of a vendor and the rejection of its proposal or proposals:

a. More than one proposal for the same contract from an individual, firm, or corporation under the same or different names.

b. Evidence of collusion among vendors.

c. Unsatisfactory performance record as evidenced by past experience with Delaware Technical Community College, the State of Delaware or on a State of Delaware contract.

d. Any suspension or debarment of the parent company, subsidiary or individual involved with the vendor by federal, any state or any local governments within the last five (5) years.

e. If the unit prices are obviously unbalanced either in excess or below reasonable cost analysis values.

f. If there are any unauthorized additions, interlineations, conditional or alternate bids or irregularities of any kind which may tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning.

g. Non-attendance of mandatory pre-bid meetings shall be cause of disqualification.

7. AUTHORITY OF AGENCY

On all questions concerning the interpretation of specifications, the acceptability and quality of material furnished and/or work performed, the classification of material, the execution of the work, and the determination of payment due or to become due, the decision of the Agency shall be final and binding.

8. OR EQUAL (PRODUCTS BY NAME)

Specifications of products by name are intended to be descriptive of quality or workmanship, finish and performance. Desirable characteristics are not intended to be restrictive. Substitutions of products for those named will be considered provided the vendor certifies that the function, characteristics, performance and endurance qualities of the material offered is equal or superior to that specified.

B. RESPONSIVENESS AND RESPONSIBILITY OF VENDOR

Delaware Technical Community College shall award this contract to the most responsible and responsive vendor who best meets the terms and conditions of the proposal.

1. Rejection of individual proposals. -- A proposal may be rejected for 1 or more of the following reasons:

a. The person or entity responding to the solicitation is determined to be nonresponsive or non-responsible;
b. It is unacceptable;
c. The proposed price is unreasonable; or
d. It is otherwise not advantageous to the State.

2. Vendors whose proposals are rejected as non-responsive shall be notified in writing about the rejection.

3. Responsibility of vendors. -- It shall be determined whether a vendor is responsible before awarding a contract. Factors to be considered in determining if a vendor is responsible include:

a. The vendor's financial, physical, personnel or other resources, including subcontracts;
b. The vendor's record of performance and integrity;
c. Any record regarding any suspension or debarment;
d. Whether the vendor is qualified legally to contract with the State;
e. Whether the vendor supplied all necessary information concerning its responsibility; and

4. If a vendor is determined to be non-responsible, the vendor shall be informed in writing.

5. The State reserves the right to waive minor irregularities, or request additional information before determining the responsiveness of the Vendor. All Vendors will be afforded the same or similar opportunities, as necessary, and will be treated with equal regard before such determinations are finalized.

C. PROPOSAL EVALUATION COMMITTEE

The Proposal Evaluation Committee (“Committee”) is comprised of representatives of Delaware Technical Community College.
The Committee reserves the right to:

- Select for contract or for negotiations a proposal other than that with lowest costs.
- Reject any and all proposals or portions of proposals received in response to this RFP or to make no award or issue a new RFP.
- Waive or modify any information, irregularity, or inconsistency in proposals received.
- Request modification to proposals from any or all vendors during the contract review and negotiation.
- Negotiate any aspect of the proposal with any vendor and negotiate with more than one vendor at the same time.

Delaware Technical Community College reserves the right to reject any or all bids in whole or in part, to make multiple awards, partial awards, award by types, item by item, or lump sum total, whichever may be most advantageous to the State of Delaware.

D. REQUIREMENTS OF THE VENDOR

The purpose of this section is to assist the Proposal Evaluation Committee to determine the ability of the organization to provide the materials and services described in the application. The proposal response should contain at a minimum the following information:

E. CRITERIA AND SCORING

	EVALUATION CRITERIA		
		PERCENTAGE	**POINTS**
1.	1. DR Equipment to include: Acquisition Workstation Optiplex 50 7060, VIVIX –S DR 1717V Fixed Detector, VIVIX-S DR 1417 Wireless Flat Panel Detector and accessory equipment to include15 x 18" grid, 14 x 17 Lock and Secure with side handle, DDR Tilt and Rotate Holder, battery charger and batteries		50
2.	Manufacturer and extended warranties .		5
3.	Installation of equipment		5
4.	Drop/replacement insurance		5
5.	Technical support service contract to include initial training		10
6.	Pricing		25
	TOTAL SCORE	100%	100

Procurement Evaluation Committee members will assign up to the maximum number of points listed for each of the criteria listed above. For items having quantitative answers, points will be proportionate to each proposal's response. Items with qualitative answers will receive the average of points assigned by Proposal Evaluation Committee members.

F. BEST AND FINAL OFFERS

Once the proposals have been evaluated and negotiations have been held with the vendor(s) determined to be likely to receive an award, the Procurement Evaluation Committee will issue a request for Best and Final Offers from the Vendor(s).

G. REFERENCES

The Committee may contact any customer of the vendor, whether or not included in the vendor's reference list, and use such information in the evaluation process. Additionally, the State of Delaware may choose to visit existing installations of comparable systems, which may or may not include vendor personnel. If the

vendor is involved in such site visits, the State of Delaware will pay travel costs only for State of Delaware personnel for these visits.

H. ORAL PRESENTATIONS

Selected vendors may be invited to make oral presentations to the Committee. The vendor representative(s) attending the oral presentation shall be technically qualified to respond to questions related to the proposed system and its components.

All of the vendor's costs associated with participation in oral discussions and system demonstrations conducted for the State of Delaware are the vendor's responsibility.

V. MANDATORY PREBID MEETING

A mandatory pre-bid meting has not been established for this Request for Proposal.

VI. DEFINITIONS AND GENERAL PROVISIONS

The attached Definitions and General Provisions apply to all contracts and are part of each Request for Proposal. The requirement to furnish a bid bond and performance bond is applicable unless waived. Should the General Provisions conflict with the Special Provisions, the Special Provisions shall prevail. Vendors or their authorized representatives are required to fully acquaint themselves as to State procurement laws and regulations prior to submitting bid.

A. DEFINITIONS: Whenever the following terms are used, their intent and meaning shall be interpreted as follows:

STATE: The State of Delaware and/or Delaware Technical Community College

AGENCY: Delaware Technical Community College

BID INVITATION: The "invitation to bid" or "Request for Proposal" is a packet of material sent to vendors and consists of General Provisions, Special Provisions, specifications, and enclosures.

BOND: The approved form of security furnished by the Vendors and its surety as a guaranty of good faith on the part of the Vendor to execute the work in accordance with the terms of the contract.

CONTRACT: The written agreement covering the furnishing and delivery of material or work to be performed. The form will generally be in conformance with that provided in Appendix C. Any changes to the template are at the sole discretion of the Agency.

DESIGNATED OFFICIAL: The agent authorized to act for an Agency.

GENERAL PROVISIONS: General Provisions are instructions pertaining to contracts in general. They contain, in summary, requirements of laws of the State, policies of the Agency, and instructions to vendors.

LOCAL TIME: Eastern Standard Time/Eastern Daylight Time

OPPORTUNITY BUY: A special offer from a supplier that is usually associated with a limited time to respond.

PROPOSAL: The offer of the Vendor submitted on the approved form and setting forth the Vendor's prices for performing the work or supplying the material or equipment described in the specifications.

RFP: Request for Proposal.

SPECIAL PROVISIONS: Special Provisions are specific conditions or requirements peculiar to the contract under consideration and are supplemental to the General Provisions. Should the Special Provisions conflict with the General Provisions, the Special Provisions shall prevail.

SURETY: The corporate body which is bound with and for the contract, or which is liable, and which engages to be responsible for the Vendor's payments of all debts pertaining to and for its acceptable performance of the work for which he has contracted

VENDOR: Any individual, firm, or corporation formally submitting a proposal for the material or work contemplated, acting directly or through a duly authorized representative.

VENDOR'S DEPOSIT: The security designated in the proposal to be furnished by the Vendor as a guaranty of good faith to enter into a contract with the Agency if the work to be performed or the material or equipment to be furnished is awarded to it.

B. GENERAL PROVISIONS

1. INTERPRETATION OF ESTIMATES/QUANTITIES

a. Unless stated otherwise, the quantities given in the RFP are to be considered to be approximate only and are given as a basis for the comparison of bids. The Agency may increase or decrease the amount of any item as may be deemed necessary or expedient, during the period of the contract. Bidders shall recognize there are no guaranteed minimum contract quantities or values associated with this solicitation.

b. An increase or decrease in the quantity for any item is not sufficient ground for an increase or decrease in the unit price.

c. Vendor usage reports for previous awards, if applicable, may be found by accessing the applicable contract award page at: http://contracts.delaware.gov/. Past usage shall not be considered a guaranteed future volume.

2. SILENCE OF SPECIFICATIONS

The apparent silence of the specifications as to any detail, or the apparent omission from it of detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and only material and workmanship of the first quality are to be used. Proof of specifications compliance will be the responsibility of the vendor.

3. EXAMINATION OF SPECIFICATIONS AND PROVISIONS

The Vendor shall examine carefully the proposal and the contract forms for the material contemplated. The Vendor shall investigate and satisfy itself as to the conditions to be encountered, quality and quantities of the material to be furnished, and the requirements of any Special Provisions in the RFP and

the contract. The submission of a proposal shall be conclusive evidence that the Vendor has made examination of the aforementioned conditions.

4. PRICES QUOTED

The prices quoted are those for which the material will be furnished F.O.B. Ordering Agency and include all charges that may be imposed during the period of the contract. **All prices quoted must be in U.S. Dollars.**

All vendors that maintain a core list of products under this contract shall maintain the appropriate negotiated prices on their core list. Vendors shall routinely offer to add to the core list materiel that has been identified as necessary. The Vendors are expected to routinely update any changes to the core list with the appropriate discounts listed.

Any adjustments to a core list must receive prior written approval from the State before a core list can be changed by the Vendor. Changes include but are not limited to the migration of items on and off the core list as well as any price adjustments from the original agreed upon pricing.

5. PUBLIC INSPECTION OF PROPOSALS

All documents submitted as part of the vendor's proposal will be deemed confidential during the evaluation process. Vendor proposals will not be available for review by anyone other than the proposal evaluation committee or its designated agents. There shall be no disclosure of any vendor's information to a competing vendor prior to award of the contract.

Delaware Technical Community College is a public agency as defined by state law, and as such, it is subject to the Delaware Freedom of Information Act, 29 Del. C. Ch. 100. Under the law, all the Agency's records are public records (unless otherwise declared by law to be confidential) and are subject to inspection and copying by any person. Vendor(s) are advised that once a proposal is received by the Agency and a decision on contract award is made, its contents will become public record and nothing contained in the proposal will be deemed to be confidential except proprietary information.

Vendor(s) shall not include any information in their proposal that is proprietary in nature or that they would not want to be released to the public. Proposals must contain sufficient information to be evaluated and a contract written without reference to any proprietary information. If a vendor feels that they cannot submit their proposal without including proprietary information, they must adhere to the following procedure or their proposal may be deemed unresponsive and will not be recommended for selection. Vendor(s) must submit such information in a separate, sealed envelope labeled "Proprietary Information" with the RFP number. The envelope must contain a letter from the Vendor's legal counsel describing the documents in the envelope, representing in good faith that the information in each document is not "public record" as defined by 29 Del. C. § 10002(d), and briefly stating the reasons that each document meets the said definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, the State of Delaware will open the envelope to determine whether the procedure described above has been followed.

6. LAWS TO BE OBSERVED

The vendor is presumed to know and shall strictly comply with all Federal, State, or County laws, and City or Town ordinances and regulations in any manner affecting the conduct of the work. The Vendor shall indemnify and save harmless the State of Delaware, the Agency, and all Officers, Agency and

Servants thereof against any claim or liability arising from or based upon the violation of any such laws, ordinances, regulations, orders, or decrees whether by itself , by its employees, or by its subcontractor (s).

7. APPLICABLE LAW AND JURISDICTION

This bid, any resulting contract, and any and all litigation or other disputes arising therefrom, in connection with, or related hereto shall be governed by the applicable laws, regulations and rules of evidence of the State of Delaware. Bidder submits to personal jurisdiction in the State of Delaware. Any and all litigation or other disputes arising out of, in connection with, or relating to this bid, and any resulting contract, shall be brought exclusively in a court in the State of Delaware or the United States District Court of the District of Delaware as applicable.

8. SEVERABILITY

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

9. PERMITS AND LICENSES

All necessary permits, licenses, insurance policies, etc. required by local, State or Federal laws, shall be provided by the Vendor at its own expense.

10. PATENTED DEVICES, MATERIAL AND PROCESSES

a. The Vendor shall provide for the use of any patented design, device, material, or process to be used or furnished under this contract by suitable legal agreement with the patentee or owner, and shall file a copy of this agreement with the Agency.

b. The Vendor and the surety shall hold and save harmless the State of Delaware, the Agency, its Trustees, their Officers, employees, or Agents from any and all claims because of the use of such patented design, device, material, or process in connection with the work agreed to be performed under this contract.

11. EMERGENCY TERMINATION OF CONTRACT

a. Due to restrictions which may be established by the United States Government on material, or work, a contract may be terminated by the cancellation of all or portions of the contract.

b. In the event the Vendor is unable to obtain the material required to complete the items of work included in the contract because of restrictions established by the United States Government and if, in the opinion of the Agency, it is impractical to substitute other available material, or the work cannot be completed within a reasonable time, the incomplete portions of the work may be cancelled, or the contract may be terminated.

12. TAX EXEMPTION

a. Material covered by this proposal is exempt from all FEDERAL and STATE TAXES. Such taxes shall not be included in prices quoted.

b. Any material which is to be incorporated in the work or any equipment required for the work contemplated in the proposal may be consigned to the Agency. If the shipping papers show clearly that any such material is so consigned, the shipment will be exempt from the tax on the transportation of property under provisions of Section 3475 (b) of the Internal Revenue Code, as amended by Public Law 180 (78th Congress). All transportation charges shall be paid by the Vendor. Each Vendor shall take its exemption into account in calculating its bid for its work.

13. INVOICING

After the awards are made, the agencies participating in the bid may forward their purchase orders ("P.O.") to the successful Vendor(s) in accordance with State Purchasing Procedures. The State will generate a payment voucher upon receipt of an acceptable invoice from the vendor.

14. INTENTIONALLY DELETED.
a.

15. PRICES

Prices and/or rates shall remain firm for the initial first year term of the contract, unless further negotiations are deemed necessary by the State.

The pricing policy that you choose to submit must address the following concerns:

a. The structure must be clear, accountable and auditable.
b. It must cover the full spectrum of services required.
c. Costs and compensation must be consistent with the rates established or negotiated as a result of this RFP or P.O. issued based on this contract.

16. COOPERATIVES

Vendors, who have been awarded similar contracts through a competitive bidding process with a cooperative, are welcome to submit the cooperative pricing for this solicitation.

17. PRICE ADJUSTMENT

The Vendor is not prohibited from offering a price reduction on its services or materiel offered under the contract. The State is not prohibited from requesting a price reduction on those services or materiel during the initial term or any subsequent options that the State may agree to exercise.

If agreement is reached to extend this contract beyond the initial Three (3) Year Period, Delaware Technical Community College shall have the option of offering a determined price adjustment that shall not exceed the current Philadelphia All Urban Consumers Price Index (CPI-U), U.S. City Average. If the CPI-U is used, any increase/decrease shall reflect the change during the previous published twelve (12) month period at the time of renegotiation.

18. SHIPPING TERMS

FOB Destination, freight prepaid.

19. ELECTRONIC CATALOG

At the discretion of Delaware Technical Community College, the successful vendor(s) may be required to submit their items list in an electronic format designated by the State.

By example, but not limited to, the following items may be required:

- Electronic catalogs,
- Electronic catalogs converted to a CSV format with contract specific pricing,
- Items designated by commodity/classification code: United Nations Standard Products and Services Code (UNSPSC), and/or
- A unique item ID for all items in your system and/or our award.

20. INDEPENDENT CONTRACTORS

The parties to any contract from this solicitation shall be independent contractors to one another, and nothing herein shall be deemed to cause the agreement to create an agency, partnership, joint venture or employment relationship between parties. Each party shall be responsible for compliance with all applicable workers compensation, unemployment, disability insurance, social security withholding and all other similar matters. Neither party shall be liable for any debts, accounts, obligations or other liability whatsoever of the other party or any other obligation of the other party to pay on the behalf of its employees or to withhold from any compensation paid to such employees any social benefits, workers compensation insurance premiums or any income or other similar taxes.

21. TEMPORARY PERSONNEL ARE NOT STATE EMPLOYEES UNLESS AND UNTIL THEY ARE DIRECTLY HIRED

Vendor agrees that any individual or group of temporary staff person(s) provided to the State of Delaware pursuant to this Solicitation shall remain the employee(s) of Vendor for all purposes including any required compliance with the Affordable Care Act by the Vendor. Vendor agrees that it shall not allege, argue, or take any position that individual temporary staff person(s) provided to the State pursuant to this Solicitation must be provided any benefits, including any healthcare benefits by the State of Delaware and Vendor agrees to assume the total and complete responsibility for the provision of any healthcare benefits required by the Affordable Care Act to aforesaid individual temporary staff person(s). In the event that the Internal Revenue Service, or any other third party governmental entity determines that the State of Delaware is a dual employer or the sole employer of any individual temporary staff person(s) provided to the State of Delaware pursuant to this Solicitation, Vendor agrees to hold harmless, indemnify, and defend the State to the maximum extent of any liability to the State arising out of such determinations.

Notwithstanding the content of the preceding paragraph, should the State of Delaware subsequently directly hire any individual temporary staff employee(s) provided pursuant to this Solicitation, the aforementioned obligations to hold harmless, indemnify, and defend the State of Delaware shall cease and terminate for the period following the date of hire. Nothing herein shall be deemed to terminate the Vendor's obligation to hold harmless, indemnify, and defend the State of Delaware for any liability that arises out of compliance with the ACA prior to the date of hire by the State of Delaware. Vendor will waive any separation fee provided an employee works for both the vendor and hiring agency,

continuously, for a three (3) month period and is provided thirty (30) days written notice of intent to hire from the agency. Notice can be issued at second month if it is the State's intention to hire.

22. ACA SAFE HARBOR

The State and its utilizing agencies are not the employer of temporary or contracted staff. However, the State is concerned that it could be determined to be a Common-law Employer as defined by the Affordable Care Act ("ACA"). Therefore, the State seeks to utilize the "Common-law Employer Safe Harbor Exception" under the ACA to transfer health benefit insurance requirements to the staffing company. The Common-law Employer Safe Harbor Exception can be attained when the State and/or its agencies are charged and pay for an "Additional Fee" with respect to the employees electing to obtain health coverage from the Vendor.

The Common-law Employer Safe Harbor Exception under the ACA requires that an Additional Fee must be charged to those employees who obtain health coverage from the Vendor, but does not state the required amount of the fee. The State requires that all Vendors shall identify the Additional Fee to obtain health coverage from the Vendor and delineate the Additional Fee from all other charges and fees. The Vendor shall identify both the Additional Fee to be charged and the basis of how the fee is applied (i.e. per employee, per invoice, etc.). The State will consider the Additional Fee and prior to award reserves the right to negotiate any fees offered by the Vendor. Further, the Additional Fee shall be separately scored in the proposal to ensure that neither prices charged nor the Additional Fee charged will have a detrimental effect when selecting vendor(s) for award.

23. FUNDING OUT or NON-APPROPRIATION

In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

24. MANDATORY INSURANCE REQUIREMENTS

As a part of the contract requirements, the contractor must obtain at its own cost and expense and keep in force and effect during the term of this contract, including all extensions, the minimum coverage limits specified below with a carrier satisfactory to the State. All contractors must carry the following coverage depending on the scope of work being delivered.

a. Commercial General Liability - $1,000,000 per occurrence/$3,000,000 aggregate,

and

b. Medical/Professional Liability - $1,000,000 per occurrence/$3,000,000 aggregate,

or

c. Miscellaneous Errors and Omissions - $1,000,000 per occurrence/$3,000,000 aggregate,

or

d. Product Liability - $1,000,000 per occurrence/$3,000,000 aggregate,

and

e. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than $100,000 each person and $300,000 each accident as to bodily injury and $25,000 as to property damage to other,

and

f. The vendor shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this contract. The vendor is an independent contractor and is not an employee of the State of Delaware.

All contractors must carry (a), (e), and (f), and at least one of (b), (c), or (d), depending on the scope of work being delivered.

Before any work is done with the State, a Certificate of Insurance referencing the name and contract number stated herein, shall be filed with the State. The certificate holder is as follows:

State of Delaware
Delaware Technical Community College
300 N. Orange St.
Wilmington, DE 19801

Note: The State of Delaware shall <u>not</u> be named as an additional insured.

Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

25. STATE OF DELAWARE BUSINESS LICENSE

Prior to receiving an award, the successful Vendor shall either furnish the Agency with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE 19899 or by telephone to one of the following numbers: 302-577-8778. http://revenue.delaware.gov/services/BusServices.shtml

Information regarding the award of this contract will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject your organization to applicable fines and/or interest penalties.

26. INDEMNIFICATION

a. General Indemnification

By submitting a proposal, the proposing vendor agrees that in the event it is awarded a contract, it will indemnify and otherwise hold harmless the State of Delaware, Delaware Technical Community College, it's Trustees, its agents and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the vendor's its agents and employees' performance work or services in connection with the contract.

b. Proprietary Rights Indemnification

Vendor shall warrant that all elements of its solution, including all equipment, software, documentation, services and deliverables, do not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party. In the event of any claim, suit or action by any third party against the State of Delaware, the State of Delaware shall promptly notify the vendor in writing and vendor shall defend such claim, suit or action at vendor's expense, and vendor shall indemnify the State of Delaware against any loss, cost, damage, expense or liability arising out of such claim, suit or action (including, without limitation, litigation costs, lost employee time, and counsel fees) whether or not such claim, suit or action is successful.

If any equipment, software, services (including methods) products or other intellectual property used or furnished by the vendor (collectively ""Products") is or in vendor's reasonable judgment is likely to be, held to constitute an infringing product, vendor shall at its expense and option either:

1. Procure the right for the State of Delaware to continue using the Product(s);
2. Replace the product with a non-infringing equivalent that satisfies all the requirements of the contract; or
3. Modify the Product(s) to make it or them non-infringing, provided that the modification does not materially alter the functionality or efficacy of the product or cause the Product(s) or any part of the work to fail to conform to the requirements of the Contract, or only alters the Product(s) to a degree that the State of Delaware agrees to and accepts in writing.

27. NON-PERFORMANCE

In the event the Vendor does not fulfill its obligations under the terms and conditions of this contract, in addition to proceeding with termination of the contract, the ordering agency may terminate any individual orders in accordance with General Provisions, Item titled as "TERMINATION OF INDIVIDUAL PURCHASE ORDERS" below and purchase equivalent product on the open market. Regarding any such open market purchase, payment for any difference in cost or expense in excess of the contract prices for reasonably equivalent products or services herein shall be the responsibility of the Vendor and shall be submitted to the State no later than 30 days following the delivery of the State's invoice detailing the open market purchase. Under no circumstances shall monies be due the Vendor in the event open market products can be obtained below contract cost. Any monies charged to the Vendor may be deducted from an open invoice.

28. FORCE MAJEURE

Neither the vendor nor the ordering agency shall be held liable for non-performance under the terms and conditions of this contract due, but not limited to, government restriction, strike, flood, fire, or unforeseen catastrophe beyond either party's control. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this contract.

29. VENDOR NON-ENTITLEMENT

Vendors for Material and for Services shall not have legal entitlement to utilize any Central Contract held by the State of Delaware. The Vendors may not seek business from another Vendors' Central Contract for the purpose of preparing a bid or proposal to the State of Delaware. Additionally, they shall not utilize other Central Contracts to fulfill the requirements of their respective contract unless they are considered a "Covered Agency" as defined by Title 29 Chapter 69 of the State Procurement Code or otherwise permitted by law.

This is not a prohibition from any Vendor choosing to work with another Vendor who holds a State Central Contract for private business.

30. PURCHASE ORDERS

Agencies that are part of the First State Financial (FSF) system are required to identify the contract number DTCC20001-XRAY on all Purchase Orders (P.O.) and shall complete the same when entering P.O. information in the state's financial reporting system.

31. BILLING

The Vendor is required to "Bill as Shipped" to the respective ordering agency(s). Ordering agencies shall provide contract number, ship to and bill to address, contact name and phone number. The Vendor shall not charge a late fee that exceeds more than one percent (1%) per month, not to exceed twelve percent (12%) per annum.

Agencies will make every effort to achieve available discount opportunities under this contract. Vendors shall be required to report semi-annually opportunities to enhance the discounts achieved.

32. METHOD OF PAYMENT

a. For each P.O. issued as part of this contract, the State will pay Vendor monthly, within thirty (30) days of receipt of the Vendor's billing, the amount which is legitimately earned by the Vendor, and supported by payroll data and an itemized accounting of reasonable reimbursable direct non-salary costs. A current progress report of the work shall accompany each billing.

Final settlement for total payment to the Vendor will be made within thirty (30) days from the date of final written State acceptance of the work and services as agreed to in the P.O.

b. No premium time for overtime will be paid without prior written State authorization. Indirect overhead cost shall not be applied to the premium portion of the overtime.

c. The State of Delaware intends to maximize the use of the P-Card for payment for goods and services provided under contract. Vendors shall not charge additional fees for acceptance of this payment method and shall incorporate any costs into their proposals. Additionally there shall be no minimum or maximum limits on any P-Card transaction under the contract. While it is the State's intention to utilize the P-card payment method the State reserves, at its discretion, the right to pay by ACH/ ACI or check. Should a Vendor wish to provide a financial incentive to not process payment by P-Card in their proposal, they are to prepare their proposals to clearly outline any incentives for alternative payment methods the Vendor is willing to accept.

33. PRODUCT SUBSTITUTION

All items or services delivered during the life of the contract shall be of the same type and manufacture as specified or accepted as part of the proposal unless specific approval is given by the Agency to do otherwise. Awarded vendors are highly encouraged to offer any like substitute product (s), either generic or brand name, at any time during the subsequent contract term, especially if an opportunity for cost savings to the state exists. In all cases, the state may require the submission of written specifications and/or product samples for evaluation prior to any approvals being granted.

If a substitution is granted by the state, the Vendor must update its core list and maintain said list in a timely manner.

34. SCHEDULE FOR PERFORMANCE OF WORK

All work described in these specifications shall be completed with reasonable promptness. As used in this Section, Delaware Technical Community College shall be the sole judge of the term "reasonable". If the Vendor does not begin the work in a reasonable amount of time, they will be notified that if they fail to initiate the work promptly, the contract may be terminated and the State will forthwith proceed to collect for nonperformance of work.

35. VENDOR RESPONSIBILITY

Delaware Technical Community College will enter into a contract with the successful Vendor(s). The successful Vendor(s) shall be responsible for all products and services as required by this RFP whether or not the Vendor or its subcontractor provided final fulfillment of the order. Subcontractors, if any, shall be clearly identified in the Vendor's proposal by completing Attachment 7, and are subject the approval and acceptance of Delaware Technical Community College.

36. VENDOR- OWNED RENTAL EQUIPMENT AND SUPPLIES REMOVAL

The awarded Vendor shall remove all rental equipment and supplies from the installation location(s) no later than an agreed to date once all contract obligations by the Vendor have been met.

37. ENVIRONMENTAL PROCUREMENT REQUIREMENTS

Energy Star - If applicable, the Vendor must provide products that earn the ENERGY STAR rating and meet the ENERGY STAR specifications for energy efficiency in order to keep overall event costs to a minimum. The Vendor is encouraged to visit www.energystar.gov for complete product specifications and updated lists of qualifying products.

Green Products – third party certification of green products accepted from GSS w/approved green certification shall be offered wherever available in addition to or as a substitute for non-green products.

Vendors shall report all green items procured during the monthly reporting period using the Usage Report that will be provided to the awarded Vendor(s).

Environmental Procurement Policies of the State shall determine acceptable consideration and credit for environmentally preferred products and services in the performance of this award. The State Environmental Procurement Policies may be found:
Environmentally Preferred Purchasing Policy

38. PERSONNEL, EQUIPMENT AND SERVICES

a. The Vendor represents that it has, or will secure at its own expense, all personnel required to perform the services required under this contract.

b. All of the equipment and services required hereunder shall be provided by or performed by the Vendor or under its direct supervision, and all personnel, including subcontractors, engaged in the

work shall be fully qualified and shall be authorized under State and local law to perform such services.

c. None of the equipment and/or services covered by this contract shall be subcontracted without the prior written approval of the State. Only those subcontractors identified in Attachment 7 are considered approved upon award. Changes to those subcontractor(s) listed in Attachment 7 must be approved in writing by the State.

39. FAIR BACKGROUND CHECK PRACTICES

Pursuant to 29 Del. C. §6909B, the State does not consider the criminal record, criminal history, credit history or credit score of an applicant for state employment during the initial application process unless otherwise required by state and/or federal law. Vendors doing business with the State are encouraged to adopt fair background check practices. Vendors can refer to 19 Del. C. §711(g) for applicable established provisions.

40. VENDOR BACKGROUND CHECK REQUIREMENTS

Vendor(s) selected for an award that access state property or come in contact with vulnerable populations, including children and youth, shall be required to complete background checks on employees serving the State's on premises contracts. Unless otherwise directed, at a minimum, this shall include a check of the following registry:

- Delaware Sex Offender Central Registry at:
  https://sexoffender.dsp.delaware.gov/

Individuals that are listed in the registry shall be prevented from direct contact in the service of an awarded state contract, but may provide support or off-site premises service for contract vendors. Should an individual be identified and the Vendor(s) believes their employee's service does not represent a conflict with this requirement, may apply for a waiver to the primary agency listed in the solicitation. The Agency's decision to allow or deny access to any individual identified on a registry database is final and at the Agency's sole discretion.

By Agency request, the Vendor(s) shall provide a list of all employees serving an awarded contract, and certify adherence to the background check requirement. Individual(s) found in the central registry in violation of the terms stated, shall be immediately prevented from a return to state property in service of a contract award. A violation of this condition represents a violation of the contract terms and conditions, and may subject the Vendor to penalty, including contract cancellation for cause.

Individual contracts may require additional background checks and/or security clearance(s), depending on the nature of the services to be provided or locations accessed, but any other requirements shall be stated in the contract scope of work or be a matter of common law. The Vendor(s) shall be responsible for the background check requirements of any authorized Subcontractor providing service to the Agency's contract.

41. DISPUTE RESOLUTION

At the option of, and in the manner prescribed by the, Delaware Technical Community College the parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement

promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in arbitration or other proceeding involving the parties, provided evidence that is otherwise admissible or discoverable shall not be rendered inadmissible.

If the matter is not resolved by negotiation, as outlined above, or, alternatively, Agency elects to proceed directly to mediation, then the matter will proceed to mediation as set forth below. Any disputes, claims or controversies arising out of or relating to this Agreement may be submitted to mediation by a mediator selected by Agency, and if the matter is not resolved through mediation, then it may be submitted, in the sole discretion of the Agency, for final and binding arbitration. Agency reserves the right to proceed directly to arbitration or litigation without negotiation or mediation. Any such proceedings held pursuant to this provision shall be governed by Delaware law and venue shall be in Delaware. The parties shall maintain the confidential nature of the arbitration proceeding and the Award, including the Hearing, except as may be necessary to prepare for or conduct the arbitration hearing on the merits. Each party shall bear its own costs of mediation, arbitration or litigation, including attorneys' fees.

42. TERMINATION OF CONTRACT

The contract awarded as a result of this RFP may be terminated as follows by Delaware Technical Community College.

a. Termination for Cause: If, for any reasons, or through any cause, the Vendor fails to fulfill in timely and proper manner its obligations under this Contract, or if the Vendor violates any of the covenants, agreements, or stipulations of this Contract, the State shall thereupon have the right to terminate this contract by giving written notice to the Vendor of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Vendor under this Contract shall, at the option of the State, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the State.

On receipt of the contract cancellation notice from the State, the Vendor shall have not less than five (5) days to provide a written response and may identify a method(s) to resolve the violation(s). A vendor response shall not effect or prevent the contract cancellation unless the State provides a written acceptance of the vendor response. If the State does accept the Vendor's method and/or action plan to correct the identified deficiencies, the State will define the time by which the Vendor must fulfill its corrective obligations. Final retraction of the State's termination for cause will only occur after the Vendor successfully rectifies the original violation(s). At its discretion the State may reject in writing the Vendor's proposed action plan and proceed with the original contract cancellation timeline.

b. Termination for Convenience: The State may terminate this Contract at any time by giving written notice of such termination and specifying the effective date thereof, at least sixty (60) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, supplies, and other materials shall, at the option of the State, become its property and the Vendor shall be entitled to receive compensation for

any satisfactory work completed on such documents and other materials, and which is usable to the State.

c. **Termination for Non-Appropriations**: In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds. This is not a termination for convenience and will not be converted to such.

43. CHANGES

Both parties may, from time to time, require changes in the services to be provided by the Vendor under the Scope of Work. Such changes, including any increase or decrease in the amount of the Vendor's compensation, which are mutually agreed upon by and between the Agency and the Vendor shall be incorporated in written amendments to the Purchase Order or contract.

44. INTEREST OF VENDOR

The vendor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree in providing products or performing services required under this contract. The vendor further covenants, that in the performance of this contract, no person having any such interest shall be employed.

45. PUBLICATION, REPRODUCTION AND USE OF MATERIAL

No material produced in whole or part under this contract shall be subject to copyright in the United States or in any other country. The State shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other materials prepared under this contract; provided, however, that the State agrees not to use any design or engineering plans prepared by the vendor for anything other than their intended purpose under this Contract. The Vendor shall have the right to publish any and all scientific findings. Appropriate acknowledgment and credit for the State's support shall be given in the publication.

46. RIGHTS AND OBLIGATIONS

The rights and obligations of each party to this agreement shall not be effective, and no party shall be bound by the terms of this agreement, unless and until a valid executed purchase order has been approved by the Secretary of Finance, and all procedures of the Department of Finance have been complied with. A separate purchase order shall be issued for every project or order.

47. ASSIGNMENT OF ANTITRUST CLAIMS

As consideration for the award and execution of this contract by the State, the Vendor hereby grants, conveys, sells, assigns, and transfers to the State of Delaware all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, regarding the specific goods or services purchased or acquired for the State pursuant to this contract. Upon either the State's or the Vendor notice of the filing of or reasonable likelihood of filing of an action under the antitrust laws of the United States or the State of Delaware, the State and Vendor shall meet and confer about coordination of representation in such action.

48. TESTING AND INSPECTION

The State of Delaware reserves the right to conduct any test or inspection it may deem necessary to insure equipment, materials and services conform to contract requirements.

49. COVENANT AGAINST CONTINGENT FEES

The Vendor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty, the State shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fees.

50. GRATUITIES

a. If it is found, after notice and hearing, by the State that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Vendor or any agent of the State with a view toward securing a contract, or securing favorable treatment with respect to the awarding, amending, or the making of any determinations with respect to the performance of this contract, the State may, by written notice to the Vendor, terminate the right of the Vendor to proceed under this contract and/or may pursue such other rights and remedies provided by law or under this agreement; provided that the existence of the facts upon which the State makes such findings shall be in issue and may be reviewed in proceedings pursuant to the Remedies clause of this contract; and

b. In the event this contract is terminated pursuant to subparagraph “a”, the State shall be entitled (i) to pursue the same remedies against the Vendor, and (ii) to exemplary damages, as a penalty in addition to any other damages to which it may be entitled by law, in an amount which shall be not less than three, nor more than ten, times the costs incurred by the Vendor in providing any such gratuities to any such officer or employee. The amount of such exemplary damages shall be in the sole discretion of the State.

51. AFFIRMATION

The Vendor must affirm that within the past five (5) years the firm or any officer, controlling stockholder, partner, principal, or other person substantially involved in the contracting activities of the business is not currently suspended or debarred and is not a successor, subsidiary, or affiliate of a suspended or debarred business.

52. AUDIT ACCESS TO RECORDS

The Vendor shall maintain books, records, documents, and other evidence pertaining to this Contract to the extent and in such detail as shall adequately reflect performance hereunder. The Vendor agrees to preserve and make available to the State, upon request, such records for a period of five (5) years from the date services were rendered by the Vendor. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The Vendor agrees to make such records available for inspection, audit, or reproduction to any official State representative in the performance of their duties under the Contract. Upon notice given to the Vendor, representatives of the State or other duly authorized State or Federal agency may inspect, monitor, and/or evaluate the cost and billing records or other material relative to this Contract. The cost of any Contract audit disallowances resulting

from the examination of the Vendor's financial records will be borne by the Vendor. Reimbursement to the State for disallowances shall be drawn from the Vendor's own resources and not charged to Contract cost or cost pools indirectly charging Contract costs.

61. IRS 1075 Publication (If Applicable)

Performance

In performance of this contract, the Contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

All work will be performed under the supervision of the contractor or the contractor's responsible employees.

The contractor and the contractor’s employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.

Any Federal tax returns or Federal tax return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone other than an officer or employee of the contractor is prohibited.

All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.

No work involving returns and return information furnished under this contract will be subcontracted without prior written approval of the IRS.

The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.

The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

Criminal/Civil Sanctions

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as $5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than $1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRCs 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as $1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of $1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRCs 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency’s security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors must be advised of the provisions of IRCs 7431, 7213, and 7213A (see Exhibit 4, Sanctions for Unauthorized Disclosure, and Exhibit 5, Civil Damages for Unauthorized Disclosure). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

Inspection

The IRS and the Agency, with 24 hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS’ right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. On the basis of such inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with contract safeguards.

62. REMEDIES

Except as otherwise provided in this contract, all claims, counterclaims, disputes, and other matters in question between the State and the Vendor arising out of, or relating to, this contract, or a breach of it may be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Delaware.

63. SUBCONTRACTS

Subcontracting is permitted under this RFP and contract. However, every subcontractor shall be identified in the Proposal (Attachment 7) and agreed to in writing by the State or as are specifically authorized in writing by the Agency during the performance of the contract. Any substitutions in or additions to such subcontractors, associates, or consultants will be subject to the prior written approval of the State.

The vendor(s) shall be responsible for compliance by the subcontractor with all terms, conditions and requirements of the RFP and with all local, State and Federal Laws. The vendor shall be liable for any noncompliance by any subcontractor. Further, nothing contained herein or in any subcontractor agreement shall be construed as creating any contractual relationship between the subcontractor and the State.

64. AGENCY'S RESPONSIBILITIES

The Agency shall:

a. Examine and review in detail all letters, reports, drawings and other documents presented by the Vendor to the Agency and render to the Vendor in writing, findings and decisions pertaining thereto within a reasonable time so as not to delay the services of Vendor.

b. Give prompt written notice to the Vendor whenever the Agency observes or otherwise becomes aware of any development that affects the scope or timing of the Vendor's services.

c. When an ordering agency first experiences a relatively minor problem or difficulty with a vendor, the agency will contact the vendor directly and attempt to informally resolve the problem. This includes failure to perform by the date specified and any unacceptable difference(s) between the purchase order and the merchandise received. Ordering agencies should stress to vendors that they should expedite correction of the differences because failure to reply may result in an unfavorable rating in the execution of the awarded contract.

d. Delaware Technical Community College has several remedies available to resolve non-performance issues with the vendor. The Agency should refer to the Contract Terms and Conditions to view these remedies. When a default occurs, the Agency should first review the contract to confirm that the issue is a part of the contract. If the issue is not covered by the contract, the state cannot expect the contractor to perform outside the agreement. If the issue is a part of the contract, the Agency must then contact the vendor, discuss the reasons surrounding the default and establish a date when the vendor will resolve the non-performance issue.

65. CONTRACT DOCUMENTS

The Definitions and General Provisions and any Special Instructions, Specifications, Request for Proposal, Proposal, Purchase Order, and Contract shall be a part of and constitute the entire Agreement entered into by the State of Delaware and any Vendor. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails

over the latter:

- Contract
- Request for Proposal
- Specifications or Scope of Work
- Definitions & General Provisions
- Proposal
- Purchase Order
- Special Instruction

66. ASSIGNMENT

This contract shall not be assigned except by express prior written consent from the Agency.

67. NOTICE

Any notice to Delaware Technical Community College required under the contract shall be sent by registered mail to:

,

Ada Brown, SE308-A
Delaware Technical Community College
George Campus
300 N. Orange St.
Wilmington, DE 19801

68. NO PRESS RELEASES OR PUBLIC DISCLOSURE

The State of Delaware reserves the right to pre-approve any news or broadcast advertising releases concerning this solicitation, the resulting contract, the work performed, or any reference to the State of Delaware with regard to any project or contract performance. Any such news or advertising releases pertaining to this solicitation or resulting contract shall require the prior express written permission of the State of Delaware.

The State will not prohibit or otherwise prevent the awarded vendor(s) from direct marketing to the State of Delaware agencies, departments, municipalities, and/or any other political subdivisions, however, the Vendor shall not use the State's seal or imply preference for the solution or goods provided.

C. AWARD AND EXECUTION OF CONTRACT

1. CONSIDERATION OF PROPOSALS

The right is reserved to waive technicalities, to reject any or all bids, or any portion thereof, to seek new proposals, to proceed to do the work otherwise, or to abandon the work, if in the judgment of the Agency or its agent, the best interest of the State will be promoted thereby.

2. MATERIAL GUARANTY

Before any contract is awarded, the successful Vendor may be required to furnish a complete statement of the origin, composition and manufacture of any or all of the material to be used in the contract together with such samples as may be requested for the purpose of testing.

3. AWARD OF CONTRACT

Within ninety (90) days from the date of opening proposals, the contract will be awarded or the proposals rejected.

4. EXECUTION OF CONTRACT

The Vendor (s) to whom the award is made shall execute a formal contract within twenty (20) days after date of official notice of the award of the contract.

5. WARRANTY

The successful Vendor(s) shall be required to extend any policy guarantee usually offered to the general public, FEDERAL, STATE, COUNTY, or MUNICIPAL governments, on material in this contract against defective material, workmanship, and performance.

6. THE CONTRACT(S)

The contract(s) with the successful Vendor(s) will be executed with Delaware Technical Community College acting for all participating governmental entities.

7. INFORMATION REQUIREMENT

The successful vendor's shall be required to advise and provide Delaware Technical Community College of the gross costs associated with this contract.

VII. PROPOSAL REPLY SECTION

DTCC20001-XRAY

Radiological and X-Ray Equipment and Software

Please fill out the attached forms fully and completely and return with your proposal in a sealed envelope clearly displaying the contract number to the State of Delaware, Delaware Technical Community College by 3:00pm, March 19, 2020 at which time bids will be opened.

NO MANDATORY PRE-BID MEETING

The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), US Mail, or by hand to:

Delaware Technical Community College
George Campus
Attn: Ada Brown, SE308-A
300 N. Orange St.
Wilmington, DE 19801

PUBLIC PROPOSAL OPENINGS

The public proposal opening insures the citizens of Delaware that contracts are being proposed fairly on a competitive basis and comply with Delaware procurement laws. The agency conducting the opening is required by law to publicly open the proposals at the time and place specified and the contract shall be awarded within ninety (90) days thereafter. The main purpose of the proposal opening is to reveal the name(s) of the Vendor(s), not to serve as a forum for determining the apparent low Vendors. The disclosure of additional information, including prices, shall be at the discretion of the contracting agency until such time that the responsiveness of each proposal has been determined.

After receipt of a fully executed contract(s), the Delaware public and all Vendors are invited to make an appointment with the agency in order to review pricing and other non-confidential information.

NOTE: ONLY THE VENDOR'S NAME AND ADDRESS WILL BE READ AT THE OPENING

ATTACHMENTS

The following attachments are required to be included in the final submission package.

STATE OF DELAWARE
Delaware Technical Community College

Attachment 1

NO PROPOSAL REPLY FORM

Contract No.:**DTCC20001-XRAY** Contract Title: **Radiological and X-Ray Equipment and Software**

To assist us in obtaining good competition on our Request for Proposals, we ask that each firm that has received a proposal, but does not wish to bid, state their reason(s) below and return in a clearly marked envelope displaying the contract number. This information will not preclude receipt of future invitations unless you request removal from the Vendor's List by so indicating below, or do not return this form or bona fide proposal.

Unfortunately, we must offer a "No Proposal" at this time because:

_____ 1. We do not wish to participate in the proposal process.

_____ 2. We do not wish to bid under the terms and conditions of the Request for Proposal document. Our objections are:

_____

_____

_____ 3. We do not feel we can be competitive.

_____ 4. We cannot submit a Proposal because of the marketing or franchising policies of the manufacturing company.

_____ 5. We do not wish to sell to the State. Our objections are:

_____

_____

_____ 6. We do not sell the items/services on which Proposals are requested.

_____ 7. Other:_____

_____

_____ _____
FIRM NAME SIGNATURE

_____ We wish to remain on the Vendor's List **for these goods or services**.

_____ We wish to be deleted from the Vendor's List **for these goods or services**.

PLEASE FORWARD NO PROPOSAL REPLY FORM TO THE CONTRACT OFFICER IDENTIFIED.

Attachment 2

CONTRACT NO.: DTCC20001-XRAY TITLE: Radiological and X-Ray Equipment and Software
DEADLINE TO RESPOND: March 19, 2020 at 3:00 PM (local time)

NON-COLLUSION STATEMENT

This is to certify that the undersigned Vendor has neither directly nor indirectly, entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this proposal**, and further certifies that it is not a sub-contractor to another Vendor who also submitted a proposal as a primary Vendor in response to this solicitation** submitted this date to the State of Delaware, Delaware Technical Community College.

It is agreed by the undersigned Vendor that the signed delivery of this bid represents, subject to any express exceptions set forth at Attachment 3, the Vendor's acceptance of the terms and conditions of this solicitation including all specifications and special provisions.

NOTE: Signature of the authorized representative **MUST** be of an individual who legally may enter his/her organization into a formal contract with the State of Delaware, Delaware Technical Community College.

	Corporation
	Partnership
	Individual

COMPANY NAME _____ (Check one)

NAME OF AUTHORIZED REPRESENTATIVE _____

SIGNATURE _____ TITLE _____

COMPANY ADDRESS _____

PHONE NUMBER _____ FAX NUMBER_____

EMAIL ADDRESS _____

FEDERAL E.I. NUMBER _____ STATE OF DELAWARE LICENSE NUMBER_____

	Certification type(s)	Circle all that apply	
COMPANY CLASSIFICATIONS:	Minority Business Enterprise (MBE)	Yes	No
	Woman Business Enterprise (WBE)	Yes	No
	Disadvantaged Business Enterprise (DBE)	Yes	No
	Veteran Owned Business Enterprise (VOBE)	Yes	No
CERT. NO.: _____	Service Disabled Veteran Owned Business Enterprise (SDVOBE)	Yes	No

[The above table is for informational and statistical use only.]

PURCHASE ORDERS SHOULD BE SENT TO:
(COMPANY NAME) _____

ADDRESS _____

CONTACT _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

AFFIRMATION: Within the past five years, has your firm, any affiliate, any predecessor company or entity, owner, Director, officer, partner or proprietor been the subject of a Federal, State, Local government suspension or debarment?
YES _____ NO _____ if yes, please explain _____

THIS PAGE SHALL BE SIGNED, NOTARIZED AND RETURNED FOR YOUR BID TO BE CONSIDERED

SWORN TO AND SUBSCRIBED BEFORE ME this _____ day of _____, 20 _____

Notary Public _____ My commission expires _____

City of _____ County of _____ State of _____

STATE OF DELAWARE
Delaware Technical Community College

Attachment 3

Contract No.: **DTCC20001-XRAY**
Contract Title: **Radiological and X-Ray Equipment and Software**

EXCEPTIONS FORM

Proposals must include all exceptions to the specifications, terms or conditions contained in this RFP. If the vendor is submitting the proposal without exceptions, please state so below.

☐ By checking this box, the Vendor acknowledges that they take no exceptions to the specifications, terms or conditions found in this RFP.

Paragraph # and page #	Exceptions to Specifications, terms or conditions	Proposed Alternative

Note: Vendor may use additional pages as necessary, but the format shall be the same as provided above.

Attachment 4

Contract No.: **DTCC20001-XRAY**
Contract Title: **Radiological and X-Ray Equipment and Software**

COMPANY PROFILE & CAPABILITIES FORM

Suppliers are required to provide a reply to each question listed below. Your replies will aid the evaluation committee as part of the overall qualitative evaluation criteria of this Request for Proposal. Your responses should contain sufficient information about your company so evaluators have a clear understanding of your company's background and capabilities. Failure to respond to any of these questions may result in your proposal to be rejected as non-responsive.

1.	DR Equipment to include: Acquisition Workstation Optiplex 7060, VIVIX –S DR 1717V Fixed Detector, VIVIX-S DR 1417 Wireless Flat Panel Detector and accessory equipment to include15 x 18" grid, 14 x 17 Lock and Secure with side handle, DDR Tilt and Rotate Holder, battery charger and batteries

2.	Manufacturer and extended warranties

3.	Installation of equipment

4.	Drop/replacement insurance

5.	Technical support service contract to include initial training

6.	Pricing

Attachment 5

STATE OF DELAWARE
Delaware Technical Community College

Contract No.: **DTCC20001-XRAY**
Contract Title: **Radiological and X-Ray Equipment and Software**

CONFIDENTIALITY FORM

☐ By checking this box, the Vendor acknowledges that they are not providing any information they declare to be confidential or proprietary for the purpose of production under 29 Del. C. ch. 100, Delaware Freedom of Information Act.

Confidentiality and Proprietary Information

Note: Vendor may use additional pages as necessary, but the format shall be the same as provided above.

STATE OF DELAWARE
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Attachment 6

Contract No.: **DTCC20001-XRAY**
Contract Title: **Radiological and X-Ray Equipment and Software**

BUSINESS REFERENCES FORM

List a minimum of three business references, including the following information:

- Business Name and Mailing address
- Contact Name and phone number
- Number of years doing business with
- Type of work performed

Please do not list any State Employee as a business reference. If you have held a State contract within the last 5 years, please provide a separate list the contract(s).

1.

Contact Name & Title:	
Business Name:	
Address:	
Email:	
Phone # / Fax #:	
Current Vendor (YES or NO):	
Years Associated & Type of Work Performed:	

2.

Contact Name & Title:	
Business Name:	
Address:	
Email:	
Phone # / Fax #:	
Current Vendor (YES or NO):	
Years Associated & Type of Work Performed:	

3.

Contact Name & Title:	
Business Name:	
Address:	
Email:	
Phone # / Fax #:	
Current Vendor (YES or NO):	
Years Associated & Type of Work Performed:	

STATE OF DELAWARE PERSONNEL MAY NOT BE USED AS REFERENCES.

STATE OF DELAWARE
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Attachment 7

SUBCONTRACTOR INFORMATION FORM

PART I – STATEMENT BY PROPOSING VENDOR		
1. CONTRACT NO. Enter Contract Number	2. Proposing Vendor Name:	3. Mailing Address
4. SUBCONTRACTOR		
a. NAME	4c. Company OSD Classification: Certification Number: _____	
b. Mailing Address:	4d. Women Business Enterprise ☐ Yes ☐ No 4e. Minority Business Enterprise ☐ Yes ☐ No 4f. Disadvantaged Business Enterprise ☐ Yes ☐ No 4g. Veteran Owned Business Enterprise ☐ Yes ☐ No 4h. Service Disabled Veteran Owned Business Enterprise ☐ Yes ☐ No	
5. DESCRIPTION OF WORK BY SUBCONTRACTOR		

6a. NAME OF PERSON SIGNING	7. BY (*Signature)*	8. DATE SIGNED
6b. TITLE OF PERSON SIGNING		
PART II – ACKNOWLEDGEMENT BY SUBCONTRACTOR		
9a. NAME OF PERSON SIGNING	10. BY (*Signature*)	11. DATE SIGNED
9b. TITLE OF PERSON SIGNING		

Use a separate form for each subcontractor

Attachment 8

PROPOSAL REPLY REQUIREMENTS

The response should contain the following minimum information:

1. A brief Cover Letter including an Applicant's experience, if any, providing similar services.

2. Vendor shall provide a detailed description of services to be provided, and shall respond to the Scope of Work identified. Failure to adequately describe the extent of their abilities may affect how the state evaluates and scores the vendor proposal.

   Include catalogs or links, if that is what is asked for.

Vendors are encouraged to review the Evaluation criteria to see how the proposals will be scored and verify that the response has sufficient documentation to support each scoring criteria identified.

3. One (1) complete, signed and notarized copy of the Non-Collusion Agreement (Attachment 2). **MUST HAVE ORIGINAL SIGNATURES AND NOTARY MARK** – Form must be included.

4. One (1) completed RFP Exception Form (Attachment 3) – please check box if no information – Form must be included.

5. One (1) completed Profile and Capabilities Form (Attachment 4)

6. One (1) completed Confidentiality Form (Attachment 5) – please check if no information is deemed confidential – Form must be included.

7. One (1) completed Business Reference Form (Attachment 6) – please provide references other than State of Delaware contacts – Form must be included.

8. One (1) complete and signed copy of the Subcontractor Information Form (Attachment 7) for each subcontractor – only provide if applicable.

The items listed above provide the basis for evaluating each vendor's proposal. **Failure to provide all appropriate information may deem the submitting vendor as "non-responsive" and exclude the vendor from further consideration.** If an item listed above is not applicable to your company or proposal, please make note in your submission package.

PROPOSAL REPLY REQUIREMENTS (CONT'D)

Vendors shall compile all documentation noted above, and all other documents as required in the Scope of Work, Appendix A, and shall provide in the following format(s):

1. One (1) paper copy of the vendor proposal paperwork.

2. Four (4) electronic copy of the vendor proposal saved to CD or DVD media disk, or USB memory stick. Any copies of electronic price files shall be included on the same electronic media, but shall be saved separately from.

STATE OF DELAWARE
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Appendix A – STATEMENT OF WORK AND TECHNICAL SPECIFICATIONS

The specifications listed herein are intended to identify the installation, maintenance, software and support requirements for replacement of the current radiological system and are not meant to be restrictive. Specifications are intended to define the level of quality, workmanship, finish, and function required; and to communicate desired characteristics desired. Vendors may propose equipment exactly as specified or equivalent. Where equivalent products are proposed, detail sufficient to establish equivalency must be provided. The State shall hold final determination as to whether the Vendor has substantiated the equality of the workmanship, finish, function, and approximate characteristics to those identified in the specifications.

The specifications cover the requirements as to the type and construction to which the equipment, it installation, and follow on support shall conform, together with certain details as to finish to finish, equipment, and appliances with which the successful Vendor shall conform. Minor details of construction and materials, which are not otherwise specified, are left to the discretion of the Vendor.

Each proposal shall be accompanied by a detailed set of specifications consisting of a detailed description of the equipment proposed to which the contract shall conform. These specifications shall indicate size, type model and make of all component parts, equipment and service.

In the columns next to each specification for pricing (Appendix B) the Vendor must communicate ability to meet the specification as written or with equivalent by checking either YES or NO. Any NO responses must be explained using Attachment 3 of this RFP.

Equipment and Software Specifications - VIVIX DR - or approved equivalent.

Retrofit the existing radiology lab with updated image receptors and supporting imaging software. This would include 2 receptors (one built into the x-ray table and a wireless detector for chest/non-table imaging) as well as necessary accessary equipment and software needed for positioning and proper utilization of the detectors. This contract will include maintenance and service.

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I.	Qty 1	VIVIX·S DR 17x17V Fixed Gadox Panel – Scintillator: Amorphous Silicon Gadolinium Oxysulfide Gd_2O_2S:Tb (Gadox)
II.	Qty 1	VIVIX-S DR 14x17N Cassette-Size Wireless Cesium Panel - Wireless CsI Panel, Scintillator Amorphous Silicon: Cesium-Iodide -- Wireless Panel for Chest Stand and Stretcher
		***Include 5yr Manufacturer Warranty** ***10 viewing Licenses for Additional**
III.	**Qty 1**	**Computers* New 15x18 in grid 103 LPI 6:1 ratio, 34-44 FD**
IV.	**Qty 1**	**New 14x17 in. Lock-N-Secure with side handle (long dimension) Grid, (Vieworks Vivix-S 1417N) utilities**
V.	**Qty 1**	**DR Tilt & Rotate Holder**

Additional Equipment and Services:

Acquisition Workstation -DR Acquisition

Workstation Optiplex 7060
With: ProSupport Plus: Next Business Day On-Site Three (3) Years
– ProSupport Plus: Keep Your Hard Drive Three (3) Years
– ProSupport Plus: Accidental Damage Service Three (3) Years
-- Hardware Warranty: Three (3) Years on Workstation and the Monitor

VIVIX-S DR 1717V Fixed Gadox Flat Panel Detector
System to include: 17x17 Gadox Fixed Flat Panel Detector
Power Supply Unit (PSU)
Cables
Five (5) Year Panel Manufacturer Warranty and Three (3) Year Remote Technical Support.

VIVIX-S DR 1417N Wireless Csl Flat Panel Detector
System to include: 14x17N wireless Csl Flat Panel Detector
System Control Unit (SCU)
(FXRP-02A) Battery Charger,
Batteries, Cables
Acquisition Workstation, VXvue with Pure Impact™ DR Acquisition Viewer for VIVIX-S Series Five (5) Year Panel Manufacturer Warranty and Three (3) Year Remote Technical Support

Drop/Replacement Insurance
Battery Charger should include a Two (2) Year Warranty, and Batteries should include a One (1) Year Warranty.
Includes All Installations

Appendix B - PRICING FORMS

Quantity	*Description*	*Equipment Requested (Yes or No)*	*Total Amount*
1	VIVIX-S DR 17xl7V Fixed Gadox Panel – Scintillator: Amorphous Silicon Gadolinium Oxysulfide -Fixed Panel for the Chest Stand		
1	VIVIX-S DR 14xl7N Cassette Size Wireless Cesium Panel -to include Warranty and Licenses for Additional Computers		
1	15x18 in grid – 103 LPI 6:1 ratio, 34-44FD		
1	14x17 in Lock n Secure with side handle (long dimention)		
1	DDR Tilt & Rotate Holder		
1	Installation of Equipment		
1	Extended Warranties		
1	Hourly cost for repair/ maintenance		
1	Hourly rate for training		

APPENDIX C
DTCC CONTRACT TEMPLATE

***DTCC reserves the right to make any changes it deems necessary to the template below prior to contract award.

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is entered into on this ___ day of _____ 20__, by and between Delaware Technical and Community College ("Delaware Tech") and_____, a _____ (corporation, limited liability company, limited liability partnership, etc.) ("Vendor"). At times herein Delaware Tech and Vendor may be referred to collectively as the "Parties".

WHEREAS, Delaware Tech desires to enter into an agreement with a reputable professional that is capable of providing services to conduct a _____("Services").

WHEREAS, Vendor has responded to Delaware Tech's Request for Proposal #_____ ("RFP"), attached hereto as Exhibit A and incorporated by reference herein as if fully restated, in its correspondence of _____, _____ which includes a proposal for _____services to Delaware Tech ("Proposal"), attached hereto as Exhibit B and incorporated by reference herein as if fully restated.

NOW THEREFORE, the Parties agree as follows:

1. Term. This Agreement shall commence on the date hereof and terminate after the Services have been completed unless terminated earlier pursuant to paragraphs 11, 12, 13, 14, 15, 16, 17, 18 hereof, or other provisions of this Agreement.

2. Scope of Services. Vendor agrees to provide the Services in a good, professional manner as set forth by the terms of this Agreement, the RFP, and the Proposal. The Services shall include, but not are limited to, those obligations of Vendor specified in its Proposal and the RFP. The RFP, including all attachments and appendicies, and Proposal are incorporated by reference herein as if fully set forth.

3. Compensation. In consideration of performance of the Services, Delaware Tech hereby agrees to make payment to Vendor in an amount not to exceed _____($_____) as set forth in the Proposal. Vendor will submit to Delaware Tech monthly invoices for Services rendered hereunder as the work is completed, and Delaware Tech hereby agrees to make payment to Vendor within thirty (30) days after its receipt of such invoice subject to Delaware Tech's acceptance of the final product. Vendor is responsible for registering with the State of Delaware vendor financial system by following the instructions on EXHIBIT C entitled "W-9 Substitute Form".

4. Governance. Vendor agrees that all personnel, prices, policies, and all other matters pertaining to the Services shall be subject to Delaware Tech's prior approval.

5. Delaware Tech Responsibility. Delaware Tech shall make payment on all invoices within thirty (30) days of receipt.

6. Independent Contractor. In the performance of this Agreement, Vendor shall be acting as an independent contractor and not as an agent or employee of Delaware Tech. Vendor shall not subcontract nor permit anyone other than employees of Vendor to perform any of the services without the prior written consent of the Campus.

7. Government Approvals. Vendor shall obtain and pay for all necessary permits and licenses, including, but not limited to, a State of Delaware Business License, pertaining to the services and equipment and shall post such documents as required by law. Vendor agrees to comply with all federal, state and local laws, ordinances, rules and regulations without additional cost or expense to Delaware Tech. Vendor agrees to indemnify, hold harmless, and defend Delaware Tech, its agents, employees, officers, and trustees, harmless from and against all liability, demands, claims, expenses, suits, losses, damages, causes of action, fines, and judgments (including attorneys' fees) resulting directly or indirectly from Vendor's non-compliance herewith.

8. Taxes. Vendor shall accept full and exclusive liability for the payment of any and all taxes, wages, tax contributions for unemployment insurance, retirement benefits, and life pensions, and annuities which may now or hereafter be imposed by the United States or any state, whether measured by the wages, salaries, or remuneration paid to persons employed by Vendor or otherwise in preparation of the Services. Vendor shall comply with all federal and state laws on such subjects and all rules and regulations promulgated thereunder, and shall maintain suitable forms, books, and records and save Delaware Tech harmless from the payment of any and all such taxes and contributions, or penalties.

9. Personnel. Vendor agrees at all times to maintain an adequate staff of its own employees necessary to provide the Services under this Agreement. Vendor’s employees will adhere to Delaware Tech’s policies and regulations regarding personal behavior.

Delaware Tech shall have the right to approve any person employed by Vendor to provide Services under this Agreement and may require the remediation or removal of any such person employed by Vendor who fails to perform to Delaware Tech’s satisfaction or acts in a manner detrimental to the interests of Delaware Tech, as deemed by Delaware Tech in its sole discretion, and Vendor agrees to cooperate with Delaware Tech in the event it undertakes an internal investigation into allegations of impropriety or threatening/concerning behavior regarding an employee of Vendor.

Delaware Tech shall specifically approve all employees who will on behalf of Vendor interview or meet potential donors or stakeholders as part of feasibility study research.

Vendor’s employees assigned to perform Services under this Agreement shall remain employees of Vendor and shall in no event be considered agents or employees of Delaware Tech. Vendor agrees that its employees

assigned to perform services under this Agreement will have and maintain appropriate credentials and certifications related to the services performed.

10. Indemnification. Vendor will indemnify, release, hold harmless, and defend Delaware Tech, Delaware Technical and Community College Educational Foundation, and their agents, employees, officers, and trustees, from and against all liability, demands, claims, expenses, suits, losses, damages, causes of action, fines, and judgments (including attorneys' fees) resulting from the acts or omissions of Vendor's respective agents, employees, subcontractors or assigns arising out of or in connection with Vendor's performance or failure to perform under this Agreement or in connection with any breach thereof, unless caused by the gross negligence or willful misconduct of Delaware Tech. Vendor shall give prompt written notice of any demand, claim or suit arising hereunder and permit Delaware Tech, at its option, to defend against the same.

11. Non Assignment. Neither party may assign or transfer this Agreement or any obligation hereunder without the prior written approval of the other party, except that, upon written notice, a party may assign or transfer to an entity acquiring all or substantially all of the assets of that party, whether by acquisition of assets or shares, or by merger or consolidation. Any assignment in violation of this Section shall be void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

12. Insurance. Vendor agrees to maintain general liability insurance in the amounts of at least one million ($1,000,0000) per occurrence and at least three million ($3,000,000) in the aggregate covering the Services at all times during this Agreement. In addition, Vendor agrees at all times during this Agreement to maintain at least one the following lines of insurance in the amounts of at least one million ($1,000,0000) per occurrence and at least three million ($3,000,000) in the aggregate: Medical or Professional liability; Miscellaneous Errors and Emissions; or Product Liability. The parties further acknowledge that failure to maintain such coverage or failure to maintain such coverage by Vendor in the minimum amounts set forth herein shall be a breach of this Agreement. Certificates of insurance shall be filed with Delaware Tech before Vendor starts its performance hereunder. Certificates shall name Delaware Tech an additional insured (except for worker's compensation insurance) and contain a provision that no cancellation or material change in the policies will become effective except upon thirty (30) days written notice to Delaware Tech. If Vendor fails to maintain such insurance or deliver the certificates, Delaware Tech may immediately terminate this Agreement.

13. Ownership of Delaware Tech Intellectual Property. Vendor agrees any data, lists, reports, documents (digital or hard copy), copyrights, logos, donor lists, trademarks, social media accounts, social media content, websites, or other materials that are conceived, developed, written, or contributed by Vendor pursuant to this Agreement, either individually or in collaboration with others, shall belong to and shall remain the sole property of Delaware Tech. Vendor warrants that any logos, designs, information, documents, websites, social media content, materials, or data provided by it for use by Delaware Tech pursuant to this Agreement shall not contain any proprietary material owned by any other party that is protected under the Copyright Act or any other similar law. Vendor shall be solely responsible for ensuring that any materials provided by Vendor pursuant to this Agreement satisfy this requirement. Vendor agrees that all data, contact information, donor lists, logos, web sites, social media accounts, social media content, trademarks, text, mailing lists, email lists, and material

provided by Delaware Tech to Vendor is the intellectual property of Delaware Tech and Vendor shall have no ownership or license in the same. Vendor shall use its best efforts to prevent infringement, appropriate, or unauthorized use of Delaware Tech's intellectual property. Vendor agrees to indemnify, release, hold harmless, and defend Delaware Tech its agents, employees, officers, and trustees, from and against all liability, demands, claims, expenses, suits, losses, damages' fees resulting from any unauthorized or improper use or infringement of Delaware Tech's intellectual property by Vendor or any person acquiring such information, directly or indirectly, from Vendor. If Vendor fails in its obligations to protect Delaware Tech's intellectual property, Delaware Tech may immediately terminate this Agreement without waiving or relinquishing a right or remedy to seek damages from breach or otherwise seek injunctive relief after the term of this Agreement as expired. .

14. Confidentiality. Vendor agrees that all information communicated to Vendor by Delaware Tech or its agents, with respect to the Services, including, but not limited to, all mailing or email lists, contact information and any information gained by Vendor or its representatives by reason of association or employment with Vendor or its associates, is confidential. Vendor agrees that neither it nor any of it's agents or employees shall disclose, or privately use for their own benefit, any confidential information to any other person unless specifically authorized in writing by Delaware Tech to do so, except to the extent disclosure is required by subpoena or an order from a court of competent jurisdiction. Vendor shall use its best efforts to prevent inadvertent disclosure of any confidential information to any third party. Vendor agrees to indemnify, release, hold harmless, and defend Delaware Tech its agents, employees, officers, and trustees, from and against all liability, demands, claims, expenses, suits, losses, damages' fees resulting from any use or disclosure of confidential information by Vendor or any person acquiring such information, directly or indirectly, from Vendor. If Vendor fails to maintain confidentiality, Delaware Tech may immediately terminate this Agreement without waiving or relinquishing a right or remedy to seek damages from breach or otherwise seek injunctive relief after the term of this Agreement as expired.

15. Conflict of Interest. Vendor represents, warrants, covenants and agrees not to consult or provide any services in any manner or capacity to a direct competitor of Delaware Tech during the duration of this Agreement unless approved by Delaware Tech. A direct competitor of Delaware Tech for purposes of this Agreement is defined as any individual, partnership, corporation, institution of higher education, and/or other business entity that engages in the delivery of post secondary education fundraising for colleges, universities, community colleges, technical schools, trade schools, and any other institution of higher learning in the states of Delaware, Maryland, Virginia, Pennsylvania, and New Jersey. If Vendor breaches this provision, Delaware Tech may immediately terminate this Agreement without waiving or relinquishing a right or remedy to seek damages from breach or otherwise seek injunctive relief after the term of this Agreement as expired.

16. Non-Solicitation. Vendor represents, warrants, covenants and agrees that during the term of this Agreement, Vendor will not, directly or indirectly, through an existing corporation, unincorporated business, affiliated party, successor employer, or otherwise, solicit, hire for employment or work with, on a part-time, consulting, advising, or any other basis, other than on behalf of Delaware Tech any employee or independent contractor employed by Delaware Tech while Vendor is performing services for Delaware Tech. If Vendor breaches this provision, Delaware Tech may immediately terminate this Agreement without waiving or

relinquishing a right or remedy to seek damages from breach or otherwise seek injunctive relief after the term of this Agreement as expired.

17. Advertising. Vendor agrees that it will not, in the course of the performance of this Agreement or thereafter, use Delaware Tech's name in any advertising or promotional media as a customer or client of Vendor, without the prior written consent of Delaware Tech.

18. Termination. This Agreement may be terminated as follows:

A. If Vendor fails to fulfill in timely and proper manner its obligations under this Agreement, or if the Vendor violates any of the covenants, agreements, or stipulations of this Agreement, Delaware Tech shall thereupon have the right to terminate this Agreement by giving written notice to the Vendor of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Vendor under this Agreement shall, at the option of Delaware Tech, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to Delaware Tech. On receipt of the contract cancellation notice from Delaware Tech, the Vendor shall have no less than five (5) days to provide a written response and may identify a method(s) to resolve the violation(s). A vendor response shall not effect or prevent the contract cancellation unless Delaware Tech provides a written acceptance of the vendor response. If Delaware Tech does accept the Vendor’s method and/or action plan to correct the identified deficiencies, Delaware Tech will define the time by which the Vendor must fulfill its corrective obligations. Final retraction of the Delaware Tech’s termination for cause will only occur after the Vendor successfully rectifies the original violation(s). At its discretion Delaware Tech may reject in writing the Vendor’s proposed action plan and proceed with the original contract cancellation timeline.

B. By Delaware Tech, without cause and for any reason, upon thirty (30) days written notice. If this Agreement is terminated pursuant to this subparagraph B, Vendor shall continue to provide services to the effective date of termination.

19. Funding Out. This Agreement is contingent on the continuation, and availability of the funding appropriated by the General Assemby of State of Delaware to Delaware Tech, through other state agencies to Delaware Tech, or other federal grants. Accordingly, if the funding or appropriations cease or are exhausted based upon previously available funds or appropriations, the Agreement will terminate due to lack of funding. In such circumstances, Delaware Tech shall terminate this Agreement by giving Vendor written notice of such unavailability of funds. All payment obligations of Delaware Tech will cease upon the date of termination specified in such notice; provided, however, that Vendor shall be paid all amounts due and owing under this agreement through the date of termination.

20. Non waiver. The failure of either party to insist upon the performance of any terms or conditions of this Agreement, or to exercise any right or privilege conferred hereby, shall not be construed as a waiver of such terms, conditions, rights or privileges, but the same shall instead continue and remain in full force and effect.

21. Notices. All notices or other communications shall be in writing and shall be deemed to have been duly given if sent certified mail, return receipt requested, to the respective addresses herein designated, or to such other addresses as may be designated, in the manner provided for in this paragraph by either party:

If to Delaware Tech:

_____

_____

If to Vendor:

_____

_____

22. Anti-discrimination. The parties agree that, in the performance of this Agreement, no person shall, on the basis of race, color, creed, religion, sex, national origin, age, disability, genetic information, marital status, veteran status, sexual orientation, gender orientation, gender identity or pregnancy, be subjected to any discrimination prohibited by law.

23. Family Educational Rights and Privacy Act. Vendor shall not disclose or release any educational record or other information concerning a student to any person, group or entity other than Delaware Tech without the student's prior written consent and shall otherwise comply with the provisions of the Family Educational Records Privacy Act of 1974, as amended, and Delaware Tech's policies concerning student access to educational records and confidentiality of student records. Vendor shall defend, indemnify and hold Delaware Tech harmless from all liability associated with Vendor's breach of this provision.

24. Choice of Law and Venue. This Agreement shall be deemed to be entered into and shall be construed in accordance with the laws of the State of Delaware. Vendor hereby consents to the personal jurisdiction of the Delaware Courts which shall have the exclusive jurisdiction of any disputes under this Agreement and appoints the Delaware Secretary of State as its agent for the service of process on its behalf.

25. Severability. If it is determined that any provision hereof is in conflict with the law, then such provision shall be given effect only to the extent permitted by law. Nevertheless, the remaining provisions shall remain in full force and effect.

26. Binding Effect. The terms, covenants, and conditions herein shall bind and insure to the benefit of the parties hereto and their respective heirs, distributees, executors, administrators, successors, and, except as otherwise provided herein, their assignees.

27. Force Majeure. Neither party shall be deemed in default hereunder, nor shall it hold the other party responsible for, any cessation, interruption or delay in the performance of its obligations hereunder (excluding payment obligations) due to earthquake, flood, fire, storm, natural disaster, act of God, war, terrorism, armed conflict, labor strike, lockout, boycott or other similar events beyond the reasonable control of such party, provided that the party relying upon this provision: (i) gives prompt written notice thereof, and (ii) takes all steps reasonably necessary to mitigate the effects of the force majeure event; provided further, that in the event a force majeure event extends for a period in excess of thirty (30) days in the aggregate, either party may immediately terminate this Agreement upon written notice.

28. Interpretation. In the event of any conflict between the terms of this Agreement, the RFP, or the Proposal, the terms of this Agreement shall govern and control.

29. Survival of Obligations. The covenants made by the Parties in this Agreement shall remain in effect following the termination or expiration of this Agreement.

30. Entire Agreement. This instrument and the Exhibits attached hereto contain the entire Agreement of the parties and may not be modified except in writing and signed by both parties.

IN WITNESS WHEREOF, the parties, through their acknowleged and duly authorized agents, hereto have set their hands and seals of this Agreement as of the date first written above.

Delaware Tech	VENDOR
BY: _____	BY: _____
NAME: _____	NAME: _____
TITLE: _____	TITLE: _____
DATE: _____	DATE: _____