REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06A and 06B – ALL RULES SUBMITTED

**DEADLINE FOR RECEIPT: FRIDAY, APRIL 12, 2013**

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In the history note, in the authority line, please correct the citation to G.S. 147-33.76(b)(1) to G.S. 147-33.76(b1).*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06A .0101

**DEADLINE FOR RECEIPT: FRIDAY, APRIL 12, 2013**

***NOTE WELL: This request when viewed on computer may extend several pages. Please be sure you have reached the end of the document.***

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*At the beginning of the rule, line 8, please add “In these rules” or otherwise make it clear that it is the rules that will establish the contents of “forms, terms and conditions and advertisement requirements.”*

*In line 8 please add “the contents of” before “forms” (or other language) to show that the contents or requirements of or contained in forms will be set out in the rules.*

*In the history note, in the authority line, please correct the citation to G.S. 147-33.76(b)(1) to G.S. 147-33.76(b1).*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06A .0102

**DEADLINE FOR RECEIPT: FRIDAY, APRIL 12, 2013**

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*Please place the defined terms within quotation marks.*

*In (2) please make “Value Procurement” lowercase.*

*In (6) I do not believe that either of the commas in lines 33 and 34 are necessary. At any rate I am certain that the comma in line 34 should be deleted since it serves the same function as the conjunction “and” immediately following it.*

*In (8) page 2 line 1 please make “Situations” lowercase.*

*In (9) page 2 line 4 please make “Delegation” lowercase.*

*In (9) there is a reference to “IT goods and services.” I believe most people would probably understand “IT” to mean “information technology.” While this should be spelled out to remove any chance of misunderstanding it seems to me that you need a definition for “information technology” itself, which is where there might be more misunderstanding.*

*In (11) line 11 counsel is unclear as to what “respective” offers are referred to. If it simply means any of the offers that are received, then the adjective is unnecessary and may be confusing. If that is the case it could be deleted without changing the meaning.*

*In (11) line 14 it is unclear what the term “evaluation credit” means or what constitutes, counts for or makes up “evaluation credit.”*

*In (12) line 20 make “Solution-based Solicitations” and “Government-Vendor Partnerships” lowercase.*

*In (13) line 23 either define “significant” or delete “in significant quantities.”*

*In (14) line 25 please delete the comma following “including,”.*

*In (19) and (20), page 3 lines 1 and 3, you have switched from the wording “is defined as” to “means.” Personally I think “means” sounds better, but it seems you should be consistent in your style and use one or the other for all your definitions unless there is some particular reason for the alteration.*

*In (19) and (20) please rework the definitions to show that the terms include the variants of those terms and that “offeror” and “offer” are both included in the definitions.*

*In (19) it is unclear what “in good faith” at the end of line 2 modifies. Typically it would modify some verb or action word and not a noun such as “solicitation.”*

*In (20) line 3 it seems to me that “substantially” is unnecessary and should be deleted. It seems to me that “in all material respects” is what “substantially” is intended to mean and is a clearer term.*

*In (22), page 3 line 12 delete the colon following “includes:”. In line 13 change the semicolons to commas.*

*In (24) line 20 either delete or define “ITS approved.” In the alternative you could add “as set out in these rules” (or similar language) or refer to where the approval standards are found.*

*In (24) line 21 delete “to” in “to request” to maintain parallel construction.*

*In (26) line 26 make “Office” lowercase.*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06A .0103

**DEADLINE FOR RECEIPT: FRIDAY, APRIL 12, 2013**

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (a) please add a term to describe what the “benchmark” is benchmarking. Also it seems as if the rule makes the benchmark – which is the way the benchmark would have to be established – and not the State CIO. Please rewrite to make this clear.*

*In (c) line 9 delete “established.”*

*In (d)(2) add “and as permitted by these rules” or similar language at the end.*

*In (e) line 15 change “recommended approval” to “recommendation.” If that is not the meaning of the rule, then the rule is unclear.*

*For purposes of parallel construction and ease of reading I would suggest rewriting (f) lines 18 – 20 as follows (and please note the change in order and punctuation): “exemption by statute ...; exemption where one agency is in the Department of Administration; or exemption where one agency is buying from another agency or from state or federal surplus property.”*

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If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0101

**DEADLINE FOR RECEIPT: FRIDAY, APRIL 12, 2013**

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*It seems to me that this rule should be (a) and add the next rule, 06B .0102, as (b).*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0102

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*As mentioned in the previous request, it seems to me that this rule would be better rendered as (b) of the previous rule.*

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If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0103

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (b) line 14 please delete or define “complete.” Also delete “certain” in “certain vendors” or make specific reference to where or how the “certain” vendors are determined.*

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If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0201

**DEADLINE FOR RECEIPT: FRIDAY, APRIL 12, 2013**

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (b) line 10 either change “other” to “another” or make “location” plural. Also either delete “designated” or change it to “other locations [another location] designated as set out in these rules ... “ or similar language.*

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If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0204

**DEADLINE FOR RECEIPT: FRIDAY, APRIL 12, 2013**

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*It seems to me that in lines 8 and 9 the rule as originally published was correct. I believe it is best to end (4) line 8 with a comma and begin the next line with a lowercase “consideration.”*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0301

**DEADLINE FOR RECEIPT: FRIDAY, APRIL 12, 2013**

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (b) line 13 “Section” rather than “Subchapter” is correct.*

*It seems to me that in (b) line 14 “a” in “a ~~waiver~~” should be deleted as well.*

*There needs to be consistency in the use of punctuation in (b)(1), (2) and (3). It seems to me that the easiest, and my preferred choice, would be to make the punctuation at the end of the sub- and sub-sub-paragraphs all semicolons until the end of the last sub-*

*(sub-) paragraph is reached where there would be a period before the beginning of the next paragraph. This would eliminate the current mix of colons, semicolons and periods. At any rate be consistent and make them all the same within a paragraph, within a rule, and within a section.*

*Note that a colon, such as at the end of (b)(2)(A) line 33, should generally be used only before further sub-levels.*

*In (b)(2)(B) line 37 change “Subchapter” to “Section.”*

*At the end of (b)(2)(B), page 2 line 1, either delete the “prior ... approval” language or refer to where the approval standards are found or what they are.*

*In (b)(2)(C), page 2 line 3, make “Agency” lowercase. It also seems to me that a comma after “from ITS,” would make the sentence more readable.*

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If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0302

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*Please change the period at the end of line 5 to a colon.*

*There is inconsistent formatting and punctuating in this rule within the four items. I would suggest making the end of each item (1) – (4) end with a period. I would have each sub- and sub-sub-item within an item end with a semicolon until the end of the item was reached and the next item was begun. The style chosen should also be consistent with the style chosen for rule 6B .0301.*

*In (1)(a) line 9 please change “subpart” to “Subitems” (or “Sub-items”).*

*In (1)(b)(iii) delete or define “very limited” in line 19 and “easily defined” in line 20.*

*In line 20 delete “approved” or specify where approval standards are found.*

*In (1)(f) page 2 line 12 delete the comma following “factors,”.*

*In (1)(f)(i) page 2 line 21 delete the comma following “lifetime,” and the colon following “include:”.*

*In (1)(f)(ii) line 24 delete the commas in “offer, including, ....” In that same unit, line 27 I would change the comma following “integration,” to a semicolon. At the end of line 28 I would also add the word “and” after “schedules;” and before “guarantees” on the next line.*

*In (1)(f)(iii), page 2 line 33, delete the colon following “offeror’s:”.*

*In (1)(i) page 3 line 18, why is “or highest qualified technically acceptable method” not added at the end of the line?*

*In (2)(c) page 4 line 20, I believe that your example would read better if you deleted the word “normally.”*

*In (3)(a), page 4 lines 27 and 34, I believe that “priced or highest qualified” and “price or most highly qualified” respectively should be “priced of the highest qualified” and “price of the most highly qualified.” If that is not the case then I don’t understand the difference between methods (2) and (3). You should also use the same language for each one if they are the same thing. If not then you need other terms to make the terms distinguishable from each other.*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0303

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*Please specify the approval standards in line 10 or delete the approval requirement.*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0305

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*Please make the beginning of line 18 paragraph (a) and the succeeding (a) and (b), (b) and (c) respectively.*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0306

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*I believe the rule would be even stronger if there were a period after “considered” and the remainder of the rule were deleted. At any rate if you are going to keep the existing language either delete the semicolon following “considered;” or change it to a comma.*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0307

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*In line 7 delete or define “entirely.”*

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If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0309

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (d) line 20 delete or define “complete.”*

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If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0313

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*It seems to me that in line 4 “[co]mmodities and services” should be “[co]mmodities or services.”*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0314

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (a)(3) page 2 lines 18 and 19 please make “Notice of Award” lowercase. In line 19 add either “a” or “the” before “notice.”*

*Lines 20 – 23 of (a)(4) on page 2 should ultimately read as an introduction to sub-paragraphs (A) – (F). Based on that “... Requirement to Advertise and Notify ... requirement” should all be lowercase. It also seems that “[r]equirement in lines 20 and 23 should be “requirements” or else it should be rewritten in the singular form: “A waiver of a requirement to advertise or notify ....”*

*This rule is another one that requires consistency in the punctuation of sub- and sub- sub-paragraphs. I would use semicolons rather than periods, but you need to be consistent. The style chosen should also be consistent with the style chosen for rule 6B .0301.*

*In (b)(1)(C), page 3 line 9 please make “Advertisement” lowercase.*

*In (b)(1)(D) line 18, “Procurement” should be lowercase.*

*Please eliminate the duplicate requirements contained in (b)(2)(F) and (b)(4). Perhaps the former should read “Site visit information as set out below” or similar language.*

*Why isn’t (b)(3) another sub-paragraph of (b)(2), since it seems to be another item that must be included in the “required advertisement information” in (b)(2) line 23?*

*In (b)(3) line 36 please delete the comma in “offer terms, and conditions.”*

*The punctuation in (b)(3) needs to be corrected. The comma at the end of line 36 after “time,” and the comma after “etc,” page 4 line 2 need to be semicolons. Also add the word “and” on page 4 line 2 after the rewritten “etc.;” and before “an address.”*

*In (b)(4) page 4 the semicolons in lines 4 – 6 actually could (and should?) be commas. Also in lines 4 and 5 “time; and location” should be either “time and location,” or “time, location,”.*

*In (b)(6)(A) line 17 please change “individual Notice of Award” to “an individual notice of award.” In line 18 change “Notice of Award” to “the notice of award.”*

*In (b)(6)(B) page 4 line 20 it seems to me that the comma after “information,” should be deleted. In the next lines the semicolons in lines 21 and 22 should be commas.*

*In (b)(7)(A) page 4 line 25 please change “his/her” to “its” and in line 26 change “he/she” to “the agency” or “the purchasing agency.”*

*In (b)(7)(A) page 4 line 26 please change “to not publish” to “not to publish.”*

*In (b)(7)(B) page 4 line 29 please delete the comma after “include,” and delete “etc.” at the end of line 30. Be sure to use proper formatting to show the change in punctuation at the end of the line.*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0315

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*In (b) line 12 please refer to the rule(s) governing a “procurement [that] may be handled as a waiver permitted by rule.”*

*In (d) the last sentence, line 18, is a legal conclusion. The agency has no authority to assert or impose legal conclusions by or in its rules. Please delete the last sentence.*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0316

**DEADLINE FOR RECEIPT: FRIDAY, APRIL 12, 2013**

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (a) at the end of line 6 add “as set out in rule(s) .0000,” “as set out in these rules” or similar language.*

*In (d)(4) line 24 either specify what standards ITS will use to determine what “other documentation” it may require or delete the requirement.*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0401

**DEADLINE FOR RECEIPT: FRIDAY, APRIL 12, 2013**

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (a) line 6 it seems to me that “Basis” should be “Bases.”*

*In that same line please add “of an offer” or similar language after “rejection.”*

*In (c) line 18 it seems to me that the comma after “timely,” should be deleted.*

*In that same line delete or define “directly.”*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC OFFICE OF INFORMATION TECHNOLOGY SERVICES

RULE CITATION: 09 NCAC 06B .0405

**DEADLINE FOR RECEIPT: FRIDAY, APRIL 12, 2013**

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*The use of periods and semicolons at the end of sub-levels in this rule is inconsistent. Please make them consistent in this rule and the style chosen should also be consistent with the style chosen for rule 6B .0301 and the other rules.*

*In (a) line 4 please make “Post-Award Debriefings” lowercase.*

*In (b) line 8 it seems to me that “inspection,” should be “inspection or.”*

*There needs to be consistency in the use of punctuation in (c)(1), (3), (4) and (5). It seems to me that the easiest, and my preferred choice, would be to make the punctuation at the end of the sub- and sub-sub-paragraphs all semicolons rather than the current mix of colons, semicolons and periods. At any rate be consistent and make them all the same.*

*Note that there is no punctuation at all at the end of (c)(4)(A) line 33.*

*In (c)(1)(C) line 17 delete the comma following “grant,” and in line 18 delete “by that requesting offeror.”*

*It appears to me that (c)(1)(D) is not a part of (c)(1); it certainly does not maintain parallel structure with the remained of (c)(1). It should be a separate numbered sub-paragraph.*

*Is there any difference in the type of debriefing in (c)(3)(B) and (C)? If not it seems that (C) would be sufficient and (B) is not necessary. If there is a difference could (should) they not be combined such as: “request a post-award ... in lieu of ... debriefing or a post-award debriefing by delivering a request ....”*

*In (c)(3)(B) and (C), lines 26 and 28 change “request” to “a request.”*

*In (c)(4)(E), page 2 line 1 please add “from the vendor” (or similar language) after “relevant questions.”*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J DeLuca