



Request for Proposal

Research Data Collection and Analysis RFP No. 200902

November 30, 2009

TABLE OF CONTENTS

Instructions to Offerors	4
Schedule of Events	5
1.0 Overview	6
2.0 Contract Requirements	7
2.1 Funding Out Clause.....	7
2.2 Entire Contract	7
2.3 Term of Contract	8
2.4 Single Point of Contact	8
2.5 Required Review	8
2.6 Acceptance of Standard Terms and Conditions/Vendor Contract	9
2.7 Mandatory Requirements	9
2.8 Understanding of Specifications and Requirements	9
2.9 Offeror’s Signature.....	9
2.10 Offer in Effect for 120 Days	10
2.11 Certification of Independent Price Determination/Collusive Bidding	10
2.12 Prices	10
2.13 Cost of Preparing a Proposal.....	11
3.0 RFP Standard Information	11
3.1 Offeror Competition	11
3.2 Receipt of Proposals and Open Records	11
3.3 Classification and Evaluation of Proposals.....	12
3.4 Errors and Omissions	14
3.5 Definitions	14
3.6 Proposal Submittal	16
3.7 CN’s Right to Investigate and Reject.....	16

4.0	General Instructions for RFP	16
4.1	Description of Specific Items Required	17
5.0	Proposal Selection Process and Criteria Selection Approach.....	19
5.1	Proposal Format	19
5.2	Proposal Evaluation.....	20
5.3	Proposal Selection	20
5.4	Proposal Presentation	21
6.0	Scope of Services	21
6.1	General Description.....	21
6.2	CN’s Hardware and Software Environment	21
6.3	Vendor Responsibilities	22
6.4	Project Status Reporting Requirements	23
6.5	Scope Change Control Process Management	24
6.6	Acceptance Criteria	24
7.0	Appendix A – Nondisclosure Agreement	26
8.0	Appendix B – Vendor Contract.....	30
9.0	Appendix C – Standard Terms and Conditions for Contracts and Grants Using ARRA Funds.....	51
10.0	Appendix D – RFP Response Form	62

INSTRUCTIONS TO OFFEROR

It is the responsibility of each Offeror to:

Follow the format required in the RFP when preparing your response. Provide point-by-point responses to all sections in a clear and concise manner.

Provide complete answers/descriptions. Read and answer **all** questions and requirements. Don't assume Connected Nation (CN) or evaluator/evaluation committee will know what your company capabilities are or what items/services you can provide, even if you have previously contracted with CN. The proposals are evaluated based solely on the information and materials provided in your response.

Submit your response on time. Note all the dates and times listed in the *Schedule of Events* on page 5 and within the document, and be sure to submit all required items on time. Late proposal responses are *never* accepted.

Responses. Responses may be sent via one of three methods: 1) mail, 2) e-mail, or 3) uploaded to a secure site. Please zip your response and related documents together and name the entire file as follows: CompanyName_CNResearchRFP.zip.

If sending by mail, four (4) hard copies and one (1) electronic version on CD of the complete proposal shall be submitted to:

Connected Nation
Attn: Lori Jordan
1020 College Street
Bowling Green, KY 42101

If sending by e-mail, proposal shall be submitted to:

ljordan@connectednation.org

If uploading to a secure website, proposals shall be submitted to:
<http://dropbox.yousendit.com/ConnectedNation2008>

SCHEDULE OF EVENTS

<u>EVENT</u>	<u>DATE</u>
RFP Issue Date	November 30, 2009
Deadline for Receipt of Written Questions	December 2, 2009
CN Issues Written Responses to Questions	December 4, 2009
RFP Response Due Date	December 8, 2009
CN Proposal Review Complete	December 10, 2009
Oral Interviews with Top Respondents Complete (if needed)	December 11, 2009
Notification of Award	December 11, 2009
Contract Executed	December 14, 2009

1.0 OVERVIEW

Connected Nation, Inc. (CN) is seeking experienced Market Research Vendor(s) to perform quantitative data collection, help develop and conduct telephone surveys across multiple states, assist with data analysis and processing, and provide independent quality assurance controls for data. CN expects the selected Vendor(s) to complete this project within two (2) months or less from the award of contract.

Services include working with CN to develop and carry out telephone surveys and respondent sampling plans to accurately measure trends in technology adoption, barriers to technology adoption, and demand for greater technology capability among different demographic groups and businesses at a statewide level; completing a specified number of random digit dial telephone surveys in both English and Spanish in a number of states and Puerto Rico, with quotas set by age, gender, and place of residence (based on urban-rural classification); processing survey data and providing data results in a Wincross-compatible format; and verification of data results.

Project Background

As a national 501(c)(3) non-profit corporation, Connected Nation, Inc. and its wholly owned subsidiaries are focused solely on closing the digital divide. Connected Nation exists to help states, communities, families and individuals realize the great economic and social advantages that occur when broadband availability is accelerated in underserved areas and broadband use is increased in all areas – rural and urban alike.

Through its advanced broadband mapping technology, Connected Nation has been at the forefront of a national movement by state and local leaders to identify and map areas with and without broadband service and to identify and implement aggressive demand-stimulation programs that are designed to increase broadband adoption and encourage network deployment.

In August 2009, Connected Nation applied to the NTIA in the U.S. Department of Commerce from the American Recovery and Reinvestment Act of 2009 (ARRA) and the Broadband Data Improvement Act (BDIA) for eight State Broadband Data and Development Grants (SBDD) as the Designated Entity for those specific states. SBDD grants will provide funding for each state to address the joint purposes of the Recovery Act and BDIA by gathering data at the address level on broadband availability, technology, speed, and infrastructure. In the case of wireless broadband, the Program will gather data regarding the spectrum used across the project areas. Under this Program, statewide broadband maps will be developed and maintained with the primary goal for each state map to be used to create a national map. In addition to the eight grants applied for, CN assisted with SBDD grant application in five other states as either a sub-grantee or a sub-contractor. In a number of these states, Connected Nation has also applied for federal funding on behalf of the state to assist the state in broadband planning activities.

To ensure the validity and accuracy of the data gathered and reported through GIS methodology described above and to assist with broadband planning in some of these states, Connected Nation will conduct semiannual random digit dial (RDD) telephone surveys of residents and businesses to inquire about technology adoption, barriers to technology adoption, awareness of available broadband services, demand for improved access to technology, and usage of various broadband applications. Connected Nation is seeking a contractor to develop and carry out telephone surveys and respondent sampling plans to accurately measure trends in technology adoption, barriers to technology adoption, and demand for greater technology capability among different demographic groups and businesses at a statewide level; complete a specified number of random digit dial telephone surveys in both English and Spanish in at least twelve (12) states plus Puerto Rico, with residential quotas set by age, gender, and place of residence (based on urban-rural classification), and business quotas set by industry and business size; process survey data and provide data results in a WinCross-compatible format; and verify data results.

2.0 CONTRACT REQUIREMENTS

2.1 Funding Out Clause

Any contract awarded under this RFP is contingent on legislative appropriation authority for the receipt and use of federal funds under the American Recovery and Reinvestment Act (ARRA) of 2009. The Offeror understands and agrees that by responding to this RFP, any contract entered into by CN in conjunction with this RFP may be terminated at any time if funds are not appropriated nor otherwise made available to support performance under the contract. Connected Nation will give the Vendor written notice thirty (30) days prior to the effective date of any termination, if possible and practical. All obligations of Connected Nation to make payments after the termination date will cease. The Vendor shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the date notice was given of the termination. In no event shall the Vendor be paid for a loss of anticipated profit.

2.2 Entire Contract

The contract resulting from this Request for Proposal shall incorporate the following documents:

1. Terms and Conditions for Contracts and Grants Using ARRA Funds
2. Nondisclosure Agreement
3. The Vendor Contract
4. Contract Award
5. Any Best and Final Offer

6. Any contract amendments, with the latest dated amendment having the highest priority
7. Any Request for Proposal appendix and/or amendments to include questions and answers with the latest dated amendment having the highest priority
8. The original Request for Proposal document
9. The signed Request for Proposal Response Form
10. The Offeror's Proposal

Unless otherwise specifically stated in a contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the above order of preference.

2.3 Term of Contract

The contract term is for a period of two (2) years beginning December 22, 2009 or upon contract execution and ending December 22, 2010. Renewals of the contract, by mutual agreement of both parties, may be made as deemed appropriate by CN.

2.4 Single Point of Contact

From the date this Request for Proposal (RFP) is issued until a Vendor is selected and the selection is announced by the representative, Offerors are not allowed to communicate with any CN staff regarding this procurement, except at the direction of Lori Jordan, the representative in charge of the solicitation. Any unauthorized contact may disqualify the Offeror from further consideration. Contact information for the Single Point of Contact is as follows:

Representative:	Lori Jordan
Address:	Connected Nation 1020 College Street P.O. Box 3448 Bowling Green, KY 42102
Telephone Number:	(270) 781-4320
Fax Number:	(270) 781-7611
E-mail Address:	ljordan@connectednation.org

2.5 Required Review

Review RFP. Offerors should carefully review the instructions, mandatory requirements, specifications, Nondisclosure Agreement (Appendix A), Vendor Contract (Appendix B) and Standard Terms and Conditions for Contracts and Grants Using ARRA Funds (Appendix C), and any other appendices set out in this RFP and promptly notify the representative identified above via e-mail of any ambiguity, inconsistency, unduly restrictive specifications, or error which they discover upon examination of this RFP. This should include any terms or requirements within the RFP that preclude the Offeror from responding to the RFP or add unnecessary cost. This notification must be accompanied by an explanation and suggested modification and be received

by the deadline for receipt of written or e-mailed inquiries. CN will make any final determination of changes to the RFP.

2.6 Acceptance of Standard Terms and Conditions/Vendor Contract

By submitting a response to this RFP, Offeror agrees to acceptance of the Nondisclosure Agreement, the Vendor Contract and the Standard Terms and Conditions for Contracts and Grants Using ARRA Funds as set forth in Appendices A, B and C of this RFP. Much of the language included in the Standard Terms and Conditions for Contracts and Grants Using ARRA Funds and the Vendor Contract reflects requirements of state and federal law. Although some requirements in Appendix C may not be applicable to the Vendor awarded this Contract, CN reserves the right to enforce any such provision if NTIA rules that subcontractors are subject to every term and condition required for receipt of ARRA funds. Requests for additions or exceptions to the Vendor Contract terms, including any necessary licenses, or any added provisions must be submitted to the representative referenced above via e-mail by the Response Due Date. Any request must be accompanied by an explanation of why the exception is being sought and what specific effect it will have on the Offeror's ability to respond to the RFP or fulfill the contract. CN reserves the right to address nonmaterial requests for exceptions with the highest scoring Offeror(s) during contract negotiations. Any material exceptions requested and granted to the Vendor Contract language will be addressed in a formal written addendum issued for this RFP and will apply to all Offerors submitting a response to this RFP. CN will make the final determination of changes to the Standard Terms and Conditions for Contracts and Grants Using ARRA Funds and/or the Vendor Contract.

2.7 Mandatory Requirements

To be eligible for consideration, an Offeror must meet the intent of all mandatory requirements of this RFP. CN will determine whether an Offeror's RFP response complies with the intent of the requirements. RFP responses that do not meet the full intent of all requirements listed in this RFP will be deemed nonresponsive.

2.8 Understanding of Specifications and Requirements

By submitting a response to this RFP, Offeror agrees to an understanding of and compliance with the specifications and requirements described in this RFP.

2.9 Offeror's Signature

The RFP Response Form must be signed by an individual authorized to legally bind the business submitting the proposal. Proof of authority of the person signing the RFP Response Form must be furnished upon request. By signing the RFP Response Form, the Offeror guarantees compliance with the provisions stated in this Request for Proposal, the Terms and Conditions for Contracts and Grants Using ARRA Funds (Appendix C), the Vendor Contract (Appendix B) and any other appendices and certifies that it maintains a drug free workplace environment.

2.10 Offer in Effect for 120 Days

A proposal may not be modified, withdrawn, or canceled by the Offeror for a 120-day period following the deadline for proposal submission as defined in the *Schedule of Events*, or receipt of best and final offer, if required, and Offeror so agrees in submitting the proposal.

2.11 Certification of Independent Price Determination/Collusive Bidding

By submission of this proposal, the Offeror certifies, that they are the party making the foregoing proposal, that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or a sham; that the Offeror has not directly or indirectly induced or solicited any other Offeror to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham proposal, or that anyone shall refrain from bidding; that the Offeror has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price, or that of any other bidder, or to secure any advantage against Connected Nation awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and further that the Offeror has not, directly or indirectly, submitted their proposal price or any breakdown thereof, or the content thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

2.12 Prices

All prices, costs, terms and conditions outlined in the proposal shall remain fixed and valid commencing on the opening date of the proposal until an award is made (and for bidder receiving award prices shall remain as bid for the duration of the contract unless otherwise so stated in the contract) or the Request for Proposal is cancelled.

Offeror represents and warrants that all prices for services, now or subsequently specified, are as low as possible and no higher than prices which the contractor has charged or intends to charge customers other than Connected Nation for the same or similar products and services of the same or equivalent quantity and quality for delivery or performance during the same periods of time. If, during the term of the contract, the contractor shall reduce any and/or all prices charged to any customers other than Connected Nation for the same or similar products or services specified herein, the Offeror shall make an equal or equivalent reduction in corresponding prices for said specified products or services.

Offeror also represents and warrants that all prices set forth in the contract and all prices in addition, which the Offeror may charge under the terms of the contract, do not and will not

violate any existing federal, state or municipal law or regulations concerning price discrimination and/or price fixing. Offeror agrees to hold Connected Nation harmless from any such violation. Prices quoted shall not be subject to increase throughout the contract period unless specifically allowed by these specifications. Offeror further acknowledges that pricing will *not* in any circumstance be considered confidential nor a trade secret consistent with the relevant provisions of Section 3 below.

2.13 Cost of Preparing a Proposal

2.13.1 Connected Nation Not Responsible for Preparation Costs. The costs for developing and delivering responses to this RFP and any subsequent presentations of the proposal as requested by CN are entirely the responsibility of the Offeror. CN is not liable for any expense incurred by the Offeror in the preparation and presentation of their proposal or any other costs incurred by the Offeror prior to execution of a contract.

2.13.2 All Timely Submitted Materials Become CN Property. All materials submitted in response to this RFP become the property of CN.

3.0 RFP STANDARD INFORMATION

3.1 Offeror Competition

Connected Nation encourages free and open competition among Offerors. Whenever possible, CN will design specifications, proposal requests, and conditions to accomplish this objective, consistent with the necessity to satisfy CN's need to procure technically sound, cost-effective services and supplies.

3.2 Receipt of Proposals and Open Records

3.2.1 Open Records. All information received in response to this RFP, including copyrighted material, may be subject to open records requests and may be made available upon request with the following three exceptions: (1) bona fide trade secrets that **have been properly marked, separated, and documented**; (2) matters involving individual safety as determined by CN; and (3) other constitutional protections. In regard to any document deemed to be subject to Open Records: *Offerors should note Sections 3.2.1 and 3.2.2 are the requirements Offerors MUST follow should submitted information be deemed by the Offeror's attorney to meet confidentiality provisions. Pricing information will be considered neither confidential nor a trade secret and may be subject to disclosure. If any other material characterized as confidential by Offeror is deemed by CN to be subject to Open Records, CN will advise Offeror of such determination prior to disclosure.*

CN will keep in strictest confidence all information marked as confidential by Offeror. Connected Nation accepts a duty to protect such information from accidental disclosure by taking all reasonable precautions against the same. Connected Nation will immediately advise Offeror of any pending disclosure under state law, federal law, legal action, injunction, court order or other such document which may attempt to force compulsory disclosure of any confidential and/or proprietary information covered by this Contract prior to Connected Nation making any such disclosure so that Offeror may either comply with such Open Records Request or defend its interests in attempting to prevent such disclosure if appropriate. Any legal costs resulting from defending a claim for confidentiality of Offeror's information will be solely at Offeror's expense.

3.2.2 Representative Review of Proposals. Upon opening the proposals received in response to this RFP, the procurement officer in charge of the solicitation will review the proposals and separate out any information that meets the referenced exceptions in Section 3.2.1 above, providing the following conditions have been met:

- Confidential information is clearly marked and separated from the rest of the proposal.
- The proposal does not contain confidential material in the cost or price section.

Information separated out under this process will be available for review only by the representative, the evaluator/evaluation committee members, and limited other designees including CN legal counsel.

3.3 Classification and Evaluation of Proposals

3.3.1 Initial Classification of Proposals as Responsive or Nonresponsive. All proposals will initially be classified as either "responsive" or "nonresponsive." Proposals may be found nonresponsive at any time during the procurement process if any of the required information is not provided; the submitted price is found to be excessive or inadequate as measured by criteria stated in the RFP; or the proposal is not within the plans and specifications described and required in the RFP. If a proposal is found to be nonresponsive, the Offeror will not be considered further.

3.3.2 Evaluation of Proposals. An evaluator/evaluation committee will evaluate the remaining proposals and grade the Responses based on criteria stated in this RFP. CN may consider such factors as accepted industry standards and a comparative evaluation of all other qualified RFP responses in terms of differing price, quality, and contractual factors. These scores will be used to determine the most advantageous offering to CN.

3.3.3 Completeness of Proposals. Selection and award will be based on the Offeror's proposal and other items outlined in this RFP. Submitted responses may not include references to information located elsewhere, such as Internet websites or libraries, unless specifically requested. Information or materials presented by Offerors outside the formal

response or subsequent discussion/negotiation or best and final offer, if requested, will not be considered, will have no bearing on any award, and may result in the Offeror being disqualified from further consideration.

3.3.4 Opportunity for Discussion/Negotiation and/or Oral Presentation/Product Demonstration. After receipt of all proposals and prior to the determination of the award, CN may initiate discussions with one or more Offerors should clarification or negotiation become necessary. Offerors may also be required to make an oral presentation and/or product demonstration to clarify their RFP response or to further define their offer. In either case, Offerors should be prepared to send qualified personnel to Bowling Green, Kentucky, to discuss technical and contractual aspects of the proposal. Oral presentations and product demonstrations, if requested, shall be at the Offeror's expense.

3.3.5 Best and Final Offer. The Best and Final Offer is an option available to CN under the RFP process, which permits CN to request a best and final offer from one or more Offerors if additional information is required to make a final decision. Offerors may be contacted asking that they submit their best and final offer, which must include any and all discussed and/or negotiated changes. CN reserves the right to request a best and final offer for this RFP, if any, based on price/cost alone.

3.3.6 Evaluator/Evaluation Committee Recommendation for Contract Award. The evaluator/evaluation committee will provide a written recommendation for contract award to the representative that contains the scores, justification, and rationale for the decision. The representative will review the recommendation to ensure its compliance with the RFP process and criteria before concurring in the evaluator's/evaluation committee's recommendation of the responsive and responsible Offeror(s) that achieves the highest score and is, therefore, the most advantageous to CN. The representative will notify all other Offerors of CN's selection.

3.3.7 Request for Documents Notice. Upon concurrence with the evaluator's/evaluation committee's recommendation, the representative will issue a "Request for Documents Notice" to the highest scoring Offeror(s) to obtain the required documents/information, such as insurance documents and any other necessary documents. Receipt of the "Request for Documents Notice" does not constitute a contract.

3.3.8 Contract Execution. Upon receipt of all required materials requested in the "Request for Documents Notice," a formal contract utilizing the Vendor Contract attached as Appendix B and incorporating the Standard Terms and Conditions for Contracts and Grants Using ARRA Funds attached as Appendix C, the signed Nondisclosure Agreement and the response to the RFP of the highest scoring Offeror(s), will be provided to the highest scoring Offeror(s) for signature. The highest scoring Offeror(s) will be expected to accept and agree to all material requirements contained in the contract and set out in Appendices A, B and C of this RFP. If the highest scoring Offeror(s) does not accept all material requirements, CN may move to the next highest scoring Offeror(s), or cancel the RFP.

3.4 Errors and Omissions

The Offeror(s) shall not take advantage of any errors and/or omissions in this Request for Proposal or resulting contract. The Offeror(s) must promptly notify Connected Nation of any errors and/or omissions that are discovered.

3.5 Definitions

The following definitions are used by Connected Nation, many of which were developed for the State Broadband Data and Development Program, pursuant to Recovery Act Section 6001(a). Offerors should refer to the following definitions when completing their proposals:

Available. Broadband service is “available” to an end user at an address if a broadband service provider does, or could, within a typical service interval (7 to 10 business days) without an extraordinary commitment of resources, provide two-way data transmission to and from the Internet with advertised speeds of at least 768 kilobits per second (kbps) downstream and at least 200 kbps upstream to the end user at the address.

Broadband. Data transmission technology that provides two-way data transmission to and from the Internet with advertised speeds of at least 768 kilobits per second (kbps) downstream and at least 200 kbps upstream to end users, or provides sufficient capacity in a middle mile project to support the provision of broadband service to end users within the project area.

Broadband Service. The provision of broadband on either a commercial or non-commercial basis.

Community Anchor Institutions. Schools, libraries, medical and healthcare providers, public safety entities, community colleges and other institutions of higher education, and other community support organizations and entities.

Confidential Information. Confidential information includes, but is not limited to, any information, including trade secrets, or commercial or financial information, submitted under this Agreement and data that: (1) identifies the type and technical specification of infrastructure owned, leased, or used by a specific broadband service provider; or (2) explicitly identifies a broadband service provider’s name and its availability/speed at a particular address. However, identification of a provider’s name and availability/speed at a census block or street segment level will not be considered confidential and will be displayed on the national broadband map.¹ Notwithstanding the foregoing, confidential information, as defined herein and as provided as part of a project funded under this Program, will not be made publicly available, pursuant to the

¹ This definition of Confidential Information is based on the State Broadband Data and Development Grant Program, *Notice of Funds Availability; Clarification* 74 Fed. Reg. at 32549 (August 7, 2009) (Notice)

limitations set forth in the BDIA, except as required by applicable state law or judicial or administrative action or proceeding, including the Freedom of Information Act requirements.

Data. Statistics, figures, descriptions, maps, geographic coordinates, or other such information relating to the provision of broadband services.

End User. A residential or business party, institution or State or local government entity, including a Community Anchor Institution, that may use broadband service for its own purposes and that does not resell such service to other entities or incorporate such service into retail Internet-access services. Internet Service Providers (ISPs) are not “end users” for this purpose.

Recovery Act. The American Recovery and Reinvestment Act of 2009, Public Law 111-5, 123 Stat. 115 (2009).

Rural Area. Any area, as confirmed by the latest decennial census of the Bureau of the Census, which is not located within: (i) A city, town, or incorporated area that has a population of greater than 20,000 inhabitants; or (ii) an urbanized area contiguous and adjacent to a city or town that has a population of greater than 50,000 inhabitants. For purposes of the definition of rural area, an urbanized area means a densely populated territory as defined in the latest decennial census of the U.S. Census Bureau.

Service Area. The entire area within which an existing service provider offers broadband service.

Service Location. The specific geographic point or location at which a service provider offers broadband service, such as a specific residence or business.

Underserved Area. An area composed of one or more contiguous census blocks meeting certain criteria that measure the availability of broadband service and the level of advertised broadband speeds. Specifically, an area is underserved if at least one of the following factors is met, though the presumption will be that more than one factor is present: (i) No more than 50 percent of households in the service area have access to facilities-based terrestrial broadband service at greater than the minimum broadband transmission speed (set forth in the definition of broadband above); (ii) no fixed or mobile broadband service provider advertises broadband transmission speeds of at least three megabits per second (“mbps”) downstream in the area; or (iii) the rate of broadband subscribership for the area is 40 percent of households or less. A household has access to broadband service if the household can readily subscribe to that service upon request.

Unserved Area. An area composed of one or more contiguous blocks where at least 90 percent of the households in the service area lack access to facilities-based terrestrial broadband service, either fixed or mobile, at the minimum broadband transmission speed (set forth in the definition of broadband above). A household has access to broadband service if the household can readily subscribe to that serviced upon request.

3.6 Proposal Submittal

Proposals should provide a straightforward and concise presentation, adequate to satisfy the requirements of the RFP. Emphasis should be placed on completeness, clarity of contents and responsiveness to the RFP. Proposals should be submitted by responding to all questions as set forth below in **5.1 Proposal Format**, which will be the basis for evaluation. Proposals shall be valid for a period of 120 days after the time set for receipt of proposals.

3.7 CN's Right to Investigate and Reject

Connected Nation may make such investigations as deemed necessary to determine the ability of the Offeror to provide the supplies and/or perform the services specified. CN reserves the right to reject any proposal if the evidence submitted by, or investigation of, the Offeror fails to satisfy CN that the Offeror is properly qualified to carry out the obligations of the contract. *This includes Connected Nation's ability to reject the proposal based on negative references.*

4.0 GENERAL INSTRUCTIONS FOR RFP

Inquiries. Questions pertaining to the RFP must be submitted to the CN representative in charge of this solicitation in writing by e-mail to ljordan@connectednation.org with "Requests for Proposals No.200902 in the subject line, or by mail to the appropriate address above on or before Wednesday, December 2, 2009. Each question should be phrased as a question or request for clarification and must provide a clear reference to the section, page number and item in question. CN reserves the right to reject questions as not relevant, redundant or previously answered. Questions received after this deadline will not be considered.

Connected Nation's Response. CN will provide an official written response by Friday, December 4, 2009 to all questions received by Wednesday, December 2, 2009. CN's response will be by formal written addendum. Any other form of interpretation, correction, or change to this RFP will not be binding upon CN. Any formal written addendum will be posted on Connected Nation's website alongside the posting of the RFP at www.connectednation.org by the close of business on the date listed.

4.1 Description of Specific Items Required

4.1.1 Company Profile and History shall include but is not limited to:

- a) the ability, capacity, and skill of the bidder to deliver and implement the system or project that meets the requirements of the Request for Proposal;
- b) the character, integrity, reputation, judgment, experience, and efficiency of the bidder;
- c) whether the bidder can perform the contract within the specified time frame;
- d) the quality of bidder performance on prior contracts;
- e) such other information that may be secured and that has a bearing on the decision to award the contract;

Please provide the following information about your company/companies:

- The address of the company primary office
- The address of the office/offices responsible for doing this proposed work
- The number of years your company/companies have been in business

4.1.2 Experience

- a) The Experience Section should demonstrate Vendor's ability to:
 - work with similar sample sizes as this project
 - create reports using data collected from Spanish-speaking respondents and broad geographic areas
 - create publicly available reports that have relied on incorporated sensitive/confidential data
- b) Vendor shall submit at least two (2) examples of finished work products. Some examples include:
 - Reports
 - White papers
 - Data analysis summaries
- c) Anything not covered in the two (2) examples of finished work products, Vendor shall include in a narrative.

4.1.3 Project Team Organization Chart

- a) Offerors must provide professional biographies of key individuals involved in this project. Individual biographies are to include: 1) their experience on similar or identical projects; and 2) the percentage of time dedicated to the project. Offerors should provide this information for the Project Lead(s)/Senior Staff and their related professional and relevant experience with their response.
- b) Offerors must identify whether or not any subcontractors will be used by the contractor to perform any of the duties relating to the completion of the project. Offerors must provide professional biographies for all contractors, subcontractors and respective key employees to include names, applicable organizations, experience and all other biographical requirements of the key employees of the contractor. Any subcontractor must also have operations in the United States. More information on the use of subcontractors is included in the Vendor Contract.

4.1.4 Company Financial, Insurance and Security Information

Please provide the following financial and security information about your company:

- Audited financials for past three (3) years, if available. If not available please provide company financials for past five (5) years. If privately held provide the financial information for this portion of the business only.
- An explanation of any civil proceedings or government investigations, if applicable.
- An explanation of any litigation with a customer involving your company, if applicable.
- Methods and examples of data and physical security.

4.1.5 References

Provide a minimum of three project references of similar or related scope of work that has been provided to other customers of equivalent or larger size and operation within the past three (3) years and project values. The Vendor should provide the following information for each example:

- Name and title of reference contact
- Company name, address, telephone number and extension
- Size of geographic area converted/migrated
- Date work performed
- Project description and deliverables

4.1.6 Conflicts of Interest

Offerors shall disclose any potential or actual conflicts of interest their firm may have in delivering these services and in advising CN on mapping issues and providers.

4.1.7 RFP Response Form

Offerors must submit a signed copy of the RFP Response Form attached as Appendix D to respond to this RFP.

An Offeror making the statement “Refer to our literature...” or “Please see www.....com” may be deemed nonresponsive or receive point deductions. If making reference to materials located in another section of the RFP response, specific page numbers and sections must be noted. **The Evaluator/Evaluation Committee is not required to search through literature or another section of the proposal to find a response.**

5.0 PROPOSAL SELECTION PROCESS AND CRITERIA SELECTION APPROACH

Responses from this RFP will be reviewed and evaluated by CN based solely on the information contained in the response. The response criteria will be assessed and the result of the review will be a selection by CN. One or more vendors may be selected. The proposal format requires that each Vendor provide CN proposals on total project costs. These costs should be based upon their calculated costs to perform the work to meet CN’s requirements.

5.1 Proposal Format

Proposals shall be indexed and labeled according to the following:

- Section 1.0 Letter of Transmittal
- Section 2.0 Company profile and history
- Section 3.0 Experience
- Section 4.0 Project team organization chart and resumes of key personnel (Senior Management and Senior Technical Staff)
- Section 5.0 Company Financial, Insurance and Security Information
- Section 6.0 Total Cost Proposal for full Scope of Work
- Section 7.0 Up-to-date Certificate of Good Standing from the state in which the organization is incorporated
- Section 8.0 References
- Section 9.0 Documentation proving compliance with insurance requirements
- Section 10.0 Disclosures of any Conflicts of Interest

Section 11.0 Signed Nondisclosure Agreement
Section 12.0 Signed RFP Response Form

5.2 Proposal Evaluation

CN will, at its own discretion, select Supplier(s) based on recognized competence and integrity, including but not limited to, the following criteria:

1. Past experience of Company specific to the scope of work
2. Compliance with mandatory requirements for work to be done
3. Financial standing (Internal Audit)
4. Cost
5. Experience of Key Personnel specific to the scope of work
6. Data Security
7. All work to be performed in the United States of America
8. References

Minimum experience for Vendors qualified to be considered shall include the following:

- Ongoing experience in completing similar projects over the last 3 years, including handling and protecting confidential or sensitive data
- Utilizing the software specified in this RFP
- Vendor employee base within the United States of America, will be at least two times the maximum number of people required to perform the project (for example if this project requires X number of full time staff to perform the vendor base must have 2X employees)

5.3 Proposal Selection

CN will reserve the right, without qualification to:

1. Select any proposal as a basis for written or oral discussions with any or all of the Vendors.
2. Reject all proposals.
3. Exercise discretion and apply its judgment with respect to any proposals submitted.
4. Award supplemental contracts for work related to this Request for Proposal, or any portion thereof.
5. Award the contract jointly between two or more potential contractors, if such an arrangement is in the best interest of Connected Nation. The Offeror(s) shall agree to cooperate with such other contractors, and shall not commit or permit any act which may interfere with the performance of work by any other contractor.

The following selection criteria will be used during the selection process:

Vendor’s demonstrated experience in survey research design and/or data collection through random digit dial telephone interviews with both residential and business samples	50%
References.....	25%
Proposed Costs.....	25%

5.4 Proposal Presentation

The bidders may be required to present the proposed project plan, methodology, project team, etc. onsite at Connected Nation in Bowling Green, Kentucky.

6.0 Scope of Services

6.1 General Description

The intent is to trend residential and business technology adoption, usage, and demand, as well as barriers to technology adoption, among residents and businesses at a state level. In addition, the residential and business surveys will be used to measure the accuracy and validity of broadband availability data as part of Connected Nation, Inc.’s Broadband Mapping Support. To do this, the Vendor will conduct telephone surveys in English and Spanish on behalf of CN among residential consumers and businesses to inquire about broadband availability and speed. The surveys will check a statistically significant sample of all addresses, as well as a significant sample of rural addresses. Connected Nation proposes to use these semiannual surveys to also ask residents and businesses additional questions about how they use the Internet, their demand for faster broadband service, and barriers to computer ownership and broadband adoption. These residential survey results will be analyzed across different demographic groups to understand and trend availability and adoption in relation to income, education level, race, ethnicity, age, and other demographic characteristics, while the business survey results and trends will be analyzed in relation to establishment size and industry sector.

6.2 CN’s Hardware and Software Environment

The Vendor will be responsible, at no cost to CN, for the internal acquisition, installation, and maintenance of all hardware and software that they will need as required for a successful completion of the project.

- CN has configured Quickbase to provide a Problem and Resolution (PAR) system to monitor and manage issues that arise during the project, data migration, and conversion issues. Vendor will be required to access and utilize this system during the project.
- The base software for CN's data analysis includes SPSS, WinCross, and Microsoft Excel.

6.2.1 Software Requirements

- SPSS Predictive Analytics Software
- WinCross by TAG (for Vendors providing data processing of survey results)
- Operating Systems (desktop) Windows XP

6.2.2 Web Portal

- QuickBase by Intuit used for Problem and Resolution (PAR) tracking, accessible from standard web browsers.

6.2.3 Hardware Requirements

- For calling, Computer Aided Telephone Interview (CATI) system approved by CN.

6.3 Vendor Responsibilities

The following items list is provided as a high-level overview of the responsibilities the Vendor is expected and required to perform.

6.3.1 Quantitative Data Provider Requirements:

- Deliver required deliverables on schedule.
- Deliver required deliverables at the firm fixed cost agreed upon.
- Meet Quality Control and Data Acceptance Criteria standards set by CN.
- Conduct 1,200 residential random digit dial (RDD) telephone interviews in at least twelve (12) states plus Puerto Rico simultaneously.
- Conduct surveys in Spanish as necessary, using a CATI system, with each interview lasting approximately ten (10) minutes.
- Conduct 800 business random digit dial (RDD) telephone interviews in at least twelve (12) states plus Puerto Rico simultaneously, using a CATI system.

- Conduct all surveys using an approved computer-assisted telephone interviewing (CATI) system, with the demonstrated ability to conduct interviews in Spanish as necessary.
- Residential quotas will be set according to age, gender, and country of residence (urban or rural), and business quotas will be set accordingly to establishment size (number of employees) and industry sector (as defined by NAICS).
- Deliver a clean SPSS file with no banners or tabulations, with responses to any open-ended questions provided in the data file as variables.
- Vendor will provide the sample for the residential surveys, with business samples derived from Dun and Bradstreet.

6.3.2 Data Analysis Consultant Requirements

- Deliver required deliverables on schedule.
- Deliver required deliverables at the firm fixed cost agreed upon.
- Meet Quality Control and Data Acceptance Criteria standard set forth by CN.
- Work with CN to develop a telephone survey and identify respondent sample mix that will allow CN to track technology adoption, barriers to technology adoption, online application usage, and measure the impact of broadband technology on businesses and residents.
- After surveys have been conducted, process data (including weighting of survey respondents to match the latest federal statistics based on age and gender, and verifying the integrity of data collected by Quantitative Data Provider) and prepare SPSS data file and WinCross job files to CN for further analysis.
- Act as independent third party to confirm accuracy of CN data prior to its release to stakeholders.

6.4 Project Status Reporting Requirements

The selected Vendor will also be required to provide monthly project status reports. Electronic submission of reports is acceptable. The status report will describe activities accomplished during the reporting period and activities planned for the next period and "percent complete estimates" for each task. It will also identify any significant technical, logistical, or administrative issues encountered during the reporting period. In addition to the reporting requirement, the Vendor must participate in regularly scheduled on-site project meetings as mutually agreed upon during the project kickoff meeting.

6.5 Scope Change Control Process Management

During the term of the project, CN and the Vendor may identify issues or concerns that require a change to the project scope, project schedule, or other modifications to the project and/or Contract. Such changes, extensions, or modifications shall only be made by mutual agreement in writing through the change control process.

CN and the Vendor must review and discuss the change control process during initial project kickoff meetings and agree upon a course of action related to change control implementation. The vendor's project manager and CN management representative must ensure all changes discussed or recommended during the project life cycle are properly documented and approved according to the change control process before any change can be implemented.

A contractual change is approved when amended to the contract and signed by the appropriate parties with contractual authority.

The following data acceptance and rejection statements will be implemented for this project. CN shall have a maximum of three (3) working days to complete the acceptance testing. CN reserves the right to return for correction, within the approximate review periods agreed upon, any and all data deliveries that are in error or do not meet the scope of work delivery requirements; unless otherwise notified in writing.

6.6 Acceptance Criteria

After initial checking, acceptance for deliverables will be categorized by CN as follows:

"DELIVERABLE ACCEPTED" shall be defined as a deliverable meeting specifications in the Statement of Work or other mutually written agreement, with no more than minor and/or isolated nonconformities, for which CN will take responsibility for correction and will so inform the Vendor.

"DELIVERABLE ACCEPTED WITH RE-WORK" shall be defined as a deliverable essentially meeting the specifications in the Statement of Work or other mutually written agreement, but having a significant number of isolated nonconformities, and accepted pending re-editing and correction by Vendor. The Vendor shall re-edit the work for the identified nonconformities and resubmit within 3 working days. CN will rerun its acceptance review within 3 days for the nonconformities detected in the initial review and will reclassify the deliverable as either DELIVERABLE ACCEPTED or DELIVERABLE REJECTED.

"DELIVERABLE REJECTED" shall be defined as a deliverable that fails to meet specifications in the Statement of Work or other mutually written agreement that indicates that major improvements are needed to conform to the Statement of Work. Vendor shall re-work the deliverable, including all quality checks, and resubmit to CN within three (3) days, at which time CN shall rerun its acceptance review within three (3) working days and CN will reclassify the deliverable as either DELIVERABLE ACCEPTED or DELIVERABLE REJECTED.

The correction procedures of the Vendor shall not affect the overall production schedule. Once a final acceptance is given on any deliverable, any further corrections required shall be mutually agreed upon between CN's team and vendor before these additional updates are completed by Vendor, unless performed by CN. In the event that one delivery has been rejected and is subject to re-work, subsequent deliveries are not eligible for delivery or acceptance until previous deliveries have been accepted.

APPENDIX A
NONDISCLOSURE AGREEMENT



NONDISCLOSURE AGREEMENT

THIS NONDISCLOSURE AGREEMENT (herein the "Agreement") is dated and effective as of _____, _____ ("Effective Date"), between _____, (Vendor) located at _____ and **Connected Nation, Inc., (CN)**, a not-for-profit company located at 1020 College Street, Bowling Green, KY 42101.

WHEREAS:

CN desires to share this confidential and proprietary information with Vendor under the confidential and limited use conditions of this Agreement.

NOW THEREFORE, in recognition of the preceding:

- 1) Vendor acknowledges that it may receive, from or on behalf of CN or its Affiliates ("Provider"), certain information, including trade secret information, considered to be confidential, valuable and proprietary by CN as set forth in this Agreement (the "Agreement"). "Affiliates" means any company owned in whole or in part, now or in the future, by CN or by one or more direct or indirect subsidiaries.
- 2) Such information includes, but is not limited to, technical, financial, marketing, staffing, and business plans and information, strategic information, proposals, requests for proposals, specifications, drawings, prices, costs, contracts, customer information, procedures, proposed products, processes, business systems, software programs, techniques, services and like information of, or provided by, a Party or its Affiliates, or any of their third party suppliers (collectively the "Information"). Information provided to a Party prior to the execution of this Agreement and in connection with the Agreement is also subject to the terms of this Agreement.

In Consideration of the mutual promises and obligations contained herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

- a) Vendor will protect Information provided to Vendor from any use, distribution or disclosure except as permitted herein. Vendor will use the same standard of care to protect Information as Vendor uses to protect its own highly confidential and proprietary information, but not less than a reasonable standard of care.
- b) Vendor may use the Information only as a reference for the purpose of preparing an academic report or to complete any services required by CN and may not disclose any of the Information without prior consent of CN.
- c) Information provided to Vendor in written or other tangible or electronic form will be marked with a confidential and proprietary notice, or if provided orally or visually will be designated as confidential and proprietary at the time of such disclosure or within a reasonable period thereafter. In addition, any information provided to, or received by

- Vendor (including information visually observed by Vendor while on CN's premises) that is by its nature and content reasonably distinguishable as the confidential and proprietary information of CN but is not specifically marked or orally designated as confidential and proprietary by CN, will be treated as Information subject to the obligations of this agreement.
- d) If Vendor is required to provide Information to any court, government agency or peer reviewer pursuant to written court order, subpoena, regulation or process of law, Vendor must first provide CN with prompt written notice of such requirement and cooperate with CN to appropriately protect against or limit the scope of such disclosure. To the fullest extent permitted by law, Vendor will continue to protect as confidential and proprietary all information disclosed by CN in response to a written court order, subpoena, regulation or process of law.
 - e) Vendor may make tangible or electronic copies and notes of Information only as necessary for use as authorized herein. All tangible or electronic copies or notes must be marked with the same confidential and proprietary notice as appears on the original. All information provided orally or visually by CN and reduced by Vendor to tangible or electronic notes must be marked by Vendor as CN's confidential and proprietary information.
 - f) All Information remains at all times CN's property. Upon CN's request, all or any requested portion of the specific Information will be promptly returned to CN or destroyed, and Vendor will provide CN with written certification stating that such information has been returned or destroyed.
 - g) The term of this Agreement and Vendor's obligations hereunder commence on the Effective Date and extend with regard to all Information until five (5) years after the date of final disclosure of Information hereunder. Thereafter, Vendor's obligations hereunder survive and continue in effect with respect to any Information that is a trade secret under applicable law.
 - h) This Agreement is not a commitment by CN to enter into any transaction or business relationship with Vendor, nor is it an inducement for Vendor to spend funds or resources. No such agreement will be binding unless and until stated in a writing signed by both parties. All information is provided to Vendor 'as is,' and CN makes no warranties or representations with respect to its content, accuracy or completeness.
 - i) Vendor acknowledges and agrees that any breach or threatened breach of this Agreement is likely to cause CN and its Affiliates irreparable harm for which money damages may not be an appropriate or sufficient remedy. Vendor therefore agrees that CN or its Affiliates are entitled to receive injunctive or other equitable relief to remedy or prevent any breach or threatened breach of this Agreement. Such remedy is not the exclusive remedy for any breach or threatened breach of this Agreement, but is in addition to all other rights and remedies available at law or in equity.
 - j) No forbearance, failure or delay by CN in exercising any right, power or privilege is waiver thereof, nor does any single or partial exercise thereof preclude any other or future exercise thereof or the exercise of any other right, power or privilege.
 - k) If and to the extent any provision of this Agreement is held invalid or unenforceable, all other provisions of this agreement shall remain in full force and effect to the fullest extent permitted by law.
 - l) Nothing in this Agreement is intended to grant any rights under any patent, trade secret or copyright to the other Party, nor shall this Agreement grant any rights in or to

Information, except the limited right to review such Information solely for the Purpose of this Agreement.

- m) Vendor agrees that it will not recruit or employ any personnel that is/was employed by CN unless a) a period of more than three (3) years has elapsed since CN employed the individual, or b) a duly authorized representative of CN provides written permission.
- n) This agreement is binding upon and inures to the benefit of the parties and their heirs, executors, legal and personal representatives, successors and assigns, as the case may be.
- o) This Agreement shall be deemed executed in the State of Kentucky, U.S.A., and is to be governed and construed by Kentucky law, without regard to its choice of law provisions. The parties agree that non-exclusive jurisdiction and venue for any action to enforce this Agreement is proper in the applicable federal or state court of Kentucky.
- p) This Agreement is the entire agreement between the parties hereunder and may not be modified or amended except by a written instrument signed by both parties. Each party has read this Agreement, understands it and agrees to be bound by its terms and conditions. There are no understandings or representations with respect to the subject matter hereof, express or implied, that are not stated herein. This Agreement may be executed in counterparts, and signatures exchanged by facsimile or other electronic means are effective for all purposes hereunder to the same extent as original signatures.

IN WITNESS WHEREOF, the parties have seen and agreed to this Nondisclosure Agreement as evidenced by the signatures of the parties' authorized representatives below:

	_____:	Connected Nation, Inc:
By:	_____ <i>(Authorized Signature)</i>	By: _____ <i>(Authorized Signature)</i>
Name:	_____ <i>(Print or Type)</i>	Name _____ <i>(Print or Type)</i>
Title:	_____	Title: _____

APPENDIX B
VENDOR CONTRACT



VENDOR CONTRACT

This **VENDOR CONTRACT**, (hereinafter referred to as the "Contract"), effective this ____ day of _____, 2009, by and between Connected Nation, Inc. (hereinafter referred to as "CN"), P.O. Box 3448, Bowling Green, Kentucky 42102 (hereinafter also referred to as the "Client"), and _____(hereinafter referred to as "Vendor").

WHEREAS, the Client desires to engage Vendor to perform certain research data collection and analysis services for the Client, pursuant to the request for proposal, the terms and conditions stated in this Vendor Contract and the attached Standard Terms and Conditions for Contracts and Grants Using ARRA Funds; and

WHEREAS, the Vendor desires to perform certain research data collection and analysis services for the Client, pursuant to the request for proposal, the terms and conditions stated in this Vendor Contract and the attached Standard Terms and Conditions for Contracts and Grants Using ARRA Funds; and

NOW, THEREFORE, in consideration of the mutual promises of the Parties set forth below, and for other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledged, the Parties agree as follows:

1. **SCOPE OF SERVICES**

Vendor, in exchange for the compensation paid by Connected Nation, under this contract, agrees to provide the following services:

2. **ENGAGEMENT; SERVICES TO BE PERFORMED**

- a. Vendor will report directly to _____, Connected Nation's Point of Contact for this contract.

- b. Vendor agrees to work with all of the Client's officers and employees as may be necessary according to the scope of the assigned project(s). Vendor agrees to submit _____ for approval and provide monthly status reports to the CN Point of Contact in addition to all report requirements referenced in the Standard Terms and Condition for Contracts and Grants Using ARRA Funds.
- c. Connected Nation's Point of Contact will determine the scope of the Vendor's specific responsibilities. The Vendor and the Connected Nation Point of Contact will communicate regularly to ensure that no misunderstanding occurs as to the nature of assignments.

3. **VENDOR/THIRD PARTIES/SUBCONTRACTORS**

The Vendor is solely responsible for fulfilling the contract with responsibility for all services offered and products to be delivered. The Vendor or Vendor Designee (insert name of Vendor Designee) agrees to be the sole point of contact regarding all contractual matters.

Vendor may not assign or otherwise transfer or delegate any right or duty without Client's express written consent. However, if CN has given written pre-approval, Vendor may enter into subcontracts. Any such subcontract must acknowledge the binding nature of this contract and must incorporate this contract, including any attachments. Vendor is solely responsible for the performance of any subcontractor.

If the Vendor intends to subcontract any part of its performance, the Vendor must provide for written approval by CN the:

- a. Name, address and telephone number of the subcontractor(s);
- b. Specific tasks for each subcontractor(s);
- c. Percentage of performance hours intended for each subcontract; and
- d. Total percentage of subcontractor(s) performance hours.

Following execution of the Contract, the Vendor shall proceed diligently with all services and perform services with qualified personnel in accordance with the contract. The Vendor warrants that all persons assigned to the project shall be employees of the Vendor or previously approved subcontractors of the Vendor, and shall be fully qualified to perform the work required herein. Personnel employed by the Vendor to fulfill the terms of the contract shall remain under the sole direction and control of the Vendor.

Connected Nation reserves the right to require the Vendor to conduct background investigations on any and all previously approved subcontractors and employees of the Vendor that will perform work under this contract. If so required, Vendor shall furnish the results of such background investigations to CN. CN shall have the right to reject any individual assigned to work under this contract, if, in its sole discretion, it determines that the results of the background investigation make the individual unacceptable. The background investigations to be performed are:

- a. Criminal History
- b. References
- c. Employment
- d. Motor Vehicle
- e. Credit
- f. Education

Personnel commitments made in the RFP shall not be changed without the prior written approval of Connected Nation. Replacement of key personnel, if approved by Connected Nation, shall be with personnel of equal or greater ability and qualifications.

Connected Nation reserves the right to require the Vendor to reassign or remove from the project any subcontractor or employee.

4. PERFORMANCE; LEVEL OF EFFORT

During the term of this Contract, the Vendor will use its best efforts, skill and experience in the performance of the services assigned to it under this Contract. The Vendor will ensure that no actions taken by it in the performance of such services are contrary or detrimental to the best interests of the Client.

5. REVIEW, APPROVAL AND ACCEPTANCE PROCESS

For the life of this contract, Client has the right to complete a review of any deliverable received from Vendor and notify Vendor of Client's findings.

If the deliverable is unacceptable, Vendor shall resubmit the deliverable after the appropriate correction or modification has been made.

6. FINAL ACCEPTANCE

“Final Acceptance” will be defined as:

- a. The successful completion of all deliverables as stated in the scope of services and following the Review, Approval and Acceptance processes described above, AND
- b. The final delivered product fully implemented in Client’s live production environment no later than _____, AND
- c. Client will have sixty (60) days thereafter in which to reject it in writing. If Client rejects it, Client will specify in writing its grounds for rejection and Vendor will use its best efforts to make the product conform to the technical specifications/system design as soon as possible at no additional cost to Client. Vendor shall continue its best efforts to make the product conform to the technical specifications/system design until Client accepts the product or terminates this contract upon written notice to Vendor.

7. TERMS OF PAYMENT

In exchange for services rendered to Client, Vendor shall be paid as follows: _____dollars per hour. Number of hours worked for payment from week to week may vary but shall not exceed an average of ____ hours per week. In the event special circumstances require work for payment over an average of ____ hours per week, Vendor will receive approval from Connected Nation’s Point of Contact prior to performing the work. Vendor shall provide Client with an invoice on a monthly basis showing the number of hours worked by Vendor and total amount due Vendor under the terms of this contract. Client agrees to remit payment of such invoices within seven (7) days of receipt, subject to sections 5, 6 and 12 of this Vendor Contract.

The payment of an invoice by the Client will not prejudice Client’s right to object to or question that or any other invoice or matter in relation thereto. Vendor’s invoice will be subject to reduction for amounts included in any invoice or payment made which is determined by Client, on the basis of audits conducted in accordance with the terms of this contract, not to constitute allowable costs. In addition, Vendor’s invoice is subject to reduction for any amounts determined appropriate under sections 5, 6, and 12 of this Vendor Contract. Any payment will be reduced for overpayments, or increased for underpayments on subsequent invoices.

8. REIMBURSEMENT OF EXPENSES

Client shall not be liable to the Vendor for any expenses it pays or incurs unless otherwise agreed to in writing by the Client. Any Vendor costs incurred prior to the award of this contract are the sole responsibility of the Vendor.

9. EQUIPMENT, TOOLS, MATERIALS OR SUPPLIES

The Vendor will provide, at its sole expense, all equipment, tools, materials and/or supplies to accomplish the work performed under this Contract unless otherwise agreed to in writing by the Client.

10. FRINGE BENEFITS

Except for the Vendor Fee, Vendor will not be entitled to any other compensation or benefits from Connected Nation including, but not limited to, workers' compensation or other employment benefits, which would be required, statutorily or otherwise, to be paid to or on behalf of Vendor's employees. Vendor is advised, and understands and agrees, that all payments made pursuant to this Contract will be reported to the appropriate taxing authorities. Vendor agrees to be responsible for the payment of all federal, state, and local taxes related to receipt of any and all income pursuant to this Contract.

11. NOTICES

Invoices shall be submitted via hard copy or e-mail to_____. When invoices are e-mailed, please copy Bernice A. Bogle at bbogle@connectednation.org. Such use of e-mail in no way authorizes use of or implies acceptance of e-mail for notices of early termination or any other notices and communications required under this contract. All required communications under this contract must be given by registered or certified mail and are complete on the date mailed when addressed to the parties at the following addresses:

If to the CLIENT:

_____ Connected Nation
1020 College Street
P.O. Box 3448
Bowling Green, Kentucky 42102-3448
Phone: 270.781.4320

Fax: 270.781.7611

Email: _____

With a copy address to the General Counsel at the same address.

If to VENDOR:

Name:

Address:

Phone:

Email:

Any party may by notice in accordance with this paragraph to the other party designate another address or person for receipt of notices by such party hereunder.

12. LIQUIDATED DAMAGES

The parties agree that Client may suffer damages due to a failure by the Vendor to provide deliverables or services according to the schedule specified in the project plan. Since it is difficult to fix the actual damages sustained in the event of such implementation delays, Client and Vendor agree that the amount of damages will be determined as per this section. In the event of any non-performance the Vendor shall pay that amount as liquidated damages and not as a penalty. Amounts due to Client as liquidated damages may be deducted by Client from any fees payable to Vendor and any amount outstanding over and above the amounts deducted from the invoice will be promptly tendered by check from Vendor to Client.

Client will notify Vendor, in writing, of any claim for liquidated damages no later than 15 days prior to the date the Client deducts such sums from money payable to Vendor and, in any case, within 90 days after Vendor's failure to perform in accordance with the terms of the contract.

Delays due to causes of Force Majeure or due to the responsibility of Client or third parties shall extend the time for performance on a day-to-day basis.

It is agreed by the parties that in the event Vendor fails to complete the project per the agreed upon schedule, Client may deduct from fees payable to Vendor ___per day not to exceed___for each day that the implementation is delayed as a reasonable approximation of the actual damages incurred by Client.

In case of default of the Vendor, the Client may contract the service from other sources and hold the Vendor responsible for any excess cost occasioned thereby.

13. **FORCE MAJEURE**

Vendor will not be held responsible for delay or default caused by fire, riot, acts of God or war if the event is beyond Vendor's reasonable control and the Vendor gives notice to the Client immediately upon occurrence of the event causing the delay or default or which is reasonably expected to cause a delay or default. The burden of proof for the need for such relief from performance of the contract shall rest upon the Vendor.

14. **TERM OF CONTRACT**

The term of this Contract shall commence on the effective date listed above and shall continue for a period of _____. Connected Nation may terminate this Contract, with or without cause, upon thirty (30) days' written notice to the Vendor. Upon termination, the Vendor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

Client may terminate this contract effective upon delivery of written notice to Vendor, or on any later date stated in the notice, under any of the following conditions:

- a. If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for the completion of this contract. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds;
- b. 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;
- c. 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;
- d. If Vendor has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business;
- e. If a trustee or receiver of the Vendor or of any substantial part of the Vendor's assets have been appointed by a court;

- f. Fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the contract by the Vendor, its contractors, its employees, officers, directors or shareholders;
- g. An involuntary proceeding has been commenced by any party against the Vendor under any one of the chapters of Title 11 of the United States Code and (1) the proceeding has been pending for at least sixty (60) days; or (2) the Vendor has consented either expressly or by operation of law, to the entry of any order for relief; or (3) the Vendor has been decreed or adjudged a debtor;
- h. A voluntary petition has been filed by the Vendor under any of the chapters of Title 11 of the United States Code; or
- i. Vendor intentionally discloses confidential information;

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

In addition, Client may terminate the whole or any part of this contract effective upon delivery of written notice to the Vendor:

- a. If Vendor fails to provide services required by this contract within the time specified or any extension agreed to by the Client; or
- b. If Vendor 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 the Client provided in the above clause related to defaults by Vendor are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

15. RENEWAL

This contract will not automatically renew. Client will provide written notice to Vendor of its intent to renew this contract at least sixty days before the scheduled termination date.

16. STATUS

The Vendor's status under this Contract shall be that of an independent contractor, and not that of an agent or employee

17. NO AUTHORITY TO BIND CLIENT

Vendor has no authority to enter into contracts or agreements on behalf of the Client. This Contract does not create a partnership or joint venture between the parties of any kind whatsoever. Parties are totally independent, contracting entities with no type of existing nor created employer/employee relationship. In addition, the Vendor may not represent themselves as an agent of the Client unless otherwise agreed to in writing by the Client.

18. ASSIGNMENT

This Contract shall not be transferred or assigned by Vendor without prior written consent of the Client.

19. OTHER CONTRACTS

Vendor's services are not to be construed by this Contract as being exclusively committed to the Client. Vendor shall be free to provide services to other persons, or firms, so long as such other persons or firms are not competitors of Client, pursuant to the terms of Section 20, and provided that Vendor must ensure that the services required by the Client as provided for herein shall at all times be performed in full. Vendor hereby warrants that there is no conflict of interest in Vendor's full-time or other employment, if any, or other contracts, if any, with services to be performed hereunder, and Vendor shall advise the Client if a conflict of interest arises in the future.

20. NON-COMPETE

Vendor recognizes and acknowledges that by virtue of accepting the terms of this Contract, Vendor will acquire valuable knowledge, skills and experience, and learn proprietary and in some cases confidential information of Client. Therefore, Vendor shall not engage any persons, firms, Client employees, Client third-party contractors or any other persons or entities with the same or substantially similar ongoing business affairs of Client, for a period of three (3) years after the conclusion or termination of this Contract, whichever comes first.

21. INDEMNIFICATION

In exchange for the contract to retain Vendor's services as provided in this Contract, Vendor agrees to fully and forever release, acquit, hold harmless,

indemnify and discharge Connected Nation and its parent, subsidiary, and affiliated corporations, and its and their directors, officers, successors, shareholders, assigns, attorneys, agents, representatives, subcontractors and employees (collectively the "Released Parties"), from any and all legal and equitable claims of any nature which Vendor may have against the Released Parties including, but not limited to, claims arising from or related to the services provided to Connected Nation as an independent contractor under this Contract.

Vendor agrees to undertake and indemnify Connected Nation for the costs of defense of any claims arising from its breach of any portion of this Contract which are made against Connected Nation including, but not limited to, the defense of any claim which would have been covered by Workers' Compensation if such coverage had been maintained during the performance of the duties contemplated in this Contract. Further:

- a. Vendor, at its own expense, will defend and indemnify Client against claims that products furnished under this contract infringe a United States patent or copyright or misappropriate trade secrets protected under United States law.
- b. As to any product which is subject to a claim of infringement or misappropriation, Vendor may (1) obtain the right of continued use of the product for Client or (2) replace or modify the product to avoid the claim.
- c. Vendor will comply with all applicable federal, state and local laws, rules and ordinance at all times in the performance of the contract and conduct its activities so as not to endanger any person or property.
- d. Vendor agrees to report to Client any event encountered in the course of performance of this Contract which results in injury, or death, to the person or property of third parties, or which may otherwise subject Vendor or the Client to liability. Vendor shall report any such event to the Client immediately upon discovery. Reporting to the Client under this section shall not excuse or satisfy any obligation of Vendor to report any event to law enforcement or other entities under the requirement of any applicable law.

22. **INSURANCE**

Vendor shall secure and keep in force during the term of this contract and Vendor shall require all subcontractors, prior to commencement of contract between Vendor and the subcontractor, to secure and keep in force during the term of this contract, from insurance companies, government self-insurance

pools or government self-retention funds, authorized to do business in the state, the following insurance coverages:

- a. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- b. Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- c. Workers compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this contract.
- d. Employer's liability or "stop gap" insurance of not less than \$1,000,000 as an endorsement on the worker's compensation or commercial general liability insurance.
- e. Professional errors and omissions, including a three year "tail coverage endorsement," with minimum liability limits of \$1,000,000 per occurrence and in the aggregate.

The insurance coverages listed above must meet the following additional requirements:

- a. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Vendor.
- b. The amount of any deductible or self-retention is subject to approval by the Client.
- c. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the Client. The policies shall be in form and terms approved by the Client.
- d. The duty to defend, indemnify, and hold harmless the Client under this agreement shall not be limited by the insurance required in this agreement.
- e. The Client shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insured. The Client shall have all the benefits, rights, and coverages of an additional insured under these policies.

- f. The insurance required in this contract, through a policy or endorsement, shall include:
1. "Waiver of Subrogation" waiving any right to recovery the insurance company may have against the Client;
 2. A provision that the policy and endorsements may not be canceled or modified without thirty days' prior written notice to the undersigned Client representative;
 3. A provision that any attorney who represents the Client under this policy must first qualify as and be appointed by the Client.
 4. A provision that Vendor's insurance coverage shall be primary (i.e. pay first) as respects any insurance, self-insurance or self-retention maintained by the Client and that any insurance, self-insurance or self-retention maintained by the Client shall be in excess of the Vendor's insurance and shall not contribute with it;
 5. Cross liability/severability of interest for all policies and endorsements;
 6. The legal defense provided to the Client under the policy and any endorsements must be free of any conflict of interest, even if retention of separate legal counsel for the Client is necessary;
 7. The insolvency or bankruptcy of the insured Vendor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Vendor from meeting the retention limit under the policy.
- g. The Vendor shall furnish a certificate of insurance to the undersigned Client representative prior to commencement of this Contract. All endorsements shall be provided as soon as practicable.
- h. Failure to provide insurance as required in this Contract is a material breach of contract entitling the Client to terminate this contract immediately.

23. TAXES

Neither federal, state, or local income taxes, nor any other payroll taxes of any kind, shall be withheld or paid by the Client on behalf of the Vendor. In accordance with the terms of this Contract and the understanding of the Parties herein, Vendor shall not be treated as an employee with respect to the services performed hereunder for federal, state or local tax purposes. Vendor agrees to indemnify and hold harmless Client against and with respect to any and all claims, interest, penalties, damages, losses, liabilities, and taxes assessed against Client relating to services performed hereunder.

24. VENDOR TAX DUTIES

The Vendor understands that it is responsible to pay, according to law, the Vendor's income taxes. If the Vendor is not a corporation, the Vendor further understands that the Vendor may be liable for self-employment (social security) tax, to be paid by the Vendor according to law.

25. COMPLIANCE WITH LAWS

Vendor agrees that at all times material to this Contract it shall use due diligence to ensure that it is fully complying with all applicable laws, whether federal, state or local, including but not limited to, all immigration laws, the Occupational Safety and Health Act ("OSHA"), wage and hour laws, collective bargaining obligations, the Americans with Disabilities Act of 1990, the Family and Medical Leave Act, Workers' Compensation laws, and Ethics Reporting Disclosure laws.

26. RECORDS AND ACCOUNTS

Vendor agrees that all records or other documents Client has provided to Vendor shall be considered the property of the Client, and Vendor will allow any duly authorized representative, auditor, or agent of the Client to inspect such records, and to furnish to the said representative, auditor or agents, full and complete information and explanations in connection therewith.

27. PRIOR AGREEMENTS AND CONFLICTS IN DOCUMENTS

The Request for Proposal, this Vendor Contract and the Standard Terms and Contracts and Grants Using ARRA Funds supersede all prior oral or written agreements, if any, between the parties, and constitutes the entire contract with respect to the subject matter herein set forth between the parties. There are no understandings, agreements or representations not specified within this Contract. In the event of any inconsistency or conflict amount the documents making up this entire Contract, the documents must control in this order of preference:

- a. The Standard Terms and Conditions for Contracts and Grants Using ARRA Funds;
- b. The Nondisclosure Agreement;
- c. The terms and conditions of this Vendor Contract;
- d. Any Contract Award;

- e. Any Best and Final Offer;
- f. Any Vendor Contract Amendment, with last dated amendment having highest priority;
- g. Any RFP Appendix and/or Amendments to include questions and answers with latest dated amendment having the highest priority;
- h. Original RFP Document;
- i. Signed Request for Proposal Form;
- j. The Vendor(s) RFP proposal.

28. **MODIFICATIONS**

The Client may, at any time with written notice to the Vendor, make changes within the general scope of the contract. Changes in scope shall only be conducted with the written approval of the Client's designee as so defined by the Client.

The Client may, at any time work is in progress, by written order, make alterations in the term of work as shown in the specifications, require the performance of extra work, decrease the quantity of work, or make such other changes as the Client may find necessary or desirable. The Vendor shall not claim forfeiture of contract by reasons of such changes.

Any modification of this Contract or additional obligation assumed by the Vendor in connection with this Contract shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

29. **WAIVER OF BREACH**

The waiver of a breach of any provision of this Contract by either party shall not operate or be construed as a waiver of any subsequent breach by either party. No waiver shall be valid unless it is in writing and signed by an authorized officer of the party granting the waiver.

30. **HEADINGS**

Headings in this Contract are for convenience only and shall not be used to interpret or construe its provisions.

31. INJUNCTIVE RELIEF

Since a material purpose of Sections 19, 20, 42 and 43 is to protect Client's investments, the Parties hereto agree and acknowledge that money damages may not be an adequate remedy for any breach of these provisions. Therefore, in the event of an alleged breach of the aforesaid, Client or its successors or assigns may, in addition to other rights and remedies existing in its favor, apply to any court of law or equity of competent jurisdiction for specific performance and/or injunctive or other relief in order to enforce or prevent any violations of these provisions.

32. SURVIVAL

The terms, provisions and agreements contained in paragraphs 20, 26, 31, 42 and 43 shall survive the termination of this Contract.

33. FUTURE PERFORMANCE

The parties hereto shall sign such further and other assurances and perform such further and other acts and things which may be necessary or desirable in order to give full force and effect to the Contract herein.

34. NOTICE OF POTENTIAL CLAIMS

Vendor shall promptly notify Client of all potential claims that arise or result from this contract. Vendor 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 the Client the opportunity to review and inspect the evidence, including the scene of the accident.

35. GOVERNING LAW

Any controversy or claim arising out of or relating to this Contract shall be governed by the laws of the Commonwealth of Kentucky. Any litigation under this Contract, if commenced by either party, shall be brought in Warren Circuit Court in the Commonwealth of Kentucky.

36. MUTUAL NEGOTIATION

This Contract, and the language contained herein have been arrived at by the mutual negotiation of the parties, accordingly, no provision shall be construed against one party or in favor of another party merely by reason of draftsmanship.

37. ATTORNEYS' FEES

In any action to enforce any provision of this Contract, the party seeking to enforce this Contract shall be entitled to recover the costs and expenses of any such litigation, including reasonable attorneys' fees, in addition to all rights and remedies at law.

38. ARBITRATION

Any controversy or claim arising out of or relating to this Contract shall be settled by arbitration in the City of Bowling Green, Kentucky, in accordance with the then governing rules of the American Arbitration Association. Judgment upon the award rendered may be entered and enforced in any court of competent jurisdiction.

39. SEVERABILITY

If any provision, paragraph, or subparagraph of this Contract is adjudged by any court of law to be void or unenforceable, in whole or in part, such adjudication shall not be deemed to affect the validity of the remainder of the Contract, including any other provision, paragraph, and subparagraph. Each provision, paragraph, and subparagraph of this Contract is declared to be separable from every other provision, paragraph, and subparagraph and constitutes a separate and distinct covenant.

40. EFFECTIVENESS OF CONTRACT

This contract is not effective until fully executed by both parties.

41. AVAILABILITY OF FUNDING

Vendor agrees that this contract is contingent on legislative appropriation of funds for the 2009 ARRA. In addition, the Vendor understands and agrees that this contract can be canceled at any time if the federal government does not award ARRA grants to CN. This contract will end once all federal grant money has been exhausted.

42. CONFIDENTIAL MATTERS

Vendor shall keep in strictest confidence all information relating to this Contract which may be acquired in connection with or as a result of this Contract, including without limitation, any information concerning any matters affecting or relating to the business of the Client and its affiliated companies, and any other information concerning the business of the Client, its manner of operation, its plans, processes, proprietary technology and trade secrets. During the term of this Contract and at any time thereafter, without the prior written consent of the Client, Vendor shall not publish, communicate, divulge, disclose, or use any such information which it has obtained or created as a result of this Contract. Vendor accepts a duty to protect such information from accidental disclosure by taking all reasonable precautions against the same.

Confidential information includes, but is not limited to, any information, including trade secrets, or commercial or financial information, submitted under this program that: (1) identifies the type and technical specification of infrastructure owned, leased, or used by a specific broadband service provider; or (2) explicitly identifies a broadband service provider's name and its availability/speed at a particular address. However, identification of a provider's name and availability/speed at a census block or street segment level will not be considered confidential and will be displayed on the national broadband map.¹ Notwithstanding the foregoing, confidential information, as defined herein and as provided as part of a project funded under this Program, will not be made publicly available, pursuant to the limitations set forth in the BDIA, except as required by applicable law or judicial or administrative action or proceeding, including the Freedom of Information Act requirements.

Upon termination or expiration of this Contract, Vendor shall deliver all records, data, information, and any and all other documents, and all copies incident to thereof, to the Client and such shall remain the property of the Client. Vendor further agrees to advise the Client of any agreements, orders, or other restrictions to which Vendor is subject regarding the disclosure of proprietary information or trade secrets of other parties likely to affect its work under this Contract. Vendor will immediately advise Client of any pending legal action, injunction, court order or other such document which may attempt to force compulsory disclosure of any confidential and/or proprietary information covered by this Contract prior

¹ This definition of Confidential Information is based on the State Broadband Data and Development Grant Program, *Notice of Funds Availability; Clarification* 74 Fed. Reg. at 32549 (August 7, 2009) (Notice)

to Vendor making any such disclosure so that Client may aggressively defend its interests in attempting to prevent such disclosure.

Vendor agrees not to disclose any proprietary information or trade secrets of any of Vendor's former employers or clients that may subject the Client to any civil or criminal liability. Any breach of the terms of this paragraph shall be a material breach of this Contract, and Vendor agrees to fully indemnify and hold the Client harmless from all damages and costs, including attorney fees, which it may incur as a result of its disclosure of the proprietary information or trade secrets of others. Vendor shall not utilize any entities, persons or employees on the work to be performed under this Contract unless said entities, persons or employees have executed a contract agreeing to be bound by the terms of this paragraph of this Contract.

43. INVENTIONS, PATENTS, TRADEMARKS

- a. The terms "work," "trademark," and "invention" include anything created for Client by Vendor, whether alone or with others, and whether they be independent contractors, employees or agents of Client.
 - (1). The term "work" means any and all writings, designs, models, drawings, photographs, physical property, reports, etc., that are protected under intellectual property laws of the United States.
 - (2). The term "trademark" means any word, name, symbol, or device including, but not limited to, a distinctive package or container of any kind, or any combination of these, which is or can be used by Client to identify and distinguish its goods, including a unique product, from those manufactured or sold by others.
 - (3). The term "invention" means any designs, processes, inventions, or discoveries that may be patentable or otherwise protected under intellectual property laws of the United States.

During the performance of this Contract, the Vendor may provide or create certain works for Client that may be copyrighted under the laws of the United States. To the extent that any such works are provided or created, the Vendor agrees that those works will be classified as "work(s) for hire" as defined by the intellectual property laws of the United States, and accordingly, Client shall possess the sole copyright. In the event that any work created or provided by the

Vendor during Vendor's performance of this contract does not qualify as a "work for hire" under the intellectual property laws of the United States, the Vendor agrees to assign absolutely all of Vendor's rights in the work to Client, as is provided below.

- a. It is understood and agreed that the entire right, title, and interest throughout the world to all works, trademarks, and/or inventions that are conceived of, prepared, procured, generated, or produced, whether or not reduced to practice, by the Vendor, either solely or jointly with others, even if considered a derivative work of Vendor's prior work, during the course of, in connection with, or as related to the performance of this Contract, shall be and hereby are vested and assigned by the Vendor to Client.
- b. The Vendor agrees to execute any and all documents prepared by Client and to do all other lawful acts as may be required by Client to establish, document, and protect such rights.
- c. The Vendor has acquired or shall acquire from each of its employees, contractors, consultants, and subcontractors, if any, the necessary rights to all such works, trademarks, and inventions produced by such employees, contractors, consultants, and subcontractors, within the scope of their employment by the Vendor in performing services under this Contract. The Vendor shall obtain the cooperation of each such employee to secure to Client or its nominees the rights Client may acquire in accordance with the provisions of this clause.

The contract price shall, without exception, include compensation for all royalties and costs arising from patents, trademarks and copyrights that are in any way involved in the contract. It shall be the responsibility of the Vendor to pay all royalties and costs, and the Client shall be held harmless from any such claims.

44. STRICT LOYALTY

Vendor and its employees, if any, shall avoid all circumstances and actions which would place Vendor in the position of divided loyalty with respect to the obligations undertaken under this Contract.

IN TESTIMONY HEREOF, the Parties have affixed their signatures and thereby executed this Contract.

VENDOR,

BY:

DATE:

Title: _____

CONNECTED NATION, "CLIENT"

BY:

DATE:

Title: _____

APPENDIX C
STANDARD TERMS AND CONDITIONS



STANDARD TERMS AND CONDITIONS FOR CONTRACTS AND GRANTS USING ARRA FUNDS

REVISED SEPTEMBER 28, 2009

PREAMBLE

The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (“ARRA”) was enacted to preserve, create jobs, promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

Section 6001(l) of the Recovery Act requires the Assistant Secretary for Communications and Information to develop and maintain a comprehensive, interactive, and searchable nationwide inventory map of existing broadband service capability and availability in the United States, that depicts the geographic extent to which broadband service capability is deployed and available from a commercial or public provider throughout each State.

These terms and conditions address requirements applicable to ARRA funds. “ARRA Funds” mean funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. The Vendor should be advised that ARRA funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of ARRA and related guidance. For projects funded by other sources in addition to ARRA funds, Vendor must keep separate records for ARRA funds and must ensure those records comply with the requirements of the ARRA.

Vendor agrees that in consideration of receipt of Federal ARRA Funds, it will comply with all of the terms, conditions, requirements and limitations set forth in this agreement.

REVISIONS TO REQUIREMENTS

The Federal Government has not fully developed the implementing instructions of ARRA, particularly concerning specific procedural requirements for the new reporting requirements. In the event there is any inconsistency between these ARRA requirements and future award terms and conditions, the most recent ARRA requirements will take precedence.

Vendor acknowledges that this contract may be revised pursuant to ongoing guidance from the relevant federal or state agency regarding requirements for ARRA funds. As a result, Vendor agrees to abide by any such revisions upon receipt of written notification from Connected Nation of the revisions, which will automatically become a material part of this contract, without the necessity of either party executing any further instrument.

AVAILABILITY OF FUNDING

Vendor agrees that programs supported with temporary federal funds made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, will not be continued once the temporary federal funds are expended.

BUY AMERICAN REQUIREMENT

Vendor agrees that in accordance with ARRA, Section 1605, neither Vendor nor its subcontractors will use ARRA funds for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States in a manner consistent with United States obligations under international agreements. The Vendor understands that this requirement may only be waived by the applicable federal agency in limited situations as set out in ARRA, Section 1605.

CONFLICTING REQUIREMENTS

Vendor agrees that, to the extent ARRA requirements conflict with state law requirements, the ARRA requirements shall control.

WAGE RATE REQUIREMENTS

Section 1606 of ARRA requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to ARRA

shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

PROHIBITION ON USE OF FUNDS

No ARRA funds may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool, or any other items prohibited by ARRA.

WHISTLEBLOWER PROVISION

- a. An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of:
 - (1) Gross mismanagement of an agency contract or grant relating to covered funds;
 - (2) A gross waste of covered funds;
 - (3) A substantial and specific danger to public health or safety related to the implementation or use of covered funds;
 - (4) An abuse of authority related to the implementation or use of covered funds; or
 - (5) A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.
- b. A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint regarding the reprisal to the appropriate U.S. Office of the Inspector General.
- c. Any employer receiving covered funds under ARRA, shall post notice of the rights and remedies as required by Section 1553 of ARRA. See www.recovery.gov.

FALSE CLAIMS ACT

Vendor shall promptly refer to the U.S. Office of Inspector General any credible evidence that a principal, employee, agent, vendor, contractor, sub-grantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.

ENVIRONMENTAL AND PRESERVATION REQUIREMENTS

The Vendor shall comply with all applicable federal, state, and local environmental and historic preservation (EHP) requirements and shall provide any information requested by the awarding federal agency to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, the Clean Air Act, the Federal Water Pollution and Control Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898). Failure of the Vendor to meet federal, state, and local EHP requirements and obtain applicable permits may jeopardize federal funding. The Vendor shall not undertake any project having the potential to impact EHP resources without the prior approval of the awarding federal agency, including but not limited to communication towers, physical security enhancements, new construction, and modification to buildings that are 50 years old or greater. The Vendor must comply with all conditions placed on the project as a result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with these EHP requirements. If ground disturbing activities occur during project implementation, the Vendor must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, the Vendor will immediately cease construction in that area and notify the awarding federal and state agency. Any construction activities that have been initiated prior to the full environmental and historic preservation review will result in a non-compliance finding.

NO CONTRACTS WITH DEBARRED OR SUSPENDED ENTITIES

The Vendor shall not enter into any contract or subcontract with any party that has been debarred or suspended from either:

- (a) contracting with the Federal Government or any state government;
- or

- (b) participating in any federal or any state government assistance programs.

In addition, the Vendor certifies that neither the Vendor nor any of its principal employees are listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs.

PROHIBITION ON LOBBYING

The Vendor covenants and agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract; the making of any federal grant; the making of any federal loan; the entering into of any Agreement; and, the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or agreement.

Section 319 of Public Law 101-121 (31 U.S.C. Section 1352) and any applicable regulations are incorporated by reference and the Vendor agrees to comply with all the provisions thereof, including any amendments to the Interim Final Rule that may hereafter be issued.

NONDISCRIMINATION PROVISIONS

The Vendor covenants and agrees that no person shall be denied benefits of, or otherwise be subjected to discrimination in connection with the Vendor's performance under this Agreement. Accordingly, and to the extent applicable, the Vendor covenants and agrees to comply with the following:

- (a) On the basis of race, color or national origin, in Title V I of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.) as implemented by applicable regulations.
- (b) On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 (3 CFR, 1964-1965 Comp. pg. 339), as implemented by applicable regulations.
- (c) On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), as implemented by applicable regulations.
- (d) On the basis of age, in The Age Discrimination Act of 1975 (42 U.S.C. Section 6101 et seq.), as implemented by applicable regulations.

- (e) On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by applicable regulations.

DBE PROVISIONS

The Vendor shall comply with all applicable federal Disadvantaged Business Enterprises (DBE) requirements related to DBE programs. In the event this is not covered by federal DBE requirements, the Vendor shall use reasonable and good faith efforts to solicit and utilize DGS-certified Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) for those contracting, subcontracting and purchase opportunities that exist and report utilization to DGS.

COMPLIANCE

The Vendor shall comply with all applicable laws, regulations and program guidance. A non-exclusive list of statutes, regulations and/or guidance commonly applicable to federal funds follows:

General

- Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.; 32 CFR part 26, Subpart B)
- Copeland "Anti-Kickback Act", 18 U.S.C. Section 874; 29 CFR Part 3
- Contract Work Hours and Safety Standards Act, 40 U.S.C. §§327-330; 29 CFR Part 5
- Americans with Disabilities Act of 1990, as amended; 42 U.S.C. Chapter 126; 28 C.F.R. §35.101 et seq.

Administrative Requirements

- OMB Circular A-102, State and Local Governments (10/07/94, amended 08/28/07) (44 CFR Part 13)
- OMB Circular A-110, Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (11/19/93, amended 09/30/99) (2 CFR Part 215)

Cost Principles

- OMB Circular A-87, State and Local Governments (05/10/04) (2 CFR Part 225)
- OMB Circular A-21, Educational Institutions (5/10/04) (2 CFR Part 220)

- OMB Circular A-122, Non-Profit Organizations (5/10/04) (2 CFR Part 230)

Audit Requirement

- OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations (6/24/97, includes revisions published in the Federal Register 6/27/03)

REPORTING REQUIREMENTS

Not later than 1 day after the end of each calendar quarter, or more frequently as directed by Connected Nation, the Vendor shall submit a report to Connected Nation that contains:

- (a) The total amount of ARRA funds received;
- (b) The amount of ARRA funds received that were expended or obligated to projects or activities;
- (c) A detailed list of all projects or activities for which ARRA funds were expended or obligated, including:
 - i) the name of the project or activity;
 - ii) a description of the project or activity;
 - iii) an evaluation of the completion status of the project or activity;
 - iv) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and
 - v) for infrastructure investments made by state and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under ARRA, and name of the person to contact at the agency if there are concerns with the infrastructure investment;
- (d) Detailed information on any subcontracts awarded by the Vendor must include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget;

- (e) If required by Connected Nation, Vendor agrees to separately identify the expenditures for each award funded under ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." This identification on the SEFA and SF-SAC shall include the Federal award number, the Catalog of Federal Domestic Assistance (CFDA) number, and amount such that separate accountability and disclosure is provided for ARRA funds by Federal award number consistent with the Vendor reports required by ARRA;
- (f) If required by Connected Nation, Vendor shall submit backup documentation for expenditures of ARRA funds including such items as timecards and invoices. Vendor shall provide copies of backup documentation at the request of Connected Nation.

MANDATORY REPORTING FOR RECOVERY ACT CONTRACTORS

This Contract is funded with federal stimulus funds under the American Recovery & Reinvestment Act, which has strict reporting requirements for funds spent and jobs created or retained. All job openings created by the Contractor /Grantee for this project must be listed with the WorkSource system, an affiliate of the Employment Security Department, before hiring; all hiring decisions also must be reported to WorkSource. In addition, all Sub-Contractors/Sub-Grantees hired by the Contractor/Grantee also must be required to list jobs and report hiring results to WorkSource. Existing Contractor/Grantee or Sub-Contractor/Sub-Grantee employees who are retained using funds from this project also must be reported to WorkSource.

WorkSource will pre-screen and refer qualified job candidates for the Contractor's/Grantee's consideration. The Contractor/Grantee also has the discretion to use other, additional recruitment systems and retains the right to make all hiring decisions. To begin the listing and reporting process, contact the ARRA Business Unit at 877-453-5906 (toll-free), 360-438-4849. In addition, Recovery Act contractors are required to report at www.federalreporting.gov.

MANDATORY REGISTRATION REQUIREMENTS FOR RECOVERY ACT CONTRACTORS

If applicable, Vendor must maintain current registrations in the Center Contractor Registration (www.ccr.gov) at all times during which they have active federal awards funded with ARRA funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (www.dnb.com) is one of the requirements for registration in the Central Contractor Registration system (CCR). Prime Recipients and designated Sub Recipients must be registered in CCR at <http://www.ccr.gov>.

If applicable, the Vendor agrees to separately identify to each sub-contractor and document at the time of award of contract or approval of application and at the time of disbursement of funds, the Federal award number, CFDA number and the amount of ARRA funds.

ACCESS TO RECORDS

Vendor agrees that the U.S. Inspector General of the Department of Commerce, or any of its duly authorized representatives, the U.S. Comptroller General, or any of its duly authorized representatives, and the NTIA representatives, or any of their authorized representatives, shall have access to and the right to inspect any property or documents funded by the grant, or relating to the grant funding, of the parties to a grant, including their subsidiaries, if any, whether written, printed, recorded, produced or reproduced by any electronic, mechanical, magnetic or other process or medium, in order to make audits, inspections, site visits, excerpts, transcripts, copies or other examinations. In addition, the above referenced entities and their duly authorized representatives shall have authority to interview any officer or employee of the Vendor, subcontractor or agency regarding such transactions.

RECORDS RETENTION

Vendor shall retain all such contract records intact in a form, if not original documents, as may be approved by the Federal Government, for at least three (3) years following termination of a project funded by ARRA or for such longer period of time as required by Connected Nation.

ACCESS TO INFORMATION

This contract and any records or expenditures related thereto may be subject to disclosure under the Freedom of Information Act, 5 U.S.C. §552 and any applicable state law, with the exception of the following:

- a. Bona fide trade secrets that have been properly marked, separated, and documented;
- b. Matters involving individual safety as determined by CN; and
- c. Other constitutional protections.

FLOW DOWN REQUIREMENT

Vendor must include these ARRA Terms and Conditions in any subcontract.

EQUAL OPPORTUNITY EMPLOYER

Vendor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, disability, sex, or national origin. Vendor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, disability, sex or national origin.

SEGREGATION OF FUNDS

Vendor agrees that it shall segregate obligations and expenditures of Recovery Act funds from other funding. No part of funds made available under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be comingled with any other funds or used for a purpose other than that of making payments for costs allowable under the ARRA.

APPENDIX D
RFP RESPONSE FORM

RFP RESPONSE FORM
RESEARCH DATA COLLECTION AND ANALYSIS
RFP 200902
CERTIFICATION OF LEGAL REVIEW

DATE: November 30, 2009

RESPONDENT NAME:

I, _____, confirm that I have reviewed the attached *Request For Proposal, Vendor Contract* and the *Standard Terms and Conditions for Contracts and Grants Using ARRA Funds* and accept the terms or have the following exceptions, I have legal authority to bind

(Company Name)

List specific provisions and proposed changes below:

Signature of Legal Representative

RETURN THIS FORM WITH YOUR PROPOSAL