**Request for Quote**  
(This is not an order.)

<table>
<thead>
<tr>
<th>Solicitation Number Date Issued</th>
<th>Procurement Officer Phone E-Mail Address</th>
</tr>
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<tbody>
<tr>
<td>RFQ140408DH</td>
<td>April 22, 2014</td>
</tr>
<tr>
<td>Dean Hudson</td>
<td>(843) 349-2739</td>
</tr>
<tr>
<td><a href="mailto:dhudson@coastal.edu">dhudson@coastal.edu</a></td>
<td></td>
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</table>

**DESCRIPTION:** provide and deliver a mobile metabolic testing system  
**USING GOVERNMENTAL UNIT:** Coastal Carolina University

**SUBMIT OFFER BY (Opening Date/Time):** May 6, 2014 11:00AM  
See "Deadline for Submission of Offer" provision

**QUESTIONS MUST BE RECEIVED BY:** April 30, 2014 5:00PM  
See “Questions From Offeror" provision

**NUMBER OF COPIES TO BE SUBMITTED:** One (1) Original

Offers may be submitted using any of the following methods (also see “Submitting Your Offer” provision):  
(1) By fax: 843-349-2184; (2) by email to the address noted above; or (3) by mail or hand-delivery to either of the following (the term “Offer” means your “Bid” or “Proposal”):

**MAILING ADDRESS:**  
Coastal Carolina University  
Procurement Services  
P.O. Box 261954  
Conway, SC 29528

**PHYSICAL ADDRESS:**  
Coastal Carolina University  
Procurement Services  
642 Century Circle  
Conway, SC 29526

Note: If you choose to return your response via email, no additional signature is required. It will be assumed that the sender has the ability to legally bind the organization or company to a contract. The name entered in the Signature section will be considered equivalent to an ink signature.

**CONFERENCE TYPE:** N/A  
**DATE & TIME:** N/A  
As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions

**AWARD & AMENDMENTS**

| Award will be posted on May 13, 2014. The award, this solicitation, and any amendments will be posted at the following web address: http://www.coastal.edu/procurement/currentsolicitations.html |

You must submit a signed copy of this form with Your Offer. By submitting a bid or proposal, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of thirty (30) calendar days after the Opening Date.

**NAME OF OFFEROR** (Full legal name of business submitting the offer)  
**OFFEROR’S TYPE OF ENTITY:** (Check one)
- □ Sole Proprietorship
- □ Partnership
- □ Corporation (tax-exempt)
- □ Corporate entity (not tax-exempt)
- □ Government entity (federal, state, or local)
- □ Other ____________________________

**AUTHORIZED SIGNATURE**

(Person signing must be authorized to submit binding offer to enter contract on behalf of Offeror named above.)

**TITLE** (Business title of person signing above)

**PRINTED NAME** (Printed name of person signing above)  
**DATE SIGNED** (See “Signing Your Offer” provision.)

Instructions regarding Offeror's name: Any award issued will be issued to, and the contract will be formed with, the entity identified as the offeror above. An offer may be submitted by only one legal entity. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.

**STATE OF INCORPORATION** (If offeror is a corporation, identify the state of Incorporation.)

**TAXPAYER IDENTIFICATION NO.**  
Note: Please include a federal TIN (company) or social security number (individual) with your quote as otherwise the issuance of a potential purchase order and related payments will be delayed.
<table>
<thead>
<tr>
<th>HOME OFFICE ADDRESS (Address for offeror's home office / principal place of business)</th>
<th>NOTICE ADDRESS (Address to which all procurement and contract related notices should be sent.) (See &quot;Notice&quot; clause)</th>
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<th>PAYMENT ADDRESS (Address to which payments will be sent.) (See &quot;Payment&quot; clause)</th>
<th>ORDER ADDRESS (Address to which purchase orders will be sent) (See &quot;Purchase Orders&quot; and &quot;Contract Documents&quot; clauses)</th>
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<th>Payement Address same as Home Office Address</th>
<th>Order Address same as Home Office Address</th>
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<th>ACKNOWLEDGMENT OF AMENDMENTS</th>
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<tr>
<td>Offeror acknowledges receipt of amendments by indicating amendment number and its date of issue.</td>
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<th>DISCOUNT FOR PROMPT PAYMENT</th>
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<td>See &quot;Discount for Prompt Payment&quot; clause</td>
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PREFERENCES - A NOTICE TO VENDORS (SEP. 2009): On June 16, 2009, the South Carolina General Assembly rewrote the law governing preferences available to in-state vendors, vendors using in-state subcontractors, and vendors selling in-state or US end products. This law appears in Section 11-35-1524 of the South Carolina Code of Laws. A summary of the new preferences is available at [www.procurement.sc.gov/preferences](http://www.procurement.sc.gov/preferences). **ALL THE PREFERENCES MUST BE CLAIMED AND ARE APPLIED BY LINE ITEM, REGARDLESS OF WHETHER AWARD IS MADE BY ITEM OR LOT. VENDORS ARE CAUTIONED TO CAREFULLY REVIEW THE STATUTE BEFORE CLAIMING ANY PREFERENCES. THE REQUIREMENTS TO QUALIFY HAVE CHANGED. IF YOU REQUEST A PREFERENCE, YOU ARE CERTIFYING THAT YOUR OFFER QUALIFIES FOR THE PREFERENCE YOU'VE CLAIMED. IMPROPERLY REQUESTING A PREFERENCE CAN HAVE SERIOUS CONSEQUENCES. [11-35-1524(E)(4)&(6)]**

PREFERENCES - ADDRESS AND PHONE OF IN-STATE OFFICE: Please provide the address and phone number for your in-state office in the space provided below. An in-state office is necessary to claim either the Resident Vendor Preference (11-35-1524(C)(1)(i)&(ii)) or the Resident Contractor Preference (11-35-1524(C)(1)(iii)). Accordingly, you must provide this information to qualify for the preference. An in-state office is not required, but can be beneficial, if you are claiming the Resident Subcontractor Preference (11-35-1524(D)).

<table>
<thead>
<tr>
<th>In-State Office Address same as Home Office Address</th>
<th>In-State Office Address same as Notice Address (check only one)</th>
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PAGE TWO (DEC. 2012)
INFORMATION FOR OFFERORS TO SUBMIT

AS A MINIMUM, Offerors shall submit the following:
1. A signed Cover Page and Page 2
2. All pages identified as Section VIII. BIDDING SCHEDULE/PRICE
3. Page identified as MINORITY PARTICIPATION / OFFSHORE CONTRACTING (if applicable)

In addition, Offerors should review the following sections for any additional information that may be required for submission:
1. Section IV. INFORMATION FOR OFFERORS TO SUBMIT
2. Section II. B. SPECIAL INSTRUCTIONS
3. Section III. SCOPE OF WORK / SPECIFICATIONS
4. Section V. QUALIFICATIONS
5. Any additional and appropriate attachments addressed in Section IX.
ATTACHMENTS TO SOLICITATIONS

TIPS TO AVOID COMMON MISTAKES

- Read the solicitation in its entirety.
- Questions on the requirements of the solicitation must be asked during the questions phase of the solicitation (see “Questions From Offerors” section) and/or during a pre-bid/proposal conference if one is scheduled. Issues and/or concerns on the requirements raised in your response are too late.
- Unless expressly requested or required by the solicitation, do not attach or include any additional agreements with your bid/proposal.
- Exceptions to the mandatory clauses of the solicitation are generally not acceptable and will result in your bid/proposal being declared nonresponsive.
- Properly mark all protected, confidential, or trade secret information in accordance with the solicitation section titled “Submitting Confidential Information”. Please note that the entire bid/proposal cannot be marked as confidential, protected, or trade secret.
- Properly acknowledge any and all amendments. Instructions are provided in the “Amendments To Solicitation” section.
- Include the proper number of requested copies of your bid/proposal as requested on Page 1.
- Review these tips again prior to submitting your bid/proposal.

These tips are provided to assist offerors with avoiding common mistakes and are not to be taken as all inclusive of items required for the solicitation. The determination of the responsiveness of your bid/proposal will be evaluated against the solicitation document and not the above. You do not need to return this page with your bid/proposal.
I. SCOPE OF SOLICITATION –

ACQUIRE SERVICES & SUPPLIES / EQUIPMENT (JAN 2006): The purpose of this solicitation is to acquire services and supplies or equipment complying with the enclosed description and/or specifications and conditions.

Coastal Carolina University (University) is seeking a source to provide and deliver a mobile metabolic testing system, including on-site training, per the specifications provided herein.

II. INSTRUCTIONS TO OFFERORS – A. GENERAL INSTRUCTIONS

DEFINITIONS (JAN 2006)

EXCEPT AS OTHERWISE PROVIDED HEREIN, THE FOLLOWING DEFINITIONS ARE APPLICABLE TO ALL PARTS OF THE SOLICITATION:

AMENDMENT means a document issued to supplement the original solicitation document.
BOARD means the South Carolina Budget and Control Board.
BUYER means the Procurement Officer.
CHANGE ORDER means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.
CONTRACT See clause entitled Contract Documents & Order of Precedence.
CONTRACT MODIFICATION means a written order signed by the Procurement Officer, directing the contractor to make changes which the changes clause of the contract authorizes the Procurement Officer to order without the consent of the contractor.
CONTRACTOR means the Offeror receiving an award as a result of this solicitation.
COVER PAGE means the top page of the original solicitation on which the solicitation is identified by number.
OFFER means the bid or proposal submitted in response this solicitation. The terms Bid and Proposal are used interchangeably with the term Offer.
OFFEROR means the single legal entity submitting the offer. The terms Bidder is used interchangeably with the term Offeror.
ORDERING ENTITY Using Governmental Unit that has submitted a Purchase Order.
PAGE TWO means the second page of the original solicitation, which is labeled Page Two.
PROCUREMENT OFFICER means the person, or his successor, identified as such on the Cover Page.
YOU and YOUR means Offeror.
SOLICITATION means this document, including all its parts, attachments, and any Amendments.
STATE means the Using Governmental Unit(s) identified on the Cover Page.
SUBCONTRACTOR means any person having a contract to perform work or render service to Contractor as a part of the Contractor’s agreement arising from this solicitation.
USING GOVERNMENTAL UNIT means the unit(s) of government identified as such on the Cover Page. If the Cover Page names a Statewide Term Contract as the Using Governmental Unit, the Solicitation seeks to establish a Term Contract [11-35-310(35)] open for use by all South Carolina Public Procurement Units [11-35-4610(5)].
WORK means all labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract. [02-2A003-1]

AMENDMENTS TO SOLICITATION (JAN 2004)
(a) The Solicitation may be amended at any time prior to opening. All actual and prospective Offerors should monitor the following web site for the issuance of Amendments:
http://www.coastal.edu/procurement/currentsolicitations.html (b) Offerors shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on Page Two, (3) by letter, or (4) by submitting a bid that indicates in some way that the bidder received the amendment. (c) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged. [02-2A005-1]

AWARD NOTIFICATION (NOV 2007)
Notice regarding any award or cancellation of award will be posted at the location specified on the Cover Page.
**BID/PROPOSAL AS OFFER TO CONTRACT (JAN 2004)**

By submitting Your Bid or Proposal, You are offering to enter into a contract with the Using Governmental Unit(s). Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page. An Offer may be submitted by only one legal entity; "joint bids" are not allowed. [02-2A015-1]

**BID ACCEPTANCE PERIOD (JAN 2004)**

In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing. [02-2A020-1]

**BID IN ENGLISH and DOLLARS (JAN 2004)**

Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation. [02-2A025-1]

**BOARD AS PROCUREMENT AGENT (JAN 2004)**

(a) Authorized Agent. All authority regarding the conduct of this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the government with regard to this procurement.

(b) Purchasing Liability. The Procurement Officer is an employee of the Board acting on behalf of the Using Governmental Unit(s) pursuant to the Consolidated Procurement Code. Any contracts awarded as a result of this procurement are between the Contractor and the Using Governmental Units(s). The Board is not a party to such contracts, unless and to the extent that the board is a using governmental unit, and bears no liability for any party's losses arising out of or relating in any way to the contract. [02-2A030-1]

**CODE OF LAWS AVAILABLE (JAN 2006)**


**COMPLETION OF FORMS/CORRECTION OF ERRORS (JAN 2006)**

All prices and notations should be printed in ink or typewritten. Errors should be crossed out, corrections entered and initialed by the person signing the bid. Do not modify the solicitation document itself (including bid schedule). (Applicable only to offers submitted on paper.) [02-2A045-1]

**DEADLINE FOR SUBMISSION OF OFFER (JAN 2004)**

Any offer received after the Procurement Officer of the governmental body or his designee has declared that the time set for opening has arrived, shall be rejected unless the offer has been delivered to the designated purchasing office or the governmental bodies mail room which services that purchasing office prior to the bid opening. [R.19-445.2070(H)] [02-2A050-1]

**DISCLOSURE OF CONFLICTS OF INTEREST OR UNFAIR COMPETITIVE ADVANTAGE (MAY 2011)**

You warrant and represent that your offer identifies and explains any unfair competitive advantage you may have in competing for the proposed contract and any actual or potential conflicts of interest that may arise from your participation in this competition or your receipt of an award. The two underlying principles are (a) preventing the existence of conflicting roles that might bias a contractor's judgment, and (b) preventing an unfair competitive advantage. If you have an unfair competitive advantage or a conflict of interest, the state may withhold award. Before withholding award on these grounds, an offeror will be notified of the concerns and provided a reasonable opportunity to respond. Efforts to avoid or mitigate such concerns, including restrictions on future activities, may be considered.

**DUTY TO INQUIRE (JAN 2006)**

Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror's risk. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the State's attention. [02-2A070-1]

**ETHICS CERTIFICATE (JAN 2004)**

Ethics Certificate (May 2008): By submitting an offer, the offeror certifies that the offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of
Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The state may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the procurement officer at the same time the law requires the statement to be filed. [02-2A075-2]

OMIT TAXES FROM PRICE (JAN 2004)
Do not include any sales or use taxes in your price that the State may be required to pay. [02-2A080-1]

QUESTIONS FROM OFFERORS (JAN 2004)
(a) Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing. Questions must be received by the Procurement Officer no later than five (5) days prior to opening unless otherwise stated on the Cover Page. Label any communication regarding your questions with the name of the procurement officer, and the solicitation's title and number. Oral explanations or instructions will not be binding. Any information given a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective offerors. (b) The State seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer -- as soon as possible -- regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition. [02-2A095-1]

The preferred method for submitting questions is via email to the Procurement Officer’s address noted on Page 1 of this document, with the subject line indicating “Questions — Solicitation (insert identifying Solicitation Number from Page 1).” If you choose not to email questions, they may be sent to the Procurement Officer’s attention at the mailing address noted on Page 1 or by facsimile to 843-349-2184, to include the appropriate indication in the subject line.

REJECTION/CANCELLATION (JAN 2004)
The State may cancel this solicitation in whole or in part. The State may reject any or all proposals in whole or in part. [SC Code Section 11-35-1710 & R.19-445.2065] [02-2A100-1]

RESPONSIVENESS/IMPROPER OFFERS (JAN 2004)
(a) Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation.

(b) Multiple Offers. Offerors may submit more than one Offer, provided that each Offer has significant differences other than price. Each separate Offer must satisfy all Solicitation requirements. If this solicitation is an Invitation for Bids, each separate offer must be submitted as a separate document. If this solicitation is a Request for Proposals, multiple offers may be submitted as one document, provided that you clearly differentiate between each offer and you submit a separate cost proposal for each offer, if applicable.

(c) Responsiveness. Any Offer which fails to conform to the material requirements of the Solicitation may be rejected as nonresponsive. Offers which impose conditions that modify material requirements of the Solicitation may be rejected. If a fixed price is required, an Offer will be rejected if the total possible cost to the State cannot be determined. Offerors will not be given an opportunity to correct any material nonconformity. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer. [R.19-445.2070 and Section 11-35-1520(13)]

(d) Price Reasonableness. Any offer may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price. [R. 19-445.2070].

(e) Unbalanced Bidding. The State may reject an Offer as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for
other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the State even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment. [02-2A105-1]

RESTRICTIONS APPLICABLE TO OFFERORS (JAN 2004)
Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of the state Ethics Act. (a) After issuance of the solicitation, you agree not to discuss this procurement activity in any way with the Using Governmental Unit or its employees, agents or officials. All communications must be solely with the Procurement Officer. This restriction may be lifted by express written permission from the Procurement Officer. This restriction expires once a contract has been formed. (b) Unless otherwise approved in writing by the Procurement Officer, you agree not to give anything to any Using Governmental Unit or its employees, agents or officials prior to award. [02-2A110-1]

SIGNING YOUR OFFER (JAN 2004)
Every Offer must be signed by an individual with actual authority to bind the Offeror. (a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm. (b) If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words by its Partner, and signed by a general partner. (c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign. (d) An Offer may be submitted by a joint venturer involving any combination of individuals, partnerships, or corporations. If the Offeror is a joint venture, the Offer must be submitted in the name of the Joint Venture and signed by every participant in the joint venture in the manner prescribed in paragraphs (a) through (c) above for each type of participant. (e) If an Offer is signed by an agent, other than as stated in subparagraphs (a) through (d) above, the Offer must state that is has been signed by an Agent. Upon request, Offeror must provide proof of the agent's authorization to bind the principal. [02-2A115-1]

SUBMITTING CONFIDENTIAL INFORMATION (AUG 2002)
(An overview is available at www.procurement.sc.gov) For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that Offeror contends contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged and confidential, as that phrase is used in Section 11-35-410. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the words "TRADE SECRET" every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "PROTECTED" every page, or portion thereof, that Offeror contends is protected by Section 11-35-1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire response (bid, proposal, quote, etc.) as confidential, trade secret, or protected. If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page. By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED", (2) agrees that any information not marked, as required by these bidding instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. In determining whether to release documents, the State will detrimentally rely on Offeror's marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "PROTECTED". By submitting a response, Offeror agrees to defend, indemnify and hold harmless the State of South Carolina, its officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from the State withholding information that Offeror marked as "confidential" or "trade secret" or "PROTECTED". (All references to S.C. Code of Laws.) [02-2A125-1]

TAXPAYER IDENTIFICATION NUMBER (JAN 2004)
(a) If Offeror is owned or controlled by a common parent as defined in paragraph (b) of this provision, Offeror
shall submit with its Offer the name and TIN of common parent.

(b) Definitions: "Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member. "Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(c) If Offeror does not have a TIN, Offeror shall indicate if either a TIN has been applied for or a TIN is not required. If a TIN is not required, indicate whether (i) Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States; (ii) Offeror is an agency or instrumentality of a state or local government; (iii) Offeror is an agency or instrumentality of a foreign government; or (iv) Offeror is an agency or instrumentality of the Federal Government. [02-2A140-1]

WITHDRAWAL OR CORRECTION OF OFFER (JAN 2004)

Offers may be withdrawn by written notice received at any time before the exact time set for opening. If the Solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for opening. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid. The withdrawal and correction of Offers is governed by S.C. Code Section 11-35-1520 and Regulation 19-445.2085. [02-2A150-1]

II. INSTRUCTIONS TO OFFERORS – B. SPECIAL INSTRUCTIONS

CLARIFICATION (NOV 2007): Pursuant to Section 11-35-1520(8), the Procurement Officer may elect to communicate with you after opening for the purpose of clarifying either your offer or the requirements of the solicitation. Such communications may be conducted only with offerors who have submitted an offer which obviously conforms in all material aspects to the solicitation. Clarification of an offer must be documented in writing and included with the offer. Clarifications may not be used to revise an offer or the solicitation. [Section 11-35-1520(8); R.19-445.2080] [02-2B055-1]

DESCRIPTIVE LITERATURE – LABELLING (JAN 2006): Include offeror’s name on the cover of any specifications or descriptive literature submitted with your offer.

DESCRIPTIVE LITERATURE – PRODUCT (CCU JAN 2006): Include descriptive literature and technical specifications covering the product offered. Literature should include written documentation that might be necessary to ensure that the equipment offered will meet or exceed requirements and specifications.
DISCUSSION WITH OFFERORS (JAN 2006): After opening, the Procurement Officer may, in his sole discretion, initiate discussions with you to discuss your offer. [Section 11-35-1530(6)]

MAIL PICKUP (CCU 2006): The University's Mail Services picks up all mail from the US Postal Service once daily around 9:00 a.m. (excluding weekends and holidays), and disseminates the mail to the Procurement office normally by 12:00 pm. See provision entitled Deadline for Submission of Offer.

OFFERING BY LOT (JAN 2006): Offers may be submitted for one or more complete lots. Failure to offer on all items within a lot will be reason for rejection.

PREFERENCES - A NOTICE TO VENDORS (SEP. 2009): On June 16, 2009, the South Carolina General Assembly rewrote the law governing preferences available to in-state vendors, vendors using in-state subcontractors, and vendors selling in-state or US end products. This law appears in Section 11-35-1524 of the South Carolina Code of Laws. A summary of the new preferences is available at www.procurement.sc.gov/preferences. ALL THE PREFERENCES MUST BE CLAIMED AND ARE APPLIED BY LINE ITEM, REGARDLESS OF WHETHER AWARD IS MADE BY ITEM OR LOT. VENDORS ARE CAUTIONED TO CAREFULLY REVIEW THE STATUTE BEFORE CLAIMING ANY PREFERENCES. THE REQUIREMENTS TO QUALIFY HAVE CHANGED. IF YOU REQUEST A PREFERENCE, YOU ARE CERTIFYING THAT YOUR OFFER QUALIFIES FOR THE PREFERENCE YOU'VE CLAIMED. IMPROPERLY REQUESTING A PREFERENCE CAN HAVE SERIOUS CONSEQUENCES. [11-35-1524(E)(4)&(6)]

PREFERENCES - SC/US END-PRODUCT (SEP 2009): Section 11-35-1524 provides a preference to vendors offering South Carolina end-products or US end-products, if those products are made, manufactured, or grown in SC or the US, respectively. An end-product is the tangible project identified for acquisition in this solicitation, including all component parts in final form and ready for the use intended. The terms "made," "manufactured," and "grown" are defined by Section 11-35-1524(A). By signing your offer and checking the appropriate space(s) provided and identified on the bid schedule, you certify that the end-product(s) is either made, manufactured or grown in South Carolina, or other states of the United States, as applicable. Preference will be applied as required by law. Post award substitutions are prohibited. See “Substitutions Prohibited - End Product Preferences (Sep 2009)” provision.

PREFERENCES - RESIDENT CONTRACTOR PREFERENCE (SEP 2009): To qualify for the RCP, you must maintain an office in this state. An office is a nonmobile place for the regular transaction of business or performance of a particular service which has been operated as such by the bidder for at least one year before the bid opening and during that year the place has been staffed for at least fifty weeks by at least two employees for at least thirty five hours a week each. In addition, you must, at the time you submit your bid, directly employ, or have a documented commitment with, individuals domiciled in South Carolina that will perform services expressly required by the solicitation and your total direct labor cost for those individuals to provide those services must exceed fifty percent of your total bid price. [11-35-1524(C)(1)(iii)] Upon request by the procurement officer, you must identify the persons domiciled in South Carolina that will perform the services involved in the procurement upon which you rely in qualifying for the preference, the services those individuals are to perform, and documentation of the your labor cost for each person identified. If requested, your failure to provide this information promptly will be grounds to deny the preference (and, potentially, for other enforcement action).

PREFERENCES - RESIDENT SUBCONTRACTOR PREFERENCE (SEP 2009): To qualify for this preference, You must meet the following requirements. (1) You must -- at the time you submit your bid -- have a documented commitment from a single proposed first tier subcontractor to perform some portion of the services expressly required by the solicitation. (2) The subcontractor -- at the time you submit your bid -- must directly employ, or have a documented commitment with, individuals domiciled in South Carolina that will perform services expressly required by the solicitation and the total direct labor cost to the subcontractor for those individuals to provide those services exceeds, as applicable, either twenty percent for a 2% preference or forty percent of bidder's total bid price for a 4% preference. (3) You must identify the subcontractor that will perform the work, the work the subcontractor is to perform, and your factual basis for concluding that the subcontractor's work constitutes the required percentage of the work to be performed in the procurement. [11-35-1524(D)] You can stack this preference, i.e., earn another 2% or 4% preference for each additional qualifying subcontractor, but the preference is capped. [11-35-1524(D)(4), (E)(7)] Upon request by the procurement officer, you must identify the persons domiciled in South Carolina that are to perform the services involved in the procurement upon which you rely in qualifying for the preference, the services those individuals are to perform, the employer of those persons, your relationship with the employer, and documentation of the subcontractor's labor cost for
each person identified. If requested, your failure to provide this information promptly will be grounds to deny the preference (and, potentially, for other enforcement action). YOU WILL NOT RECEIVE THE PREFERENCE UNLESS YOU SPECIFY WHETHER YOUR ARE CLAIMING THE 2% OR 4% PREFERENCE AND YOU PROVIDE THE INFORMATION REQUIRED BY ITEM (3) ABOVE.

PREFERENCES - RESIDENT VENDOR PREFERENCE (SEP 2009): To qualify for the RVP, you must maintain an office in this state. An office is a nonmobile place for the regular transaction of business or performance of a particular service which has been operated as such by the bidder for at least one year before the bid opening and during that year the place has been staffed for at least fifty weeks by at least two employees for at least thirty five hours a week each. In addition, you must either: (1) maintain at a location in South Carolina at the time of the bid an inventory of expendable items which are representative of the general type of commodities for which the award will be made and which have a minimum total value, based on the bid price, equal to the lesser of fifty thousand dollars [$50,000] or the annual amount of the contract; or (2) be a manufacturer headquartered and having an annual payroll of at least one million dollars in South Carolina and the end product being sold is either made or processed from raw materials into a finished end product by that manufacturer or its affiliate (as defined in Section 1563 of the Internal Revenue Code).

UNIT PRICES REQUIRED (JAN 2006): Unit price to be shown for each item.

III. SCOPE OF WORK / SPECIFICATIONS –

The University is seeking a source to provide and deliver a COSMED, K4b2, mobile metabolic testing system, or approved equal, to include the following items:

1. Item 1: base unit, to include a carrying case, flowmeter, aerial unit, GPS module, battery module with rechargeable batteries and charger, face masks and headgear, heart rate monitor and receiver, harnesses, calibration kit, cabling, software, and user manual.

   The unit must contain the following salient characteristics:
   a. Allow user to measure responses to exercise without location limitation;
   b. Ability to perform tests through either holter data recording (ability to record and store data to the unit without transmission to a PC at a later time), telemetry transmission or laboratory station;
   c. Data export capability with Excel;
   d. Ability to perform resting metabolic rate assessment via a flow-based-dilution canopy hood;
   e. Ability to exchange batteries without loss of data;
   f. Ability to calibrate in the field without the use of a computer;
   g. Total unit weight of no more than 2 pounds;
   h. Ability to correct for changes in environmental conditions such as temperature, barometric pressure and humidity.
   i. Must have a proven and reliable track record within the research field.

2. Item 2: additional accessories not included in Item 1 above, to include additional masks and headgear to insure a complete array of sizes; adapters for masks, sampling lines, regulators, and 2 gas containers.

3. Item 3: The University also requires a one-day, on-site training session, with the date to be coordinated with the University’s Exercise and Sport Science Laboratory Coordinator.
Also see Bidding Schedule.

**DELIVERY / PERFORMANCE LOCATION – PURCHASE ORDER (JAN 2006):** After award, all deliveries shall be made and all services provided to the location specified by the Using Governmental Unit in its purchase order. In general, the delivery address will be as follows:

- Coastal Carolina University
- Central Receiving
- 642 Century Circle
- Conway, SC 29526

**QUALITY – NEW (JAN 2006):** All items must be new unless otherwise specified.

**BRAND NAME OR EQUAL SPECIFICATION:** The use of a “brand name or equal” specification which uses one or more manufacturer’s names or catalogue numbers to describe the standard of quality, performance and other characteristics needed to meet state requirements, and which provides for the submission of equivalent products. Brand name or equal specifications are not intended to limit or restrict competition. An item shall be considered to be substantially equivalent, or “equal” to the specified brand if in the opinion of the Procurement Officer, the University can reasonably anticipate sufficiently similar quality, capacity, durability, performance, utility and productivity as provided by the specified brand. Your offer must include manufacturer’s latest literature showing complete product specifications if bidding on other than specified. Failure to include descriptive literature may be reason for rejection of your bid.

**IV. INFORMATION FOR OFFERORS TO SUBMIT**

See page 3 of this solicitation.

**“APPROVED EQUAL” DOCUMENTATION**

The Bidding Schedule states a particular type of equipment is to be purchases or an “approved equal”. Potential offerors must submit documentation of their proposed “approved equal” by **April 30, 2014 at 5:00 PM**, to the Procurement Officer listed in this solicitation. This documentation should be in the form of a manufacturer’s cut sheet(s) along with any accompanying information clearly identifying which piece of equipment is being proposed. Offerors may use the Bidding Schedule to identify their submission.

**SUBMITTING REDACTED OFFERS:**

You are required to mark the original copy of your offer to identify any information that is exempt from public disclosure. You must do so in accordance with the clause entitled “Submitting Confidential Information.” In addition, you must also submit one complete copy of your offer from which you have removed any information that you marked as exempt, i.e., a redacted copy. The information redacted should mirror in every detail the information marked as exempt from public disclosure. Portable Document Format (.pdf) is preferred.

**V. QUALIFICATIONS**

**QUALIFICATION OF OFFEROR (JANUARY 2006):** To be eligible for award of a contract, a prospective contractor must be responsible. In evaluating an Offeror’s responsibility, the State Standards of Responsibility [R.19-445.2125] and information from any other source may be considered. An Offeror must, upon request of the State, furnish satisfactory evidence of its ability to meet all contractual requirements. Unreasonable failure to supply information promptly in connection with a responsibility inquiry may be grounds for determining that you are ineligible to receive an award. S.C. Code Section 11-35-1810.

**SUBCONTRACTOR – IDENTIFICATION (JAN 2006):** If you intend to subcontract with another business for any portion of the work and that portion exceeds 10% of your price, your offer must identify that business and the portion of work which they are to perform. Identify potential subcontractors by providing the business’ name, address, phone, taxpayer identification number, and point of contact. In determining your responsibility, the state may evaluate your proposed subcontractors.
VI. AWARD CRITERIA–

AWARD BY LOT (JAN 2006): Award will be made by complete lot(s).

AWARD CRITERIA – BIDS (JAN 2006): Award will be made to the lowest responsible and responsive bidder(s).

AWARD TO ONE OFFEROR (JAN 2006): Award will be made to one Offeror.

UNIT PRICE GOVERNS (JAN 2006): In determining award, unit prices will govern over extended prices unless otherwise stated.

VII. TERMS AND CONDITIONS – A. GENERAL

This section contains the standard terms and conditions that apply to all solicitations and procurements made by Coastal Carolina University (University). Any seller-provided terms and conditions included with seller’s quote, invoice, or other documents shall be of no effect.

ASSIGNMENT (JAN 2006): The order is not assignable by the seller without the prior written consent of the University.

CHOICE OF LAW: The order shall be governed in all respects by the laws of the State of South Carolina. The order shall not be modified except by written agreement of the University and seller. Jurisdiction and venue shall reside in the State of South Carolina.

CONTRACT ADMINISTRATION: Questions or problems arising after award of this order shall be directed to Coastal Carolina University, Procurement Services, PO Box 261954, Conway SC 29528. Procurement Services is located in Atlantic Hall, 642 Century Circle, Conway SC.

CONTRACTOR’S LIABILITY INSURANCE (MAR 2013): (a) Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A: VII, and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work and the results of that work by the contractor, his agents, representatives, employees or subcontractors. (b) Coverage shall be at least as broad as:

1. Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal and advertising injury, with limits no less than $1,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit. This contract shall be considered to be an "insured contract" as defined in the policy.
2. Auto Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limits no less than $1,000,000 per accident for bodily injury and property damage.
3. Worker's Compensation: As required by the State of South Carolina, with Statutory Limits, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

(b) The University, and its officers, officials, employees and volunteers, must be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used. The endorsement must contain the following language:

"Coastal Carolina University, including its current and former trustees, officers, directors, employees, volunteer workers, agents, assigns and students, is added to this policy as additional insured."

(c) For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the State, the University, and the officers, officials, employees and volunteers of any of them. Any insurance or self-insurance maintained by the State, the University, or the officers, officials, employees and volunteers of any of them, shall be excess of the Contractor's insurance and shall not contribute with it.
(d) Prior to commencement of the work, the Contractor shall furnish the University with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this section. All certificates are to be received and approved by the University before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor’s obligation to provide them. The University reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this section, at any time.

(e) Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify the University immediately upon receiving any information that any of the coverages required by this section are or will be changed, cancelled, or replaced.

(f) Contractor hereby grants to the State and the University a waiver of any right to subrogation which any insurer of said Contractor may acquire against the State or the University by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the State or the University has received a waiver of subrogation endorsement from the insurer.

(g) Any deductibles or self-insured retentions must be declared to and approved by the University. The University may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

(h) The University reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

COMPLIANCE WITH LAWS: The seller, by acceptance of the order, will be deemed to represent that it has complied, or will comply, with all applicable Federal, State and local laws and ordinances and all lawful orders, rules and regulations there under.

DELIVERY: Subject to conditions beyond the control of the seller, delivery of completion must actually be affected within the time stated on the order. If, for any reasons whatsoever, including conditions beyond the control of seller, completion is not timely, the University reserves the right to obtain the goods or services elsewhere and to charge seller with any loss incurred as a result thereof or, as its option, to cancel the order.

EQUAL OPPORTUNITY: The University is an Equal Opportunity Employer and does not discriminate on the basis of race, color, religion, sex, national origin, age, handicap or veteran status. The successful vendor will comply with all Federal and State requirements concerning fair employment of the handicapped, and concerning the treatment of all employees and applicants for employment without discrimination by reason of race, color, religion, sex, national origin, age, handicap or veteran status.

EXCESS QUANTITY: Any materials shipped in excess of the quantity specified in the order may, at the University's option, be returned to the seller at seller's expense. The University will not be obligated to pay for services or labor provided in excess of that specified in the order.

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA): Seller warrants that it will not make available or distribute any student education records it receives from the University in violation of the federal Family Educational Rights and Privacy Act (FERPA) 20 U.S.C. section 1232g. Seller agrees to limit access to records provided by the University to its employees with a legitimate need to know in order for the seller to fulfill its obligations under this agreement. Seller warrants that it has procedures in place to prevent unauthorized access to data provided by the University, and the procedures will be documented and available to the University upon request. Seller will notify the University immediately in the event of a security breach that could or does impact the University records or data. Seller agrees that University data will not be shared or sold to third parties without prior written authorization from the University. Seller agrees to notify the University immediately if it receives a subpoena, court order or other request for University data so the University can take appropriate action if needed.

HOLD HARMLESS: The University, its officers, agents, and employees shall be held harmless from liability from any claims, damages, and actions of any nature arising from the use of any materials furnished by the seller, provided that such liability is not attributable to negligence on the part of the University or failure of the University to use the materials in the manner outlined by the seller in descriptive literature or specifications submitted with the seller's proposal.
IMPORTED GOODS: Whenever seller acts as the University’s agent in importing goods from other countries, the seller agrees to show on its invoices the amount of any customs or import duties paid to the United States government as a separate item.

INSPECT/REJECT: The University reserves the right to inspect any equipment offered or completed service and to reject equipment or service if it is not acceptable as determined by the University.

INVOICE ITEMIZATION: All transportation, insurance, crating and/or packing charges are to be entered as separate items on seller’s invoice, unless goods are sold F.O.B. destination or such charges are included in seller’s price.

LICENSES AND PERMITS: During the term of the contract, the seller shall be responsible for obtaining, and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and/or inspections required by the State, county, city or other government entity or unit to accomplish the work specified in the order. Note: The University campus is located within the city limits of Conway, South Carolina. Questions regarding business license requirements should be directed to City of Conway, Business License Office, 1000 2nd Ave., Conway SC 29526, telephone 843-488-7631, fax 843-248-1718.

NON-INDEMNIFICATION: Any term or condition is void to the extent it requires the University to indemnify anyone.

ORDER: Seller shall not provide any goods or services prior to the receipt of an official order from the University. The University may order any supplies or services to be furnished under this contract by issuing a purchase order. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order.

PURCHASING CARD: Seller agrees to accept payment by the University Purchasing Card for no extra charge. The University Purchasing Card is issued by Visa through a statewide program offered to state agencies which allows agencies to make authorized purchases from a vendor without the requirement to issue a purchase order.

PUBLICITY: The seller shall not publish any comments or quotes made by University employees, or include the University in news releases, published client lists, or other such media, without the prior written approval of Procurement Services and University Communication.

SHIPPING / RISK OF LOSS: F.O.B. Destination. Destination is the shipping dock of the University’s designated receiving site, or other location, as may be specified on the order.

TERMINATION DUE TO UNAVAILABILITY OF FUNDS: For orders involving payment and performance obligations beyond one fiscal period, such payments and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. In the event of a cancellation pursuant to this paragraph, seller will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Seller will not be reimbursed any costs amortized beyond the initial contract term.

UNIVERSITY POLICIES: The seller agrees to comply with all other applicable University policies as provided through this web site: http://www.coastal.edu/policies/

WARRANTIES: In addition to any expressed or implied warranties provided by applicable law, the seller hereby represents and warrants that the goods delivered or services performed on this order will be in accordance with the University’s specifications, drawings, or samples, if such were submitted, and if any goods or workmanship proves defective within one year from delivery or completion, or is not in accordance with specifications, drawings or samples, the University may cancel this order and return this order or correct the defective goods or work at seller’s expense. The foregoing representations and warranties shall survive acceptance of the goods or services.
VII. TERMS AND CONDITIONS – B. SPECIAL –

BANKRUPTCY (JANUARY 2006): (a) Notice. In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Using Governmental Unit. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all State contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract. (b) Termination. This contract is cancellable and subject to immediate termination by the State upon the contractor’s insolvency, including the filing of proceedings in bankruptcy.

CONTRACT DOCUMENTS & ORDER OF PRECEDENCE (JANUARY 2006): (a) Any contract resulting from this solicitation shall consist of the following documents: (1) a Record of Negotiations, if any, executed by you and the Procurement Officer, (2) documentation regarding the clarification of an offer [e.g., 11-35-1520(8) or 11-35-1530(6)], if applicable, (3) the solicitation, as amended, (4) modifications, if any, to your offer, if accepted by the Procurement Officer, (5) your offer, (6) any statement reflecting the state’s final acceptance (a/k/a “award”), and (7) purchase orders. These documents shall be read to be consistent and complimentary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. (b) The terms and conditions of documents (1) through (6) above shall apply notwithstanding any additional or different terms and conditions in either (i) a purchase order or other instrument submitted by the State or (ii) any invoice or other document submitted by Contractor. Except as otherwise allowed herein, the terms and conditions of all such documents shall be void and of no effect. (c) No contract, license, or other agreement containing contractual terms and conditions will be signed by any Using Governmental Unit. Any document signed or otherwise agreed to by persons other than the Procurement Officer shall be void and of no effect.

CONTRACTOR PERSONNEL (JANUARY 2006): The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

CONTRACTOR’S OBLIGATION – GENERAL (JANUARY 2006): The contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the work. The contractor must act as the prime contractor and assume full responsibility for any subcontractor's performance. The contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements.

CONTRACTOR’S USE OF STATE PROPERTY (JAN 2006): Upon termination of the contract for any reason, the State shall have the right, upon demand, to obtain access to, and possession of, all State properties, including, but not limited to, current copies of all State application programs and necessary documentation, all data, files, intermediate materials and supplies held by the contractor. Contractor shall not use, reproduce, distribute, display, or sell any data, material, or documentation owned exclusively by the State without the State's written consent, except to the extent necessary to carry out the work.

DEFAULT – SHORT FORM (JANUARY 2006): The state may terminate this contract, or any part hereof, for cause in the event of any default by the contractor, or if the contractor fails to comply with any contract terms and conditions, or fails to provide the state, upon request, with adequate assurances of future performance. In the event of termination for cause, the state shall not be liable to the contractor for any amount for supplies or services not accepted, and the contractor shall be liable to the state for any and all rights and remedies provided by law. If it is determined that the state improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

DISPOSAL OF PACKAGING (JAN 2006): Contractor shall dispose of all wrappings, crating, and other disposable materials pertaining to this contract at the end of each working day and upon completion of installation.

FIXED PRICING REQUIRED (JANUARY 2006): Any pricing provided by contractor shall include all costs for performing the work associated with that price. Contractor’s price shall be fixed for the duration of this contract, including option terms, except as otherwise provided in this solicitation. This clause does not prohibit contractor from offering lower pricing after award.

CCU Procurement Services (rev. Apr 2014)
HIPPA LAW: The Contractor agrees that to the extent that some or all of the activities within the scope of this Contract are subject to the Health Insurance Portability Accountability Act of 1996, P.L. 104-91, as amended (“HIPPA”), or its implementing regulations, it will comply with the HIPPA requirements and will execute such agreements and practices as the University may require to ensure compliance. Additional information may be viewed at http://www.sc.edu/hippa

ILLEGAL IMMIGRATION (NOV. 2008): (An overview is available at www.procurement.sc.gov) By signing your offer, you certify that you will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to the State upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to you and your subcontractors or sub-subcontractors; or (b) that you and your subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, “A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both.” You agree to include in any contracts with your subcontractors language requiring your subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14. [07-7B097-1]

INDEMNIFICATION-THIRD PARTY CLAIMS (NOV 2011): Notwithstanding any limitation in this agreement, and to the fullest extent permitted by law, Contractor shall defend and hold harmless Indemnitees for and against any and all suits or claims of any character (and all related damages, settlement payments, attorneys’ fees, costs, expenses, losses or liabilities) by a third party which are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property arising out of or in connection with the goods or services acquired hereunder or caused in whole or in part by any act or omission of contractor, its subcontractors, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an Indemnitee, and whether or not such claims are made by a third party or an Indemnitee; however, if an Indemnitee’s negligent act or omission is subsequently determined to be the sole proximate cause of a suit or claim, the Indemnitee shall not be entitled to indemnification hereunder. Contractor shall be given timely written notice of any suit or claim. Contractor’s obligations hereunder are in no way limited by any protection afforded under workers’ compensation acts, disability benefits acts, or other employee benefit acts. This clause shall not negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist. The obligations of this paragraph shall survive termination, cancelation, or expiration of the parties’ agreement. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance. As used in this clause, “Indemnitees” means the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees. [07-7B100-2]

MATERIAL AND WORKMANSHIP (JAN 2006): Unless otherwise specifically provided in this contract, all equipment, material, and articles incorporated in the work covered by this contract are to be new and of the most suitable grade for the purpose intended.

NOTICE (JANUARY 2006): (A) After award, any notices shall be in writing and shall be deemed duly given (1) upon actual delivery, if delivery is by hand, (2) upon receipt by the transmitting party of automated confirmation or answer back from the recipient's device if delivery is by telex, telegram, facsimile, or electronic mail, or (3) upon deposit into the United States mail, if postage is prepaid, a return receipt is requested, and either registered or certified mail is used. (B) Notice to contractor shall be to the address identified as the Notice Address on Page Two. Notice to the state shall be to the Procurement Officer's address on the Cover Page. Either party may designate a different address for notice by giving notice in accordance with this paragraph.

PAYMENT & INTEREST (MAY 2011): (a) Unless otherwise provided in this Solicitation, the State shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified herein, including the purchase order, payment shall not be made on partial deliveries accepted by the Government. (b) Unless otherwise provided herein, including the purchase order, payment will be made by check. (c) Notwithstanding any other provision, payment shall be made in accordance with S.C. Code Section 11-35-45, which provides the Contractor's exclusive means of recovering any type of interest from the Owner. Contractor waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable. Except as set forth in this paragraph, the State shall not be liable for the payment of
interest on any debt or claim arising out of or related to this contract for any reason. (d) Amounts due to the State shall bear interest at the rate of interest established by the South Carolina Comptroller General pursuant to Section 11-35-45 ("an amount not to exceed fifteen percent each year"); as amended. (e) Any other basis for interest, including but not limited to general (pre- and post-judgment) or specific interest statutes, including S.C. Code Ann. § 34-31-20, are expressly waived by both parties. If a court, despite this agreement and waiver, requires that interest be paid on any debt by either party other than as provided by items (c) and (d) above, the parties further agree that the applicable interest rate for any given calendar year shall be the lowest prime rate as listed in the first edition of the Wall Street Journal published for each year, applied as simple interest without compounding.

PRIVACY – WEB SERVICES (JAN 2006): You agree that any information acquired by you about individuals or businesses that is available to you as a result of your performance of this contract shall not be retained beyond the end of the term of the contract without the express written consent of the government. Such information shall never be sold, traded, or released to another entity, including affiliates, and shall not be used for any purpose other than performing this contract. Upon request, contractor shall provide written confirmation of compliance with this clause.

RELATIONSHIP OF THE PARTIES (JANUARY 2006): Neither party is an employee, agent, partner, or joint venture of the other. Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party.

SUBCONTRACTOR SUBSTITUTION PROHIBITED - RESIDENT SUBCONTRACTOR PREFERENCE (SEP 2009): If you receive an award as a result of the subcontractor preference, you may not substitute any business for the subcontractor upon which you relied to qualify for the preference, unless first approved in writing by the procurement officer. If you violate this provision, the State may terminate your contract for cause and you may be debarred. In addition, the procurement officer may require you to pay the State an amount equal to twice the difference between the price paid by the State and your evaluated price for the item for which you delivered a substitute. [11-35-1534(D)(5)(c)]

SURVIVAL OF OBLIGATIONS (JANUARY 2006): The Parties’ rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnification - Third Party Claims, Intellectual Property Indemnification, and any provisions regarding warranty or audit.

TAXES (JANUARY 2006): Any tax the contractor may be required to collect or pay upon the sale, use or delivery of the products shall be paid by the State, and such sums shall be due and payable to the contractor upon acceptance. Any personal property taxes levied after delivery shall be paid by the State. It shall be solely the State’s obligation, after payment to contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to contractor by the taxing authority. In the event that the contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by the State to contractor, contractor shall be liable to the State for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on Contractor’s net income or assets shall be the sole responsibility of the contractor.

TERMINATION FOR CONVENIENCE – SHORT FORM (JANUARY 2006): The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State. In such a termination, the Procurement Officer may require the contractor to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called “manufacturing material”) as the contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. Upon such termination, the contractor shall (a) stop work
to the extent specified, (b) terminate any subcontracts as they relate to the terminated work, and (c) be paid the
following amounts without duplication, subject to the other terms of this contract: (i) contract prices for supplies
or services accepted under the contract, (ii) costs incurred in performing the terminated portion of the work, and
(iii) any other reasonable costs that the contractor can demonstrate to the satisfaction of the State, using its
standard record keeping system, have resulted from the termination. The contractor shall not be paid for any
work performed or costs incurred that reasonably could have been avoided. As a condition of payment,
contractor shall submit within three months of the effective date of the termination a claim specifying the
amounts due because of the termination. The absence of an appropriate termination for convenience clause in
any subcontract shall not increase the obligation of the state beyond what it would have been had the
subcontract contained such a clause.

THIRD PARTY BENEFICIARY (JANUARY 2006): This Contract is made solely and specifically among and for
the benefit of the parties hereto, and their respective successors and assigns, and no other person will have any
rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third
party beneficiary or otherwise.

WAIVER (JANUARY 2006): The State does not waive any prior or subsequent breach of the terms of the
Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by
failing to strictly or promptly insist upon any term of the Contract. Only the Procurement Officer has actual
authority to waive any of the State’s rights under this Contract. Any waiver must be in writing.
VIII. BIDDING SCHEDULE / PRICE.

PRICE PROPOSAL (JAN 2006): Notwithstanding any other instructions herein, you shall submit the following price information as a separate document.

LOT 1:

<table>
<thead>
<tr>
<th>Item</th>
<th>Quantity</th>
<th>Unit of Measure</th>
<th>Unit Price</th>
<th>Extended Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>EA</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

**Item Description:** Provide and deliver a COSMED k4b2 mobile metabolic testing system, or approval equal, per the specifications provided herein. Salient characteristics: (see itemized list in Section III.1. within these specifications)

**Commodity Contract Preferences**

- Section 11-35-1524(B)(1) - Select USEPP if product is made, manufactured or grown in the US.
- Section 11-35-1524(B)(2) - Select SCEPP if product is made, manufactured or grown in SC.

**Response**

- USEPP
- SCEPP
- RVP

<table>
<thead>
<tr>
<th>Item</th>
<th>Quantity</th>
<th>Unit of Measure</th>
<th>Unit Price</th>
<th>Extended Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>1</td>
<td>LOT</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

**Item Description:** additional accessories not included in Item 1 above, to include additional masks and headgear to insure a complete array of sizes; adapters for masks, sampling lines, regulators, and 2 gas containers. AN ITEMIZED LISTING OF THE ITEMS IDENTIFIED FOR THIS SECTION MUST BE ATTACHED TO THIS BID SCHEDULE.

**Commodity Contract Preferences**

- Section 11-35-1524(B)(1) - Select USEPP if product is made, manufactured or grown in the US.
- Section 11-35-1524(B)(2) - Select SCEPP if product is made, manufactured or grown in SC.

**Response**

- USEPP
- SCEPP
- RVP

<table>
<thead>
<tr>
<th>Item</th>
<th>Quantity</th>
<th>Unit of Measure</th>
<th>Unit Price</th>
<th>Extended Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>1</td>
<td>EA</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

**Item Description:** Provide a one-day, on-site, training session

**Service Contract Preferences**

- Section 11-35-1524(C)(1)(iii) – Select RCP if you qualify for the Resident Contractor Preference.
- Section 11-35-1524(D)(1)&(2) – Select RSCP-2% if you qualify for the Resident Subcontractor Preference – 2%.
  - You must identify the subcontractor that will perform the work:
  - You must identify the work the subcontractor is to perform:
  - What is your factual basis for concluding that the subcontractor’s work constitutes the required percentage of the work to be performed in the procurement?
- Section 11-35-1524(D)(1)&(2) – Select RSCP-4% if you qualify for the Resident Subcontractor Preference – 4%.
  - You must identify the subcontractor that will perform the work:

**Response**

- RCP
- RSCP-2%
- RSCP-4%
<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>➢ You must identify the work the subcontractor is to perform:</td>
<td></td>
</tr>
<tr>
<td>➢ What is your factual basis for concluding that the subcontractor's work constitutes the required percentage of the work to be performed in the procurement?</td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL:**  
**DELIVERY:**  
**GRAND TOTAL:**  

**Note:** South Carolina sales tax will not be paid on freight.
IX. ATTACHMENTS TO SOLICITATION

CERTIFICATION OF MINORITY PARTICIPATION AND/OR OFFSHORE CONTRACTING (if applicable)

NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING
CERTIFICATION OF MINORITY PARTICIPATION AND/OR OFFSHORE CONTRACTING (if applicable)

MINORITY PARTICIPATION (JAN 2006):
Is the bidder a South Carolina Certified Minority Business? □ Yes □ No
Is the bidder a Minority Business certified by another governmental entity? □ Yes □ No
If so, please list the certifying governmental entity:
Will any of the work under this contract be performed by a SC certified Minority Business as a subcontractor? □ Yes □ No
   If so, what percentage of the total value of the contract will be performed by a SC certified Minority Business as a subcontractor?
Will any of the work under this contract be performed by a minority business certified by another governmental entity as a subcontractor? □ Yes □ No
   If so, what percentage of the total value of the contract will be performed by a minority business certified by another governmental entity as a subcontractor?
If a certified Minority Business is participating in this contract, please indicate all categories for which the Business is certified:
□ Traditional minority
□ Traditional minority, but female
□ Women (Caucasian females)
□ Hispanic minorities
□ DOT referral (Traditional minority)
□ DOT referral (Caucasian female)
□ Temporary certification
□ SBA 8 (a) certification referral
□ Other minorities (Native American, Asian, etc.)
(If more than one minority contractor will be utilized in the performance of this contract, please provide the information above for each minority business.)

OFFSHORE CONTRACTING (JAN 2006): Work that will be performed offshore by the Offeror and/or its subcontractors must be identified in the Offeror’s response. For the purpose of this solicitation, offshore is defined as outside the 50 States and US territories. Offeror is to include an explanation for the following:
(a) What type of work is being contracted offshore?
(b) What percentage (%) of the total work is being contracted offshore?
(c) What percentage (%) of the total value of the contract is being contracted offshore?
(d) Provide a Service Level Agreement (SLA) demonstrating the arrangement between the off-shore contactor and the Offeror. Attach Service Level Agreement to this document or paste here. Data provided by the Offeror in regards to this clause is for information only and will not be used in the evaluation and determination of an award.
NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING

IMPORTANT TAX NOTICE - NONRESIDENTS ONLY

Withholding Requirements for Payments to Nonresidents: Section 12-8-550 of the South Carolina Code of Laws requires persons hiring or contracting with a nonresident conducting a business or performing personal services of a temporary nature within South Carolina to withhold 2% of each payment made to the nonresident. The withholding requirement does not apply to (1) payments on purchase orders for tangible personal property when the payments are not accompanied by services to be performed in South Carolina, (2) nonresidents who are not conducting business in South Carolina, (3) nonresidents for contracts that do not exceed $10,000 in a calendar year, or (4) payments to a nonresident who (a) registers with either the S.C. Department of Revenue or the S.C. Secretary of State and (b) submits a Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to the person letting the contract.

The withholding requirement applies to every governmental entity that uses a contract ("Using Entity"). Nonresidents should submit a separate copy of the Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to every Using Entity that makes payment to the nonresident pursuant to this solicitation. Once submitted, an affidavit is valid for all contracts between the nonresident and the Using Entity, unless the Using Entity receives notice from the Department of Revenue that the exemption from withholding has been revoked.

Section 12-8-540 requires persons making payment to a nonresident taxpayer of rentals or royalties at a rate of $1,200.00 or more a year for the use of or for the privilege of using property in South Carolina to withhold 7% of the total of each payment made to a nonresident taxpayer who is not a corporation and 5% if the payment is made to a corporation. Contact the Department of Revenue for any applicable exceptions.

For information about other withholding requirements (e.g., employee withholding), contact the Withholding Section at the South Carolina Department of Revenue at 803-898-5383 or visit the Department's website at: [www.sctax.org](http://www.sctax.org)

This notice is for informational purposes only. This agency does not administer and has no authority over tax issues. All registration questions should be directed to the License and Registration Section at 803-898-5872 or to the South Carolina Department of Revenue, Registration Unit, Columbia, S.C. 29214-0140. All withholding questions should be directed to the Withholding Section at 803-896-1420.

PLEASE SEE THE "NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING" FORM (FORM NUMBER I-312) LOCATED AT: [http://www.sctax.org/Forms+and+Instructions/withholding/default.htm](http://www.sctax.org/Forms+and+Instructions/withholding/default.htm) [09-9005-1]