INVITATION TO BID NUMBER: 2014-0200-2197

RETURN THIS BID TO THE ISSUING OFFICE AT:



Department of Administration Division of Administrative Services 550 W. 7th Avenue, Suite 1600 Anchorage, AK 99501

THIS IS NOT AN ORDER

DATE ITB ISSUED:

September 26, 2013

ITB TITLE: OFF-SITE DISASTER REVOCERY DATA STORAGE

SEALED BIDS MUST BE SUBMITTED TO THE DIVISION OF ADMINISTRATION SERVICES OFFICE FROM WHICH THEY WERE ISSUED AND MUST BE TIME AND DATE STAMPED BY THE PURCHASING SECTION PRIOR TO 1:30 PM ON OCTOBER 21, 2013 AT WHICH TIME THEY WILL BE PUBLICLY OPENED.

DELIVERY LOCATION: Anchorage, Alaska

DELIVERY DATE: See ITB Body

F.O.B. POINT: FINAL DESTINATION

IMPORTANT NOTICE: If you received this solicitation from the State's "Online Public Notice" web site, you must register with the Contracting Officer listed on this document to receive subsequent amendments. Failure to contact the Contracting Officer may result in the rejection of your offer.

BIDDER'S NOTICE: By signature on this form, the bidder certifies that:

- (1) the bidder has a valid Alaska business license, submits a bid under the name as appearing on the person's current Alaska business license and has written the license number below or has submitted one of the following forms of evidence of an Alaska business license with the bid:
 - a canceled check for the business license fee;
 - a copy of the business license application with a receipt date stamp from the State's business license office;
 - a receipt from the State's business license office for the license fee;
 - a copy of the bidder's valid business license;
 - a sworn notarized affidavit that the bidder has applied and paid for a business license;
- (2) the price(s) submitted was arrived at independently and without collusion and that the bidder is complying with:
 - the laws of the State of Alaska;
 - the applicable portion of the Federal Civil Rights Act of 1964;
 - · the Equal Employment Opportunity Act and the regulations issued thereunder by the State and Federal Government; and
 - all terms and conditions set out in this Invitation to Bid (ITB).

If a bidder fails to comply with (1) at the time designated in the ITB for opening the State will reject the bid. If a bidder fails to comply with (2) of this paragraph, the State may reject the bid, terminate the contract, or consider the contractor in default.

Bids must be submitted under the name as appearing on the person's current Alaska business license in order to be considered responsive.

Frank Berlen Procurement Specialist III	COMPANY SUBMITTING BID	DOES YOUR BUSINESS QUALIFY FOR THE ALASKA BIDDER PREFERENCE? [] YES [] NO
TELEPHONE NUMBER 907-269-5785	AUTHORIZED SIGNATURE	SEE ITB FOR EXPLANATION OF CRITERIA TO QUALIFY.
707 207 3703	PRINTED NAME	
	DATE	FEDERAL TAX ID NUMBER
ALASKA BUSINESS LICENSE NUMBER YOU MUST HAVE AN AK BUSINESS LICENSE TO SUBMIT A BID.	DOES YOUR BUSINESS QUALIFY FOR THE ALASKA VETERAN PREFERENCE? [] YES [] NO	TELEPHONE NUMBER

INSTRUCTIONS TO BIDDERS:

- 1. INVITATION TO BID (ITB) REVIEW: Bidders shall carefully review this ITB for defects and questionable or objectionable material. Bidders' comments concerning defects and questionable or objectionable material in the ITB must be made in writing and received by the purchasing authority at least ten (10) days before the bid opening date. This will allow time for an amendment to be issued if one is required. It will also help prevent the opening of a defective bid, upon which award cannot be made, and the resultant exposure of bidders' prices. Bidders' original comments should be sent to the purchasing authority listed on the front of this ITB.
- 2. BID FORMS: Bidders shall use this and attached forms in submitting bids. A photocopied bid may be submitted.
- 3. SUBMITTING BIDS: Envelopes containing bids must be sealed, marked, and addressed as shown in the example below. Do not put the ITB number and opening date on the envelope of a request for bid information. Envelopes with ITB numbers annotated on the outside will not be opened until the scheduled date and time.

Bidder's Return Address

Department of Administration Division of Administration Services 550 W. 7th Avenue, Suite 1600 Anchorage, AK 99501

ITB No.: 2014-0200-2179

Opening Date:October 21, 2013, at 1:30 PM

- 4. PRICES: The bidder shall state prices in the units of issue on this ITB. Prices quoted for commodities must be in U.S. funds and include applicable federal duty, brokerage fees, packaging, and transportation cost to the FOB point so that upon transfer of title the commodity can be utilized without further cost. Prices quoted for services must be quoted in U.S. funds and include applicable federal duty, brokerage fee, packaging, and transportation cost so that the services can be provided without further cost. Prices quoted in bids must be exclusive of federal, state, and local taxes. If the bidder believes that certain taxes are payable by the State, the bidder may list such taxes separately, directly below the bid price for the affected item. The State is exempt from Federal Excise Tax except the following:
 - Coal Internal Revenue Code of 1986 (IRC), Section 4121 on the purchase of coal;
 - "Gas Guzzler" IRC, Section 4064 on the purchase of low m.p.g. automobiles, except that police and other emergency type vehicles are not subject to the tax;
 - Air Cargo IRC, Section 4271 on the purchase of property transportation services by air;
 - Air Passenger IRC, Section 4261 on the purchase of passenger transportation services by air carriers.
 - Leaking Underground Storage Tank Trust Fund Tax (LUST) IRC, Section 4081 on the purchase of Aviation gasoline, Diesel Fuel, Gasoline, and Kerosene.
- 5. VENDOR TAX ID NUMBER: If goods or services procured through this ITB are of a type that is required to be included on a Miscellaneous Tax Statement, as described in the Internal Revenue Code, a valid tax identification number must be provided to the State of Alaska before payment will be made.
- **6. FILING A PROTEST**: A bidder may protest the award of a contract or the proposed award of a contract for supplies, services, or professional services. The protest must be filed in writing and include the following information: (1) the name, address, and telephone number of the protester; (2) the signature of the protester or the protester's representative; (3) identification of the contracting agency and the solicitation or contract at issue; (4) a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents; and (5) the form of relief requested. Protests will be treated in accordance with Alaska Statutes (AS)36.30.560-36.30.610.

CONDITIONS:

- 1. AUTHORITY: This ITB is written in accordance with AS 36.30 and 2 AAC 12.
- 2. COMPLIANCE: In the performance of a contract that results from this ITB, the contractor must comply with all applicable federal, state, and borough regulations, codes, and laws; and be liable for all required insurance, licenses, permits and bonds; and pay all applicable federal, state, and borough taxes.
- 3. SUITABLE MATERIALS, ETC.: Unless otherwise specified, all materials, supplies or equipment offered by a bidder shall be new, unused, and of the latest edition, version, model or crop and of recent manufacture.
- 4. SPECIFICATIONS: Unless otherwise specified in the ITB, product brand names or model numbers specified in this ITB are examples of the type and quality of product required, and are not statements of preference. If the specifications describing an item conflict with a brand name or model number describing the item, the specifications govern. Reference to brand name or number does not preclude an offer of a comparable or better product, if full specifications and descriptive literature are provided for the product. Failure to provide such specifications and descriptive literature may be cause for rejection of the offer.
- 5. FIRM OFFER: For the purpose of award, offers made in accordance with this ITB must be good and firm for a period of ninety (90) days from the date of bid opening.
- **6. EXTENSION OF PRICES**: In case of error in the extension of prices in the bid, the unit prices will govern; in a lot bid, the lot prices will govern.
- 7. BID PREPARATION COSTS: The State is not liable for any costs incurred by the bidder in bid preparation.
- 8. CONSOLIDATION OF AWARDS: Due to high administrative costs associated with processing of purchase orders, a single low bid of \$50 or less may, at the discretion of the State, be awarded to the next low bidder receiving other awards for consolidation purposes. This paragraph is not subject to the protest terms enumerated in "INSTRUCTION TO BIDDERS", "FILING A PROTEST" above.
- 9. CONTRACT FUNDING: Bidders are advised that funds are available for the initial purchase and/or the first term of the contract. Payment and performance obligations for succeeding purchases and/or additional terms of the contract are subject to the availability and appropriation of funds.
- 10. CONFLICT OF INTEREST: An officer or employee of the State of Alaska may not seek to acquire, be a party to, or possess a financial interest in, this contract if (1) the officer or employee is an employee of the administrative unit that supervises the award of this contract; or (2) the officer or employee has the power to take or withhold official action so as to affect the award or execution of the contract.
- 11. ASSIGNMENT(S): Assignment of rights, duties, or payments under a contract resulting from this ITB is not permitted unless authorized in writing by the State of Alaska, Department of Administration, Division of General Services. Bids that are conditioned upon the State's approval of an assignment will be rejected as nonresponsive.
- 12. SUBCONTRACTOR(S): Within five (5) working days of notice from the state, the apparent low bidder must submit a list of the subcontractors that will be used in the performance of the contract. The list must include the name of each subcontractor and the location of the place of business for each subcontractor and evidence of each subcontractor's valid Alaska business license.
- 13. FORCE MAJEURE: (Impossibility to perform) The contractor is not liable for the consequences of any failure to perform, or default in performing, any of its obligations under this Agreement, if that failure or default is caused by any unforeseeable Force Majeure, beyond the control of, and without the fault or negligence of, the contractor. For the purposes of this Agreement, Force Majeure will mean war (whether declared or not); revolution; invasion; insurrection; riot; civil commotion; sabotage; military or usurped power; lightning; explosion; fire; storm; drought; flood; earthquake; epidemic; quarantine; strikes; acts or restraints of governmental authorities affecting the project or directly or indirectly prohibiting or restricting the furnishing or use of materials or labor required; inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities.
- 14. LATE BIDS: Late bids are bids received after the time and date set for receipt of the bids. Late bids will not be accepted.
- 15. CONTRACT EXTENSION: Unless otherwise provided in this ITB, the State and the successful bidder/contractor agree: (1) that any holding over of the contract excluding any exercised renewal options, will be considered as a month-to-month extension, and all other terms and conditions shall remain in full force and effect and (2) to provide written notice to the other party of the intent to cancel such month-to-month extension at least thirty (30) days before the desired date of cancellation.
- **16. DEFAULT**: In case of default by the contractor, for any reason whatsoever, the State of Alaska may procure the goods or services from another source and hold the contractor responsible for any resulting excess cost and may seek other remedies under law or equity.

- **17. DISPUTES**: Any dispute arising out of this agreement shall be resolved under the laws of Alaska. Any appeal of an administrative order or any original action to enforce any provision of this agreement or to obtain any relief from or remedy in connection with this agreement may be brought only in the superior court for the State of Alaska.
- 18. CONSUMER ELECTRICAL PRODUCT: AS 45.45.910 requires that "...a person may not sell, offer to sell, or otherwise transfer in the course of the person's business a consumer electrical product that is manufactured after August 14, 1990, unless the product is clearly marked as being listed by an approved third party certification program." Electrical consumer products manufactured before August 14, 1990, must either be clearly marked as being third party certified or be marked with a warning label that complies with AS 45.45.910(e). Even exempted electrical products must be marked with the warning label. By signature on this bid the bidder certifies that the product offered is in compliance with the law. A list of approved third party certifiers, warning labels and additional information is available from: Department of Labor and Workforce Development, Labor Standards & Safety Division, Mechanical Inspection Section, P.O. Box 107020, Anchorage, Alaska 99510-7020, (907)269-4925.
- 19. SEVERABILITY: If any provision of the contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and, the rights and obligations of the parties will be construed and enforced as if the contract did not contain the particular provision held to be invalid.

SPECIAL CONDITIONS:

- 1. ORDER DOCUMENTS: Except as specifically allowed under this ITB, an ordering agency will not sign any vendor contract. The State is not bound by a vendor contract signed by a person who is not specifically authorized to sign for the State under this ITB. The State of Alaska Purchase Order, Contract Award and Delivery Order are the only order documents that may be used to place orders against the contract(s) resulting from this ITB.
- 2. **BILLING INSTRUCTIONS**: Invoices must be billed to the ordering agency's address shown on the individual Purchase Order, Contract Award or Delivery Order, not to the Division of General Services. The ordering agency will make payment after it receives the merchandise or service and the invoice. Questions concerning payment must be addressed to the ordering agency.
- CONTINUING OBLIGATION OF CONTRACTOR: Notwithstanding the expiration date of a contract resulting from this
 ITB, the contractor is obligated to fulfill its responsibilities until warranty, guarantee, maintenance and parts availability
 requirements have completely expired.

PREFERENCES:

- 1. ALASKA BIDDER PREFERENCE: Award will be made to the lowest responsive and responsible bidder after an Alaska bidder preference of five percent (5%) has been applied. The preference will be given to a person who: (1) holds a current Alaska business license; (2) submits a bid for goods or services under the name on the Alaska business license; (3) has maintained a place of business within the state staffed by the bidder, or an employee of the bidder, for a period of six months immediately preceding the date of the bid; (4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the state, is a limited liability company organized under AS 10.50 and all members are residents of the state, or is a partnership under AS 32.06 or AS 32.11 and all partners are residents of the state; and, (5) if a joint venture, is composed entirely of venturers that qualify under (1) (4) of this subsection. AS 36.30.170(b).
- 2. ALASKA VETERAN PREFERENCE: If a bidder qualifies for the Alaska bidder preference, under AS 36.30.170(b), and is a qualifying entity as defined in AS 36.30.175, they will be awarded an Alaska veteran preference of five percent (5%). The preference will be given to a (1) sole proprietorship owned by an Alaska veteran; (2) partnership under AS 32.06 or AS 32.11 if a majority of the partners are Alaska veterans; (3) limited liability company organized under AS 10.50 if a majority of the members are Alaska veterans; or (4) corporation that is wholly owned by individuals and a majority of the individuals are Alaska veterans.
- 3. USE OF LOCAL FOREST PRODUCTS: In a project financed by state money in which the use of timber, lumber and manufactured lumber is required, only timber, lumber and manufactured lumber products originating in this state shall be used unless the use of those products has been determined to be impractical, in accordance with AS 36.15.010.
- **4. LOCAL AGRICULTURAL AND FISHERIES PRODUCTS PREFERENCE**: When agricultural, dairy, timber, lumber, or fisheries products are purchased using state money, only those products harvested in Alaska, or in the case of fisheries products harvested or processed within the jurisdiction of Alaska, will be purchased, provided they are available, of comparable quality, and priced no more than seven percent (7%) higher than products harvested outside the state, or in the case of fisheries products harvested or processed outside the jurisdiction of the state, in accordance with AS 36.15.050.
- **5. ALASKA PRODUCT PREFERENCE**: A bidder that designates the use of an Alaska Product which meets the requirements of the ITB specification and is designated as a Class I, Class II or Class III Alaska Product by the Department of Community & Economic Development shall receive a preference in the bid evaluation in accordance with AS 36.30.332 and 3 AAC 92.010.
- **6. EMPLOYMENT PROGRAM PREFERENCE**: If a bidder qualifies for the Alaska bidder preference, under AS 36.30.170(b), and is offering goods or services through an employment program, as defined under 36.30.990(10), and is the lowest responsive and responsible bidder with a bid that is no more than fifteen percent (15%) higher than the lowest bid, the procurement officer will make the award to that bidder, in accordance with AS 36.30.170(c) and 2 AAC 12.050.
- **7. ALASKANS WITH DISABILITIES PREFERENCE**: If a bidder qualifies for the Alaska bidder preference, under AS 36.30.170(b), is a qualifying entity as defined in AS 36.30.170(e) and (j), and is the lowest responsive and responsible bidder with a bid that is no more than ten percent (10%) higher than the lowest bid, the procurement officer will make the award to that bidder, in accordance with AS 36.30.170(e).
- **8. EMPLOYERS OF PEOPLE WITH DISABILITIES PREFERENCE**: If a bidder qualifies for the Alaska bidder preference, under AS 36.30.170(b), and, at the time the bid is submitted, employs a staff that is made up of fifty percent (50%) or more people with disabilities, as defined in AS 36.30.170(j),

and submits a responsive and responsible bid that is no more than ten percent (10%) higher than the lowest responsive and responsible bid, the procurement officer will make the award to that bidder, in accordance with AS 36.30.170(f).

9. PREFERENCE QUALIFICATION LETTER: Regarding preferences 5, 6, and 7 above, the Division of Vocational Rehabilitation in the Department of Labor and Workforce Development maintains lists of Alaskan; [1] employment programs that qualify for preference, [2] individuals who qualify for preference as Alaskan's with disabilities, and, [3] employers who qualify for preference as employers of people with disabilities. In accordance with AS 36.30.170(j), in order to qualify for one of these preferences, a bidder must add value by actually performing, controlling, managing, and supervising the services provided, or for supplies, a bidder must have sold supplies of the general nature solicited to other state agencies, governments, or the general public.

As evidence of an individual's or a business' right to a certain preference, the Division of Vocational Rehabilitation will issue a certification letter. To take advantage of the preferences 5, 6, or 7 above, an individual or business must be on the appropriate Division of Vocational Rehabilitation list, at the time the bid is opened, and must provide the procurement officer a copy of their certification letter. Bidders must attach a copy of their certification letter to their bid. The bidder's failure to provide the certification letter mentioned above, with their bid, will cause the State to disallow the preference.

ALASKA BUSINESS LICENSE AND OTHER REQUIRED LICENSES: At the time the bids are opened, all bidders must hold a valid Alaska business license and any necessary applicable professional licenses required by Alaska Statute. Bids must be submitted under the name as appearing on the person's current Alaska business license in order to be considered responsive. Bidders should contact the Department of Commerce, Community and Economic Development, Division of Corporations, Business, and Professional Licensing, P. O. Box 110806, Juneau, Alaska 99811-0806, for information on these licenses.

Bidders must submit evidence of a valid Alaska business license with the bid. A bidder's failure to submit this evidence with the bid will cause their bid to be determined non-responsive. Acceptable evidence that the bidder possesses a valid Alaska business license may consist of any one of the following:

- (a) copy of an Alaska business license;
- (b) certification on the bid that the offeror has a valid Alaska business license and has included the license number in the proposal (see front page);
- (c) a canceled check for the Alaska business license fee;
- (d) a copy of the Alaska business license application with a receipt stamp from the state's occupational licensing office; or
- (e) a sworn and notarized affidavit that the offeror has applied and paid for the Alaska business license.

(Note: Out-of-state business may have difficulty obtaining a business license online, and may find it easier to contact the Division of Corporations, Business, and Professional Licensing directly.)

You are not required to hold a valid Alaska business license at the time bids are opened **if you possess one of the following licenses** and are offering services or supplies under that specific line of business:

- fisheries business licenses issued by Alaska Department of Revenue or Alaska Department of Fish and Game,
- liquor licenses issued by Alaska Department of Revenue for alcohol sales only,
- insurance licenses issued by Alaska Department of Commerce, Community and Economic Development, Division of Insurance, or
- Mining licenses issued by Alaska Department of Revenue.

ALASKA BIDDER PREFERENCE: An Alaska Bidder Preference of five percent will be applied prior to evaluation. The preference will be given to a bidder who:

- (1) holds a current Alaska business license;
- (2) submits a proposal for goods or services under the name on the Alaska business license;
- (3) has maintained a place of business within the state staffed by the offeror, or an employee of the offeror, for a period of six months immediately preceding the date of the proposal;
- (4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the state, is a limited liability company (LLC) organized under AS 10.50 and all members are residents of the state, or is a partnership under AS 32.06 or AS 32.11 and all partners are residents of the state; and
- (5) if a joint venture, is composed entirely of entities that qualify under (1)-(4) of this subsection.

ALASKA BIDDER PREFERENCE AFFIDAVIT:

In order to receive the Alaska Bidder Preference, the bid must include a statement certifying that the bidder is eligible to receive the Alaska Bidder Preference.

If the bidder is a LLC or partnership as identified in (4) of this subsection, the affidavit must also identify each member or partner and include a statement certifying that all members or partners are residents of the state.

If the bidder is a joint venture which includes a LLC or partnership as identified in (4) of this subsection, the affidavit must also identify each member or partner of each LLC or partnership that is included in the joint venture and include a statement certifying that all of those members or partners are residents of the state.

BIDDERS WITH DISABILITIES: The State of Alaska complies with Title II of the Americans with Disabilities Act of 1990. Individuals with disabilities who may need auxiliary aids, services, and/or special modifications to participate in this procurement must contact the Division of Administration Services at one of the following numbers no later than 10 days to make any necessary arrangements.

Email: frank.berlen@alaska.gov

COMPLIANCE WITH ADA: By signature of their bid the bidder certifies that they comply with the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the federal government.

Services or activities furnished to the general public on behalf of the state must be fully accessible. This is intended to ensure that agencies are in accordance with 28 CFR Part 35 Section 35.130 and that services, programs or activities furnished to the public through a contract do not subject qualified individuals with a disability to discrimination based on the disability.

PREFERENCE QUALIFICATION: In order to qualify for an Employment Program Preference, an Alaskans with Disabilities Preference or an Employers Of People With Disabilities Preference, a bidder must add value by actually performing, controlling, managing, and supervising the services provided, or a bidder must have sold supplies of the general nature solicited to other state agencies, governments, or the general public.

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CONTRACT PERFORMANCE LOCATION: By signature on their bid, the bidder certifies that all services provided under this contract by the contractor and all subcontractors shall be performed in the United States. If the bidder cannot certify that all work will be performed in the United States, the bidder must contact the procurement officer in writing to request a waiver **at least 10 days prior to the deadline** for receipt of bids. The request must include a detailed description of the portion of work that will be performed outside the United States, where, by whom, and the reason the waiver is necessary.

Failure to comply with these requirements may cause the state to reject the bid as non-responsive, or cancel the contract.

HUMAN TRAFFICKING: By signature on their bid, the bidder certifies that the bidder is not established and headquartered or incorporated and headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: http://www.state.gov/g/tip/

Failure to comply with this requirement will cause the state to reject the bid as non-responsive, or cancel the contract

CONTRACT INTENT: This Invitation to Bid (ITB) is intended to result in a contract for Off-Site Disaster Recovery Tape Storage services for Enterprise Technology Services (ETS). The contract will include door-to-door pickup, shipping and delivery of the tape cartridge containers in an organized rotation between ETS and the vendor's secure storage facility. Contractors must be available seven (7) days per week, 24 hours per day in order to respond immediately upon disaster declaration by the State. The initial term will be one year, date of award through October 31, 2014 with the option to renew for two additional one year terms under the same terms and conditions as the original contract. The minimum requirements are provided in the "Specifications" sections of this ITB. Bidders may exceed one or more specification(s) in their bid response but <u>must meet all the minimum mandatory</u> requirements as specified, in order to be subject to award.

NOTICE OF INTENT TO AWARD: After the responses to this ITB have been opened and evaluated, a tabulation of the bids will be prepared. This tabulation, called a Notice of Intent to Award, serves two purposes. It lists the name of each company or person that offered a bid and the price they bid. It also provides notice of the state's intent to award a contract(s) to the bidder(s) indicated. A copy of the Notice of Intent will be mailed to each company or person who responded to the ITB. Bidders identified as the apparent low responsive bidders are instructed not to proceed until a Purchase Order, Contract Award, Lease, or some other form of written notice is given by the contracting officer. A company or person who proceeds prior to receiving a Purchase Order, Contract Award, Lease, or some other form of written notice from the contracting officer does so without a contract and at their own risk.

PAYMENT FOR STATE PURCHASES: Payment for agreements under \$500,000 for the undisputed purchase of goods or services provided to a state agency, will be made within 30 days of the receipt of a proper billing or the delivery of the goods or services to the location(s) specified in the agreement, whichever is later. A late payment is subject to 1.5% interest per month on the unpaid balance. Interest will not be paid if there is a dispute or if there is an agreement that establishes a lower interest rate or precludes the charging of interest.

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FEDERAL EXCISE TAX: The State of Alaska is exempt from Federal Excise Tax except for the following:

- Coal Internal Revenue Code of 1986 (IRC), Section 4121 on the purchase of coal;
- "Gas Guzzler" IRC, Section 4064 on the purchase of low m.p.g. automobiles, except that police and other emergency type vehicles are not subject to the tax;
- Air Cargo IRC, Section 4271 on the purchase of property transportation services by air;
- Air Passenger IRC, Section 4261 on the purchase of passenger transportation services by air charter.
- Leaking Underground Storage Tank Trust Fund Tax (LUST) IRC, Section 4081 on the purchase of Aviation gasoline, Diesel Fuel, Gasoline, and Kerosene.

The State of Alaska is also exempt from State Motor Fuel Taxes. The appropriate exemption forms will accompany a contract(s) resulting from this ITB. The state is <u>not</u> exempt from the Federal Superfund Tax.

CONTRACT ADMINISTRATION: The administration of this contract is the responsibility of Frank Berlen, Procurement Specialist, Department of Administration.

INDEMNIFICATION: The contractor shall indemnify, hold harmless, and defend the contracting agency from and against any claim of, or liability for error, omission or negligent act of the contractor under this agreement. The contractor shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the contracting agency. If there is a claim of, or liability for, the joint negligent error or omission of the contractor and the independent negligence of the Contracting agency, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "Contractor" and "Contracting agency", as used within this and the following article, include the employees, agents and other contractors who are directly responsible, respectively, to each. The term "independent negligence" is negligence other than in the Contracting agency's selection, administration, monitoring, or controlling of the contractor and in approving or accepting the contractor's work.

INSURANCE: Without limiting contractor's indemnification, it is agreed that contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the contractor's policy contains higher limits, the state shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the contracting officer prior to beginning work and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for termination of the contractor's services. All insurance policies shall comply with, and be issued by insurers licensed to transact the business of insurance under AS 21.

Proof of insurance is required for the following:

<u>Workers' Compensation Insurance</u>: The contractor shall provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, and; where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements. The policy must waive subrogation against the state.

<u>Commercial General Liability Insurance</u>: covering all business premises and operations used by the contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per occurrence.

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<u>Commercial Automobile Liability Insurance</u>: covering all vehicles used by the contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per occurrence.

Failure to supply satisfactory proof of insurance within the time required will cause the state to declare the bidder non-responsible and to reject the bid.

SUPPORTING INFORMATION: The state strongly desires that bidders submit all required technical, specification, and other supporting information with their bid, so that a detailed analysis and determination can be made by the contracting officer that the product offered meets the ITB specifications and that other requirements of the ITB have been met. However, provided a bid meets the requirements for a definite, firm, unqualified, and unconditional offer, the state reserves the right to request supplemental information from the bidder, after the bids have been opened, to ensure that the products offered completely meet the ITB requirements. The requirement for such supplemental information will be at the reasonable discretion of the state.

A bidder's failure to provide this supplemental information within the time set by the state, will cause the state to consider the offer non-responsive and reject the bid.

FIRM, UNQUALIFIED AND UNCONDITIONAL OFFER: Bidders must provide enough information with their bid to constitute a definite, firm, unqualified and unconditional offer. To be responsive a bid must constitute a definite, firm, unqualified and unconditional offer to meet all of the material terms of the ITB. Material terms are those that could affect the price, quantity, quality, or delivery. Also included as material terms are those which are clearly identified in the ITB and which, for reasons of policy, must be complied with at risk of bid rejection for non-responsiveness.

NONDISCLOSURE AND CONFIDENTIALITY: Contractor agrees that all confidential information shall be used only for purposes of providing the deliverables and performing the services specified herein and shall not disseminate or allow dissemination of confidential information except as provided for in this section. The contractor shall hold as confidential and will use reasonable care (including both facility physical security and electronic security) to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, the confidential information. "Reasonable care" means compliance by the contractor with all applicable federal and state law, including the Social Security Act and HIPAA. The contractor must promptly notify the state in writing if it becomes aware of any storage, disclosure, loss, unauthorized access to or use of the confidential information.

Confidential information, as used herein, means any data, files, software, information or materials (whether prepared by the state or its agents or advisors) in oral, electronic, tangible or intangible form and however stored, compiled or memorialized that is classified confidential as defined by State of Alaska classification and categorization guidelines (i) provided by the state to the contractor or a contractor agent or otherwise made available to the contractor or a contractor agent in connection with this contract, or (ii) acquired, obtained or learned by the contractor or a contractor agent in the performance of this contract. Examples of confidential information include, but are not limited to: technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data (infrastructure, architecture, operating systems, security tools, IP addresses, etc).

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Additional information that the contractor shall hold as confidential during the performance of services under this contract include:

Information stored on Databases, Files or Transaction information housed on or produced by the AS400 Infrastructure in scope of this agreement. Information on the AS400 includes Protected Health Information and Personally Identifiable Information and must be handled in compliance with applicable federal and state statutes and regulations. If confidential information is requested to be disclosed by the contractor pursuant to a request received by a third party and such disclosure of the confidential information is required under applicable state or federal law, regulation, governmental or regulatory authority, the contractor may disclose the confidential information after providing the state with written notice of the requested disclosure (to the extent such notice to the state is permitted by applicable law) and giving the state opportunity to review the request. If the contractor receives no objection from the state, it may release the confidential information within 30 days. Notice of the requested disclosure of confidential information by the contractor must be provided to the state within a reasonable time after the contractor's receipt of notice of the requested disclosure and, upon request of the state, shall seek to obtain legal protection from the release of the confidential information.

The following information shall not be considered confidential information: information previously known to be public information when received from the other party; information freely available to the general public; information which now is or hereafter becomes publicly known by other than a breach of confidentiality hereof; or information which is disclosed by a party pursuant to subpoena or other legal process and which as a result becomes lawfully obtainable by the general public.

CONTRACT PERIOD: The length of the contract will be from **date of award** through October 31, 2014 with the option to renew for two (2) additional one year terms, under the same terms and conditions as the original contract. Renewals to be exercised solely by the State.

CONTRACT PRICES: Contract prices will remain firm through the duration of the contract.

PRICE DECREASES: During the period of the contract all price decreases experienced by the contractor must be passed on to the state. A contractor's failure to strictly and faithfully adhere to this clause, within the time required, will be considered in breach of contract.

ALTERATIONS: The contractor must obtain the written approval from the Contracting Officer prior to making any alterations to the specifications contained in this ITB. The state will not pay for alterations that are not approved in advance and in writing by the contracting officer.

CONTRACT PAYMENT: No payment will be made until the contract is approved by the Commissioner of the Department of Administration or the Commissioner's designee. Under no conditions will the state be liable for the payment of any interest charges associated with the cost of the contract.

The state is not responsible for and will not pay local, state, or federal taxes. All costs associated with the contract must be stated in U.S. currency.

CONTRACT PERSONNEL: Any change of the project team members or subcontractors named in the proposal must be approved, in advance and in writing, by the Project Director. Personnel changes that are not approved by the state may be grounds for the state to terminate the contract.

INSPECTION & MODIFICATION – REIMBURSMENT FOR UNACCEPTABLE DELIVERABLES:

The contractor is responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and approval by the Project Director. The state may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract. The Project Director may instruct the contractor to make corrections or modifications if needed in order to accomplish the contract's intent. The contractor will not unreasonably withhold such changes.

Substantial failure of the contractor to perform the contract may cause the state to terminate the contract. In this event, the state may require the contractor to reimburse monies paid (based on the identified portion of unacceptable work received) and may seek associated damages.

TERMINATION FOR DEFAULT: If the Project Director determines that the contractor has refused to perform the work or has failed to perform the work with such diligence as to ensure its timely and accurate completion, the state may, by providing written notice to the contractor, terminate the contractor's right to proceed with part or all of the remaining work.

This clause does not restrict the state's termination rights under the contract provisions of Appendix A, attached.

INFORMAL DEBRIEFING: When the contract is completed, an informal debriefing may be performed at the discretion of the project director. If performed, the scope of the debriefing will be limited to the work performed by the contractor.

INVOICES: Invoices must be sent directly to the ordering agency's address shown on the individual Contract Award Document. The ordering agency will only make payment after it receives the merchandise or service and the invoice. Questions concerning payment must be addressed to the ordering agency.

SERVICE CONTRACT DEFICIENCIES: The contractor's failure to provide a service required by this contract will be grounds for the state to issue a Service Deficiency Claim (SDC) to the contractor. The SDC will be provided to the contractor in writing. The contractor will advise the state, in writing, of the corrective action being taken. If a deficiency is not corrected within 7.5 working hours from the time it is issued, the state may issue another SDC and procure, from another contractor, the services necessary to correct the problem. The contractor will then be obligated to reimburse the state for the amount required to correct the problem. If a contractor gets more than two substantiated SDCs in a 30-day period or a total of five substantiated SDCs in a 60-day period, it will be grounds for the state to declare the contractor in default.

WORKMANSHIP & MATERIALS: All work must be performed in a thorough and workmanlike manner and in accordance with current industry practices. The contractor will be held responsible for the quality of the service, maintenance and inspections. Service, maintenance and inspections that are improperly done will be done over, by the contractor, at the contractor's risk and expense.

CONTRACT CHANGES – **UNANTICIPATED AMENDMENTS:** During the course of this contract, the contractor may be required to perform special assignment(s) that is within the general scope of this solicitation and contract. When a special assignment is required, such as the increase of bandwidth to a single or multiple location, the Project Director will provide the contractor a written description of the special assignment. The contractor will provide a Statement of Work including the following: Based on the Per Megabyte Pricing Rates submitted in your Bid Schedule; a "not to exceed" price for the special assignment, the deliverables for the special assignment, and a firm timeline for completion of the special assignment with appropriate progress points. Approval of the project director

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is required before work commences on the special assignment. Cost and pricing data must be provided to justify the cost of such amendments per AS 36.30.400.

The contractor will not commence additional work until the project director has secured any required state approvals necessary for the amendment and issued a written contract amendment, approved by the Commissioner of the Department of Administration or the Commissioner's designee.

CONTRACT CANCELLATION: The state reserves the right to cancel the contract at its convenience upon 30 calendar days written notice to the contractor. The state is liable only for payment in accordance with the payment provisions of this contract for services or supplies provided before the effective date of termination.

METHOD OF AWARD: An award will be made to a Bidder, provided they meet the specifications, minimum requirements, terms, and conditions and are deemed the lowest responsive and responsible bidder. A responsive bid is one that meets the criteria set in the ITB and meets or exceeds all requirements listed in the Specifications section.

ETS reserves the right to accept or reject any and all bids or separable portions, and to waive any minor irregularity, technicality, or omission if the Department determines that doing so will serve the State's best interest.

RESPONSIBILITY: The State expects to award a contract to the Bidder whose bid is responsive, responsible and the most advantageous as determined by the State in its sole discretion. In determining responsibility and as allowed in 2 AAC 12.500; the State reserves the right to request supplementary information to assure prospective contractors have a satisfactory record of performance, are qualified legally to contract with the State, and have supplied all necessary information in connection with an inquiry concerning responsibility. Additionally, the State reserves the right to require prospective contractors to demonstrate they have the necessary financing, equipment, facilities, expertise, and personnel.

RESPONSE: In order for the bid to be considered responsive, the Bidder must provide their response to the following that outlines the bidder satisfies or exceeds the requirements.

SPECIFICATIONS

ETS is seeking bids from qualified vendors to provide Off-Site Disaster Recovery Tape Storage Services in the Seattle, Washington area.

ETS's current agreement involves a weekly rotation of two sets of tapes between Juneau, Alaska and Seattle, Washington. The Most Current (MC) tapes, currently stored in three DM 1540 forty tape containers, are shipped from Juneau to the vendor's secure storage facility in Seattle, on Monday morning. Upon receipt of the MC shipment, the vendor then ships the three DM 1540 forty tape containers from Seattle to Juneau. This shipment then becomes known as the Previous Week (PW) tapes.

STORAGE FACILITY: The vendor must provide a secure storage facility that has;

- Restricted access.
- Is environmentally controlled, (e.g. protected from water/flood, fire/heat, temperature extremes, and humidity), and
- Is equipped with a surveillance system of some kind (e.g. video monitoring, security personnel).

The State's intent is to secure a commercial, industry-standard secure storage facility that meets the data protection codes set by National Fire Protection Association (NFPA), Department of Defense (DoD), and National Institute of Standards and Technology (NIST). The vendor must provide a description of and the specifications for, their secured storage facility. The State reserves the right to make an on-site visit of the storage facility at any time. Physical access must have a solution that is auditable (ETS needs to have the ability to review who has access to the space that the media is stored in. This can be in the form of a sign-in/out sheet and or keycard log that can be reproduced on demand.). Site access logs must be retained for a minimum of one (1) year. Video monitoring must be retained for a minimum of thirty (30) days.

PICKUP/DELIVERY REQUIREMENTS: The vendor will contract with an express courier of their choice to provide a "Same-Day Express Service" for pickup and delivery of the tape cartridge container(s). If there is a delay in the shipment(s) arriving same day to the vendor's secure storage facility due to elements of normal day-to-day occurrences/activities (weather, cancellations, etc.) it will be the vendor's sole responsibility to provide a contingency plan for corrective action, at which point a percentage based credit will be applied to the contract for that delay. Credit percentages will be based on the successful Bidder's Bid Schedule pricing provided for [1] "Deliver Cost A." multiplied by 1.5%.

It is anticipated that ETS will utilize one (1) tape cartridge container per shipment for the first year of the contract; however, ETS may increase or decrease the number of containers shipped at any time during the term of the contract. The most likely transition is to increase by one (1) DM 1540 or equivalent container of higher capacity tapes, at which time the "Per Container Pricing" will take effect.

The State reserves the right to increase or decrease the number of cartridge containers per shipment as needed at actual carrier cost, with no additional fees assessed.

A "Pickup and Delivery" means all work necessary to transport all tape containers from ETS's Data Control desk to the vendor's secure storage facility, and vice versa. ETS is located on the 5th floor of the State Office Building, 333 Willoughby Avenue, Juneau, Alaska 99811-0206.

PICKUP FROM JUNEAU ETS DATA CONTROL DESK: Scheduled pickup will be on a weekly basis, every Monday between 7:00 A.M. and 10:00 A.M. This time may be changed at the discretion of the ETS Operations personnel, provided ample notice to the vendor (at least 12hrs advanced notice). The intent is for the shipment to depart Juneau on the earliest possible flight so that the MC information can be received and stored in the vendor's secure storage facility by close of business the same day. Pick up may be required on State and Federal Holidays.

DELIVERY TO JUNEAU INTERNATIONAL AIRPORT: Upon pickup from the Alaska Data Center, the vendor's courier will be required to deliver it directly to Juneau International Airport and ensure that the container gets on the earliest possible flight to Seattle-Tacoma Airport (Sea-Tac).

PICKUP AT SEATTLE-TACOMA AIRPORT: When the flight from Juneau arrives in Seattle, the vendor's courier will be required to immediately pick up the container(s) from Sea-Tac and deliver them directly to the vendor's secure storage facility.

PACKAGE ARRIVAL TO VENDOR'S SECURE STORAGE FACILITY: When the packages arrive to the vendor's secure storage facility, the vendor will be required to immediately place the container(s) in the secured storage area and notify the ETS Operations personnel via phone (907-465-5748) and e-mail once that has been completed. The vendor will be required to maintain a monthly transaction log that will show the travel itinerary for each container(s)/shipment that will include the dates, times, Airbill numbers, and flight numbers of that shipment. The tape cartridge container(s) must be clearly labeled with letters or numbers to facilitate its identification.

RETURN SHIPMENT OF PREVIOUS WEEK'S BACKUP INFORMATION: After delivery of the MC container(s) is inside the vendor's secure storage facility, the vendor will be required to immediately provide the tape cartridge container(s) with the Previous Week's (PW) backup information to the vendor's carrier to be directly shipped/returned back to Sea-Tac for the return flight to the ETS facility in Juneau. The regularly scheduled return flight should leave Sea-Tac on Monday evening, and arrive in Juneau late Monday night, or early Tuesday morning.

LIABILITY OF CONTAINER(S): At no point will it be acceptable for both an MC and PW container(s) to be in transit outside the vendor's secure storage facility. The intent is that the vendor's secure storage facility will have in its possession at least one shipment of container(s) (either MC or PW) at any given time. The PW container(s) can **ONLY BE REMOVED** from the vendor's secure storage facility **AFTER** the MC container(s) are safely inside the vendor's secure storage facility.

WHEN PW CONTAINER(S) ARRIVES IN JUNEAU: When the PW tape cartridge container(s) arrive back to the Juneau International Airport, the vendor's courier will be required to immediately deliver that package(s) to the ETS facility after the container(s) are picked up at Juneau International Airport. If delivery is to be made at a time other than during normal business hours (normal business hours are between 8:00 A.M. and 5:00 P.M. (AT) Monday through Friday) the vendor must inform the ETS Operations personnel by phone (907-465-5748) <u>and</u> email <u>BEFORE DELIVERY</u>. In this event, ETS's Operations personnel will meet the vendor's courier at the door of the SOB building to receive the PW container(s).

FLIGHT MONITORING: The vendor will be required to monitor all shipment flights to ensure that same-day deliveries are made in both the ETS facility in Juneau, and the vendor's secure storage facility in Seattle. In the case of flight delays, cancellations, or failure by the vendor's courier to deliver the container(s) to the appropriate airport in time to make the regularly-scheduled flights, the vendor will be required to immediately inform ETS Operations personnel regarding the vendor's plan to affect delivery. When flights are delayed, it is acceptable for container(s) to remain either on the plane, or in the respective airport's secured, controlled access storage area.

TAPES IN TRANSIT: The vendor will be solely responsible for all tapes and container(s) in transit. Any damaged, destroyed or lost tapes/container(s) will be replaced at the vendor's expense. Any shipping fee(s) or delivery cost(s) associated to a "lost" or "damaged" tape/container(s) will be reimbursed to ETS.

TAPE CARTRIDGE CONTAINER(S): As mentioned previously, ETS currently utilizes one (1) container for shipping; however, at any point in time during the term(s) of the contract, ETS may increase this number on a "Per Container" basis. For the purpose of this solicitation, the vendor must provide a minimum of one (1) DM 1540 or equivalent tape cartridge container. The container must have a 40 tape capacity and an approximate measurement of 24"W x 6"H x 12"L. The container must be secure and durable.

The vendor will be solely responsible for ensuring that the container(s) are in serviceable condition, with fully operational latches and hinges, and will immediately replace or repair any container(s) that is in need of repair, at no additional cost to the State. If a container is received at the ETS facility in Juneau and is in unusable condition, ETS will call the vendor, who will then be required to immediately ship a replacement container directly to the ETS facility, at no additional freight/shipping/delivery cost. Once the new container(s) is received, ETS will then return the damaged container(s) with the next regularly-scheduled shipment. Any additional cost associated for that shipment that is outside of the awarded bid schedule cost, will be absorbed by the vendor.

The vendor must provide one (1) TSA approved locks for each container provided under the resulting contract. The container will be leased to ETS for the duration of the contract, but will remain the property of the vendor.

"TSA approved Lock" such as:

The Transportation Security Administration (TSA) now suggests you lock your checked baggage with TSA accepted and recognized locks. Travel Sentry[®] Approved locks are accepted and recognized by the TSA. Look for the Travel Sentry[®] symbol when shopping for these TSA accepted products.

Master Lock has joined together with TSA and Travel Sentry[®] to use the special Travel Sentry[®] mark on luggage locks that meet the requirements of the TSA. Airline check-in staff are trained to recognize the Travel Sentry[®] mark so they understand that baggage with this special mark is permitted to remain locked. The TSA screeners have access to special tools that allow them to open TSA-accepted locks in the event that your bags must be opened for inspection.

They no longer need to cut your locks or force the bag open and risk damaging it. They simply open your locks, inspect, and re-lock your bags, sending them quickly and securely on their way.

<u>Learn more about Master Lock's TSA-Accepted locks</u>

The TSA-Accepted Locks video is one minute in length and best viewed with a cable or DSL connection.

DELIVERY TO DISASTER RECOVERY SITE: Immediately upon notification of a disaster by an authorized agent of ETS or the Disaster Recovery Provider, the vendor will deliver the container currently in their possession, whether it is MC or PW, directly to the Disaster Recovery Provider's site. ETS will provide the vendor with a list of personnel authorized to notify that a disaster has occurred by certified letterhead. The State may require expedited shipments throughout the duration of this contract. In the event of a declared disaster, delivery to the Disaster Recovery Provider's site MUST be made within 12 hours of notification. For planned disaster recovery rehearsals, delivery to the Disaster Recovery Provider's site must be made within 24 hours of notification.

The vendor must be available seven (7) days per week, twenty-four (24) hours per day, to respond to disaster declarations, or upon request by the State. Disaster Recovery services are currently provided to the State of Alaska by SunGard Availability Services. Delivery includes all stages of tape container(s) movement from the vendor's secure storage facility, to the Disaster Recovery provider's location, and return when required or requested.

END OF SPECIFICATIONS

BID SCHEDULE

For purposes of this bid evaluation, the State will assume that it will ship one (1) DM 1540 container from Juneau to Seattle on Monday mornings, and ship one (1) DM 1540 container from Seattle to Juneau on Monday evenings or Tuesday mornings, for the entire term of the contract (initial year plus two annual renewal options).

ETS may increase or decrease the number of containers shipped at any time during the term of the contract. Containers will be charged at the same lease, shipping and storage rates and other terms and conditions as originally quoted in the bidder's Bid Schedule. Containers will be leased to ETS for the duration of the contract, but will remain the property of the vendor.

[1] **DELIVERY COST**- Bid price for regularly scheduled door-to-door pickup, shipping, and delivery.

Cost for shipping one (1) container between Juneau and Seattle, two (2) times per week (MC from Juneau to Seattle and PW from Seattle to Juneau) 52 weeks per year for three (3) years) Your pricing (E) must reflect a "3 year" total cost to be considered responsive to this ITB.

	A.	Shipping Cost per Container from Juneau to Seattle or vice versa \$			
	B.	Shipping Cost per Container \$x One Container = \$Cost per Shipment			
	C.	Cost per Shipment \$x two (2) Shipments per week = Cost per Week			
	D.	Cost per Week \$x 52 weeks = \$ Cost per Year			
	E.	Cost per Year \$x three (3) years = Total Delivery Cost \$			
[2]	HA	NDLING AND STORAGE COST-Bid price for monthly handling and storage for each container.			
36 months of handling and storage - (One Container x 36 months)					
	F.	Monthly Handling and Storage (MHS) Cost per Container \$			
	G.	MHS Cost per Container \$ x One Container = \$ Cost per Month			
	H.	Cost Per Month \$ x 36 months = Total Handling & Storage Cost \$			
[3] CONTAINER LEASE COST – Bid price for lease of container(s).					
36 months of lease - (One Container x 36 months)					
	I.	Monthly Lease Cost (MLC) per Container \$			
	J.	MLC per Container \$ x One Container = \$ Lease Cost per Month			
	K.	Lease Cost Per Month \$ x 36 months = Total Lease Cost \$			

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L. Shipping Cost per Container from Seattle to Disaster Recovery Provider \$				
x One Container =\$	cost per Shipment			
times two (2) (to and from l	Disaster Recovery Provider) =			
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[4] DELIVERY OF TAPES TO DISASTER RECOVERY PROVIDER AND RETURN - Bid price for shipping, delivery and return of one container between the vendor's secure storage facility and the Disaster Recovery Provider's (currently SunGard/Wood Dale, Il Mega-center) location. (Estimated