

**NORTH DAKOTA COURT SYSTEM  
OFFICE OF THE STATE COURT ADMINISTRATOR  
600 E BOULEVARD AVENUE, MAILSTOP 180  
BISMARCK, NORTH DAKOTA**

## **REQUEST FOR PROPOSALS**

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### **CLASSIFICATION AND COMPENSATION STUDY**

**RFP NUMBER: 180-23-01  
DATE OF ISSUE: March 21, 2023**

The North Dakota Court System is soliciting proposals for a classification and compensation study to determine if current job descriptions accurately reflect work performed and pay ranges are internally equitable and aligned with external labor markets.

## Section One – Introduction and Instructions

### 1.01 Purpose of the RFP

The North Dakota Court System is soliciting proposals for a vendor to conduct a classification and compensation study to determine if current job descriptions accurately reflect daily tasks, levels of responsibility, and necessary skills and education and to determine if the current pay ranges are aligned with external labor markets and are internally equitable. A review of the total compensation package (salary and wages, retirement, sick leave and annual leave and similar benefits) compared to similar markets should be included as part of the compensation study.

Responding firms should have significant experience conducting salary surveys, comparative analyses, job description creation and review. Firms with experience examining salary structures within a court system are preferred.

### 1.02 Confidentiality Warning

Vendors should note that this RFP is being issued by a governmental entity. All contents of proposals, including the cost proposal and final contract for the project, become publicly accessible documents after the deadline for submitting proposals has passed. **Any vendor requesting that access to proprietary information be restricted must make the request in a letter submitted separately from their proposal.** The letter must describe the type of information to be restricted and the business reason restriction is desired. Vendors will be notified if their request to restrict information is denied and will be given an opportunity to withdraw or modify their proposal. The North Dakota Court System's access to records rule can be found at: <https://www.ndcourts.gov/legal-resources/rules/ndsuptadminr/41>. Further information regarding open records in North Dakota can be found on the North Dakota Attorney General's website at: <https://attorneygeneral.nd.gov/open-records-meetings>.

### 1.03 Contact Person, Telephone, Fax, E-Mail

The Program Administrator is the point of contact for the RFP. The Program Administrator for this RFP is:

Amy Klein  
Director of Human Resources  
Office of the State Court Administrator  
Mailstop 180  
600 E. Boulevard Avenue  
Bismarck, ND 58505-0530  
Phone: 701-328-4216  
Fax: 701-328-2092  
E-mail: [aklein@ndcourts.gov](mailto:aklein@ndcourts.gov)

#### **1.04 RFP Schedule of Events**

This schedule of events represents the best estimate of the schedule that will be followed for this RFP. The schedule is subject to change by the North Dakota State Court Administrator. In the event a change is made to any component of this schedule, the rest of the schedule will be adjusted by an equal number of days. Should this occur an amended schedule will be posted on the court's website at: <https://www.ndcourts.gov/court-administration/finance/request-for-proposals>.

The schedule for this RFP is:

RFP Issued: March 21, 2023

Deadline for submission of questions/objections: April 12, 2023

Response to questions/objections: April 21, 2023

Proposals due by: May 10, 2023

Contract issued by: June 12, 2023

Contract start: July 1, 2023

Contract end: June 30, 2024

#### **1.05 Return Mailing Address and Deadline for Receipt of Proposals**

**One printed copy of the proposal and one electronic copy** of the proposal must be received in the North Dakota State Court Administrator's Office by 5:00 p.m. central time, on May 10, 2023, at this address:

Office of the State Court Administrator  
Attn: Amy Klein  
Mailstop 180  
600 E. Boulevard Avenue  
Bismarck, ND 58505-05330

EMAIL electronic copy of proposals to: [RFPComp@ndcourts.gov](mailto:RFPComp@ndcourts.gov)

#### **1.06 Assistance to Vendors with a Disability**

Vendors with a disability who need an accommodation should contact the Program Administrator listed in Section 1.03 sufficiently in advance of the deadline for receipt of proposals so that reasonable accommodations can be made without impacting the vendors ability to respond to the RFP within the deadline for responses.

#### **1.07 Deadline for Receipt of Questions and Objections**

Vendors must carefully review the solicitation and all attachments for defects, questionable, or objectionable material. All questions must be submitted in writing to the email address provided in Section 1.03 and cite the subject RFP in the title. All questions are due by the deadline specified in Section 1.04.

## **1.08 Approved Vendor Registration Requirements**

Proposals will be accepted from vendors that are not currently approved vendors on the State's bidder list. The successful vendor will be required to register as a vendor with the State of North Dakota Office of Management and Budget department prior to beginning any work on this project.

## **1.09 Amendments to the RFP**

If an amendment to this RFP is issued, it will be provided to all vendors that were mailed a notice of the RFP and to those who have requested a copy of the RFP.

## **1.10 Electronic Posting of RFP**

The RFP, any amendments to the RFP, any questions submitted by vendors and the responses to those questions will be posted on the following website: <https://www.ndcourts.gov/court-administration/finance/request-for-proposals>. Vendors are encouraged to check the website periodically for any updates related to this RFP.

Questions can be directed to the Director of Human Resources by sending them to the email address of [RFPComp@ndcourts.gov](mailto:RFPComp@ndcourts.gov). Please note that requests for personal meetings or telephone conferences to discuss the contents of the RFP or vendor qualifications will not be accepted.

## **Section Two – Background Information**

### **2.01 Background Information on the North Dakota Court System**

*For background information only*

The North Dakota Court System is a unified state court system consisting of one Supreme Court, a temporary, intermediate appellate court that can be called into session as needed and 53 district courts with general jurisdiction. The chief justice of the Supreme Court is the administrative head of the court system. The district courts have original and general jurisdiction in all cases except as otherwise provided by law. The district courts also serve as the juvenile courts in the state and have exclusive and original jurisdiction over any minor who is alleged to be unruly, delinquent, or deprived. The court is organized into eight judicial districts. In each judicial district there is a presiding judge who oversees judicial services for the courts in the geographical area of the judicial district. The court is further divided into four administrative units. In each unit there is a unit court administrator who is responsible for the managerial and administrative duties of two districts.

There are fifty-two district court judges in the state and five judicial referees. Clerk of District Court services are provided in two ways: In 14 counties, the staff are employees of the North Dakota Court System. In the remaining 39 counties, the clerk may be elected or appointed and the clerk and clerk's office staff are employees of the county. In addition, the Supreme Court has supervisory authority 82 municipal courts.

The court also has financial responsibility for the Judicial Conduct Commission and Disciplinary Board (JCCDB). The Judicial Conduct Commission was established in 1975 to investigate and evaluate complaints against judges in the state. The Disciplinary Board was established in 1965 to investigate, evaluate and act upon complaints alleging unethical conduct by attorneys licensed in North Dakota. Although separate entities, with separate memberships and processes, the two commissions are a single state entity and both commissions are staffed by the same individuals.

The court employs 306 non-judicial staff and contracts with 39 counties to provide additional court support staff. The JCCDB utilizes the Court System's classification and pay grade system for the 5 positions assigned to them. The average annual caseload for the state is 160,000 cases.

A profile of the North Dakota Court System and more details about the court structure and jurisdiction can be found on the court's website at: <http://www.ndcourts.gov>.

*Positions excluded from the proposed classification and compensation study*

The following positions will be excluded from the proposed study: supreme court justices, district court judges, judicial referees, non-classified employees, contracted county clerks of court and their staff, and municipal court staff.

## **2.02 Technical Environment**

For purposes of this Request for Proposal a review of the North Dakota Court System's technical infrastructure is deemed unnecessary.

## **2.03 Background and Goal of this Request**

The goal of the North Dakota Court System is to maintain a competitive market position in order to retain employees and to continue to attract the highest qualified employees.

The current North Dakota Court System classification and compensation structure was developed by Bjorklund Compensation Consulting and adopted by the court in October 2004. The classification structure was implemented immediately. Due to funding considerations, the compensation structure was implemented over a period of years, with final implementation completed in June 2008.

The North Dakota Court System has used a step system for compensation of classified trial court employees since the mid-1980s. In 1990, the court adopted a single step system for both Supreme Court and District Court employees. Classification of positions within the step system was done internally based on a point-factor scale using 15 criteria.

In response to the unification of the district courts and county courts in 1995, a job evaluation and compensation study was conducted by Fox, Lawson and Associates in 1997. This study used a sample of 16 benchmark positions and included an extensive review of the point-factor scale and recommendations for improving the classification process.

In 2000, the court contracted with Bjorklund Compensation Consulting for a comprehensive classification and compensation study, with the goals of promoting internal equity and determining appropriate entry rates. The Bjorklund study recommended a quantitative point factor job evaluation system to determine internal relationships among court system job classifications and created a single pay structure for all classified positions which was implemented by the court.

An external market survey was completed in May 2001 as part of the Bjorklund study and adjusted upward by 3% to account for cost of living increases when the data was reviewed in 2002. Since then, the pay ranges have been adjusted annually consistent with pay increases for state employees as approved by the state legislature.

In 2015, a compensation study was conducted by Gallagher Benefit Services. That study identified a number of positions that were not properly aligned with the external market as well as some inconsistencies within the structure of the court's paygrades. However, the recommended changes from that study were not implemented due to the sudden collapse of the North Dakota economy in the latter half of 2015 which extended into early 2018.

The current classification and compensation system includes all classified positions within the Supreme Court, Office of the Clerk of the Supreme Court, Law Library, Central Legal Services, Office of the State Court Administrator and the district courts. It does not include municipal court or county contract positions. The current classification system includes 22 classifications covering 63 positions (see Attachment A- Classification Chart and 2023 Step System Pay Ranges). Classifications are assigned through the application of a classification matrix based on evaluation of these five factors: a) Knowledge and skill; b) Supervisory authority; c) Public relations; d) Working conditions; and e) Education and experience (see Attachment B – Policy 150).

Currently, there are two exceptions to the classification system and one exception to the compensation system. As a recruitment and retention tool, Information and Technology personnel are on an accelerated pay plan (see Attachment C- Policy 151 and Policy 151 Supplement I). In response to market conditions, the court reporter position has been given a pay grade exception and moved to a classification at a higher pay range (as noted in Attachment A). As a further recruitment tool, the court allows for the underfill of positions. Employees hired as an underfill are paid at a training wage until they attain the minimum qualifications for the position (see Attachment D – Policy 181).

#### **2.04 Scope of Work**

The project will result in a comprehensive review of all classified positions in the judiciary and a market study that will allow the court system to determine the appropriate pay range for all classified employees. If the market study suggests that adjustments should be made, the project will also include a plan for implementation and proposed policy changes.

The vendor will be asked to:

*General Tasks*

1. Meet with the North Dakota Court System Personnel Policy Board via electronic means to discuss how the project will be conducted.
2. Regularly provide progress reports to the Program Administrator assigned to the project.
3. Hold focus group discussions or individual interviews as needed to collect or verify information, gather input or develop consensus.
4. Attend a meeting of the North Dakota Court System Personnel Policy Board to present study findings.
5. Provide a written final report summarizing all project steps, findings and recommendations.

*Tasks related to Classification Study*

6. Review and evaluate the current classification and pay grade structure, methodology and position placement within salary ranges, which would include the number of classifications, number of pay grades and the percentage spread for the pay ranges.
7. Identify problem areas within the internal compensation system and propose implementation methods to correct any identified problems.
8. Identify positions which may be undervalued or overvalued by the current classification system and propose appropriate adjustments.
9. Determine whether job descriptions accurately describe the duties being performed and if the minimum qualifications reflect the needs of the position.
10. Recommend updated job descriptions and title changes, if needed.
11. Develop additional job descriptions and titles, if needed or conversely, recommend elimination or merging of job descriptions and titles, if needed.
12. Review the classification matrix system and recommend changes, if needed.
13. Recommend placement of each position within the classification plan.
14. Provide a recommendation on the applicability of the court system's classification system to the positions assigned to the JCCDB.
15. If recommendations include a new classification matrix, provide sufficient training to assist the court system to initially implement the matrix and to maintain the integrity of the application of the classification system over time.

*Tasks related to Compensation Study*

16. Review total compensation package compared to those offered in similar markets.
17. Review current pay ranges, job descriptions, and relevant pay exception policies.
18. Analyze current pay practices, policies related to pay, and market position and recommend changes to the system to assist with successful recruitment and retention of employees.
19. Identify appropriate benchmark positions for the compensation study.
20. Provide market data and analysis of relevant public and private sector comparisons for selected benchmark positions. The vendor will be expected to re-examine markets used for past studies or propose comparable substitute markets.
21. Identify any problem areas within the internal compensation system and propose implementation methods to correct any identified problems.

22. Determine if the current pay range and pay exception policies require adjustment.
23. If adjustments are required, develop options and implementation models for addressing the issues identified. Implementation models should include cost estimates and recommended timelines for applying market adjustments to specific positions or classifications.
24. Provide a planning process, resources and training to assist the court system in maintaining pay ranges that are competitive and within market.

## **2.05 Deliverables**

Deliverables will include, but are not limited to, the following artifacts:

1. A written report documenting methodology, findings, and recommendations
2. An estimate of the cost to implement any recommended adjustments to pay ranges
3. A business case for any recommended adjustments to pay ranges
4. An implementation plan for any recommended adjustments to pay ranges
5. Proposed language for any recommended changes to policies

## **2.06 Project Timeline**

The project timeline is July 1, 2023 through June 30, 2024.

## **2.07 Project Budget**

Approval or continuation of a contract resulting from this solicitation is contingent upon the court receiving continuing appropriations. The State may modify the contract, by agreement of both parties, or terminate the contract entirely in the event the State is unable to obtain funding or continue funding at sufficient levels.

# **Section Three – Proposal Format and Content**

To aid in the comparative evaluation of proposals, all grant applications must be submitted in writing and contain the following information in the order listed.

## **3.01 Applicant Information**

These items must be included on the coversheet of the proposal:

- Name of the organization
- Principal address of the organization
- Nature of the organization (corporation, private company, non-profit, etc.)
- Name, title, email address, phone number, and mailing address of the person submitting the proposal, if different from the principal address of the organization
- Contact information, including an e-mail address for the project director or primary person to be contacted on matters involving the proposal, if different from the person submitting the proposal



### **3.02 Introduction**

Proposals must confirm that the vendor will comply with all provisions in this RFP. The proposal must disclose any instances where the organization or any individuals working on the contract has a possible conflict of interest, and if so, the nature of that conflict.

The introduction must specifically identify any trade secrets or proprietary information included in the vendor's response to the RFP and request protection of that information as allowed by North Dakota statutes.

Information about North Dakota's open records statutes can be found on the North Dakota Attorney General's website at: <https://attorneygeneral.nd.gov/open-records-meetings> and the North Dakota Court System's access to records rule at: <https://www.ndcourts.gov/legal-resources/rules/ndsuptadminr/41>.

### **3.03 Experience and Qualifications**

Vendors must describe the experience of their organization in conducting and completing the kind of research and analysis described in this document including evaluation, multi-site project coordination, collaborative research strategies, and use of qualitative and quantitative research methods. Additionally, vendors must provide information specific to the personnel assigned to accomplish the work required. Vendors must provide a narrative description of the organization of the project team and a personnel roster that identifies each person who will actually work on the contract and provide the following information about each person listed:

- Title;
- Resume;
- Description of the type of work the individual will perform on this project; and
- Number of estimated hours for each individual named above.

### **3.04 Method to Complete the Project**

An overall plan with time estimates for completion of all work is required. Elements of the plan should include:

- A description of the vendor's approach to meeting the Purpose of the RFP and Scope of Work as described in Sections 2.04 - 2.06 of this RFP;
- A description of any data collection instruments and methods to be used in collecting data;
- A description of any supplemental tasks (data collection, information dissemination, staff assignment to project oversight committees, etc.) that it is expected the North Dakota Court System will need to perform to assist the vendor in completing the project;
- A proposed timeline for the project; and
- A description of the final product to be delivered to the North Dakota Court System.

### **3.05 Cost Proposal**

Vendors should carefully consider the resources needed to successfully implement the proposed project and present a realistic budget that accurately reflects project costs. The proposal should include a line item budget showing tasks to be performed and the associated costs for personnel, travel, equipment, supplies, other costs, and indirect costs.

### **3.06 Project Schedule**

Vendors should carefully consider the entirety of the project and the availability of resources and provide the anticipated start and completion date for the project. The schedule should include an estimated length of time and completion date for the fulfillment of each work phase and task described under the scope of work section of this RFP.

### **3.07 References**

Vendors must provide at least three references including one public sector reference for which the vendor has provided classification or compensation study services.

Include the following minimum information for each reference:

1. Customer name;
2. Location of principle place of business;
3. Agency contact person's name, telephone number, and e-mail address;
4. Project description;
5. Project start and close dates; and
6. Brief description of work performed

## **Section Four – Evaluation Criteria and Vendor Selection**

### **4.01 Evaluation Criteria**

In evaluating the proposals, cost will be an important, but not the sole, factor in awarding a contact. The North Dakota Court System will evaluate all proposals using the following criteria:

- Vendor conceptual approach to project design and project management (20)
- Reasonableness of cost projections (20 points)
- Vendor ability to meet schedule requirements for completion of the project (20 points)
- Vendor experience with similar projects (10 points)
- Responsiveness to the described work plan (10 points)
- Comments received from references provided by the vendor and from current or former customers of the vendor (10 points)
- Vendor experience working with court systems (5 points)
- Experience and expertise of staff to be assigned to the project (5 points)

#### **4.02 Clarification of Proposals**

In order to effectively evaluate each proposal, communications by the Program Administrator or the proposal evaluation committee are permitted with a vendor to clarify uncertainties or eliminate confusion concerning the contents of a proposal and determine responsiveness to the RFP requirements. Clarifications may not result in a material or substantive change to the proposal. The initial evaluation may be adjusted because of a clarification under this section.

#### **4.03 Interview**

It may be necessary to interview one or more vendors to clarify aspects of their submittal or to select from two or more vendors. If interviews are needed they will be conducted via electronic means.

#### **4.04 Right of Rejection**

The North Dakota Court System reserves the right to reject any or all proposals, in whole or in part. Proposals received from barred or suspended vendors will be rejected. Any proposal that is not responsive to all of the material and substantial terms, conditions, and performance requirements of the RFP may be rejected.

The North Dakota Court System reserves the right to waive any minor irregularities in the proposal or request for proposal process that do not have a substantive bearing on the RFP process.

The North Dakota Court System may decline to make any award if it determines it to be in its best interest to do so.

### **Section Five – General Contract Information**

#### **5.01 Contract Term**

The North Dakota State Court Administrator intends to enter into a contract with an effective period of July 1, 2023 to June 30, 2024.

#### **5.02 Contract Type**

The contract is a Firm Fixed Price contract.

#### **5.03 Standard Contract Provisions**

The successful vendor will be required to sign a contract similar to the one attached to this RFP (Attachment E – sample Service Agreement). The vendor must comply with the contract provisions set out in this attachment. Any objections to the contract provisions must be set out in

the vendor's proposal. No alteration of these provisions will be permitted without prior written approval from the North Dakota State Court Administrator. Vendors are instructed to contact the Program Administrator, in writing and by the deadline set for questions, with any concerns regarding the contract provisions.

#### **5.04 Proposal as Part of the Contract**

Part or all of this RFP and the successful proposal may be incorporated into the contract.

#### **5.05 Additional Terms and Conditions**

The North Dakota State Court Administrator reserves the right to add, delete, or modify terms and conditions during the contract negotiations. These terms and conditions will be within the scope of the RFP and will not affect the proposal evaluations.

#### **5.06 Contract Approval**

This RFP does not, by itself, obligate the North Dakota Court System. The North Dakota Court System obligation will commence when the North Dakota State Court Administrator approves the contract. Upon written notice to the vendor, the State Court Administrator may set a starting date for the contract that is different from the proposed starting date set forth in this RFP. The North Dakota Court System will not be responsible for any work done by the vendor, even work done in good faith, if it occurs prior to the contract start date set by the North Dakota State Court Administrator.

### **Section Six – Standard Proposal Information**

#### **6.01 Authorized Signature**

An individual authorized to bind the vendor to the provisions of the RFP must sign all proposals.

#### **6.02 State Not Responsible for Preparation Costs**

The State will not pay any cost associated with the preparation, submission, presentation, or evaluation of any proposal.

#### **6.03 Conflict of Interest**

Vendors must disclose any instances where the organization or any individuals working on the contract has a possible conflict of interest and, if so, the nature of that conflict. The State reserves the right to cancel the award if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the vendor's proposal. The North Dakota State Court Administrator will make a determination on whether or not a conflict of interest can be waived or if it is so substantial as to require disqualification from consideration or cancellation of a contract award. The State Court Administrator's determination is final.

#### **6.04 Vendor's Certification**

By signature on the proposal, a vendor certifies that it complies with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

#### **6.06 Subcontractors**

Work proposed to be performed under this contract by the Vendor or its employees shall not be subcontracted without prior approval of the North Dakota State Court Administrator.

#### **6.06 Right to Submitted Material**

All responses, inquiries, or correspondence in relation to or in reference to the RFP, and all reports, charts, displays, schedules, and other documents submitted by the vendor shall become the property of the North Dakota Court System when received.

## Attachment A

<b>SALARY GRADE</b>	<b>JOB CLASSIFICATION</b>	<b>EXEMPTION</b>	<b>MONTHLY SALARY RANGE</b>		<b>ANNUAL SALARY RANGE</b>	
			<b>MINIMUM</b>	<b>MAXIMUM</b>	<b>MINIMUM</b>	<b>MAXIMUM</b>
7	*Electronic Court Recorder	Non-Exempt	2,923	4,267	35,076	51,204
9	Law Library Assistant	Non-Exempt	3,516	5,157	42,192	61,884
10	Account Technician Administrative Assistant-State Court Administrator Administrative Assistant-Clerk of Supreme Court Administrative Assistant-Central Legal Calendar Control Clerk Deputy Clerk of District Court Deputy Supreme Court Clerk District Court Administrative Assistant Electronic Court Recorder/Transcriptionist Juvenile Court Administrative Assistant	Non-Exempt Non-Exempt Non-Exempt Non-Exempt Non-Exempt Non-Exempt Non-Exempt Non-Exempt Non-Exempt Non-Exempt	3,922	5,760	47,064	69,120
11	Court Services Coordinator Executive Administrative Assistant Judicial Assistant Lead Electronic Court Recorder/Transcriptionist Senior Deputy Supreme Court Clerk Technical Support Specialist	Non-Exempt Non-Exempt Non-Exempt Non-Exempt Non-Exempt Non-Exempt	4,226	6,220	50,712	74,640
12	Assistant Law Librarian Citizen Access Paralegal District Court Paralegal Deputy Clerk of District Court Supervisor Executive Judicial Assistant Network Analyst Payroll and Benefits Specialist Technology Coordinator I	Non-Exempt Non-Exempt Non-Exempt Non-Exempt Non-Exempt Non-Exempt Non-Exempt Non-Exempt	4,531	6,685	54,372	80,220
13	Business Analyst I *Court Reporter *Lead District Court Paralegal Network Analyst II Programmer Analyst I Technology Coordinator II	Exempt Non-Exempt Non-Exempt Non-Exempt Exempt Non-Exempt	4,703	6,949	56,436	83,388
14	Juvenile Court Officer I *Lead Court Reporter Programmer Analyst II Technology Coordinator III	Non-Exempt Non-Exempt Exempt Non-Exempt	5,143	7,628	61,716	91,536
15	Accountant Analyst Business Analyst II Education and Special Projects Coordinator Network Analyst III	Exempt Exempt Non-Exempt Non-Exempt	5,447	8,105	65,364	97,260
16	Business Analyst III Juvenile Court Officer II Program Manager Programmer Analyst III	Exempt Non-Exempt Exempt Exempt	5,753	8,576	69,036	102,912
17	Clerk of District Court I	Exempt	6,060	9,052	72,720	108,624

<b>SALARY GRADE</b>	<b>JOB CLASSIFICATION</b>	<b>EXEMPTION</b>	<b>MONTHLY SALARY RANGE</b>		<b>ANNUAL SALARY RANGE</b>	
			<b>MINIMUM</b>	<b>MAXIMUM</b>	<b>MINIMUM</b>	<b>MAXIMUM</b>
18	Clerk of District Court II Juvenile Court Supervisor Supervisor of Accounting	Exempt Exempt Exempt	6,363	9,527	76,356	114,324
19	Family Law Mediation Program Administrator Guardianship Monitoring Program Manager	Exempt Exempt	6,671	10,002	80,052	120,024
20	Deputy Court Administrator Director of Juvenile Court Services	Exempt Exempt	6,989	10,476	83,868	125,712
21	Chief Deputy Clerk Citizen Access Coordinator Director of Education and Communication Director of Finance Director of Human Resources Director of Technology Staff Attorney-Central Legal Staff Staff Attorney-District Court Staff Attorney-Joint Procedure Committee Staff Attorney-State Court Administrator	Exempt Exempt Exempt Exempt Exempt Exempt Exempt Exempt Exempt Exempt	7,304	10,946	87,648	131,352
22	Supreme Court Law Librarian	Exempt	7,619	11,411	91,428	136,932
	<b>*NON-CLASSIFIED EMPLOYEES</b> Asst State Court Administrator for Trial Courts Clerk of Supreme Court Court Administrator Law Clerks Judicial Referee State Court Administrator					

**Non -Exempt** - Employees are covered under the Fair Labor Standards Act and are entitled to receive comp time at a rate of one and one-half hours for each hour of overtime work.

**Exempt** - Employees are not covered by the overtime provision of the Fair Labor Standards Act and are not entitled to receive overtime compensation unless authorized by the supervisor at which time it would be at a rate of one hour for each hour worked over 40 in one week.

**\*Pay Grade Exception** - A pay grade exception is the assignment of a pay grade that is higher than that determined by the application of the Classification Matrix System. This may be done when a pay grade assigned to a class has not resolved significant problems in the recruiting or retention of qualified individuals for a class. Classes assigned a pay grade exception are subject to periodic review to verify the appropriateness of the assigned pay grade.

**Judiciary Pay Ranges  
2.0 % Increase  
July 2022**

**Pay  
Grade:**

	1	2	3	4	5	6	7	8	9	10	11
1	\$1,945	\$2,011	\$2,083	\$2,162	\$2,240	\$2,325	\$2,412	\$2,503	\$2,593	\$2,693	\$2,797
2	\$2,032	\$2,108	\$2,183	\$2,264	\$2,346	\$2,433	\$2,526	\$2,622	\$2,718	\$2,823	\$2,927
3	\$2,124	\$2,205	\$2,285	\$2,371	\$2,459	\$2,550	\$2,647	\$2,746	\$2,850	\$2,961	\$3,074
4	\$2,225	\$2,307	\$2,392	\$2,482	\$2,579	\$2,673	\$2,773	\$2,878	\$2,988	\$3,104	\$3,223
5	\$2,333	\$2,420	\$2,508	\$2,600	\$2,700	\$2,800	\$2,911	\$3,017	\$3,130	\$3,251	\$3,381
6	\$2,700	\$2,800	\$2,911	\$3,017	\$3,130	\$3,251	\$3,377	\$3,505	\$3,639	\$3,783	\$3,932
7	\$2,923	\$3,035	\$3,150	\$3,272	\$3,395	\$3,528	\$3,663	\$3,804	\$3,953	\$4,106	\$4,267
8	\$3,223	\$3,343	\$3,471	\$3,606	\$3,748	\$3,890	\$4,044	\$4,199	\$4,361	\$4,534	\$4,712
9	\$3,516	\$3,652	\$3,794	\$3,941	\$4,093	\$4,251	\$4,420	\$4,593	\$4,773	\$4,963	\$5,157
10	\$3,922	\$4,073	\$4,235	\$4,397	\$4,569	\$4,750	\$4,935	\$5,127	\$5,332	\$5,542	\$5,760
11	\$4,226	\$4,392	\$4,564	\$4,740	\$4,929	\$5,123	\$5,325	\$5,534	\$5,753	\$5,982	\$6,220
12	\$4,531	\$4,710	\$4,894	\$5,088	\$5,287	\$5,494	\$5,715	\$5,941	\$6,177	\$6,422	\$6,685
13	\$4,703	\$4,889	\$5,081	\$5,280	\$5,488	\$5,705	\$5,934	\$6,166	\$6,412	\$6,671	\$6,949
14	\$5,143	\$5,344	\$5,558	\$5,777	\$6,007	\$6,244	\$6,492	\$6,757	\$7,033	\$7,324	\$7,628
15	\$5,447	\$5,663	\$5,886	\$6,122	\$6,364	\$6,620	\$6,890	\$7,173	\$7,475	\$7,779	\$8,105
16	\$5,753	\$5,982	\$6,218	\$6,465	\$6,729	\$7,003	\$7,293	\$7,596	\$7,912	\$8,238	\$8,576
17	\$6,060	\$6,298	\$6,550	\$6,815	\$7,099	\$7,393	\$7,696	\$8,018	\$8,347	\$8,690	\$9,052
18	\$6,363	\$6,620	\$6,890	\$7,172	\$7,474	\$7,778	\$8,100	\$8,434	\$8,782	\$9,147	\$9,527
19	\$6,671	\$6,946	\$7,232	\$7,533	\$7,839	\$8,163	\$8,506	\$8,855	\$9,221	\$9,604	\$10,002
20	\$6,989	\$7,275	\$7,573	\$7,886	\$8,211	\$8,551	\$8,907	\$9,276	\$9,656	\$10,058	\$10,476
21	\$7,304	\$7,605	\$7,918	\$8,247	\$8,587	\$8,940	\$9,312	\$9,694	\$10,096	\$10,515	\$10,946
22	\$7,619	\$7,934	\$8,261	\$8,602	\$8,960	\$9,327	\$9,712	\$10,113	\$10,532	\$10,962	\$11,411
23	\$7,935	\$8,264	\$8,603	\$8,961	\$9,329	\$9,714	\$10,117	\$10,533	\$10,963	\$11,409	\$11,877



# Attachment B

## 150 – COMPENSATION AND CLASSIFICATION PLAN FOR CLASSIFIED EMPLOYEES

### A. Classification Matrix System

1. The Court System uses a Classification Matrix System, a point factor system, to evaluate positions to assign job classification and compensation.
2. Job information, including essential functions and minimum requirements required for the job, is documented in classification descriptions or job descriptions. Each description is evaluated in the Classification Matrix System using the following five factors:
  - a. Knowledge and skill;
  - b. Supervisory authority;
  - c. Public relations;
  - d. Working conditions; and
  - e. Education and experience.
3. Each factor is weighted differently in terms of the relative importance of the factor to the overall score of the job or classification. The total points scored determine the pay grade of the job or classification. Salary ranges are assigned to pay grades based on market data.

### B. Pay Grade Review

1. An appointing authority may request the pay grade of a particular classification be reviewed if it is believed that market conditions require the review in order to hire or retain employees in that classification, or it is believed that the relative value of the classification should be adjusted.
2. The request, along with accompanying documentation sufficient in detail to justify the request, must be submitted to the Human Resource Director who will forward the request to the Personnel Policy Board for review and recommendation to the Chief Justice.

### C. Reclassification Request

1. A position may be reclassified when warranted by a permanent substantial change in the duties and responsibilities of a position.
2. The classification process examines and evaluates the duties, tasks, and requirements of the position - not the abilities, background, or performance of the person in the position. An increase in the quality or volume of work does not generally justify reclassification.
3. Request by Appointing Authority

An appointing authority may request a classification review of a position if the position has not been reviewed within the previous twelve months. The classification/reclassification request form must be submitted to the Human Resource Director.

4. Request by Employee

An employee may request a classification review of the employee's position if the position has not been reviewed within the previous twelve months. The employee must submit a Job Data Questionnaire to the appointing authority. The appointing authority must submit the request and a recommendation concerning the request to the Human Resource Director.

5. Approval Process

The Human Resource Director will make a determination of the classification and pay grade using the job evaluation plan (Classification Matrix System) of the Court System. A determination by the Human Resource Director that a position should be approved for reclassification will be forwarded to the Personnel Policy Board for approval and, if approved, forwarded to the Chief Justice for final determination.

6. Appeals

- a. The decision of the Human Resource Director may be appealed to the State Court Administrator. The State Court Administrator may make a determination or refer the matter to a master or panel for advice. The employee is entitled to a personal appearance before the State Court Administrator.
- b. The decision of the State Court Administrator may be appealed to the Personnel Policy Board. The Personnel Policy Board may limit the appeal to an appeal on the record. The Personnel Policy Board's decision is final on all denials.

Approved by the Supreme Court 4/1/12

# Attachment C

## 151 – SALARY ADMINISTRATION FOR CLASSIFIED EMPLOYEES

### A. Step System

The Court System uses a time-based step-rate system for classified employee compensation. A time-based step-rate pay system is based on longevity in the job and satisfactory performance.

### B. Hiring Salary

#### 1. New Employees

All classified employees new to the Court System must start at step one of the entry level of the classification series, unless prior written approval is granted by the Chief Justice pursuant to the following procedures.

- a. The position must be advertised and recruited at step one.
- b. If one of the below conditions has been met, the appointing authority may seek approval for a higher salary prior to making an offer of employment, by certifying to the Human Resource Director that no candidate can be recruited at step one.

(1) An insufficient number of applications are received; or

(2) After interviewing the candidates, none of the candidates who are sufficiently qualified to be offered the position after being interviewed will accept the position at step one.

- c. The Human Resource Director will review the position with the appointing authority and prepare a report and recommendation for the Personnel Policy Board.
- d. The chair of the Personnel Policy Board must call an expedited meeting to review the report and recommendations and will forward a recommendation of the board to the Chief Justice.
- e. The Chief Justice will make a final decision on the recommendation.

#### 2. Rehired Employees

- a. A classified employee who has left employment with the Court System who is rehired may be given credit for prior experience with the Court System if the experience is commensurate with the new position.
- b. A rehired employee may be placed on an introductory period and on successful completion of the employee's introductory period may be eligible for a one step increase.

3. Temporary or Contract Positions

An individual in a temporary or contract position, whose duties were the same as the classified position, will be given credit for the service in the temporary or contract position when determining the starting step in the pay grade. The service in the temporary or contract position may apply toward the introductory period, anniversary date increases, and career ladder advancements.

C. Introductory Period

Classified employees who successfully complete their introductory periods are eligible for a one step increase.

D. Anniversary Date

1. Classified employees are eligible to receive a step increase on the employee's odd year anniversary date of entry into a pay grade if the employee's performance is determined to be satisfactory.

a. A step increase after the introductory period is considered an odd year increase.

b. An employee who is promoted or position reclassified who enters the new pay grade above step one, will be eligible for a step increase after two years of service in the new pay grade.

2. The employee's salary will only be adjusted once the Director of Finance is notified by the appointing authority that the employee's performance is satisfactory.

3. An employee whose performance is not satisfactory must be given a corrective action plan as explained in the Corrective Action policy. The corrective action plan will specify the reason performance is not satisfactory and the actions required to bring performance up to expectations.

a. The corrective action plan must be given to the employee at least 30 days in advance of the employee's anniversary date unless there is a serious, unexpected change in behavior or discovery of past behavior that merits a lesser time for notice.

b. On completion of the time allotted in the corrective action plan, the employee will be notified if the step increase will be granted or because performance remains unsatisfactory, the step increase is forfeited for the current anniversary date.

E. Career Ladder Advancement

1. A career ladder advancement is advancement to a higher position within a series and a higher pay grade. It is advancement from an entry level position to a full performance position.

2. The following positions are considered a career ladder series which are positions eligible for career ladder advancements:

Career Ladder Series		
Juvenile Court Officer I	→	Juvenile Court Officer II
Network Analyst I	→	Network Analyst II
Network Analyst II	→	Network Analyst III
Programmer Analyst I	→	Programmer Analyst II
Programmer Analyst II	→	Programmer Analyst III
Business Analyst I	→	Business Analyst II
Business Analyst II	→	Business Analyst III
Technology Coordinator I	→	Technology Coordinator II
Technology Coordinator II	→	Technology Coordinator III

3. The recommendation that an employee is qualified for a career ladder advancement will be made by the appointing authority in the offer letter, which requires the appointing authority to certify the employee has performed satisfactorily at the entry level and meets the minimum qualifications of the level to be advanced to.
4. An employee who receives a career ladder advancement will receive a salary increase to the step in the new pay grade which represents at least a 5% increase or an increase to the minimum of the new pay grade, whichever is greater.

F. Promotion

1. A promotion is the movement to a position in a higher pay grade.
2. The recommendation that an employee is qualified for a promotion will be made by the appointing authority through the online applicant tracking system, which requires the appointing authority to certify the employee meets the minimum qualifications of the classification to be promoted to.
3. A classified employee who is promoted will receive a salary increase to the step in the new pay grade which represents at least a 5% increase or an increase to the minimum of the new pay grade, whichever is greater.

G. Lateral Transfer

1. A lateral transfer is a transfer from one classification to another within the same pay grade.
2. The recommendation that an employee is qualified for a lateral transfer will be made by the appointing authority through the online applicant tracking system, which requires the appointing authority to certify the employee meets the minimum qualifications of the classification to be transferred to.
3. No pay adjustment will be granted for a lateral transfer.

H. Reclassification

1. A reclassification is the movement of a classified position to a higher or lower position because of substantial and permanent change in duties.
2. A classified employee who is reclassified to a higher pay grade will receive a salary increase to the step in the new pay grade which represents at least a 5% increase or an increase to the minimum of the new pay grade, whichever is greater. If the reclassification is downward, the employee's salary will not be reduced below the present level.

#### I. Pay Grade Adjustment

##### 1. Market Adjustment

- a. If a classification is adjusted due to market conditions, all employees within that classification will have their salary adjusted to the minimum of the new pay range.
- b. The Personnel Policy Board may recommend adjustments to individual salaries within the new pay range based on an employee's previous step in the adjusted pay grade.

##### 2. Relative Value Classification Adjustment

If a classification is adjusted because of a determination that the relative value of the classification requires adjustment, all employees within that classification will have their salary adjusted to at least the minimum of the new pay range.

#### J. Temporary Adjustments

For an interim appointment of more than sixty days, an administrative unit appointing authority may recommend to the State Court Administrator or an appointing authority for the Supreme Court may recommend to the Chief Justice that the salary of an employee be increased up to two steps for the interim period.

#### K. Professional Certifications

For an employee who achieves and maintains a nationally recognized professional certification, an appointing authority may request approval by the Chief Justice for a one step increase if the following criteria are met.

1. The professional certification is required due to an organizational need or other requirement.
2. It can be determined that a nationally recognized professional certification is required or necessary to ensure minimum standards of quality and performance for new or additional duties being assigned to a position.
3. The requisite certification is governed by a nationally recognized professional organization.

4. The professional certification is generally required prior to the performance of the work.
5. Extensive training and testing are necessary to achieve the professional certification.
6. Maintaining the certification requires continuing education and training as determined by the professional organization governing the certification process.

Approved by the Supreme Court 4/1/12; amended 4/24/13; amended 12/17/13; amended 7/2/15; amended 8/26/20; amended 10/26/22

## **Policy 151 - SUPPLEMENT I**

### **Hiring Guidelines for Technology Positions**

Based on market conditions, the following technology positions will be advertised and hired at Step 4 of the assigned paygrade.

Business Analyst I, II and III  
Network Analyst I, II and III  
Programmer Analyst I, II and III  
Director of Technology

An Employee hired under this Supplement is eligible for an increase to Step 5 upon successful completion of his or her introductory period.

The five years of constructive service credit will remain with the employee as a credit to be applied when eligible for future step increases.

Approved by the Supreme Court 7/1/98; amended 2/15/12; amended 1/8/20.



# Attachment D

## 181 – FILLING CLASSIFIED POSITION VACANCIES

### A. Internal Posting

1. To encourage career mobility prior notice will be given to Court System employees by opening non-exempt, classified positions to internal application prior to external application, unless prior approval is obtained from the State Court Administrator. Veterans' preference does not apply to internal postings.
2. The Human Resource Director will assist the appointing authority or designee in providing internal notice. The notice must allow 10-30 days for applications. The appointing authority or designee is not required to make a determination about the qualifications of internal candidates prior to opening the position externally. After reaching the deadline for internal applications, the appointing authority or designee may:
  - a. Determine that a wider pool of candidates is needed and open the position externally. Internal applications will be considered with any external applications received.
  - b. Interview the internal candidates and fill the vacancy or open the position externally.

### B. External Posting

When a position is opened to external applications, the Human Resource Director, after consultation with the appointing authority or designee, will advertise the position and receive the applications.

1. The hiring authority may seek approval from the State Court Administrator to underfill a position if they are unable to find qualified candidates who meet the minimum qualifications of the position.
2. An employee hired as an underfill must be able to meet the minimum qualifications for the classification within 24 months of hire.
3. The length of the introductory period and the training wage of an employee hired as an underfill will be determined by how closely the employee's qualifications match the minimum qualifications of the position. The initial training wage for an underfilled position will be one or two steps below the regular starting salary as determined by the Director of Human Resources.

### C. Candidate Screening

1. The Human Resource Director will work with the appointing authority or designee to establish a rating system for the vacant position based on required and preferred qualifications and skills.
2. Candidates will be rated based on the contents of the applications received. If a candidate meets the minimum qualifications of the position and has provided the appropriate documentation showing qualifications for veterans' preference:

- a. Five points will be added to the rating if the candidate is a veteran or a veteran's spouse.
- b. Ten points will be added to the rating if the candidate is a disabled veteran.
3. The Human Resource Director will forward the Referral List listed from highest score down to the appointing authority or designee.
4. The appointing authority or designee will consider the Referral List from the top down. However, any person on the Referral List may be selected for an interview and offer.
5. The appointing authority or designee may not inquire into or consider the criminal record or criminal history of an applicant for employment until the applicant has been selected for an interview.

#### D. Veterans' Preference

1. When filling classified position vacancies, preference will be given to qualified veterans or veterans' spouses in the manner prescribed in this policy, unless the position is exempted.
  - a. Classified positions exempt from veterans' preference requirement:
    - (1) Chief Deputy Supreme Court Clerk; and
    - (2) Administrative Assistant who serves as a private assistant to a judge or justice.
  - b. Promotions, transfers, or reclassifications are exempt from veterans' preference. If the position has been opened to external applicants, current employees are entitled to the same preference as non-employees.
2. Veteran means a person who is currently serving in the military or who was discharged or released from the military for other than dishonorable conditions.
3. Disabled Veteran means a veteran who is found to be entitled to a service-connected disability rating as determined by the United States veterans' administration.
4. Veteran's Spouse means the un-remarried spouse of a veteran who died while in service, or later died from a service-connected cause; or the spouse of a veteran who has a one hundred percent service-connected disability as determined by the department of veterans' affairs, or who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs and due to the disability is unable to exercise the disabled veteran's right to preference.

#### E. Veterans' Preference Appeals

1. Any candidate applying for veterans' preference may appeal a determination made by the Human Resource Director or the appointing authority or designee.

2. The Human Resource Director will notify candidates applying for veterans' preference of a determination by certified mail for through the applicant tracking system that the candidate did not qualify for veterans' preference.
3. The veteran may appeal the decision in writing by certified mail or email to the State Court Administrator within 15 calendar days of when the notice was mailed or emailed through the applicant tracking system. If the State Court Administrator is the appointing authority the Chief Justice will designate the person to receive the appeal.

Approved by the Supreme Court 4/1/12; amended 3/6/13; amended 9/27/17; amended 10/2/19 effective 10/1/19; amended 8/26/20; amended 8/4/21

# Attachment E

## **TEMPLATE CONTRACT**

*Department/Office* (STATE), and *Name of Business, and type of business* having its principal place of business at *principal business address* (CONTRACTOR);

### **SCOPE OF WORK**

CONTRACTOR, in exchange for the compensation paid by STATE under this Contract, shall provide the following:

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### **COMPENSATION**

#### **Contractual Amount**

STATE shall pay for the accepted services provided by CONTRACTOR under this Contract an amount not to exceed *<amount>* (Contractual Amount).

The Contractual Amount is firm for the duration of this Contract and constitutes the entire compensation due CONTRACTOR for performance of its obligations under this Contract regardless of the difficulty, materials or equipment required, including fees, licenses, overhead, profit and all other direct and indirect costs incurred by CONTRACTOR, except as provided by an amendment to this Contract.

#### **Payment**

- 1) Payment made in accordance with this Compensation section shall constitute payment in full for the services and work performed and the deliverables and work(s) provided under this Contract and CONTRACTOR shall not receive any additional compensation hereunder.
- 2) STATE shall make payment under this Contract within forty-five (45) calendar days after receipt of a correct invoice.
- 3) Payment of an invoice by STATE will not prejudice STATE's right to object to or question that or any other invoice or matter in relation thereto. CONTRACTOR's invoice will be subject to reduction for amounts included in any invoice or payment made which are determined by STATE, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute allowable costs. At STATE's sole discretion, all payments shall be subject to reduction for amounts equal to prior overpayments to CONTRACTOR.
- 4) For any amounts that are or will become due and payable to STATE by CONTRACTOR, STATE reserves the right to deduct the amount owed from payments that are or will become due and payable to CONTRACTOR under this Contract.

**Travel**

CONTRACTOR acknowledges travel costs are covered by the Contractual Amount and shall not invoice STATE for travel costs.

*OR*

STATE shall reimburse CONTRACTOR for expenses related to travel at amounts not to exceed those outlined below:

1) **Lodging:** Reimbursement shall not exceed the then-current, published GSA rate for the travel location. Copies of receipts are required for lodging reimbursement. STATE shall not reimburse for incidental and miscellaneous expenses charged to the room, including, alcohol, telephone charges, or entertainment (e.g., movies).

2) **Transportation:** Air travel shall be reimbursed by STATE at the actual cost of air fare for coach class travel only. CONTRACTOR shall make air travel arrangements at least fourteen (14) days in advance whenever possible. Reimbursement for rented, chartered, or contracted vehicle transportation shall be limited to reasonable rates as determined by STATE.

3) **Meals:** Meals shall be paid on a per diem basis for each day of travel at then-current, published GSA per diem rate for the travel location. Per diem for the first and last day of travel shall be paid at seventy-five percent (75%) of the GSA per diem rate. Requests for per diem payments must include the start and end dates of travel, the location where the services are performed, and the allowable per diem amount for each trip on the billing/invoice.

Payment for any travel expenses that exceed the travel budget as agreed upon by the parties must be approved by STATE.

**Prepayment**

STATE will not make any advance payments before performance by CONTRACTOR under this Contract.

**Payment of Taxes by STATE**

STATE is not responsible for and will not pay local, state, or federal taxes. STATE sales tax exemption number is E-2001. STATE will furnish certificates of exemption upon request by the CONTRACTOR.

**Taxpayer ID**

CONTRACTOR'S federal employer ID number is: \_\_\_\_\_.

**Purchasing Card**

STATE may make a payment using a government credit card. CONTRACTOR will

accept a government credit card without passing the processing fees for the government credit card back to STATE.

#### **TERM OF CONTRACT**

This Contract begins on *[Month, Day], 20[Year] or its Effective Date*, and ends on *[Month, Day], 20[Year]*.

#### **No Automatic Renewal**

This Contract will not automatically renew.

#### **Extension Option**

STATE reserves the right to extend this Contract for an additional period of time, not to exceed \_\_\_\_\_ months, beyond the current termination date of this Contract.

#### **Renewal Option**

STATE may renew this Contract upon satisfactory completion of the initial Contract term. STATE reserves the right to execute up to \_\_\_\_\_ options to renew this Contract under the same terms and conditions for a period of \_\_\_\_\_ months each.

#### **Renegotiation Option**

In view of the fact that it is unknown how long the products and services will be employed by STATE and that STATE will require ongoing maintenance and support of the products for as long as the system is operational, therefore after completion of the initial term of this Contract including any extensions and renewals, STATE and CONTRACTOR may renegotiate this Contract upon mutual agreement of the parties.

#### **TIME IS OF THE ESSENCE**

CONTRACTOR hereby acknowledges that time is of the essence for performance under this Contract unless otherwise agreed to in writing by the parties.

#### **TERMINATION**

##### **Termination by Mutual Agreement**

This Contract may be terminated by mutual consent of both parties executed in writing.

##### **Early Termination in the Public Interest**

STATE is entering into this Contract for the purpose of carrying out the public policy of the State of North Dakota, as determined by its Governor, Legislative Assembly and Courts. If this Contract ceases to further the public policy of the State of North Dakota, STATE, in its sole discretion, by written notice to CONTRACTOR, may terminate this Contract in whole or in part.

##### **Termination for Lack of Funding or Authority**

STATE by written notice to CONTRACTOR, may terminate the whole or any part of this Contract under any of the following conditions:

- 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.
- 3) If any license, permit, or certificate required by law or rule, or by the terms of this Contract, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Contract under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

**Termination for Cause.**

STATE may terminate this Contract effective upon delivery of written notice to CONTRACTOR, or any later date stated in the notice:

- 1) If CONTRACTOR fails to provide services required by this Contract within the time specified or any extension agreed to by STATE; or
- 2) If CONTRACTOR fails to perform any of the other provisions of this Contract, or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms.

The rights and remedies of STATE provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

**FORCE MAJEURE**

Neither party shall be held responsible for delay or default caused by fire, riot, terrorism, acts of God or war if the event is beyond the party's reasonable control and the affected party gives notice to the other party promptly upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default.

**INDEMNITY**

Please see *Risk Management Manual on the North Dakota Office of Management and Budget* website: <https://www.omb.nd.gov/doing-business-state/risk-services>

**INSURANCE**

Please see *Risk Management Manual on the North Dakota Office of Management and Budget* website: <https://www.omb.nd.gov/doing-business-state/risk-services>

**WORKS FOR HIRE**

CONTRACTOR acknowledges that all work(s) under this Contract is "work(s) for hire" within the meaning of the United States Copyright Act (Title 17 United States Code) and hereby assigns to STATE all rights and interests CONTRACTOR may have in the work(s) it prepares under this Contract, including any right to derivative use of the work(s). All software and related materials developed by CONTRACTOR in

performance of this Contract for STATE shall be the sole property of STATE, and CONTRACTOR hereby assigns and transfers all its right, title, and interest therein to STATE. CONTRACTOR shall execute all necessary documents to enable STATE to protect STATE's intellectual property rights under this section.

### **WORK PRODUCT**

All work product, equipment or materials created for STATE or purchased by STATE under this Contract belong to STATE and must be immediately delivered to STATE at STATE'S request upon termination of this Contract.

### **NOTICE**

All notices or other communications required under this Contract must be given by registered or certified mail and are complete on the date postmarked when addressed to the parties at the following addresses:

### **STATE CONTRACTOR**

Name Name

Title Title

Address Address

City, State, Zip City, State, Zip

Notice provided under this provision does not meet the notice requirements for monetary claims against the State found at N.D.C.C. § 32-12.2-04.

### **CONFIDENTIALITY**

CONTRACTOR shall not use or disclose any information it receives from STATE under this Contract that STATE has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Contract or as authorized in advance by STATE. STATE shall not disclose any information it receives from CONTRACTOR that CONTRACTOR has previously identified as confidential and that STATE determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota public records law, N.D.C.C. ch. 44-04. The duty of STATE and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this Contract.

### **COMPLIANCE WITH PUBLIC RECORDS LAWS**

CONTRACTOR understands that, in accordance with this Contract's Confidentiality clause, STATE must disclose to the public upon request any records it receives from CONTRACTOR. CONTRACTOR further understands that any records obtained or generated by CONTRACTOR under this Contract, except for records that are confidential under this Contract, may, under certain circumstances, be open to the public upon request under the North Dakota public records law. CONTRACTOR agrees to contact STATE promptly upon receiving a request for information under the public records law and to comply with STATE's instructions on how to respond to the request.



**INDEPENDENT ENTITY**

CONTRACTOR is an independent entity under this Contract and is not a STATE employee for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workforce Safety and Insurance Act. CONTRACTOR retains sole and absolute discretion in the manner and means of carrying out CONTRACTOR'S activities and responsibilities under this Contract, except to the extent specified in this Contract.

**ASSIGNMENT AND SUBCONTRACTS**

CONTRACTOR may not assign or otherwise transfer or delegate any right or duty without STATE'S express written consent. However, CONTRACTOR may enter into subcontracts provided that any subcontract acknowledges the binding nature of this Contract and incorporates this Contract, including any attachments. CONTRACTOR is solely responsible for the performance of any subcontractor with whom CONTRACTOR contracts. CONTRACTOR does not have authority to contract for or incur obligations on behalf of STATE.

**SPOLIATION – PRESERVATION OF EVIDENCE**

CONTRACTOR shall promptly notify STATE of all potential claims that arise or result from this Contract. CONTRACTOR shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to STATE the opportunity to review and inspect the evidence, including the scene of an accident.

**MERGER AND MODIFICATION, CONFLICT IN DOCUMENTS**

This Contract, including the following documents, constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties.

Notwithstanding anything herein to the contrary, in the event of any inconsistency or conflict among the documents making up this Contract, the documents must control in this order of precedence:

- a. The terms of this Contract as may be amended;
- b. STATE's Solicitation Amendment #1 to Request for Proposal ("RFP") number \_\_\_\_\_ dated \_\_\_\_\_;
- c. STATE's Request for Proposal ("RFP") number \_\_\_\_\_, dated \_\_\_\_\_;
- d. CONTRACTOR's proposal dated \_\_\_\_\_ in response to RFP number \_\_\_\_\_.
- e. All automated end-user agreements (e.g., click-throughs, shrink wrap, or browse wrap) are specifically excluded and null and void. Clicking shall not represent acknowledgement or agreement to any terms or conditions contained in those agreements.

### **SEVERABILITY**

If any term of this Contract is declared to be illegal or unenforceable by a court having competent jurisdiction, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the parties are to be construed and enforced as if this Contract did not contain that term.

### **APPLICABLE LAW AND VENUE**

This Contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this Contract must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

### **ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL**

STATE does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the right to enforce their rights and remedies in judicial proceedings. STATE does not waive any right to a jury trial.

### **ATTORNEY FEES**

In the event a lawsuit is instituted by STATE to obtain performance due under this Contract, and STATE is the prevailing party, CONTRACTOR shall, except when prohibited by N.D.C.C. § 28-26-04, pay STATE's reasonable attorney fees and costs in connection with the lawsuit.

### **NONDISCRIMINATION AND COMPLIANCE WITH LAWS**

CONTRACTOR agrees to comply with all laws, rules, and policies, including those relating to nondiscrimination, accessibility and civil rights. CONTRACTOR agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes, unemployment compensation and workers' compensation premiums. CONTRACTOR shall have and keep current at all times during the term of this Contract all licenses and permits required by law.

### **STATE AUDIT**

All records, regardless of physical form, and the accounting practices and procedures of CONTRACTOR relevant to this Contract are subject to examination by the North Dakota State Auditor, the Auditor's designee, or Federal auditors, if required. CONTRACTOR shall maintain all of these records for at least three (3) years following completion of this Contract and be able to provide them at any reasonable time. STATE, State Auditor, or Auditor's designee shall provide reasonable notice to CONTRACTOR prior to conducting examination.

### **EFFECTIVENESS OF CONTRACT**

This Contract is not effective until fully executed by both parties. If no start date is specified in the Term of Contract, the most recent date of the signatures of the parties shall be deemed the Effective Date.