SUBJECT: PIGGYBACK STATE OF FL CONTRACT #252-500-09-1 FOR SERVICE DESK MANAGEMENT UPGRADE

BID #: PSC-0446-17 **OPEN DATE: 03/09/2017**

GENERAL GOVERNMENT AWARDS COMMITTEE

KIND AND BASIS OF CONTRACT: ONE YEAR FROM CONTRACT EXECUTION

AGENCY: INFORMATION TECHNOLOGIES DIVISION

BASIS OF AWARD: PIGGYBACK STATE OF FL CONTRACT #252-500-09-1

NUMBER OF BIDS INVITED: ( ) NUMBER RECEIVED: ( ) OTHER ( )

SUMMARY OF BIDS AND RECOMMENDED ACTIONS:
Recommend approval to piggyback the State of Florida Contract #252-500-09-1 between the State of Florida and CA, Inc., for CA Service Desk Management SDM Package Upgrade, Maintenance and Support. The period of service will be one year from contract execution. The total annual expenditure requested not-to-exceed $234,438.78.

To be executed by formal contract through the Office of General Counsel and encumbered account AFIT531CSCS-04662.

ATTACHMENTS: Recommendation Memo, State of Florida Contract, CA Proposal, Risk Management Insurance Approval

ANALYST: _____ **RESPECTFULLY SUBMITTED** _____
CHELSEY RENFROE
GREGORY PEASE, CHIEF
PROCUREMENT DIVISION

CONCURRENCE BY: Kenneth Lathrop, Chief of Information Technologies/CIO

(ALL AWARD ACTIONS SUBJECT TO LAWFULLY APPROPRIATED FUNDS)
ACTION OF GGAC COMMITTEE ON RECOMMENDATIONS ABOVE
MEMBERS APPROVING _____ MEMBERS DISAPPROVING _____ DATE: _____

_____ _____ OTHER: _____

_____ _____

_____ _____

ACTION OF AWARDING AUTHORITY DATE _____

APPROVED _____ DISAPPROVED _____

OTHER _____

SIGNATURE OF AUTHENTICATION _____

INFORMATION TECHNOLOGIES DIVISION

Jacksonville
Where Florida Begins.

March 2, 2017

TO: **Greg Pease, Chief of Procurement**
Procurement Division

FROM: **Michael Turner, PMO Manager**
Information Technologies Division

THRU: **Kenneth Lathrop, Chief of Information Technologies/CIO**

SUBJECT: **Request to Piggyback State of Florida Contract #252-500-09-1 for CA Service Desk Management SDM Package Upgrade, Maintenance & Support**

The Information Technologies Division (ITD) requests authorization to piggyback services under the State of Florida Contract #252-500-09-1 for the CA Service Desk Management SDM Package Upgrade, Maintenance & Support to CA, Inc.

ITD recommends a piggyback to the State of Florida Contract in order to utilize preexisting terms, conditions, and pricing.

The associated PO#609895 for the amount of $234,438.78 will be amended to reflect the piggyback source.

This award covers the below scope of services for one (1) year upon execution of services.

- CA Service Desk Management Licenses
- CA Service Desk Management Annual Maintenance
- CA Service Desk Management Upgrade Services
- Upgrade Support Services

The funding source for this request is index code: AFIT531CSCS-04662.

Your favorable consideration of this request is appreciated.

CC: **John Proctor, ITD Finance Manager**
CC: **Tom Ossi, ITD Contract Manager**
CC: **Kevin Johnson, ITD Project Manager**

10210 Highland Manor Dr.
Suite 300
Tampa, FL 33610
(T) 800-225-5224
www.CA.com

February 19, 2010

State of Florida
Department of Management Services
Ms. Lori Potts
Purchasing Analyst, State Purchasing
4050 Esplanade Way, Suite 360
Tallahassee, FL 32399-0950

Submitted via MyFloridaMarketPlace Sourcing Tool

RE: State of Florida Invitation to Negotiate ("ITN") for Mainframe Software, ITN No. 15-252-500-H, issued January 20, 2009

Dear Ms. Potts:

CA, Inc. is pleased to provide the State of Florida a revised final proposal to the above referenced Invitation to Negotiate ("ITN") pursuant to ongoing negotiations.CA looks forward to finalizing the agreement in the near future.

Changes in this version are noted with a change bar in the left border.

If you have any questions regarding this proposal, or if any supplemental information may be required, please contact Michael Baker, Account Manager, at 850-567-8178 or email Michael.Baker@CA.com.

Sincerely,

Joyce Harding
Director, Financial Contracts
CA, Inc.

(Electronically signed version of the cover page follows.)

10210 Highland Manor Dr.
Suite 300
Tampa, FL 33610
(T) 800-225-5224
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If you have any questions regarding this proposal, or if any supplemental information may be required, please contact Michael Baker, Account Manager, at 850 567-8178 or email Michael.Baker@CA.com.

Sincerely,

Joyce Harding
Director, Financial Contracts
CA, Inc.

(Electronically signed version of the cover page follows.)

Unify and Simplify.

CA's Response to

The State of Florida Department of Management Services

Invitation to Negotiate
No. 15-252-500-H

Proposal for Mainframe Software

Prepared for:

The State of Florida Department of Management Services
Division of State Purchasing
Ms. Lori Potts
4050 Esplanade Way, Suite 360
Tallahassee, FL 32399-0950

February 19, 2010

Submitted by:

CA, Inc.
Mr. Michael Baker
Account Manager
10210 Highland Manor Dr
Suite 300
Tampa, FL 33610
Phone: 813-635-7100
Email: Michael.Baker@CA.com

PROPRIETARY:
UNAUTHORIZED DISCLOSURE PROHIBITED

This document, including attachments, contains: (i) Contractor Bid or Proposal Information that is protected from unauthorized disclosure under the Procurement Integrity Act, 41 U.S.C. §423; and (ii) trade secrets, confidential business/financial information, or other information that is exempt from disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. §552(b), under one or more exemptions to that Act. CA does not authorize the duplication, use, or disclosure of this document – in whole or in part - for any purpose other than to evaluate this proposal. If, however, a contract is awarded as a result of, or in connection with, this document, the Customer shall have the right to duplicate, use or disclose the contents of this document solely to the extent provided in the resulting contract.

Table of Contents

1. Executive Overview **1**

2. State of FL ITN Section 3 ..... **2**

3. State of FL ITN Section 5 ..... **21**

4. State of FL ITN Section 6 ..... **40**

5. State of FL ITN Section 7 ..... **51**

Attachments **53**

Attachment A: State of Florida CA Qualified Vendor Certification 53

Attachment B: State of FL Sample Fixed Price Statement of Work 53

Attachment C: CA GSA Schedule 53

Attachment D: Replaced by Attachment C 53

Attachment E: D&B Supplier Qualifier Report for CA, Inc. 53

Attachment F: CA Investor Information 53

1. Executive Overview

CA, Inc. ("CA") appreciates the opportunity to respond to the State of Florida Department of Management Services ("DMS") ITN (15-252-500-H) for Mainframe Software, January 20, 2009.

Recently Chris O'Malley, Senior Vice-President and General Manager, Mainframe Business Unit, CA, Inc. commented that:

"If you have been a CA customer for any length of time, you've undoubtedly heard us say that our commitment to the mainframe has never been stronger. You may even have noticed an increasing focus within the mainframe space at CA in recent months. Now, we're matching the strength of our commitment with a strategy to support this reinvigorated focus on the mainframe for our customers' long-term success.

Since the mid 1990s, rumors have circulated that the mainframe was on its way out. Yet, despite the myths, businesses are increasingly migrating workload back to the mainframe. And it's no wonder. When considering the many facets of business IT—from human resources and management to hardware, software, controls and related factors, the mainframe is a far less expensive alternative to distributed computing. The mainframe isn't just a big part of our legacy; it's also a big part of our future."

With this exciting future in mind, CA recently announced a new five-year strategic plan designed to demonstrate our commitment and reinforce our leadership role in the mainframe community. Through this systematic plan of action, CA expects to:

- Build best-in-class mainframe solution support, maintenance and optimization capabilities
- Drive a systematic means of customer engagement and portfolio management
- Develop innovative and business compelling mainframe software solutions
- Further establish CA's leadership position as the #1 independent software provider in the mainframe market space
- Our vision for the mainframe centers on a top-line message: ***Valued Today. Essential Tomorrow.***

CA is taking active steps to bring this strategy to life. Key mainframe investments that will enable us to deliver on our strategic plan to customers include:

- Mainframe Value Program (MVP): Our new Mainframe Value Program, or MVP, is designed to assist specific clients to increase efficiencies in mainframe technology use and processes.
- Mainframe Solution Center: The CA Mainframe Solution Center is a global organization consisting of highly experienced mainframe architects with expertise in the top mainframe product families.
- Mainframe Suites: By grouping certain products together, CA expects to offer better value to the customer.
- Renewal Incentives: We are instituting a new program to recognize the depth of your commitment to our business relationship. This means that we will begin offering specific incentives commensurate with your investment in our mainframe management solutions.

The mainframe is back, and CA recognizes the increasing relevancy and value of the mainframe platform to the business community. And this is just the beginning. Through better support, maintenance and optimization strategies, CA continues to offer you the products and solutions you need, helping you achieve the ROI and TCO you require.

CA welcomes the opportunity to extend its strategic relationship with DMS with this ITN. We look forward to discussing this with you in detail to be able to demonstrate the value that CA can bring to DMS in its efforts to move forward with its cost efficiency and consolidation programs.

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2. State of FL ITN Section 3

SECTION 3.0

SPECIAL INSTRUCTIONS TO RESPONDENTS

SPECIAL INSTRUCTIONS TO RESPONDENTS CONTAINED IN THIS SECTION 3.0 MAY SUPERCEDE OR SUPPLEMENT GENERAL INSTRUCTIONS TO RESPONDENTS CONTAINED IN SECTION 2.0.

CONTENTS

3.1 ADDITIONAL DEFINITIONS
3.2 ORDER OF EVENTS
3.3 ORDER OF PRECEDENCE
3.4 WHO MAY RESPOND
3.5 MYFLORIDAMARKETPLACE (MFMP) ITN OVERVIEW
3.6 THE MFMP SOURCING TOOL
3.6.1 OPTIONAL MFMP SOURCING TRAINING
3.6.2 ON-DEMAND TRAINING
3.7 SOURCING TOOL TIPS
3.8 EMAIL NOTIFICATION
3.9 SUBMITTAL OF RESPONSE
3.9.1 RESPONSE FORMAT/INSTRUCTIONS
3.10 AMENDMENTS TO THE ITN DOCUMENTS
3.11 INITIAL DETERMINATION OF RESPONSIVENESS
3.12 EVALUATION AND SELECTION PROCESS
3.13 INVITATION TO NEGOTIATION PHASE
3.14 NEGOTIATIONS AND CONTRACT AWARD
3.15 ELECTRONIC POSTING OF RANKING OF RESPONDENTS PRIOR TO NEGOTIATIONS AND UPON FINAL AWARD
3.16 STATE OBJECTIVES
3.16.1 DIVERSITY
3.16.2 ENVIRONMENTAL CONSIDERATIONS
3.16.3 CERTIFICATION OF DRUG-FREE WORKPLACE PROGRAM
3.16.4 PRODUCTS AVAILABLE FROM THE BLIND OR OTHER HANDICAPPED
3.16.5 PRISON REHABILITATIVE INDUSTRIES AND DIVERSIFIED ENTERPRISES, INC. (PRIDE)
3.17 FIRM RESPONSE
3.18 LOBBYING

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3.1 Additional Definitions.

The definitions found in §60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

a) "**Authorized Dealer**" means an agent/reseller/dealer/subcontractor authorized by the Manufacturer, in writing, to provide products and/or services under the DIRECT SUPERVISION of the Manufacturer. The Contractor/Manufacturer is responsible for all liability, terms and conditions within the contract. If an agent is authorized to conduct business on behalf of the Manufacturer and the agent is to receive compensation from the Manufacturer for its services, then any dispute between the Manufacturer and the agent shall be resolved between the Manufacturer and the agent. The State of Florida is not a party to any agreement entered into between the Manufacturer and its agent(s).

b) "**Commercial Software**" means software developed or regularly used that (1) has been sold, leased, or licensed to the general public; (2) has been offered for sale, lease, or license to the general public; (3) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this contract; or (4) satisfies a criterion expressed in (1), (2), or (3) above and would require only minor modifications to meet the requirements of this contract.

c) **"Department"** means the Florida Department of Management Services. The Department will be a party to the Contract. "State Purchasing," a division within the Department's Support Program, is responsible for administration of this solicitation and will be responsible for day-to-day administration of the Contract. State Purchasing may be reached at 4050 Esplanade Way, Suite 360, Tallahassee, FL 32399-0950, or via links posted at http://www.myflorida.com/myflorida/business/index.html.

d) **"Eligible Users"** means political subdivisions of the State of Florida (county, local county board of public instruction, municipal, or other local public agency or authority), State Universities, and any other public entities authorized by State statute, which may desire to purchase under the terms and conditions of the Agreement.

e) **"Intellectual Property Rights Holder"** means an entity holding a category of intangible rights protecting commercially valuable products of the human intellect. The category comprises primarily trademark, copyright, and patent rights, but also includes trade-secret rights, publicity rights, moral rights, and rights against unfair competition.

f) **"Mandatory"** - The Terms "must", "shall", "will", "is required," identify a mandatory item or factor (as opposed to "desirable"). Failure to meet a mandatory item or factor will result in the rejection of the offeror's/bidder's proposal.

g) "**Manufacturer**" means the entity that holds the trademark in the identified brand name.

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h) "**Manufacturer's Price List**" means the most recent document published by the Manufacturer that details products available, model numbers, options, and prices for each.

i) "**Operating Software**" means those routines, whether or not identified as Program products that reside in the Equipment and are required for the Equipment to perform its intended function(s), and which interface the operator, other Contractor-supplied programs, and user programs to the Equipment.

j) **"Responsible Bidder" means a** bidder who has the capability in all respects to perform fully the contract requirements, and the experience, integrity, perseverance, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.

k) **"Responsive Bidder" or "Responsive Proposal"** means an offer or proposal that conforms in all material respects to the requirements set forth in the Invitation to Negotiate. Material respects of an Invitation to Negotiate include, but are not limited to price, quality, quantity, or delivery requirements.

l) **"Site License"** means for each product, the term "Site License" shall mean the license established upon acquisition of the applicable number of copies of such product and payment of the applicable license fees as set forth in the Statement of Work.

m) **"Software"** means an all-inclusive term which refers to any computer programs, routines, or subroutines supplied by the Contractor, including Operating Software, Programming Aids, Application Programs, and Program Products.

n) **"Software Failure"** means a malfunction in the Contractor-supplied Software, other than Operating Software, which prevents the accomplishment of work, even though the Equipment (including its Operating Software) may still be capable of operating properly.

o) "**State**" means the State of Florida and its agencies.

CA Response: CA agreed.

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3.2 Order of Events.

Respondents will review and become familiar with the Event Timeline and solicitation documents, enter any questions in the MFMP Sourcing Tool Q&A Board before the date and time specified in the Event Timeline, answer all questions requested for the proposal, submit required documents, develop cost savings structures, and upload final responses into the MFMP Sourcing Tool.

The Event Timeline gives the date and time (where applicable) for major activities in the solicitation. See Section 1.6 of this solicitation document for the Event Timeline.

CA Response: Agreed.

3.3 Order of Precedence.

Potential respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare responses accordingly. In the event any conflict exists between the Special and General Instructions, those instructions specified in the Special Instructions shall prevail.

All responses are subject to the terms of the following sections of this ITN, which, in case of conflict, shall have the order of precedence listed:

- Technical Specifications, Section 6.0
- Price Sheets, Section 7.0
- Special Instructions to Respondents, Section 3.0
- Special Contract Conditions, Section 5.0
- General Instruction to Respondents (PUR 1001), Section 2.0
- General Contract Conditions (PUR 1000), Section 4.0
- Introduction, Section 1.0
- Forms, Attachments and Worksheets, Section 7.0

CA Response: Agreed. CA and the State have agreed to incorporate the CA GSA Schedule Contract number GS-35F-0823M as an addendum to CA's proposal to FL ITN for this solicitation. CA accepts that where there is a conflict between the terms of the ITN and the terms of the GSA Schedule, the ITN terms, as negotiated, shall prevail.

3.4 Who May Respond.

The Department will accept Responses from responsive and responsible Respondents that meet all requirements of this Invitation to Negotiate including but not limited to the following:

- Only vendors with documented volume sales of at least $50 million in annual national sales and who provide evidence that they are the intellectual property rights holder of the mainframe software products offered in response to this ITN, as defined in Section 3.1 of this solicitation, may respond to this ITN.
- Respondents must be a registered vendor to do business with the State of Florida. If you are not already a registered vendor, you may view registration information as well as other pertinent information at:

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http://dms.myflorida.com/business_operations/state_purchasing/myflorida_marketplace/vendors/vendor_toolkit/mfmp_vendor_registration

- Respondents must be registered with the Florida Department of State - Division of Corporations. To check your registration or to register with the Division of Corporations, please go to: www.sunbiz.org.
- Only Respondents that are fully capable of creating and maintaining a MyFloridaMarketPlace Punch-Out site may respond to this ITN. See 7.10 Punch-Out Capability Questionnaire for details.
- Only Respondents that are fully capable of Electronic Invoicing through MyFloridaMarketPlace may respond to this solicitation. See 7.11 MyFloridaMarketPlace Electronic Invoicing Requirements for details.

CA Response: In response to "bullet four" above, per Amendment 3, dated October 10, 2008, to the State of FL DMS ITN (4-252-500-H), this requirement may be met by either a "PunchOut List" or a Line Item Catalog. CA chooses the latter format.

3.5 MyFloridaMarketPlace (MFMP) Overview

MyFloridaMarketPlace is the State of Florida's online eProcurement system for buyers and vendors. In operation for more than five years, the system streamlines interactions between vendors and state government entities, is a source for centralized procurement activities, and provides the tools to support world-class procurement for the State of Florida.

CA Response: Agreed.

3.6 The MFMP Sourcing Tool

This solicitation will be conducted using the MyFloridaMarketPlace Sourcing Tool ("Sourcing Tool"). Training materials can be found at:
http://marketplace.myflorida.com/vendor/vendor_solicitation_help.htm.
Copy link and paste in to web browser to access site!

Download and review the document titled RFP Event User Guide.

a. For all technical questions about the Sourcing Tool, vendors should contact the MyFloridaMarketPlace Customer Service Desk at (866) FLA-EPRO or vendorhelp@myfloridamarketplace.com.

b. For additional information / assistance on using the Sourcing Tool, please visit the MyFloridaMarketPlace website at following link:
https://marketplace.myflorida.com/vendor/vendor_solicitation_help.htm.
This site includes:
   a. Solicitation User Guides
   b. OnDemand web-based Sourcing Tool training link
   c. WinZip FAQs
   d. Vendor FAQs

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CA Response: Agreed.

3.6.1 Optional MFMP Sourcing Tool Training

An optional conference call training session on how to use the MyFloridaMarketPlace Sourcing Tool for this ITN is scheduled on the date indicated on the Event Timeline at 2:00PM ET. The Conference Call number is (888) 808-6959. Conference Code 4881086.

Please go to: http://marketplace.myflorida.com/vendor/vendor_solicitation/rfp_event_user_guide.pps and review the vendor training link and download the document titled **Contractor Training_ITN.ppt.** Please have this document open on your desktop while participating on the call. To participate in the conference call, please call in to the number provided approximately 1 minute before the scheduled time.

CA Response: Agreed.

3.6.2 On-Demand Training

On-Demand is a web-based interactive training application available to all respondents to assist in learning how to respond to an event using the MyFloridaMarketPlace sourcing tool. The link is http://marketplace.myflorida.com/vendor/vendor_training.htm click on Responding to Sourcing Event.

CA Response: Agreed.

3.7 Sourcing Tool Tips

When working in the Sourcing Tool, be aware of the twenty (20) minute time-out function (with a two (2) minute warning in the tool. This means that you should save your work (click the SAVE button) at intervals of less than twenty minutes to ensure your entries (since last saved) are not lost.

Please note that clicking the SAVE button within the Sourcing Tool only saves your bid responses. The SAVE button **does not transmit your bid response to the State**. In order to transmit your bid response to the State, you must click the **SUBMIT** button on the SUMMARY page of the bid response.

After clicking the SUBMIT button, it is the **Respondents** responsibility to check your submitted bid response within the Sourcing Tool to verify that your response is accurately and completely captured within the Sourcing Tool. You must do this while there is time remaining in the response period in case you discover an error and need to resubmit a revised bid response.

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To validate your bid response, you should do the following before the bidding period ends:

a. Go to the "My Bids / My Responses" tab within Sourcing Tool after you submitted your bid response
b. Click on the Bid ID number of your last submitted bid response
c. Review entire bid response to make sure all responses are complete, accurate and as you intended to submit.

Minimum areas to check are:

- ✓ Text boxes – Is your entire answer viewable?
- ✓ Yes/No questions – Is the displayed answer correct?
- ✓ All uploaded document files / scanned documents – Can you open attached document and clearly view entire content?
- ✓ Offline electronic backup copy sent to the State (if applicable) - Can you open attached document and clearly view entire content? Does content of this file match your bid response within the tool (e.g., not an earlier version or working copy)?
- ✓ Pricing Information – Are all prices you intended to submit visible and accurately captured within Sourcing Tool?

IT IS STRONGLY RECOMMENDED THAT YOU SUBMIT YOUR BID AS EARLY AS POSSIBLE. YOU SHOULD ALLOW TIME TO RECEIVE ANY REQUESTED ASSISTANCE AND TO RECEIVE VERIFICATION OF YOUR SUBMITTAL; WAITING UNTIL THE LAST HOURS OF THE SOLICITATION COULD IMPACT THE TIMELY SUBMITTAL OF YOUR BID.

DO NOT RELY ON THE "MYFLORIDAMARKETPLACE" SOURCING TOOL'S TIME REMAINING CLOCK. THE OFFICIAL SOLICITATION CLOSING TIME SHALL BE AS REFLECTED IN THE TIMELINE (SECTION 1.6) OF THIS ITN.

The MyFloridaMarketPlace (MFMP) Sourcing Tool's time remaining clock is NOT the official submission date and time deadline, it is intended only to approximate the solicitation closing and may require periodic adjustments

CA Response: Agreed.

3.8 Email Notification

Respondents are reminded that the Sourcing Tool's email notifications are an option provided to respondents as a courtesy. The State of Florida is not under any obligation to provide, and does not guarantee that respondents will receive, email notifications concerning any posting, amendment or close of solicitations (ITNs).

Vendors are responsible to check the Sourcing Tool and / or the Vendor Bid System for information and updates concerning solicitations. (The Vendor Bid System does not generate automatic emails.)

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CA Response: Agreed.

3.9 Submittal of Response.

Respondents shall view and download the documents in the MFMP Sourcing Tool (http://dms.myflorida.com/egovernment_tools/myflorida_marketplace). Each Respondent is responsible for ensuring that its response and all associated documents are submitted before the proper date and time. In the event a Respondent submits more than one response, only the last response received prior to the response deadline specified in Section 1.6 shall be considered for award. Other responses will not be opened. Offers not submitted as indicated in this section shall be rejected.

The Department shall not consider late responses and the MyFloridaMarketPlace Sourcing Tool will NOT accept responses after the due date and time specified in the Event Timeline, or as amended by the Department. **RESPONSES MUST BE SUBMITTED IN THE MYFLORIDAMARKETPLACE SOURCING TOOL BEFORE THE DATE AND TIME SPECIFIED IN THE EVENT TIMELINE.**

Failure to provide all requested information within the response package before the response deadline specified in Section 1.6 may result in rejection of the response.

DO NOT RELY ON THE MFMP SOURCING TOOL'S TIME-REMAINING CLOCK. The official response deadline shall be as reflected in Section 1.6, Timeline, of this solicitation. The MFMP Sourcing Tool's time-remaining clock is intended only to approximate the solicitation closing, and may require periodic adjustments.

CA Response: Agreed.

3.9.1 Response Format / Instructions

A Respondent shall, in a separate and clearly identified response paragraph(s), expressly condition or qualify its Response on acceptance or identify any proposed changes to the terms and conditions outlined in this ITN. To facilitate this process, the Respondent is required to review Sections 3, 5, and 6 on a provision by provision basis. The Respondent shall respond in these sections by inserting their response immediately below the text of each numbered provision and respond to each provision with one of the following conventions:

a. **Agreed**
   Where the term is acceptable as stated.

b. **Modification Proposed**
   Where Respondent is unable to accept the term as stated but will accept a modification of the term. Respondent must provide: (1) the reason for its inability to accept the term as stated and (2) modified language which would be acceptable.

c. **Not Agreed**

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Where the term is completely unacceptable to Respondent and no modification is possible. Respondent must state the reason such term is unacceptable.

The Department reserves the right to modify, by addition or deletion, terms and conditions during the negotiation process.

Respondents are reminded that the terms and conditions listed in Sections 2 and 4 will not be negotiated and are required language for all State of Florida Contracts. Minor clarification within Sections 2 & 4 may be added in Section 3.120 beneath the Responsiveness Checklist chart.

CERTIFICATION OF ACCEPTANCE FOR THE TERMS AND CONDITIONS DETAILED IN SECTIONS 2 AND 4 IS TO BE DONE WITHIN THE TABLE IN SECTION 3.10 OF THIS ITN.

CA Response: Note that points of clarification are included in Section 3.11 beneath the Responsiveness Checklist chart.

3.10 Amendments to the ITN Documents.

The Department reserves the right to issue amendments to this ITN. Notice of any amendment will be posted within the MFMP Sourcing Tool and the VBS. Such notice, if required, will contain the appropriate details for identifying and/or reviewing the formal changes to this ITN. Each Respondent is responsible for monitoring the sites for new or changing information concerning this ITN.

CA Response: Agreed.

3.11 Initial Determination of Responsiveness

The Department shall evaluate eligible ("responsible and responsive") responses. Responses that do not meet the minimum requirements of this solicitation; or fail to provide all required information, documents, or materials may be rejected as non-responsive. Respondents whose responses, past performance, or current status with the State do not reflect the capability, integrity or reliability to fully, and in good faith, perform the requirements of the Contract, may be rejected as non-responsible. The Department reserves the right to determine which responses meet the requirements of this solicitation, and which Respondents are responsive and responsible. **This paragraph is in addition to, and shall not be construed to limit or override, any right or remedy available to the Department in, Section 2.0, PUR 1001, or Section 4.0 PUR 1000**.

Failure to comply with each of the requirements listed below may result in the response being deemed non-responsive and therefore may not receive further consideration in this ITN process. This includes, but is not limited to the following:

1. Did the Respondent submit its reply before the indicated deadline?
2. Is Respondent the owner of the intellectual property rights for the Mainframe Software Products offered?

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3. Did the Respondent document (via an official financial report such as Dun & Bradstreet) a minimum of $50 million in annual national sales?
4. Did the Respondent submit a detailed pricing structure indicating the minimum percentage discount?
5. Did the Respondent submit a Supplier Qualifier Report (SQR) from Dun & Bradstreet (D&B)? (See Section 3.12.)
6. Has the Respondent met the requirement for having no Conflicts of Interest? (See Section 2.6.)
7. Does the Respondent comply with the requirement for not being placed on the Convicted Vendor list for committing a public entity crime within the last 36 months? (See Section 2.7.)
8. Does the Respondent comply with the requirement for not being placed on the Discriminatory Vendor List per Section 287.134, F.S.? (See Section 2.8.)
9. Is the Respondent on the Suspended Vendor List or have any open Complaints to Vendor? (DMS will determine if open complaints would prevent a vendor from being considered responsive.)
10. Did the Respondent submit the completed Vendor Responsibility form and receive a passing score?
11. Is the Respondent a registered vendor in the MFMP Vendor Registration System?
12. Is the Respondent registered with the Department of State – Division of Corporations?

Please certify that your Response conforms to each of the following requirements by responding with either a "Yes" or "No" in the blocks and submit the completed WORD Document in the MyFloridaMarketPlace Sourcing Tool.

Certifications

	YES	NO
1. Does the Respondent certify acceptance and compliance with all of the Terms and Conditions detailed in **Section 2** (PUR1001) of the ITN document?	X	
2. Does the Respondent certify acceptance and compliance with all of the Terms and Conditions detailed in **Section 4** (PUR1000) of the ITN document?	X (See clarifications below)	
3. Does the Respondent certify that they have documented sales of at least $50 million in annual national sales?	X	
4. Has the Respondent completed pricing worksheets as noted in Section 5.16 and Section 7.1of the ITN Document?	X	
5. Has Respondent submitted a Dun and Bradstreet Supplier Qualifier Report per 3.12 (Financial Status)?	X (See Attachment E.)	
6. Does the Respondent certify compliance with the "General Requirements", and "Standard Support Levels" listed in Section 6.3 for each Category submitted for bid?	X (See modification)	

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7. Respondent certifies they are the owner of the intellectual property rights for the software products offered in response to the Mainframe ITN?	X	
8. Does the Respondent certify that they are a registered vendor in the MFMP Vendor Registration System?	X	
9. Does the Respondent certify that they are registered with the Division of Corporations through the Florida Department of State?	X	
10. Is Respondent capable of providing electronic invoicing through MyFloridaMarketPlace?	X	
11. Does Respondent certify that they will accept the State of Florida's Purchasing Card?	X	

*** Respondents must provide an explanation or modification for any "No" answer indicated above.**

CA Response: Clarification: In reference to Section 4.4(b), Best Pricing Offer, CA would like to clarify that CA will provide pricing discounts consistent with the pricing terms of CA's GSA Agreement and similar to other state entities, outside the State of Florida that enter into a master agreement with CA after the effective date of this ITN.

CA Response: Clarification: In reference to Section 4.4(d), Trade-In, CA would like to clarify that our offer of mainframe software does not fall under the definition of "equipment", usually defined as hardware, which CA is not proposing under this contract.

CA Response: Clarification: In reference to Section 4.4 (e), Equitable Adjustment - this event shall only be permitted subject to mutual agreement by CA and the State.

CA Response: Clarification: In reference to Section 4.12, installation of CA software is not included in software license fees.

CA Response: Clarification: In reference to Section 4.19, Infringement. SEE BELOW

STATE OF FLORIDA PROPOSED:

4.19 INFRINGEMENT CLAIMS.
If a third party asserts a claim against the State asserting that the State's use of a Product in accordance with this Agreement violates that third-party's patent, trade secret or copyright ("**Infringement Claim**"), then Contractor will, at its own expense: (a) defend or settle the Infringement Claim; and (b) indemnify the State for any damages finally awarded against the State, but only if: the State promptly notifies Contractor of any Infringement Claim, Contractor retains sole control of the defense of any Infringement Claim and all negotiations for its settlement or compromise, and the State provides all reasonable assistance requested by Contractor.

Contractor's obligations above will not apply if the Infringement Claim is based on (i) the use of Product in combination with products not supplied or approved by Contractor in writing or in (ii)

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the failure of the State to use any updates to such Product within a reasonable time after such updates are made available to the State, [(iii) the claim of infringement is a result of modification of the Product ; (iv) the Product is not being used in accordance with the Product User Manual. If contractor believes a Product may violate a right, the Contractor will, at its expense: (a) modify the Product, or (b) procure the right to continue using the Product, and if (a) or (b) are not commercially reasonable, terminate the State's right to use the Product and (1) for any perpetual licenses, issue a refund based upon the applicable license fees paid, prorated over 48 months from the date of the Order under which the Products are initially licensed; and (2) for any non-perpetual licenses, release the State from its obligation to make future payments for the Product or issue a pro rata refund for any fees paid in advance. This section contains the State's exclusive remedies and Contractors sole liability for Infringement Claims.

CA Response: Clarification: In reference to Section 4.19, Infringement. Regarding New Florida Proposed above. CA would like to clarify that third party's Infringement Claim is limited to "US registered" patent, trade secret or copyright. CA would like to clarify that CA "Product's user manuals" be defined as "Documentation" and that in the event of an Infringement Claim it would be at CA's sole discretion and expense to modify the product, procure the right to use the product or terminate the State's right to use the Product and refund monies on a prorated basis. For perpetual software, the refund would be prorated based upon a 36 month term. For term based licenses, the refund would be prorated based upon the time period of the license.

CA Response: Clarification: In reference to Section 4.20, Limitation of Liability. CA would like to clarify that either the State and/or Customer give sixty (60) days written notice to CA before any set off occurs and only if CA does not pay the claim within sixty (60) days. If contractor does not dispute and pays the claim, or if Contractor prevails on the claim under the dispute resolution, any monies retained and offset by the State as the result of an offset will be returned to Contractor.

3.12 Evaluation and Selection Process

Evaluation will consist of the review and assessment of the Respondents' submittals. Top-scoring Respondents will be invited to negotiate their offerings and proposed pricing. (See Section 3.12 of this ITN.)

All areas of evaluation listed in the table below are to be addressed by the Respondent in its submittal.

Proposals that are substantially incomplete or lack key information may be rejected as non-responsive by the Department, at its discretion. Responses should be concise, summarizing the Respondent's pertinent experience and capabilities. Emphasis should be placed on completeness and clarity. Responses that do not provide sufficient content or satisfactory information, as requested in this ITN document, may receive lower scores. Points will be assigned to all categories (see table, below, for point-allocation per category) and then totaled in order to determine each Respondent's ranking:

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Vendor Responsiveness	Pass/Fail
Vendor Responsibility	Pass/Fail
Section 1 – Sales Volume (min $100M)	Pass/Fail
Section 2 – PUR 1001	Agree/Disagree
Section 3 – Financials	24
Section 4 – PUR 1000	Agree/Disagree
Section 5 – Special Contract Conditions	115
Section 5 - Track record of Vendor in meeting commitments (verified through references and vendor performance tracking within MFMP)	50
Section 5 – Purchase Orders Review	25
Section 6 – Technical Specifications	65
Section 7 – Pricing Models, Strategies and Commitments proposed	120
Section 7 – Vendor Responsibility Questionnaire	Pass/Fail
Total Points Possible:	**399 pts.**

Except for Cost Information, all evaluation categories will be scored with each response having the opportunity to achieve the maximum total point allocation indicated.

Financials (Supplier Qualifier Report):

Each Respondent is required to provide information regarding its "Financial and Industry Standing and Strength" in order to demonstrate that it is financially stable, in good standing with creditors and manufacturers, and has the resources necessary to perform the services outlined in this ITN on a state-wide basis. The State requires each Respondent to provide a Supplier Qualifier Report (SQR) prepared by Dun & Bradstreet (D&B), in accordance with the instructions below. The SQR is a standard report that details financial and operational capabilities. This report must be submitted to the Department as part of the ITN proposal. Each Respondent will be responsible for the cost and timely submission of this report. Each Respondent will be assigned points during the evaluation phase of the solicitation based on the D&B score.

The prospective Contractor will request the SQR from D&B at:

https://sor.dnb.com/sor/jsp/forms/SOF.jsp?SORTAG1=JQ37hS4r&SORTAG2=j58Gjk4x

1. Enter the ITN number in the text field entitled "Enter your RFP Number" and select "Submit."
2. Enter your company's Dun Number. (If you don't know your company's Dun number, you may use the search feature to find it.)
3. Confirm Registration
4. Enter payment method and information and complete registration. The cost of the preparation of the D&B report shall be the responsibility of the Respondent.

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Respondents are advised to allow a minimum of ten (10) business days for D&B to process a report request. If the Department does not receive an SQR from D&B prior to the opening date and time of the solicitation but one is submitted as part of a Respondent's Response, the Respondent shall be required to demonstrate that it requested the SQR after the posting date of the ITN and that the SQR was requested for this particular solicitation. Once the process is complete, a copy of the report will be provided to the Department and an identical report will be sent to the Respondent. If the Department does not receive a report or cannot determine on the face of the document that the SQR is that of the proposing entity, then the Department will instruct the Evaluation Team to award zero points to that company for that evaluation category. It is the responsibility of the Respondent to ensure the timely submission of a D&B report to the Department prior to the opening date of the proposals. The Department will use the financial scoring scale below when evaluating and scoring the financial viability of the prospective Contractors.

Financial Scoring Scale:

1	Lowest Risk Rating	24.0
2		21.0
3		18.0
4		15.0
5		12.0
6		9.0
7		6.0
8		3.0
9	Highest Risk Rating	0.0

CA Response: Agreed.

For a copy of CA's Supplier Qualifier Report, see Attachment E: "D&B Supplier Qualifier Report for CA, Inc." CA has attached additional investor feedback in new Attachment F.

3.13 Invitation to Negotiation Phase.

The Department shall evaluate and rank responsive responses against all evaluation criteria set forth in the Invitation to Negotiate and shall select, based on the ranking, one or more Respondents with which to commence negotiations. Invitations to the negotiations will be posted in the MFMP Sourcing Tool and on the VBS. Email will be sent to each selected Respondent's contact person.

CA Response: Agreed.

3.14 Negotiations and Contract Award.

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The Department, at its discretion, may require Respondents to make formal presentations of their responses.

The Department reserves the right to finalize the negotiations at any point and post a notice of Intent to Award. Respondents should recognize the Department's right to finalize the negotiation process without the need to explicitly request a revised final offer after negotiations.

After negotiations are conducted, the Department shall award the Contract to one or more responsible and responsive Respondents whose product(s) the Department determines will provide the best value to the State.

CA Response: Agreed.

3.15 Electronic Posting of Ranking of Respondents prior to Negotiations and upon Final Award.

Offers shall be opened on the date and time indicated on the Event Timeline ("Timeline"), and thereafter evaluated. Prices will not be read, pursuant to Section 119.071(1) (b) 2.a.of the Florida Statutes. After evaluating the responses, on the date indicated on the Timeline, the Department shall electronically post the rankings in the MFMP Sourcing Tool.

After negotiations, on the date indicated on the Timeline, the Department shall electronically post a notice of intent to award. If the ranking or award is delayed, in lieu of posting it on the date indicated on the Timeline, the Department shall post a notice of the delay and a revised date for posting the ranking or notice of intent to award. Any person who is adversely affected by the decision shall file with the Department a notice of protest within 72 hours after the electronic posting (see Section 2.20 of the General Instructions (PUR 1001) for more information on protests). The Department shall not provide reply rankings or notices of award by telephone.

CA Response: Agreed.

3.16 State Objectives.

Within thirty (30) calendar days following award of the Contract, the successful Respondent shall submit plans addressing each of the State's five (5) objectives listed below, to the extent applicable to the items / services covered by this solicitation.

3.16.1 Diversity.

The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority- and women-owned business enterprises in the economic life of the state. The State of Florida Mentor Protégé Program connects minority- and women-owned businesses with private corporations for business development mentoring. We strongly encourage firms doing business with the State of Florida to consider this initiative. For more information on the Mentor Protégé Program, please contact the Office of Supplier Diversity at (850) 487-0915.

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The State is dedicated to fostering the continued development and economic growth of small, minority, and women-owned businesses. Participation by a diverse group of Vendors doing business with the State is central to this effort. To this end, it is vital that small, minority, and women-owned business enterprises participate in the State's procurement process as both Contractors and sub- contractors in this solicitation. Small, minority, and women-owned businesses are strongly encouraged to contribute to this solicitation.

The Contractor shall submit documentation addressing diversity and describing the efforts being made to encourage the participation of small, minority, and women-owned businesses.

Information on Certified Minority Business Enterprises (CMBE) is available from the Office of Supplier Diversity at:

http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/.

Quarterly Reports of revenue paid to W/MBE contractors (agents or subcontractors) as a result of any award shall be provided to DMS Purchasing by the Prime Contractor on an Agency by Agency (or other Eligible User) level. See Section 5.6.

CA Response: Agreed.

3.16.2 Environmental Considerations

Florida Governor Charlie Crist signed Executive Order 07-126, titled "Leadership by Example: Immediate Actions to Reduce Greenhouse Gas Emissions from Florida State Government"; Executive Order 07-127, "Immediate Actions to Reduce Greenhouse Gas Emissions within Florida"; and Executive Order 07-128, "Florida Governor's Action Team on Energy and Climate Change."

The State supports and encourages initiatives to protect and preserve our environment. The Prime Contractor shall submit as part of any response the Prime Contractor's plan to support the procurement of products and materials with recycled content, and the intent of Section 287.045, Florida Statutes. The Prime Contractor shall also provide a plan for reducing and or handling of any hazardous waste generated by Prime Contractor's company. Reference Rule 62-730.160, Florida Administrative Code. It is a requirement of the Florida Department of Environmental Protection that a generator of hazardous waste materials that exceeds a certain threshold must have a valid and current Hazardous Waste Generator Identification Number. This identification number shall be submitted as part of Prime Contractor's explanation of its company's hazardous waste plan and shall explain in detail its handling and disposal of this waste.

Describe what efforts your company (as Contractor) will take to encourage the participation and support of these and other environmental programs.

CA Response: CA has an Environmental, Health, and Safety Policy that outlines its environmental policies, procedures, and practices. This policy is

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used to foster an environmentally "Green" consciousness and promote good environmental stewardship at CA. CA promotes "Green Initiatives" to minimize resource depletion, focus on sustainable resources and minimize and recycle waste and other activities.

To implement these policies and practices, CA has an Office of Sustainability headed by a VP, Strategic Planning. This office has implemented programs such as "flexible workplace", procurement programs encouraging sustainability, paper saving programs, IT power saving programs, facilities programs such as Energy Star and kitchen recycling, etc. They have also instituted a report that will begin to track CA's sustainability efforts.

CA Community Affairs is also involved in sustainability. This is evidenced in the following efforts. Strengthening CA's Environmental Sustainability programs was a key priority for CA Community Affairs in 2008. In December of 2007 CA became a Signatory to the UN Global Compact, agreeing to "embrace, support and enact" a set of core values in the areas of human rights, labor standards, the environment and anti-corruption. CA also supports the Wildlife Conservation Society and the New York League of Conservation Voters. CA also recently became involved with Seatuck Environmental Association, which promotes the conservation of Long Island's wildlife and environment through education, research, and advocacy. In Australia, CA is partnering with two organizations focusing on protecting and repairing the environment – Clean Up Australia and Landcare Australia Limited.

CA employees across the globe took part in Earth Day 2008. They participated in community volunteer activities aimed to inspire awareness of and appreciation for the earth's environment.

3.16.3 Certification of Drug-Free Workplace Program.

The State supports and encourages initiatives to keep the workplaces of Florida's Suppliers and Prime Contractors drug free. Section 287.087 of the Florida Statutes provides that, where identical tie responses are received, preference shall be given to a response received from a Respondent that certifies it has implemented a drug-free workforce program. If applicable, Respondent shall certify that the Respondent has a drug-free workplace program using the "Certification of Drug-Free Workplace" as provided in Sourcing Tool for this solicitation. The Prime Contractor shall describe how it will address the implementation of a drug free workplace in offering the items of the solicitation. Certification shall be submitted (in the Sourcing Tool) using the form in Section 7.4

CA Response: Agreed.

3.16.4 Products Available from the Blind or Other Handicapped (RESPECT).

The State supports and encourages the gainful employment of citizens with disabilities. It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this Contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in Section 413.036(1) and (2), Florida Statutes; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall

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be deemed to be substituted for the state agency insofar as dealings with such qualified nonprofit agency are concerned. Additional information about the designated nonprofit agency and the products it offers is available at http://www.respectofflorida.org.

The Respondent shall describe how it will address the use of RESPECT in offering the items of the solicitation.

CA Response: Agreed.

3.16.5 Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).

The State supports and encourages the use of Florida correctional work programs. It is expressly understood and agreed that any articles which are the subject of, or required to carry out, this Contract shall be purchased from the corporation identified under Chapter 946, F.S., in the same manner and under the same procedures set forth in Section 946.515(2), and (4), F.S.; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for this agency insofar as dealings with such corporation are concerned. Additional information about PRIDE and the products it offers is available at http://www.pridefl.com.

The Prime Contractor shall describe how it will address the use of PRIDE in offering the items of the solicitation.

CA Response: Agreed.

3.17 Firm Response.

The Department may make an award within one hundred eighty (180) days after the date of the opening, during which period responses shall remain firm and shall not be withdrawn. If award is not made within one hundred eighty (180), the response shall remain firm until either the Department awards the Contract or the Department receives from the Respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Buyer's sole discretion, be accepted or rejected.

CA Response: Agreed.

3.18 Lobbying.

The Service Provider or Respondent shall not lobby the legislative, judicial, or executive branches, or any State Agency about any aspect of this Contract during the procurement process (i.e. from the time the Contract is advertised to the execution of the Contract) associated with the Contract. Violation of this restriction may be cause for disqualification from the procurement process.

Respondents are advised that the following will be included in the Contract for these services:

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In accordance with Section 216.347, Florida Statutes, and as provided herein, the Service Provider or Contractor may not expend any State funds for the purpose of lobbying the legislature, the judicial branch, the executive branch, or any State Agency.

CA Response: Agreed.

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3. State of FL ITN Section 5

SECTION 5.0
Special Conditions
Contents

5.1 Purchasing Card Program
5.2 Product Acceptance
5.3 Ownership/Title
5.4 Contractors Obligation with Regard to ISV (Third Party) Products
5.5 Proof of License
5.6 Product Version
5.7 Changes to Product or Service Offerings
5.8 Contract Service Requirements
5.9 Delivery
5.10 Contract Reporting Requirements
5.11 Business Review Meetings
5.12 Implementation of Contract
5.13 Contractor's State Contract Webpage
5.14 Electronic Invoicing
5.15 Request for Quotes
5.16 Pricing
5.16.1 Growth Capacity Expectations
5.16.2 Pricing Models
5.17 Price Adjustments
5.18 Contract Revisions
5.19 New Product Additions
5.20 References
5.21 Purchase Orders
5.22 Authorized Dealers
5.23 Environmental Standards

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5.1 Purchasing Card Program.

The State of Florida has implemented a purchasing card program, using the Visa platform. Vendors may receive payment from state agencies by the purchasing card in the same manner as other Visa purchases. Visa acceptance is mandatory but is not the exclusive method of payment.

CA Response: Agreed

5.2 Product **Acceptance**. See latest proposed from State below:

NEW PROPOSED FROM STATE:

5.2 Product **Acceptance**.

Unless otherwise provided by mutual agreement of the Eligible Users and the Contractor, Eligible User(s) shall have thirty (30) days from the date of delivery to accept all licensed software Product(s). Eligible users shall accept renewal of software maintenance or renewal of software licenses upon the effective date of the Eligible User contract or purchase order. Where the Contractor is responsible for installation, acceptance shall be from completion of installation, configuration and setup, including training and testing, as specified in the Eligible User contract or purchase order. Failure to provide notice of acceptance, rejection, or a deficiency statement to the Contractor by the end of the period provided for under this clause constitutes acceptance by the Eligible User(s) as of the expiration of that period. The License Term shall be extended by the time periods allowed for trial use, testing and acceptance unless the Eligible User agrees to accept the Product at completion of trial use. See Section 6.2 for additional acceptance information.

CA Response: Modification Proposed: Per discussions in December 2009, CA will accept the following clarification sent from the State with the inserted clarification changes:

F.S. 215.422 states that "Approval and inspection of goods or services shall take no longer than 5 working days unless the bid specifications, purchase order, or contract specifies otherwise."

The Mainframe Software contract allows up to 30 days for acceptance of a product or service in order to account for special customizations, vendor installations, etc. Any special conditions must be expressed in writing either on the PO (purchase order) or in the SOW (statement of work) that is attached to the PO and CA must have agreed to any special acceptance time frames in advance. If a software product is downloaded, then CA will use the PO date for the acceptance date. If the customer downloads software that appears to contain errors or if the file is corrupt, the customer must immediately contact CA to resolve the issue. If the item is not downloaded, then the customer has 5 business days from the date of physical receipt of the product to accept the software.

5.3 Ownership/Title.

Title and ownership to Software Product(s) delivered by the Contractor or Contractor's Authorized Dealer under the Contract to an Eligible User under a valid Eligible User contract or purchase order that is normally commercially distributed on a license basis by the Contractor or other third party products which are included under any contract resulting from this solicitation, shall remain with the Contractor or other intellectual property owner. Effective upon acceptance, such Product shall be licensed to Eligible Users in accordance with the Contractor or other intellectual property owner's standard license agreement, provided,

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however, that such standard license, must, at a minimum: (a) grant the Eligible Users a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless Contractor advises Eligible Users as part of Contractor's proposal that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the Eligible User's satisfaction) and distribute Existing Licensed Product to the Eligible User up to the license capacity stated in the Purchase Order or work order with all license rights necessary to fully effect the general business purpose(s) stated in the Bid or Eligible User's contract or Purchase Order and (b) recognize the State of Florida as the licensee where the Eligible User is a state agency, department, board, commission, office or institution. Where these rights are not otherwise covered by the other intellectual property owner's standard license agreement, the Contractor shall be responsible for obtaining these rights at its sole cost and expense. The Eligible User shall reproduce all copyright notices and any other legend of ownership on any copies authorized under this paragraph. See Section 6.4 (e) for transfer of license language, which shall apply to all software purchased under this agreement.

NEW FROM STATE
Section 5.3
The words "adapt" and "adaptation" in this section applies only to customizations or adaptations that are described in the applicable user manuals.

CA Response: Modification Proposed: Not all CA mainframe products are licensed perpetually. Please see definition for Mainframe software on page 42 of the ***CA GSA Schedule in Attachment C.***
"Mainframe Products:
□□**UMF.** The licensee has the right to usage and maintenance of the Licensed Program during the term of the agreement. Thereafter, the license automatically renews on the same terms and conditions, but subject to an annual usage and maintenance fee ("UMF").
□□**Term.** The licensee has the right to usage and maintenance of the Licensed Program during the term of the agreement. Thereafter, the license automatically renews for the same period of time on the same terms and conditions, but subject to Licensee's payment of CA's then prevailing term license fee. "

***CA understands and agrees that renewal is not automatic but subject to appropriation of funds or termination for convenience as allowed by Florida Statute.**

5.4 Contractor's Obligation with Regard to Intellectual Property Owner's Product.
Where the Contractor furnishes products other than the Contractor's third party products where the state has determined the third party products are included in the Contractor's U.S. Commercial Price List and may be sold under any state term contract resulting from this solicitation and sufficient rights necessary to effect the purposes of this section are not otherwise provided in the Contractor or intellectual property owner's standard license agreement, Contractor shall be responsible for obtaining from the intellectual proprietary owner the rights set forth herein to the benefit of the Eligible User at the Contractor's sole cost and expense.

CA Response: Agreed

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5.5 Proof of License.

The Contractor/Authorized Dealer must provide to each Eligible User either: (i) the Contractor's certified license confirmation certificates in the name of such Licensee; or (ii) a written confirmation from the Contractor or third party product owner accepting the Eligible User's contract or purchase order as proof of license. Contractor shall submit the certificate, or alternatively such written confirmation from all applicable third party product owners to the benefit of the Eligible User. Such certificates must be in a form acceptable to the Eligible User.

CA Response: Modification Proposed: The resulting agreement from this RFP response and a signed purchase order will constitute proof of license. To the extent that there is any dispute concerning third-party product licenses, CA will provide appropriate documentation regarding third-party licensed products.

5.6 Product Version.

Purchase Orders shall be deemed to reference the Contractor's most recently released model or version of the Product at time of order, unless an earlier model or version is specifically requested in writing by the Eligible User and the Contractor is willing to provide such version.

CA Response: Agreed

5.7 Changes to Product or Service Offerings.

a. **Product or Service Discontinuance** Where the Contractor is the Product intellectual property owner and the Contractor publicly announces to all U.S. customers ("date of notice") that a Product is being withdrawn from the U.S. market or that maintenance service or technical support provided by the Contractor ("withdrawn support") is no longer going to be offered, the Contractor shall be required to: (i) notify the Contract Manager, and each Licensee then under contract for maintenance or technical support in writing of the intended discontinuance; and (ii) continue to offer Product or withdrawn support upon the Contract terms previously offered for the greater of: a) the best terms offered by Contractor to any other customer, or b) not less than twelve (12) months from the date of notice; and (iii) at Contractor's option, provided that the Licensee is under contract for maintenance on the date of notice, either: provide the Licensee with a Product replacement or migration path with at least equivalent functionality at no additional charge to enable Licensee to continue use and maintenance of the Product.

In the event that the Contractor is not the intellectual property owner, the Contractor shall be required to: (i) provide the notice required under the paragraph above, to the entities described within five (5) business days of the Contractor receiving notice from the third party intellectual property owner, and (ii) include in such notice the period of time from the date of notice that the third party intellectual property owner will continue to provide Product or withdraw support.

The provisions of this subdivision (a) shall not apply or eliminate the Contractor's obligations where withdrawn support is being provided by the third party intellectual property owner. In the event that such third party intellectual property owner ceases to provide service, the Contractor shall be responsible for subcontracting such service, subject to state approval, to an alternate Subcontractor.

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CA Response: Modification Proposed: See proposed modification to 5.7(a). State and CA agreed to keep notification to Contract Manager and Licensee. State agreed to remove "Eligible User."

b. **Product or Service Re-Bundling** In the event that the Contractor is the Product intellectual property owner and publicly announces to all U.S. customers ("date of notice") that a Product or maintenance or technical support offering is being re-bundled in a different manner from the structure or licensing model of the prior U.S. commercial offering, the Contractor shall be required to: (i) notify the Contract Manager of the intended change and post on Contractor Website www.ca.com (ii) continue to provide Product or withdrawn support upon the same terms and conditions as previously offered on the then-current State of Florida Contract for the greater of: a) the best terms offered by the Contractor to any other customer, or b) not less than twelve (12) months from the date of notice; and (iii) shall submit the proposed re-bundling change to the Commissioner for approval prior to its becoming effective for the remainder of the Contract term. The provisions of this section do not apply if the Contractor is not the Product intellectual property owner.

CA Response: Modification Proposed: State rejected our deletion of the Contract Manager but will accept Contractor Website in lieu of Eligible User. State agreed to add CA's Technical Support Policy and Terms to Section 6.3.

c. **No Hardship/Passive License Monitoring.** Unless an Eligible User is otherwise specifically advised to the contrary in writing at the time of order and prior to purchase, the Contractor hereby warrants and represents that the Product and all Upgrades do not and will not contain any computer code that would disable the Product or Upgrades or impair in any way its operation based on the elapsing of a period of time, exceeding an authorized number of copies, advancement to a particular date or other numeral, or other similar self-destruct mechanisms (sometimes referred to as "time bombs," "time locks," or "drop dead" devices) or that would permit Contractor to access the Product to cause such disablement or impairment (sometimes referred to as a "trap door" device). Contractor agrees that in the event of a breach or alleged breach of this provision that Eligible User shall not have an adequate remedy at law, including monetary damages, and that Eligible User shall consequently be entitled to seek a temporary restraining order, injunction, or other form of equitable relief against the continuance of such breach, in addition to any and all remedies to which Authorized User shall be entitled.

CA Response: Modification Proposed: The following shall be added at the end of the paragraph: "The foregoing representations and warranties of CA notwithstanding, Licensee understands and agrees that certain of CA's software programs contain keys which require renewal for continued operation, and that, provided CA notifies Licensee in advance of the existence of such keys, the use of such keys, is not restricted or prohibited by the terms of this provision." State rejected reference to "passwords but will accept the word "key(s)."

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d. **Source Code Escrow for Licensed Product.** If Source Code or Source Code escrow is offered by either Contractor or Product intellectual property owner to any other commercial customers, Contractor shall either: (i) provide Licensee with the Source Code for the Product; or (ii) place the Source Code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the State, and who shall be directed to release the deposited Source Code in accordance with a standard escrow agreement acceptable to the State; or (iii) will certify to the State that the Product manufacturer/developer has named the State, acting by and through the Eligible User, and the Licensee, as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the State and Licensee, and who shall be directed to release the deposited Source Code in accordance with the terms of escrow. Source Code, as well as any corrections or enhancements to such source code, shall be updated for each new release of the Product in the same manner as provided above and such updating of escrow shall be certified to the State in writing. Contractor shall identify the escrow agent upon commencement of the Contract term and shall certify annually that the escrow remains in effect in compliance with the terms of this paragraph.

The State may release the Source Code to Licensees under this Contract who have licensed Product or obtained services, who may use such copy of the Source Code to maintain the Product.

CA Response: Modification Proposed: CA takes exception to the requirement above. Source Code is only offered subject to the following clarification

"Vendor has deposited a copy of the source code of the Software with Mendelsohn, Kary, Bell & Natoli, 529 Fifth Avenue, 2nd Floor, New York, NY 10017. Such source code will be updated with each new release of the Software which will also be deposited with the escrow agent. Such copies of the source code will be held in escrow and in the event of a final adjudication of Vendor as bankrupt, Department will, upon payment of the duplication cost and other handling charges of the escrow agent, be entitled to obtain a copy of such source code from the escrow agent. Department will, however, only use such copy of the source code internally to support the Software. The escrow agent's only responsibility will be to use its good faith efforts to cause a copy of the source code, in the form as delivered by Vendor, to be delivered to Department at the appropriate time."

5.8 Contract Service Requirements.

Requests by State Agencies and Eligible Users for Product Literature, Price Lists, and Specifications must be provided within five (5) working days after receipt of written request, at no charge to Eligible Users. However, the Department reserves the right to review and approve all Product Literature, Price Lists, and promotional materials before distribution to State Agencies and Eligible Users.

Awarded contractor(s) shall have a single point of contact for customer support. This individual may support multiple Eligible Users and respond to Eligible User calls and/or emails within twenty-four (24) hours. Customer Support contact information shall be provided on the Ordering Instructions form. The Contractor(s) shall make all Eligible Users of the contract aware of its existence at the time of order to ensure that contractual pricing is utilized.

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Contractor(s) shall provide toll-free customer service phone support from 8 hours a day, 5 days a week (Monday through Friday), except for National and State recognized holidays. TDD (Telecommunication Device for the Deaf) access must be made available during the above customer service operating hours.

Contractor(s) shall provide an after-hours contact number for use by Eligible Users for emergency orders after standard customer service operating hours.

CA Response: Modification Proposed: State and CA agreed to allow "8 hours a day, 5 days a week."

In addition, CA provides a self-service website, CA Support Online, http://support.ca.com. CA Support Online enables customers to connect more quickly and easily with CA any time day or night and enables IT administrators to:

- Obtain current documentation, including technical documentation and user documentation.
- Take advantage of sophisticated self-help technology to review product problems and solutions

In reference to TDD access, CA agrees to add the following instructions on the CA Florida ITN website:

"Notice to the Hearing Impaired regarding the Florida ITN contract:

- Call the Florida Telecommunication Relay Service Toll Free TDD/TTY at 1-800-955-8771
- At that point, please have the person at the relay service contact CA, Inc. on 1 888 517-1484"

5.9 Delivery.

Pricing shall include inside delivery to the ordering agency within 30 days after receipt of purchase order.

CA Response: Modification Proposed: CA understands that a purchase order is based on agreed to pricing per this agreement and as negotiated between Customer and CA and inside delivery does not include installation or implementation of software.

5.10 Contract Reporting Requirements.

The Contractor shall be responsible to report sales data to the Contract Manager on a quarterly basis using the (State Term Contract) STC Reporting Form in Section 7.15 of the ITN. The State of Florida is not a party to the contractual relationship between the Contractor and their resellers.

- The following data must be reported to the Contract Manager on a quarterly contract basis: Report shall include:
  - Contractor/Reseller Name and FEIN number
  - Contact Information
  - Reporting Period
  - Total dollar value of purchases per quarter as noted on the form.
  - Total dollar value of purchases per quarter indicating product group.
  - Minority Business Spend shall be included in the same report on the tab marked CMBE Spend Report.
- Financial Viability Statement. Contractor shall provide a copy of their Dun and Bradstreet report and shall be responsible to immediately notify the Contract Manager of

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any changes in the company's financial status that would affect the Contractor's ability to fulfill their contract obligations with the State.

Failure to provide quarterly and annual sales reports, including no sales, within thirty (30) calendar days following the end of each quarter (January, April, July and October) and/or contract year may result in the contract supplier being found in default and cancellation of the contract by State Purchasing.

Submission of the Contract Sales Summaries shall be the responsibility of the Contractor without prompting or notification by the Contract Manager. The Contractor will submit the completed Contract Sales Summary report by email to the Contract Manager.

CA Response: Agreed

5.11 Business Review Meetings.

In order to maintain the partnership between the Department and the Contractor, each quarter the Department may request a Business Review meeting. The business review meeting may involve, but not be limited to, the following:

- Review of Contractor performance
- Review of minimum required reports
- Review of continuous improvement plans

The Department encourages Contractors to identify opportunities to generate lower costs. A continuous improvement effort, consisting of various ideas to enhance business efficiencies, may be discussed at the Business Review meetings or as identified.

CA Response: Agreed

5.12 Implementation of Contract.

In order to streamline the procurement process and ease of use for state agency buyers, the Contractor shall provide its catalog data electronically using the State's eProcurement system through a "punch-out" solution in which the Agency accesses the Contractor's website directly from the system, rather than the system maintaining the Contractor's data. This solution must allow the Agency to reach the Contractor's site, browse for Contracted items only, and return to the system with a list of items ready to be inserted into a requisition. Returned product information must include, but is not limited to, Contractor name, brand/manufacturer, SKU, product name, brief description (for supplies, include what machine product is for), recycled content flag, approved green product flag, certifying green label / standard, unit of measure, and price.

If the Contractor does not choose to provide a punch-out catalog, the Contractor shall provide a Line-Item catalog. All awarded contractors must make their awarded products and prices available on the Contractor's Florida Specific website as required in Section 5.13 Contractor's State Contract Webpage.

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After the Contract has been awarded, the Contractor will have up to sixty (60) days to establish a State Contract punch-out website. The MyFloridaMarketPlace ("MFMP") third-party Service Provider, Accenture, is responsible for working with Contractor to assist in the implementation of a punch-out solution with the eProcurement System. To accomplish this conversion, the awarded Contractor shall provide requested information directly to the Service Provider in the format required by the Service Provider. No costs or expenses associated with providing this information shall be charged to the Department, Eligible Users, or Service Provider.

Contractor punch-out solution must meet the following requirements:

- The solution must conform to cXML 1.0 or 1.1 standards.
- The solution must conform to the technical specifications and implementation requirements provided by Accenture, and the Contractor must work with Accenture to ensure successful integration of the punch-out solution into the system
- The solution must have the capability to provide only those products awarded under the Contract, and block any non-Contract item(s) from being added to the requisition.
- The punch-out site must provide the Contract Manager, or designee, the ability to audit catalog items and prices and must provide a method to download loaded items and prices into an Excel file format. Audit time and date shall be determined by the Contract Manager and shall occur at random intervals.

CA Response: Modification Proposed: Per Amendment 3, dated October 10, 2008, to the first State of FL DMS ITN. This requirement may be met by either a "PunchOut List or a Line Item Catalog. CA chooses the latter format. Please see GSA pricelist.

5.13 Contractor's State Contract Webpage.

The Contract resulting from this solicitation will become a public document. State Purchasing uses its web page to distribute State Term Contract and product information to eligible users and other interested entities.

The Contractor shall, within thirty (30) days after the date of award listed on the Certification of Contract document, develop and maintain a State Contract web page on the Internet to post approved Contract information, which shall include pricing, percentage discounts, terms, catalogs, ordering instructions, descriptive information, list of products that meet the State of Florida's approved green product labels / standards, and product pictures. The Home Page must be compatible with the most recent version of browser software being used by the Department. As of the writing of this solicitation, Internet Explorer 7.0 is the Department's Internet browser standard. The Department intends to upgrade to new browser versions as they become available and fully tested, at its discretion. The Universal Resource Locator (URL) for the Internet Home Page must be listed in the space provided on the Ordering Instructions page of the solicitation. No costs or expenses associated with providing this information shall be charged to the State.

The State Contract vendor supplied web site must have the following requirements:

- Specify that the web page is for the State of Florida
- Contract Number and Beginning and Ending Contract Dates
- State of Florida approved Contract pricing;
- Detailed item descriptions, item numbers, unit of measure;

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- Robust search engine capabilities;
- Authorized Dealers, if any;
- Additional links or information to access product literature of awarded items;
- Additional links to the vendor's home page, the history of the company, etc.;
- Additional links to access technical product literature of awarded items;
- Servicing dealers with current contact information;
- Offer photos of awarded products (where applicable);
- List of products that meet the State of Florida's approved green product labels / standards;
- When possible, provide indicators of recycled product and minority manufactured products; and
- Universal Resource Locator (URL) for the Internet Page must be supplied to the Department prior to the implementation of the Contract.

Additional mandates include:

- If unauthorized information is discovered on the State Contract Web Page, the Contractor's link may be immediately disconnected and the Contractor shall be liable for any incorrect or unauthorized purchases.
- Access to the Contractor's State Contract Web Page, or to links or documents on that Web Page, shall not require a password.
- Contractor's State Contract Web Page shall be compatible with the current version of browser software used by State Purchasing.
- Barring unexpected technological interruptions or forces of nature, frequent or consistent web page inaccessibility may be grounds for contract termination.

Contractors should note that the US Federal Trade Commission's Guides to the Use of Environmental Marketing Claims (Green Guides) regulate how companies label and advertise using environmental claims / terms. See Environmental marketing claims (16 C.F.R. Part 260) for details. It is the Contractor's responsibility to accurately identify their products that meet the State of Florida's approved green product labels / standards (e.g., Energy Star, Green Seal) in their electronic catalog, punch-out site and on State Contract web page. Failure to accurately represent green products may result in the Contractor's immediate removal from the contract.

CA Response: Agreed

5.14 Electronic Invoicing.

Notwithstanding any provision of the contract, the contractor shall supply electronic invoices in lieu of paper-based invoices for those transactions processed through the State's eProcurement system. Electronic invoices shall be submitted to the agency through the Ariba Supplier Network (ASN) in one of the following mechanisms – cXML, EDI 810 or web-based invoice entry within the ASN.

For the purposes of this section, the contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the State's third party eProcurement provider, the right and license to use, reproduce, transmit, distribute and publicly display within the system the information outlined above. In addition, the contractor warrants and

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represents that it is authorized and empowered to and hereby grants the State, and the third party provider, the right and license to reproduce and display within the system the contractor's trademarks, system marks, logos, trade dress or other branding designation that identifies the products made available by the contractor under the contract. If the contractor is not the manufacturer, it shall be the contractor's responsibility to obtain authorization from the manufacturer to comply with the provisions of this section, including securing any intellectual property rights of the manufacturer.

CA Response: Agreed.

5.15 Requests for Quotes.

Additional quotes are not required under this contract; however, customers have the option to initiate a request for quotes (RFQ), which is an oral or written request for written pricing or service information from a Contractor/Authorized Dealer for products available under the Contract from that Contractor. If Eligible Users elect to utilize a RFQ, they shall create and maintain written records of oral and written requests, as well as records of quotes received. Quotes shall be in writing but otherwise informal, and need not be received or posted publicly or at a particular time or place. A Customer shall initiate a sufficient number of requests to obtain a minimum of three quotes, and shall place its purchase order with the Contractor quoting the lowest price, unless the Customer documents in writing that the lowest price quote would not result in best value.

CA Response: Agreed.

5.16 Pricing.

It is the intent of this solicitation to obtain pricing that is better than or comparable to pricing models provided to other government entities of the same size and class as the State of Florida. Similarly situated states shall include California, Texas and New York.

Cost savings/avoidance shall reflect a discount percentage off of the awarded contractor(s) current "Manufacturers Retail Price." Price sheets shall reflect the pricing models requested within this ITN. State agencies and any Eligible Users shall have the right to purchase additional software products offered by the Contractor under the same negotiated terms and conditions, for the length of this contract, to simplify additional purchases.

5.16.1 Growth **Capacity Expectations** – Respondent is encouraged to provide pricing that takes into account the potential for growth or any new data center consolidation models that may require larger capacities.

5.16.2 Pricing Models - Respondent shall provide pricing models for software meeting the categories in Section 6.1, Eligible Software. Prices must be submitted using the attached Price Sheet in Section 7.1 of this solicitation. Pricing models shall include one or more of the following:

i. MIPS
ii. Subcapacity
iii. Partition (LPAR)

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iv. MSU
v. CPU
vi. Instance-Based
vii. Usage-Based
viii. Transfer or assignment of contracts from state agencies to hosting or "primary" data centers.
ix. Location licensing, which will allow for a change in location and transfer of ownership.
x. One-time upgrade costs
xi. Maintenance agreements (standard and consolidated)
xii. Added Value such as tiered discounts, additional service, etc.
xiii. Special Pricing Incentives
    1. In accordance with the terms and conditions of this Invitation to Negotiate, the Contractor may submit offerings for special pricing incentives related to areas such as competitive replacement, consolidation and standardization, or other opportunities to support cost savings to the state. Such offerings may be bundled with services as noted in Section 1.4 of this solicitation.

CA Response: CA agrees and would like to clarify that CA will provide pricing discounts similar to other state entities, outside the State of Florida, that enter into a master agreement with CA after the effective date of this ITN.

CA would also like to clarify that prices offered under this ITN are based on the current GSA prices as agreed to in Section 5.17 below under the terms and conditions of the ITN and that CA's modification language in GSA Schedule Contract No. GS-35F-0823M incorporated herein as Attachment C further clarifies the ITN and provides terms and conditions where the ITN is silent.

CA is also prepared to offer competitive replacement discounts under certain, specific conditions. CA will be happy to discuss details of these discounts at the appropriate time.

In addition, CA accepts the Clarification of Services and Training under the ITN per below and shall provide these Services subject to a Statement of Work:

"Section 1.4.c Clarification: (REV 6/26/09)

c. Services: Eligible Users may acquire services, including maintenance, consulting, and training under this Contract. Consulting and training services as set forth in Section 6.3 of this solicitation may be acquired from Contractor on a limited basis. Pricing for these services must be included in the price sheet in Section 7.1 and approved by the Department. Consulting services purchased under any contract resulting from this ITN shall be limited to the installation of software or customization of the Contractor's product line and must directly relate to products sold. Consulting for installation or customization of products sold and training for products sold may not exceed Category two purchasing threshold amounts. Consulting and training which exceed the Category two threshold limit shall be procured competitively using the appropriate procurement process selected by the Eligible Users.

Limited basis is clarified as follows:

Category two requirements only apply when consulting or installation services are outside of the scope of this contract. Normal installation or customization of products on contract do not require users to bid out those services or to complete a single source form even when the amount of installation or customization exceeds $25,000.

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Software training that exceeds the $25,000 threshold for Category two must be competitively procured.

Consulting services that would normally be procured using the IT Consulting contract (# 973-561-09-1) must be procured on that contract. Other consulting services that are outside the scope of normal installation or customization of software products must be competitively procured when cost exceeds Category two thresholds."

CA would like to clarify that there is not another company, including CA authorized resellers, that is authorized to deliver training against CA's software.

Pricing for the Services would be based on either a FFP (Firm Fixed Price) or T&M (Time and Material) per the Labor rates as defined in the Pricing in Section 7.1 herein.

In addition, CA does not offer site licenses or site license pricing on its current products. With regard to any prior site licenses that may be in effect prior to this ITN, CA is amenable to discussing and renewal pricing for any such site licenses.

5.17 PRICE Adjustments.

Prices shall be firm against increase for twenty-four (24) months from the original effective date of contract. After this period, requests for decrease may be submitted to the State if there has been, or is, a documented decrease in cost, with the State reserving the right to accept or reject requests within thirty (30) days after receipt of request. Price decreases may be requested by either party one (1) time per year (following the 24-month price freeze) by using the Producer Price Index (PPI) for Industry: Electronic Computer Manufacturing, as published by the U.S. Bureau of Labor Statistics. The rate adjustments will be based on the PPI (Series ID pcu5112-5112). The State may request a reduction in price any time the PPI shows de-escalation in costs.

The last published non-preliminary Producer Price Index for the month prior to award/anniversary date of the contract will be the reference date for the beginning (old) PPI Index. The most recent published Producer Price Index prior to the contract year to be priced will establish the reference data for the New PPI Index.

All requests for price adjustments must be substantiated by manufacturer's certification of cost or other documentation and approved by the State of Florida' Contract Administrator prior to implementation. There can only be one rate adjustment per twelve (12) month period and the maximum net rate percentage decrease per twelve (12) month period shall not exceed the PPI allowable amount or 3%, whichever is less.

The price de-escalation formula will be tied to the change in the commodity for Software Publishers, PPI Series ID pcu5112--5112. The formula is calculated by dividing the New PPI Index by the Old PPI Index to identify the Price Escalation Rate. The Old Price is multiplied by the Price De-escalation Rate to determine if a price reduction is warranted. This formula applies after Year 2 of the contract and on each subsequent anniversary of the contract effective date.

Details on how this PPI has historically performed can be found at the Bureau of Labor Statistics web site and following the below steps:

- Go to BLS website: http://www.bls.gov/ppi/

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- Navigate to the "Get Detailed PPI Statistics" section
- Select "Create Customized Tables (one screen)"
- Click on the link titled "Industry Data"
- Type "5112" in the "Select an Industry" box for the Electronic Computer Manufacturing category and hit the adjacent "Find" button.
- Select "5112--5112" for Software Publishers in the "Select One or More Products" box and hit the adjacent "Find" button. A table similar to the one shown below will be created.

Series Id: PCU5112--5112--
Industry: Software publishers
Product: Software publishers
Base Date: 0312

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
2003												100.0	
2004	99.4	100.5	100.4	100.4	100.0	100.2	99.8	99.7	98.6	99.9	99.8	99.3	99.8
2005	98.8	99.5	99.3	99.9	99.4	99.7	99.2	99.7	100.7	100.8	100.6	100.3	99.8
2006	101.0	100.1	99.1	98.7	100.3	100.3	100.0	100.1	100.3	100.6	100.6	100.3	100.1
2007	99.5	99.9	99.9	100.1	99.6	99.4	99.5	99.9	99.5	99.4	99.4	99.3	99.6
2008	99.5(P)	99.1(P)	100.9(P)	101.8(P)									

P: Preliminary. All indexes are subject to revision four months after original publication.

Example:

Index at one year anniversary..... 99.1
Divided by index at time base price was set 100.1
Equals (De-Escalation Rate)..... 0.99

To determine the new discount percent:

New PPI / Old PPI = Price Escalation/De-escalation Rate (rounded to the four decimal points). Then take Old Price Discount % / Price Escalation De-escalation Rate = New Price Discount % (rounded to two decimal points).

Calculation:

99.1 ÷ 100.1 = .9900 (which equates to a Price De-escalation Rate of 99%)
25% ÷ 99.00% = 25.25% (New Price Discount Percent)
Any decreases negotiated during the term of the contract shall become effective no later than thirty (30) days after approval of the request.

CA Response: Modification Proposed: CA takes exception to the requirement above and offers the following terms as agreed to by CA and the State:

- **CA agrees to hold the forty-five percent (45%) discount on mainframe products offered under the GSA Schedule for four (4) years from the effective date of this Contract. Upon**

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expiration of the four (4) years, CA will have the ability to negotiate discounts in accordance with our GSA Schedule contract for the remaining option years of the Contract.

- **CA agrees to hold product increases on the list price of our mainframe products to which the 45% discount would be applied under the GSA Schedule for a period of two (2) years from the effective date of this Contract. After that 2 year period, CA may increase the cost of the base products subject to GSA terms (currently by not more than 10% per year).**
- **Under this Solicitation, CA agrees to hold the Labor rates for a period of two (2) years from the effective date of this Contact. After that two-year period, Labor Rates will be offered at the prevailing GSA rates beginning on the third (3rd) anniversary of the effective date of this Contract.**
- **CA agrees to hold the Education/Training prices at the prices as listed in the GSA Schedule for a period of two (2) years from the effective date of this Contract. After that 2-year period, Education/Training prices will be offered at the prevailing GSA rates beginning on the third (3rd) anniversary of the effective date of this Contract.**

5.18 Contract Revisions

Revisions to product offerings, pricing, terms, or presented materials must be approved by the Department prior to advertisement or implementation. Requests for revision shall be submitted in writing to the Contract Administrator for review and approval. Revision requests must be submitted to the Contract Manager on the Product Update Form in Section 7.7.

CA Response: Agreed.

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5.19 New Product Additions

New products may be considered for addition to the contract. All requests for review shall be made in writing and shall include product literature and pricing (in Excel format with a copy provided on CD). New products may not be marketed as approved products prior to written approval from the Contract Administrator. New Product addition requests must be submitted to the Contract Manager using the Product Update Form in Section 7.7.

CA Response: Agreed

5.20 References

All respondents shall provide a minimum of five references for Mainframe software products sold in the last twenty-four (24) months. References provided should support the Contractor's ability to meet the needs of "Eligible Users" within the State of Florida. References must complete the form set forth in Section 7.6. References shall include the following: the name of the agency, university, city, county or school board, contact information and indicate the specific software and were it was purchased in addition to the questions contained in the form. Failure to supply the required documentation may result in disqualification of your proposal. The State of Florida reserves the right to contact the references regarding the products/services provided.

CA Response:

State of Florida Department of Financial Services

DO1022123.html

State of Florida Department of Highway Safety and Motor Vehicles

DO1072793.html

State of Florida Department of Children and Families

DO1020417.html

State of Florida Department of Corrections

DO1019079.html

State of Florida Department of Revenue Information Services Program

DO618849.html

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5.21 Purchase Orders

All respondents shall provide a minimum of five (5) purchase orders or invoices with the proposal package to document the sales of each manufacturer's brand proposal. Purchase Orders shall indicate the date the order was received and the date the order was shipped to the customer. Purchase Orders provided should be comparable or represent a typical order that would be placed by a state agency or eligible user such as city, county or school. Purchase orders may, but are not required to, match the references cited above. Failure to supply the required documentation may result in disqualification of your proposal.

CA Response: See response to 5.20.

5.22 Authorized Dealers

Respondents may allow authorized dealers, as defined is Section 3.1, to provide products and services on their behalf using the Authorized Dealer Form indicated in Section 7.17. Respondents are encouraged to utilize Certified Minority Business Enterprise (CMBE) dealers. Respondent shall identify any CMBE dealers on the Authorized Dealer Form. Each dealer named will be responsible for product delivery and service for any orders received as well as providing assistance to Eligible Users. Dealers receiving orders on behalf of the Contractor are required to register in MyFloridaMarketPlace and with the Division of Corporations. All authorized dealers shall be under the DIRECT SUPERVISION of the awarded vendor and shall follow all contract requirements.

CA Response: CA does not anticipate using authorized dealers or contractors in the completion of this contract.

5.23 Environmental Standards

Florida Governor Charlie Crist signed Executive Order 07-126, titled "Leadership by Example: Immediate Actions to Reduce Greenhouse Gas Emissions from Florida State Government"; Executive Order 07-127, "Immediate Actions to Reduce Greenhouse Gas Emissions within Florida"; and Executive Order 07-128, "Florida Governor's Action Team on Energy and Climate Change."

The State supports and encourages initiatives to protect and preserve our environment. The Respondent shall submit as part of any response the Respondent's plan to support the procurement of products and materials with recycled content, and the intent of Section 287.045, Florida Statutes. The Respondent shall also provide a plan for reducing and or handling of any hazardous waste generated by Respondent's company. Reference Rule 62-730.160, Florida Administrative Code. It is a requirement of the Florida Department of Environmental Protection that a generator of hazardous waste materials that exceeds a certain threshold must have a valid and current Hazardous Waste Generator Identification Number. This identification number shall be submitted as part of Respondent's explanation of its company's hazardous waste plan and shall explain in detail its handling and disposal of this waste.

Describe what efforts your company (as Contractor) will take to encourage the participation and support of these and other environmental programs.

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CA Response: All CA software products are environmentally friendly.

CA has an internal Environmental, Health, and Safety Policy that is promulgated to all CA Employees. The policy states: "This policy is used to foster an environmentally "Green" consciousness and promote good environmental stewardship at CA. CA promotes "Green Initiatives" to minimize resource depletion, focus on sustainable resources, and minimize and recycle waste and other activities."

As a developer of computer software, CA Inc. (CA or the Company) does not directly produce harmful waste or byproducts in the course of doing business. As a global company, CA recognizes the importance of health and safety and the environment as an integral part of its business. From a cultural standpoint and our company's core values, we are highly aware of the need for health, safety and environmental management whenever in our control. As a result, we are committed to ensuring; so far as reasonably practicable, the health, safety and welfare at work of all staff and people who visit our premises. CA will continue to balance the needs of the business with the need to protect and improve the environment where we operate. CA will ensure that all its operations are conducted in compliance with all applicable laws, environmental regulations and codes of practice.

5.23.1 Florida Climate Friendly Products

Contractors are encouraged to propose products that meet the Florida approved green product labels/standards.

Under the leadership of Florida Governor Charlie Crist, the Department of Management Services (DMS) encourages the purchase of environmentally preferable products (EPPs) by Florida governmental entities where possible. Upon award, Contractors will be encouraged to submit a list of their qualifying products for review and posting to the Florida Climate Friendly Products List. The current list can be viewed at the following DMS website link: http://dms.myflorida.com/business_operations/state_purchasing/vendor_information/state_contracts_agreements_and_price_lists/florida_climate_friendly_products_list

The Florida Climate Friendly Products List includes state contract approved products that have received one or more of the following certifications, labels, and standards:

California Energy Commission (CEC) Appliance Efficiency Regulations
California Environmentally Preferred Products Guide
California State Agency Buy Recycled Program (SABRC)
Electronic Product Environmental Assessment Tool (EPEAT)
Energy Star
EPA Comprehensive Procurement Guidelines (CPG)
EPA SmartWay and SmartWay Elite
EPA WaterSense
Forest Stewardship Council (FSC)
Green Seal
Greenguard
MDBC's Cradle to Cradle Silver Certification (or higher)
Minnesota Green Guardian EPP Guide
NEMA Premium
RoHS
SCS (Scientific Cert. Sys.) / NSF International
Terra Choice / Ecologo
US Federal Energy Management Program (FEMP)
USDA Organic Label

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CA Response: No CA mainframe software products have been designated as Florida Climate Friendly.

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4. State of FL ITN Section 6

SECTION 6.0

TECHNICAL SPECIFICATIONS

Contents

6.1 ELIGIBLE SOFTWARE

6.2 SOFTWARE ACCEPTANCE

6.2.1 ACCEPTANCE OF STAND ALONE SOFTWARE

6.2.2 ACCEPTANCE OF SELF-DEVELOPED SOFTWARE OR SOFTWARE DEVELOPED BY THIRD PARTIES

6.3 STANDARD SUPPORT

6.4 SOFTWARE LICENSE

6.5 ENVIRONMENTAL STANDARDS

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6.1 Eligible Software

Mainframe software will be divided into the following categories. Respondents may, but are not required, to submit proposals for all categories. Respondents shall indicate on the Software Category form (see attachment 7.12) the product categories for which the respondent will supply software products. The State of Florida does not guarantee the purchase of any of the products listed on the form. The product category list will be published on the DMS website upon contract award to indicate to Eligible Users the products available along with the name of the software providers for ordering purposes.

The products categories included in this Invitation are:

1. Application Development
2. Network & Systems Management Software
3. Application Integration & Middleware
4. Security Software
5. Database Management Systems
6. Miscellaneous Mainframe Software (see the Product Category List in Section 7.12. This is not the same as items that may be listed in the Balance of Line on the Price Sheet)
7. Balance of Line Products

   Balance of Line Products are Enterprise Software Agreements that may be offered as part of the Respondent's proposal. Software Agreements offered may encompass Respondent's entire software line; however, software products may not be on more than one State Term Contract. The Department reserves the right to accept or reject any items submitted. The Department further expects pricing commensurate with Government entities of comparable size and volume. Vendors who are awarded balance of line software products on this contract would not need to respond to any other phase of these software solicitations.

CA Response: CA understands and will comply.

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6.2 Software Acceptance

Once software has been physically received, the Contractor shall consider the Product accepted for use in order to comply with the Sarbanes Oxley reporting requirements; however, the State has additional acceptance criteria, which will be used to justify product returns. Eligible users who have software installation permissions granted by the user's agency shall be responsible for determining acceptance of products purchased. The minimum acceptance criteria are as follows:

6.2.1 Acceptance of Stand Alone Software: Acceptance of software products is conditioned upon set forth herein:

- The software is free of computer viruses
- The software is compatible with other products in use
- The software can operate in the intended working environment and required parameters
- The software was delivered with the relevant manuals or access was provided to electronic manuals.
- The required functionality is fulfilled.

LANGUAGE OFFERED FROM STATE THROUGH A DOC ENTITLED "CONTRACT REVISION DOCUMENT."

6.2 Software Acceptance

The State has additional acceptance criteria which will be used by the Eligible User in accepting the software as part of its acceptance as defined in Section 5.2. These criteria are as follows:

6.2.1 Acceptance of Stand Alone Software: Acceptance of software products is conditioned upon the following:

- The software is free of computer viruses as determined by commercially available antivirus software.
- The software is compatible with other products in use as specified in the product Documentation
- The software can operate in the intended working environment and required parameters as determined by the specifications of the applicable software.
- The software was delivered with the relevant manuals or access was provided to electronic manuals as applicable.
- The required functionality is fulfilled as determined by the software operating in conformity with its applicable specifications.

CA Response: CA agrees with the new language in 6.2.1 above and would like to clarify that CA warrants that the Software will operate in material compliance with its Documentation and as outlined in the ***CA GSA Schedule in Attachment C* on page 11 , *Section 2. Guaranty/Warranty* and on page 21, *Section 9, Warranty for education courses.***

6.2.2 Acceptance of self-developed software or software developed by third parties: Acceptance will be denied if any of the following occur:

- Serious errors are detected in the software

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- Test cases occur where the calculated results do not correspond to the estimated results
- User manuals or operating instructions are not available or are inadequate

LANGUAGE OFFERED FROM STATE THROUGH A DOC ENTITLED "CONTRACT REVISION DOCUMENT."

6.2.2 Acceptance of self-developed software or software developed by third parties: Acceptance will be denied if any of the following occur:

- Serious errors are detected in the software which demonstrates substantial noncompliance with the applicable specifications.
- User manuals or operating instructions are not available or are inadequate to demonstrate operation of the software.

CA Response: CA agrees to the new language in 6.2.2. above and interprets this provision to address custom code development. CA would like to clarify that it is a commercial items vendor and licenses commercial-off-the-shelf software. In the event that custom code is requested, the parties will specify terms pertaining to custom code in a separate Statement of Work.

6.3 Standard Support

Contractors shall provide the following levels of support under the Contract:

- Inside delivery, with buyer set-up and installation
- Standard intellectual property owner's warranty
- 30-day money back guarantee (after acceptance), return to Contractor, with no shipping charges or restocking fee or comparable charges
- Installation advisory support – help with installation and updating of standalone applications or products in a network environment.
- Corrective support – to resolve identifiable and reproducible software product problems and to help customers identify problems that are difficult to reproduce; includes assistance with trouble-shooting and with setting configuration parameters.
- Escalation management – Establish escalation procedures and enlist specialized expertise from Contractor and selected third parties.
- Electronic software information – Provide access to software patches, a symptom-solution database, product descriptions, specifications, technical literature, etc.
- Coverage windows – minimum of 8 hours a day, 5 days a week minimum coverage Monday – Friday, excluding holidays.

Optional Support that may be offered on particular purchases:

- Warranty upgrade (to 3-year maximum). Warranty upgrade may be purchased at time of system purchase or during the warranty period
- Software product and documentation updates
- Software Training (for individual products or product suites)
- Manufacturer provided installation
- Consulting Services (limited to customizations of product offered or directly related to products sold).
- Additional coverage options such as:

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- 24/7/365
- Extended hours

- Other

Optional support levels resulting in increased cost to Customers shall be clearly and separately identified on the Contractor's authorized product and price list. Integrated components shall carry the same support level and warranty provisions as the system. Optional support shall also be offered at the same percentage discount as the awarded category of items that the optional support is associated with.

CA Response: CA agrees to the above Standard Support with a Modification Proposed below with respect to thirty (30) day money-back guarantee. Please refer to Section 4, *Software Maintenance* on page 12 of the GSA Schedule in Attachment C hereto. CA accepts that where there is a conflict between the terms of the ITN and the terms of the GSA Schedule, the ITN terms, as negotiated, shall prevail. In addition, CA provides a self-service website, CA Support Online, http://support.ca.com that describes CA support policies and terms.

Modification Proposed: (with respect to thirty (30) day money back guarantee): In the event CA shall be unable to cause a Licensed Program to operate according to CA's published specifications in a material manner within thirty (30) days following written notification of the defect by Licensee (the "Notice"), either CA or Licensee on written notice may terminate this license with respect to such Licensed Program (the "Canceled Program"). In the event of such termination, the aggregate license fee payable under this Order Form with respect to the Canceled Program (the "Canceled Program Fee") shall be divided by the number of months in the initial term of the license for the Canceled Program as provided in this Order Form, yielding the average monthly charge for the Canceled Program. Such average monthly charge shall be multiplied by the number of months or part thereof from the Effective Date of this Order Form until the date of CA's receipt of the Notice to yield the portion of the license fee earned by CA (the "Earned Fee"). Thereupon, CA shall relieve Licensee of its obligation to pay any unpaid portion of the Canceled Program Fee in excess of the Earned Fee and shall refund to Licensee any portion of the Canceled Program Fee previously paid hereunder in excess of the Earned Fee. The foregoing shall constitute the entire liability of CA to Licensee with respect to CA's limited warranty made hereunder respecting performance of the Canceled Program. In the event, however, that Licensee's notification shall be determined to have been based upon its errors in operating the Canceled Program and not upon such a defect, Licensee shall reimburse CA for its time and effort in accordance with CA's then prevailing rates for consulting services, plus all out-of-pocket expenses incurred by CA in connection therewith.

6.4 Software License.

Where product is acquired on a licensed basis, the following terms shall constitute the license grant.

a. Scope: Licensee is granted a non-exclusive license to use, execute, reproduce, display, perform, or merge the product within its business enterprise in the United States up to the maximum licensed capacity identified on the purchase order. The product may be accessed, used, executed, reproduced, displayed, or performed up to the capacity measured by the applicable licensing unit identified on the purchase order (i.e., MIPS, MSU, LPAR, Subcapacity, etc.). Licensee shall have the right to use and distribute modifications and customizations of the product to and for use by any Customers otherwise licensed to use the product, provided that any modifications, however extensive, shall not diminish licensor's proprietary title or

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interest. This paragraph grants no license, right, or interest in any trademark, trade name, or service mark.

CA Response: CA agrees with the terms above as long as the State agrees that the terms "modifications" and "customizations" in this paragraph means CA authorized adaptations to the software that is described and authorized in the applicable User Manual. For additional CA clarification, please see Section 9, *Utilization Limitations*, page 16 of the CA GSA Schedule in Attachment C hereto. CA also agrees that in the event of any conflict in terms on the issue of the software license grant between the GSA Schedule and this ITN, the ITN terms will prevail.

b. Term: The license term shall begin the date the product is accepted. Where a license involves licensee's right to copy a previously licensed and accepted master copy, the term shall begin the date the purchase order is executed.

CA Response: CA agrees and will accept the following clarification issued by the State with the redlined changes:

F.S. 215.422 states that "Approval and inspection of goods or services shall take no longer than 5 working days unless the bid specifications, purchase order, or contract specifies otherwise."

The Mainframe Software contract allows up to 30 days for acceptance of a product or service in order to account for special customizations, vendor installations, etc. Any special conditions must be expressed in writing either on the PO (purchase order) or in the SOW (statement of work) that is attached to the PO and CA must have agreed to any special acceptance time frames in advance. If a software product is downloaded, then CA will use the PO date for the acceptance date. If the customer downloads software that appears to contain errors or if the file is corrupt, the customer must immediately contact CA to resolve the issue. If the item is not downloaded, then the customer has 5 business days from the date of physical receipt of the product to accept the software.

c. Documentation: Upon request, the Contractor shall deliver to the licensee at the Contractor's expense (1) one master electronic copy and one hard copy of product documentation or (2) one master electronic copy and hard copies of the product documentation by type of license in the following amounts, unless otherwise agreed: for individual/named user, one copy per licensee; for concurrent users, ten copies per site; for processing capacity, ten copies per site. The master electronic copy shall be in either CD-ROM or diskette format and usable without conversion (for example, if a unit has only a 3½" disk drive, software shall be provided on 3½" diskettes). The Contractor hereby grants the Customer a perpetual license right to make, reproduce (including downloading electronic copies), and distribute, either electronically or otherwise, copies of product documentation as necessary to enjoy full use of the product in accordance with the terms of the license.

CA Response: CA and the State have agreed that not all licenses are perpetual. For additional information, please refer to page 42 of the **CA GSA Schedule in Attachment C.** CA also agrees that if there is any conflict in terms between the GSA Schedule and this ITN, the ITN terms will prevail.

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d. Technical Support and Maintenance: Licensee may elect the technical support and maintenance ("maintenance") set forth in the Contract by giving written notice to the Contractor any time during the Contract term. Maintenance shall include, at a minimum, (1) providing error corrections, patches, updates, revisions, fixes, upgrades, and new releases to licensee, and (2) Help Desk assistance accessible via toll-free or local telephone call or on-line. The Contractor shall maintain the products so as to provide licensee with the ability to use the products in accordance with the product documentation, without significant functional downtime to ongoing operations during the maintenance term. The maintenance term(s) and any renewals are independent of the Contract term. The Customer may discontinue maintenance at the end of any current maintenance term upon notice to the Contractor; provided, the term shall not automatically renew. If the Customer does not initially acquire, or discontinues, maintenance, the Customer may at any later time reinstate maintenance without any penalties or other charges, by paying the Contractor the amount, if any, that would have been due under the Contract for the period that maintenance had lapsed, or for twelve months, whichever is less.

CA Response: Modification Proposed: Maintenance, as used herein and outlined in Section 6.3 above, shall include telephone support and product fixes for each Licensed Program, as well as those unspecified enhancements, new versions, new releases and additional features of each Licensed Program that are developed hereafter by CA and made generally available during the Term, provided that (a) the same shall relate solely to the Licensed Programs hereunder, and (b) CA shall have no obligation to develop any such enhancement, new version, new release or additional features. In consideration of the Maintenance Fees, CA shall perform the Maintenance services described herein. CA shall deliver to Customer all Releases of the Licensed Program as soon as they are available for general release and shall provide the updated Documentation as it is produced.

As agreed to by CA and the State: "In regard to the reinstatement of maintenance, CA will agree, in lieu of charging the State CA's standard reinstatement fee of 125% under the GSA Schedule, that on a case by case basis for each incident, where the State has canceled maintenance and then requests reinstatement, CA and the State will negotiate a fee mutually agreeable by both parties based upon any upgrades, bug fixes, patches, or other changes necessary to bring the product up to the current version specifications at the time of maintenance reinstatement.

e. Transfers/Reassignment: Licensee's operations may be altered, expanded, or diminished. Licenses may be transferred, renegotiated or combined for use at an alternative or consolidated site not originally specified in the license, including transfers between agencies and sites. There shall be no additional license or other transfer fees due, provided that (1) the maximum capacity of the consolidated machine is equal to the combined individual license capacity of all licenses running at the consolidated or transferred site (see pricing model in Section 5.16.2) or (2) if the maximum capacity of the consolidated machine is greater than the individual license capacity being transferred, a logical or physical partition or other means of restricting access will be maintained within the computer system to restrict use and access to the product to that unit of licensed capacity solely dedicated to beneficial use for licensee. If the maximum capacity of the consolidated machine is greater than the combined individual license capacity of all licenses running at the consolidated or transferred site, and a logical or physical partition or other means of

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restricting use is not available, the fees due the Contractor shall not exceed the fees otherwise payable for a single license for the upgrade capacity.

CA Response: Modification Proposed: State Mandated Consolidation of Mainframe Systems

In the event of such legislatively mandated consolidation of mainframe systems, Licensee's obligations under this agreement related to the Licensed Programs will transfer subject to the following terms in the ***GSA Schedule in Attachment C, page 41 section entitled "License Assignment and Change of Control."***

"License Assignment and Change of Control
The consent of CA is ordinarily necessary for the assignment or transfer of a license for any software product. Additionally, the written consent of CA is required in any circumstance involving a change in the usage of the Licensed Program because of (i) a change of the entity having access to or use of products (such as when the licensee contracts for facility management or similar outsourcing or service bureau services) or (ii) the change of control of the licensee through a merger, consolidation or sale of the assets or stock of the licensee. In any of those situations (unless the applicable license expressly and unambiguously provides otherwise), consent shall be subject to the satisfaction of all applicable conditions, as follows:

(a) All of CA's outstanding invoices to the licensee shall have been paid in full.
(b) All Licensed Programs requested to be transferred shall be on active usage and maintenance or maintenance status, as applicable.
(c) If a third party is involved (facility manager, purchaser of licensee's assets, etc.), all of CA's outstanding invoices to that third party shall also have been paid in full.
(d) If the applicable original license agreement is different from the then-current CA contract form, a new, current license agreement must be executed. Site based licenses for mainframe products will be converted to CPU based licenses, without additional charge, based upon the CPU configuration immediately following the occurrence.
(e) The licensee (and the successor licensee or facility manager) must warrant that the scope of usage of the software products will not be expanded beyond the existing operations of the original licensee and the terms of the applicable license agreement.
(f) The license agreement period, payment terms, and other contractual obligations of the licensee under the original license agreement will generally remain the same, except as adjusted to reflect changes incident to the transfer (such as site/CPU licensing and CPU upgrades).
(g) Where an assignee or other successor to the licensee is involved, such third party must also sign a separate license agreement governing confidentiality and access to CA products and related matters.

Despite the satisfaction of the above conditions, there are situations where for competitive, confidentiality or other reasons, a proposed transfer involving a specific facility manager, service bureau or corporate acquirer may not be approved.

Inasmuch as license agreements generally permit the licensee to use CA products only for the licensee's internal purposes to process only its own internal data, and restrict the licensee from giving access to such products to any third party, the use of CA products to provide data processing services to any third party is subject to different conditions. These situations must be agreed to by CA separate from the standard license agreement and the policies and procedures as set forth above."

f. Restricted Use by Third Parties: Outsourcers, facilities management, service bureaus, or other services retained by licensee shall have the right to use the product to maintain licensee's operations, including data processing, provided that (1) licensee gives notice to the Contractor of such third party, site of intended use of the product, and means of access, (2) the third party has executed, or agrees to execute, the product manufacturer's standard nondisclosure or restricted use agreement, which agreement shall be accepted by the Contractor, and (3) the third party shall maintain a logical or physical partition within its computer system to restrict access to the program to that portion solely dedicated to beneficial use for licensee. Licensee shall not be liable for any third party's compliance or noncompliance with the terms of the nondisclosure agreement, nor shall the nondisclosure agreement

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create or impose any liabilities on the State or the licensee. Any third party with whom a licensee has a relationship for a State function or business activity shall have the temporary right to use product (e.g., Java applets), provided that such use shall be limited to the period during which the third party is using the product for the function or activity.

CA Response: CA agrees with the above ITN language except that CA would like to clarify that any third party usage of CA licensed software, services work product or other intellectual property must comply with additional requirements as outlined in the GSA Schedule in Attachment C, Section 9, Page 16. Any responsibility for third parties is not considered to increase or otherwise waive the limits of liability for the State of Florida pursuant to Section 768.28, Florida Statutes.

g. Archival Backup: Licensee may use and copy the product and related documentation in conjunction with reproducing a reasonable number of copies for archival backup and disaster recovery procedures.

CA Response: Modification Proposed: Customer may, at no additional cost, make a number of copies as required by the State and mutually agreed upon by both parties of the Licensed Program for bona fide "cold standby" disaster recovery, backup, and archival purposes and may use such copies in the event of a bona fide disaster recovery event. Maintaining copies of the Licensed Programs in a "hot standby" environment or further and additional use of the Licensed Programs for disaster recovery, backup, and archival purposes shall be subject to payment of the applicable fees, if any, to CA.

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h. Source Code Escrow: If either the product manufacturer/developer or the Contractor offers source code or source code escrow to any other commercial customer, or if either entity seeks bankruptcy protection, then the Contractor shall either (1) provide licensee with source code for the product, (2) place the source code in a third-party escrow arrangement with a designated escrow agent, which shall be identified to the Department, and which shall be directed to release the deposited source code in accordance with a standard escrow agreement acceptable to the Department, or (3) certify to the Department that the product manufacturer/developer has named the State, acting by and through the Department, and the licensee, as named beneficiaries of an established escrow arrangement with its designated escrow agent, which shall be identified to the Department and licensee, and which shall be directed to release the deposited source code in accordance with the terms of escrow. Source code, as well as any corrections or enhancements, shall be updated for each new release of the product in the same manner as provided above and such updates shall be certified in writing to the Department. The Contractor shall identify the escrow agent upon commencement of the Contract term and shall certify annually that the escrow remains in effect in compliance with the terms of this paragraph. The State may release the source code to licensees under the Contract which have licensed the product or obtained services, and which may use the copy of the source code to maintain the product.

CA Response: Modification Proposed: As with the response to 5.7.d. herein, CA takes exception to the requirement above. Source Code is only offered subject to the following clarification:

Vendor has deposited a copy of the source code of the Software with Mendelsohn, Kary, Bell & Natoli, 529 Fifth Avenue, 2nd Floor, New York, NY 10017. Such source code will be updated with each new release of the Software which will also be deposited with the escrow agent. Such copies of the source code will be held in escrow and in the event of a final adjudication of Vendor as bankrupt, Department will, upon payment of the duplication cost and other handling charges of the escrow agent, be entitled to obtain a copy of such source code from the escrow agent. Department will, however, only use such copy of the source code internally to support the Software. The escrow agent's only responsibility will be to use its good faith efforts to cause a copy of the source code, in the form as delivered by Vendor, to be delivered to Department at the appropriate time

i. Confidentiality: The product is a trade secret, copyrighted and propriety product. Licensee and its employees shall not disclose or otherwise distribute or reproduce any product to anyone other than as authorized under the Contract. Licensee shall not remove or destroy any of the Contractor's proprietary markings.

CA Response: Agreed

j. Restricted Use: Except as expressly authorized by the terms of license, licensee shall not: copy the product; cause or permit reverse compilation or reverse assembly of the product or any portion; or export the product in violation of any U.S. Department of Commerce export administration regulations.

CA Response: Agreed

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k. Proof of License: The Contractor shall provide to each licensee that places a purchase order either (1) the product developer's certified license confirmation certificates in the name of the licensee or (2) a written confirmation from the proprietary owner accepting the product invoice as a proof of license. The Contractor shall submit a sample certificate, or alternative confirmation, which shall be in a form acceptable to the licensee.

CA Response: Modification Proposed: The resulting agreement from this RFP response and a signed purchase order will constitute proof of license. To the extent that there is any dispute concerning third-party product licenses, CA will provide appropriate documentation regarding third-party licensed products.

l. Audit of Licensed Usage: The Contractor may periodically audit, no more than annually and at its expense, use of licensed product at any site where a copy resides provided that (1) the Contractor gives licensee at least thirty days written advance notice, (2) the audit is conducted during the licensee's normal business hours, (3) the audit is conducted by a State Inspector General's office or, for non-State licensees, by an independent auditor chosen by mutual agreement of the licensee and Contractor as follows: the Contractor shall recommend a minimum of three auditing/accounting firms, from which the licensee shall select one; in no case shall the Business Software Alliance, Software Publishers Association, or Federation Against Software Theft be recommended by the Contractor or used, directly or indirectly, to conduct audits, (4) the Contractor and licensee shall designate a representative who shall be entitled to participate, who shall mutually agree on audit format, and who shall be entitled to copies of all reports, data, or information obtained from the audit, and (5) if the audit shows that the licensee was not in compliance, the licensee shall purchase additional licenses or capacities necessary to bring it into compliance and shall pay for the unlicensed capacity at the Contract price then in effect or, if none, then at the Contractor's U.S. commercial list price. Once such additional licenses and capacities are purchased, licensee shall be deemed to have been in compliance retroactively, and licensee shall have no further liability of any kind for the unauthorized use of the product.

CA Response: Agreed

m. Bankruptcy: The Contract is subject to the terms of section 365(n) of the United States Bankruptcy Code ("Code") if the licensor files a bankruptcy petition. Licensor's failure to perform its continuing obligations shall constitute a material breach of the Contract excusing performance by the licensee.

CA Response: Modification Proposed: The contract is subject to the terms of Sections 365 (n) of the United States Bankruptcy Code. CA proposes deletion of the remainder of the paragraph because it does not apply to bankruptcy.

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5. State of FL ITN Section 7

SECTION 7.0

FORMS, ATTACHMENTS, AND WORKSHEETS

THE FORMS, ATTACHMENTS, AND WORKSHEETS ARE LOCATED IN AND ARE DOWNLOADABLE FROM THE MYFLORIDAMARKETPLACE SOURCING TOOL.

CONTENTS

7.1 PRICE SHEET

Note: All CPU pricing in the attached Vendor Price Sheet is based on a Group 40 machine size. Should the State of Florida require a price for a larger or a smaller machine, CA will need to provide that price on an order-by-order basis, honoring the same discount arrangement. (If CA were to provide all CPU configurations, it would entail approximately 21,000 price entries.)

FL ITN Final Cost.xlsx

Mainframe eLearning Bundle.pdf

FL ITN INFORMATION TECHI

7.2 SAVINGS/PRICE REDUCTIONS

state of florida mainframe price redu

7.3 CONTACT INFORMATION

Mainframe Software Contact Information.

7.4 ORDERING INSTRUCTIONS

Mainframe Software Ordering Instructions

7.5 CERTIFICATION OF DRUG-FREE WORKPLACE PROGRAM (PUR 7009)

Mainframe Software Certification of Drug F

7.6 REFERENCES
See Section 5.20

7.7 STATE CONTRACT CHANGE FORM
Information only.

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7.8 CONTRACT
Information only.

7.9 STATE OF FLORIDA VENDOR RESPONSIBILITY QUESTIONNAIRE

Vendor Responsibility
Questionnaire State c

7.10 PUNCH-OUT CAPABILITY QUESTIONNAIRE
Not Required.

7.11 MYFLORIDAMARKETPLACE ELECTRONIC INVOICING REQUIREMENTS
Information only.

7.12 PRODUCT CATEGORY LIST

Mainframe Software
Product Category List

7.13 EMERGENCY SITUATIONS FORM

Mainframe Software
Emergency Situations

7.14 VENDOR CHECKLIST
Information only.

7.15 CONTRACT REVISION FORM
Information only.

7.16 SAMPLE ARAVO TEMPLATE FOR LINE ITEM CATALOGS
This form does not need to be completed or uploaded at this time and is for informational purposes only.

7.17 AUTHORIZED DEALER FORM
CA does not anticipate using authorized dealers or contractors in the completion of this contract.

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Attachments

Attachment A: State of Florida CA Qualified Vendor Certification

STATE Certificate.pdf

Attachment B: State of FL Sample Fixed Price Statement of Work

State of FL SOW Template.doc

Attachment C: CA GSA Schedule

CA GSATC thru PO-0076 112009.pdf

Attachment D: Replaced by Attachment C

Attachment E: D&B Supplier Qualifier Report for CA, Inc.

D&B Supplier Qualifier Report CA, I

Attachment F: CA Investor Information

ca-corp-fact-sheet[1].mdi

Cowen Analysis.mdi

Cowen Investor Meetings.mdi

JP Morgan Analysis.mdi

JP Morgan.mdi

S&P Upgrade.mdi

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AMENDMENT 4
STATE OF FLORIDA DEPARTMENT OF MANAGEMENT SERVICES
STATE TERM CONTRACT NUMBER 252-500-09-1
ASSIGNMENT

This ASSIGNMENT (the " Assignment") of the above-referenced state term contract, ("Contract"), effective the date of full execution between Hewlett Packard Company, hereinafter "Assignor", having its principal office at 3000 Hanover Street, Palo Alto, California 94304, and Hewlett Packard Enterprise Company, hereinafter "Assignee", having its principal office at 3000 Hanover Street, Palo Alto, California 94304, and the State of Florida Department of Management Services hereinafter "Department" having its principal office at 4050 Esplanade Way, Tallahassee, Florida 32399 (collectively, the "Parties").

RECITALS

I. Assignor entered into the Contract with the Department;
II. Assignor wishes to assign all of its rights, duties and obligations under the Contract to the Assignee; and
III. Assignor and Assignee guarantee Assignee's complete qualification, under the original solicitation that resulted in the Contract, to have been a bidder and to maintain itself as a contractor thereon.

The Parties agree as follows:

1. The above recitals II-III are true, incorporated by reference as if fully stated herein, and intended by the Assignee and the Assignor to induce the Department to enter into this Assignment.

2. Assignor and Assignee agree to the Assignment of the Contract.

3. Assignee accepts the assignment of all of Assignor's obligations, responsibilities and duties under the Contract and all of Assignor's rights, titles and interest in and to the Contract.

4. The Parties agree that this Assignment of the Contract establishes a new contractual relationship between the Department and Assignee and extinguishes all obligations between Assignor and Department, except as set forth in this Assignment.

5. The Department consents to the Assignment.

6. Assignor acknowledges that Assignor is liable for the obligations of the Assignor created under the Contract prior to the Assignment of the Contract and is secondarily liable for the obligations of the Assignee under section 4.29 of the Contract.

7. The Department does not release Assignor from any claims or remedies it may have against Assignor under the Contract.

8. To the extent any of the terms of this Assignment conflict with the terms of the Contract, the terms of this Assignment shall control. All other terms of the Contract remain in full force and effect.

9. Each person signing this Assignment warrants that he or she is duly authorized to do so and to bind the respective party.

IN WITNESS WHEREOF, the parties set their hands and seals as of the date first above written by their duly authorized representatives.

State of Florida
Department of Management Services

By: _____

Name: Erin Rock

Title: Deputy Secretary

Date: 9-18-15

Hewlett Packard Company
(FEIN# 94-1081436)

By: _____

Name: Matthew C. Keck

Title: Senior Counsel

Date: 9/8/2015

Hewlett Packard Enterprise Company
(FEIN#: 47-3298624)

By: _____

Name: Matthew C. Keck

Title: Senior Counsel

Date: 9/8/2015

AMENDMENT 3
CONTRACT RENEWAL
TO
State Term Contract No.: 252-500-09-1

This Amendment, effective as of the last date signed below, is by and between the State of Florida, Department of Management Services (Department), Division of State Purchasing (Division), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and Allen Systems Group, Inc. (Contractor), and amends State Term Contract No. 252-500-09-1 (Contract). Department and Contractor are collectively referred to herein as the "Parties.
The parties hereto agree to amend the contract as follows:

1.0 CONTRACT RENEWAL

The Department hereby executes its renewal option for a four-year period pursuant to Section 287.057(13), Florida Statutes. The new contract expiration date shall be May 13, 2017.

2.0 WARRANTY OF AUTHORITY

Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party.

3.0 REPLACEMENT CONTRACT.

A replacement contract may be established for these services prior to the expiration of this renewed contract. The replacement contract shall supersede and cause early termination of this renewed contract number 252-500-09-1.

4.0 CONFLICT

To the extent any of the terms of this Agreement conflict with the terms of the Contract, the terms of this Agreement shall control. All other terms of the Contract, or as previously amended, remain in full force.

State of Florida, Department of Management Services	**Allen Systems Group, Inc.**
By: Kelly Loll	**By:** Linda J. Stephenson
Name: Kelly Loll	**Name:** Linda J. Stephenson
Title: Chief Procurement Officer and Director of State Purchasing	**Title:** Sr Dir of Contracting
Date: 4/23/13	**Date:** 4-10-2013

Attachment __

Preferred Pricing Affidavit

REGARDING THE CONTRACT BETWEEN

ALLEN SYSTEMS GROUP, INC. (THE "CONTRACTOR")
AND
THE FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

CONTRACT NO.: 252-500-09-1 DATED 05/14/2009 (THE "CONTRACT")

PURSUANT TO SECTION 216.0133, FLORIDA STATUTES, THE UNDERSIGNED CONTRACTOR HEREBY ATTESTS THAT THE CONTRACTOR COMPLIES WITH THE PREFERRED-PRICING CLAUSE CONTAINED IN SECTION 4.4(b) OF THE CONTRACT.

PRINT CONTRACTOR NAME: ALLEN SYSTEMS GROUP, INC.

BY: Linda J. Stephenson _____ DATE: 4-10-13
SIGNATURE OF AUTHORIZED REPRESENTATIVE

PRINT REPRESENTATIVE'S NAME/TITLE: LINDA J. STEPHENSON, SENIOR DIRECTOR OF CONTRACTING

STATE OF Florida
COUNTYOF Collier

Sworn to (or affirmed) and subscribed before me this 10th day of April 2013 by Linda J. Stephenson

JENNIFER TEARS SHEFFIELD
MY COMMISSION # EE856705
EXPIRES: October 28, 2014

Jennifer Tears Sheffield
Signature of Notary

(Print, Type, or Stamp Commissioned Name of Notary Public)

[Check One] ✓ Personally Known OR ____Produced the following I.D. _____

VENDOR NAME: ALLEN SYSTEMS GROUP, INC._____FEIN#_59-2634496_____

VENDOR'S AUTHORIZED REPRESENTATIVE NAME AND TITLE: LINDA J. STEPHENSON, SENIOR DIRECTOR OF CONTRACTING _____

ADDRESS: 1333 THIRD AVENUE SOUTH_____

CITY, STATE, ZIP: NAPLES, FLORIDA 34102_____

PHONE NUMBER: 239-435-3647_____

EMAIL ADDRESS: LINDA.STEPHENSON@ASG.COM _____

CORPORATE SEAL (IF APPLICABLE)

FINAL – Reviewed by Legal - SS

AMENDMENT 3
CONTRACT RENEWAL
TO
State Term Contract No.: 252-500-09-1

This Amendment, effective as of the last date signed below, is by and between the State of Florida, Department of Management Services (Department), Division of State Purchasing (Division), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and BMC Software, Inc., (Contractor), and amends State Term Contract No. 252-500-09-1 (Contract). Department and Contractor are collectively referred to herein as the "Parties.

The parties hereto agree to amend the contract as follows:

1.0 CONTRACT RENEWAL

The Department hereby executes its renewal option for a four-year period pursuant to Section 287.057(13), Florida Statutes. The new contract expiration date shall be May 13, 2017.

2.0 WARRANTY OF AUTHORITY

Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party.

3.0 REPLACEMENT CONTRACT.

A replacement contract may be established for these services prior to the expiration of this renewed contract. The replacement contract shall supersede and cause early termination of this renewed contract number 252-500-09-1.

4.0 CONFLICT

To the extent any of the terms of this Agreement conflict with the terms of the Contract, the terms of this Agreement shall control. All other terms of the Contract, or as previously amended, remain in full force.

State of Florida,
Department of Management Services

By: Kelly Loll

Name: Kelly Loll

Title: Chief Procurement Officer and Director of State Purchasing

Date: 4/23/13

BMC Software, Inc.

By: Judy Schafer

Name:

Title: Judy Schafer
Sr Manager of Order Services

Date: MAR 6 2013

FINAL – Reviewed by Legal - SS

Attachment __

Preferred Pricing Affidavit

REGARDING THE CONTRACT BETWEEN

BMC SOFTWARE, INC. (THE "CONTRACTOR")
AND
THE FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

CONTRACT NO.: 252-500-09-1 DATED 05/14/2009 (THE "CONTRACT")

PURSUANT TO SECTION 216.0133, FLORIDA STATUTES, THE UNDERSIGNED CONTRACTOR HEREBY ATTESTS THAT THE CONTRACTOR COMPLIES WITH THE PREFERRED-PRICING CLAUSE CONTAINED IN SECTION 4.4(b) OF THE CONTRACT.

PRINT CONTRACTOR NAME: BMC Software Inc

BY: Judy Schafer
SIGNATURE OF AUTHORIZED REPRESENTATIVE

Judy Schafer
Sr Manager of Order Services

DATE: MAR 6 2013

PRINT REPRESENTATIVE'S NAME/TITLE: _____

STATE OF Texas
COUNTY OF Harris

Sworn to (or affirmed) and subscribed before me this 6 day of March, by 2013.

GWEN EAGLIN
Notary Public, State of Texas
My Commission Expires
March 31, 2015

Gwen Eaglin
Signature of Notary

(Print, Type, or Stamp Commissioned Name of Notary Public)

[Check One] ✓ Personally Known OR ____ Produced the following I.D. _____

VENDOR NAME BMC SOFTWARE, INC FEIN# 74-2126120

VENDOR'S AUTHORIZED REPRESENTATIVE NAME AND TITLE _____

ADDRESS _____

CITY, STATE, ZIP _____

PHONE NUMBER _____

EMAIL ADDRESS _____

CORPORATE SEAL (IF APPLICABLE)

AMENDMENT 3
CONTRACT RENEWAL
TO
State Term Contract No.: 252-500-09-1

This Amendment, effective as of the last date signed below, is by and between the State of Florida, Department of Management Services (Department), Division of State Purchasing (Division), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and CA, Inc., (Contractor), and amends State Term Contract No. 252-500-09-1 (Contract). Department and Contractor are collectively referred to herein as the "Parties.

The parties hereto agree to amend the contract as follows:

1.0 CONTRACT RENEWAL
The Department hereby executes its renewal option for a four-year period pursuant to Section 287.057(13), Florida Statutes. The new contract expiration date shall be May 13, 2017.

2.0 WARRANTY OF AUTHORITY
Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party.

3.0 REPLACEMENT CONTRACT.
A replacement contract may be established for these services prior to the expiration of this renewed contract. The replacement contract shall supersede and cause early termination of this renewed contract number 252-500-09-1.

4.0 CONFLICT
To the extent any of the terms of this Agreement conflict with the terms of the Contract, the terms of this Agreement shall control. All other terms of the Contract, or as previously amended, remain in full force.

State of Florida, Department of Management Services	**CA, Inc.**
By: Kelly Loll	**By:** Lisa Kiefer
Name: Kelly Loll	**Name:** Lisa Kiefer
Chief Procurement Officer and	Principal, **Sales Accounting**
Title: Director of State Purchasing	**Title:**
Date: 4/23/13	**Date:** 4/18/13

Attachment __

Preferred Pricing Affidavit

REGARDING THE CONTRACT BETWEEN

CA, INC. (THE "CONTRACTOR")
AND
THE FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

CONTRACT NO.: 252-500-09-1 DATED 05/14/2009 (THE "CONTRACT")

PURSUANT TO SECTION 216.0133, FLORIDA STATUTES, THE UNDERSIGNED CONTRACTOR HEREBY ATTESTS THAT THE CONTRACTOR COMPLIES WITH THE PREFERRED-PRICING CLAUSE CONTAINED IN SECTION 4.4(b) OF THE CONTRACT AS MODIFIED.

PRINT CONTRACTOR NAME: CA Inc.

BY: Lisa Kiefer DATE: 4/18/13
SIGNATURE OF AUTHORIZED REPRESENTATIVE

PRINT REPRESENTATIVE'S NAME/TITLE: Lisa Kiefer Principal Sales Accounting

STATE OF VA
COUNTY OF FAIRFAX

Sworn to (or affirmed) and subscribed before me this 18 day of April, by
Roger Norris

ROGER ADAM NORRIS NOTARY PUBLIC REG # 7523568 COMMISSION EXPIRES 5/31/2016 COMMONWEALTH OF VIRGINIA

Signature of Notary

(Print, Type, or Stamp Commissioned Name of Notary Public)

[Check One] ____ Personally Known OR ✓ Produced the following I.D. DRIVERS LICENSE

VENDOR NAME_____ FEIN#_____

VENDOR'S AUTHORIZED REPRESENTATIVE NAME AND TITLE _____

ADDRESS_____

CITY, STATE, ZIP_____

PHONE NUMBER_____

EMAIL ADDRESS _____

CORPORATE SEAL (IF APPLICABLE)

AMENDMENT 3
CONTRACT RENEWAL
TO
State Term Contract No.: 252-500-09-1

This Amendment, effective as of the last date signed below, is by and between the State of Florida, Department of Management Services (Department), Division of State Purchasing (Division), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and Compuware Corporation, (Contractor), and amends State Term Contract No. 252-500-09-1 (Contract). Department and Contractor are collectively referred to herein as the "Parties.

The parties hereto agree to amend the contract as follows:

1.0 CONTRACT RENEWAL

The Department hereby executes its renewal option for a four-year period pursuant to Section 287.057(13), Florida Statutes. The new contract expiration date shall be May 13, 2017.

2.0 WARRANTY OF AUTHORITY

Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party.

3.0 REPLACEMENT CONTRACT.

A replacement contract may be established for these services prior to the expiration of this renewed contract. The replacement contract shall supersede and cause early termination of this renewed contract number 252-500-09-1.

4.0 CONFLICT

To the extent any of the terms of this Agreement conflict with the terms of the Contract, the terms of this Agreement shall control. All other terms of the Contract, or as previously amended, remain in full force.

State of Florida,
Department of Management Services

By: Kelly Loll

Name: Kelly Loll

Chief Procurement Officer and

Title: Director of State Purchasing

Date: 4/23/13

Compuware Corporation

By: Thomas M. Iacobelli

Name: Thomas M. Iacobelli

Title: Senior Counsel

Date: MAR 12 2013

Attachment __

Preferred Pricing Affidavit

REGARDING THE CONTRACT BETWEEN

COMPUWARE CORPORATION (THE "CONTRACTOR")
AND
THE FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

CONTRACT NO.: **252-500-09-1** DATED **05/14/2009** (THE "CONTRACT")

PURSUANT TO SECTION 216.0133, FLORIDA STATUTES, THE UNDERSIGNED CONTRACTOR HEREBY ATTESTS THAT THE CONTRACTOR COMPLIES WITH THE PREFERRED-PRICING CLAUSE CONTAINED IN SECTION 4.4(b) OF THE CONTRACT.

PRINT CONTRACTOR NAME: Compuware Corporation

BY: Thomas M. Iacobelli DATE: MAR 12 2013
SIGNATURE OF AUTHORIZED REPRESENTATIVE

PRINT REPRESENTATIVE'S NAME/TITLE: Thomas M. Iacobelli, Senior Counsel

STATE OF Michigan
COUNTY OF Wayne

Sworn to (or affirmed) and subscribed before me this 12 day of March, by 2013.

SHELLEY L. OSENROTH
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES Sep 13, 2014
ACTING IN COUNTY OF Wayne

Shelley L. Osenroth
Signature of Notary

(Print, Type, or Stamp Commissioned Name of Notary Public)

[Check One] ✓ Personally Known OR ____ Produced the following I.D. _____

VENDOR NAME Compuware Corporation FEIN# 38-2007430
VENDOR'S AUTHORIZED REPRESENTATIVE NAME AND TITLE Thomas M. Iacobelli, Senior Counsel
ADDRESS One Campus Martius
CITY, STATE, ZIP Detroit, MI 48226
PHONE NUMBER 313 227 6301
EMAIL ADDRESS tom.iacobelli@compuware.com

CORPORATE SEAL (IF APPLICABLE)

AMENDMENT 3
CONTRACT RENEWAL
TO
State Term Contract No.: 252-500-09-1

This Amendment, effective as of the last date signed below, is by and between the State of Florida, Department of Management Services (Department), Division of State Purchasing (Division), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and Hewlett-Packard Company, (Contractor), and amends State Term Contract No. 252-500-09-1 (Contract). Department and Contractor are collectively referred to herein as the "Parties.

The parties hereto agree to amend the contract as follows:

1.0 CONTRACT RENEWAL

The Department hereby executes its renewal option for a four-year period pursuant to Section 287.057(13), Florida Statutes. The new contract expiration date shall be May 13, 2017.

2.0 WARRANTY OF AUTHORITY

Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party.

3.0 REPLACEMENT CONTRACT.

A replacement contract may be established for these services prior to the expiration of this renewed contract. The replacement contract shall supersede and cause early termination of this renewed contract number 252-500-09-1.

4.0 CONFLICT

To the extent any of the terms of this Agreement conflict with the terms of the Contract, the terms of this Agreement shall control. All other terms of the Contract, or as previously amended, remain in full force.

State of Florida, Department of Management Services	**Hewlett-Packard Company**
By: Kelly Loll	**By:**
Name: Kelly Loll	**Name:** Judith M. Alexander, Esq.
Title: Chief Procurement Officer and Director of State Purchasing	**Title:** Public Sector Contracts Negotiator
Date: 4/23/13	**Date:** March 13, 2013

ATTACHMENT

PREFERRED PRICING AFFIDAVIT

REGARDING THE CONTRACT BETWEEN

HEWLETT-PACKARD COMPANY (THE "CONTRACTOR")
AND
THE FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

CONTRACT NO.: 252-500-09-1 DATED 05/14/2009 (THE "CONTRACT")

PURSUANT TO SECTION 216.0133, FLORIDA STATUTES, THE UNDERSIGNED CONTRACTOR HEREBY ATTESTS THAT THE CONTRACTOR COMPLIES WITH THE PREFERRED-PRICING CLAUSE CONTAINED IN SECTION 4.4(b) OF THE CONTRACT.

PRINT CONTRACTOR NAME: **HEWLETT-PACKARD COMPANY**

BY: _____ DATE: **MARCH 13, 2013**
SIGNATURE OF AUTHORIZED REPRESENTATIVE

PRINT REPRESENTATIVE'S NAME/TITLE: **JUDITH M. ALEXANDER, ESQ., PUBLIC SECTOR CONTRACTS NEGOTIATOR**

STATE OF FLORIDA
COUNTY OF BROWARD

Sworn to (or affirmed) and subscribed before me this 13 day of March 2013, by Judith M. Alexander

DARREN BENARI
MY COMMISSION # DD 894375
EXPIRES: July 22, 2013
Bonded Thru Notary Public Underwriters

_____
Signature of Notary

(Print, Type, or Stamp Commissioned Name of Notary Public)

[Check One] ____ Personally Known OR ✓ Produced the following I.D. FLDL A425-433-54-794-0

VENDOR NAME: **HEWLETT-PACKARD COMPANY** FEIN#: **94-1081436**

VENDOR'S AUTHORIZED REPRESENTATIVE NAME AND TITLE: **JUDITH M. ALEXANDER, ESQ., PUBLIC SECTOR CONTRACTS NEGOTIATOR**

ADDRESS: **CORPORATE: 3000 HANOVER STREET**

CITY, STATE, ZIP: **PALO ALTO, CA 94304-1185**

PHONE NUMBER: **954.272-0855**

EMAIL ADDRESS: **judith.alexander@hp.com**

CORPORATE SEAL (IF APPLICABLE) **NOT APPLICABLE**

AMENDMENT 3
CONTRACT RENEWAL
TO
State Term Contract No.: 252-500-09-1

This Amendment, effective as of the last date signed below, is by and between the State of Florida, Department of Management Services (Department), Division of State Purchasing (Division), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and Information Builders, Inc., (Contractor), and amends State Term Contract No. 252-500-09-1 (Contract). Department and Contractor are collectively referred to herein as the "Parties.

The parties hereto agree to amend the contract as follows:

1.0 CONTRACT RENEWAL
The Department hereby executes its renewal option for a four-year period pursuant to Section 287.057(13), Florida Statutes. The new contract expiration date shall be May 13, 2017.

2.0 WARRANTY OF AUTHORITY
Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party.

3.0 REPLACEMENT CONTRACT.
A replacement contract may be established for these services prior to the expiration of this renewed contract. The replacement contract shall supersede and cause early termination of this renewed contract number 252-500-09-1.

4.0 CONFLICT
To the extent any of the terms of this Agreement conflict with the terms of the Contract, the terms of this Agreement shall control. All other terms of the Contract, or as previously amended, remain in full force.

State of Florida,
Department of Management Services

By: Kelly Loll

Name: Kelly Loll

Chief Procurement Officer and

Title: Director of State Purchasing

Date: 4/23/13

Information Builders, Inc.

By: [illegible]

Name: David Boyle

Title: Vice President, Sales Operation

Date: 4/17/2013

Attachment __

Preferred Pricing Affidavit

REGARDING THE CONTRACT BETWEEN

INFORMATION BUILDERS, INC. (THE "CONTRACTOR")
AND
THE FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

CONTRACT NO.: 252-500-09-1 DATED 05/14/2009 (THE "CONTRACT")

PURSUANT TO SECTION 216.0133, FLORIDA STATUTES, THE UNDERSIGNED CONTRACTOR HEREBY ATTESTS THAT THE CONTRACTOR COMPLIES WITH THE PREFERRED-PRICING CLAUSE CONTAINED IN SECTION 4.4(b) OF THE CONTRACT.

PRINT CONTRACTOR NAME: INFORMATION BUILDERS, INC.

BY: _____ DATE: 4/17/2013
SIGNATURE OF AUTHORIZED REPRESENTATIVE

PRINT REPRESENTATIVE'S NAME/TITLE: DAVID BOYLE, VICE PRESIDENT
STATE OF New York
BOROUGH OF MANHATTAN

Sworn to (or affirmed) and subscribed before me this 17th day of April 2013, by _____.

ELIZABETH VENCE
Notary Public, State of New York
No. 01VE6034302
Qualified in New York County
Commission Expires Dec. 13, 2013

_____
Signature of Notary

(Print, Type, or Stamp Commissioned Name of Notary Public)

[Check One] ✓ Personally Known OR ____Produced the following I.D. _____

VENDOR NAME INFORMATION BUILDERS, INC. FEIN#13-2807185
VENDOR'S AUTHORIZED REPRESENTATIVE NAME AND TITLE DAVID BOYLE, VICE PRESIDENT
ADDRESS TWO PENN PLAZA
CITY, STATE, ZIP NEW YORK, NEW YORK 10121-2898
PHONE NUMBER 212-736-4433
EMAIL ADDRESS _____

CORPORATE SEAL (IF APPLICABLE)

AMENDMENT 3
CONTRACT RENEWAL
TO
State Term Contract No.: 252-500-09-1

This Amendment, effective as of the last date signed below, is by and between the State of Florida, Department of Management Services (Department), Division of State Purchasing (Division), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and International Business Machines Corporation, (Contractor), and amends State Term Contract No. 252-500-09-1 (Contract). Department and Contractor are collectively referred to herein as the "Parties.

The parties hereto agree to amend the contract as follows:

1.0 CONTRACT RENEWAL
The Department hereby executes its renewal option for a four-year period pursuant to Section 287.057(13), Florida Statutes. The new contract expiration date shall be May 13, 2017.

2.0 WARRANTY OF AUTHORITY
Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party.

3.0 REPLACEMENT CONTRACT.
A replacement contract may be established for these services prior to the expiration of this renewed contract. The replacement contract shall supersede and cause early termination of this renewed contract number 252-500-09-1.

4.0 CONFLICT
To the extent any of the terms of this Agreement conflict with the terms of the Contract, the terms of this Agreement shall control. All other terms of the Contract, or as previously amended, remain in full force.

State of Florida,
Department of Management Services

By: Kelly Loll

Name: Kelly Loll

Chief Procurement Officer and

Title: Director of State Purchasing

Date: 4/23/13

International Business Machines Corp.

By: Russell Boles

Name: Russell Boles

Title: Public Sector Contracts Sales Mgr.

Date: 3/20/2013

Attachment __

Preferred Pricing Affidavit

REGARDING THE CONTRACT BETWEEN

INTERNATIONAL BUSINESS MACHINES CORPORATION. (THE "CONTRACTOR")
AND
THE FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

CONTRACT NO.: 252-500-09-1 DATED 05/14/2009 (THE "CONTRACT")

PURSUANT TO SECTION 216.0133, FLORIDA STATUTES, THE UNDERSIGNED CONTRACTOR HEREBY ATTESTS THAT THE CONTRACTOR COMPLIES WITH THE PREFERRED-PRICING CLAUSE CONTAINED IN SECTION 4.4(b) OF THE CONTRACT.

PRINT CONTRACTOR NAME: __IBM_____

BY: Russell E. Boles _____ DATE: __3/20/13_____
SIGNATURE OF AUTHORIZED REPRESENTATIVE

PRINT REPRESENTATIVE'S NAME/TITLE: RUSSELL BOLES_____

STATE OF GEORGIA
COUNTY OF COBB

Sworn to (or affirmed) and subscribed before me this 21 day of MARCH 2013 by RUSSELL E BOLES

Signature of Notary

FELICIA MAHONE-LONGINO 8-21-2014
(Print, Type, or Stamp Commissioned Name of Notary Public)

FELICIA MAHONE LONGINO NOTARY PUBLIC COBB COUNTY, GEORGIA

[Check One] ____ Personally Known OR ✓ Produced the following ID GA

VENDOR NAME IBM _____ FEIN# _____
VENDOR'S AUTHORIZED REPRESENTATIVE NAME AND TITLE Russell Boles / Contracts Sales Mgr
ADDRESS 7100 Highlands Parkway
CITY, STATE, ZIP Smyrna, GA 30082
PHONE NUMBER 770-863-1823
EMAIL ADDRESS rusboles@us.ibm.com

CORPORATE SEAL (IF APPLICABLE)

AMENDMENT 3
CONTRACT RENEWAL
TO
State Term Contract No.: 252-500-09-1

This Amendment, effective as of the last date signed below, is by and between the State of Florida, Department of Management Services (Department), Division of State Purchasing (Division), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and Unisys Corporation, (Contractor), and amends State Term Contract No. 252-500-09-1 (Contract). Department and Contractor are collectively referred to herein as the "Parties.

The parties hereto agree to amend the contract as follows:

1.0 CONTRACT RENEWAL
The Department hereby executes its renewal option for a four-year period pursuant to Section 287.057(13), Florida Statutes. The new contract expiration date shall be May 13, 2017.

2.0 WARRANTY OF AUTHORITY
Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party.

3.0 REPLACEMENT CONTRACT.
A replacement contract may be established for these services prior to the expiration of this renewed contract. The replacement contract shall supersede and cause early termination of this renewed contract number 252-500-09-1.

4.0 CONFLICT
To the extent any of the terms of this Agreement conflict with the terms of the Contract, the terms of this Agreement shall control. All other terms of the Contract, or as previously amended, remain in full force.

State of Florida, Department of Management Services	**Unisys Corp.**
By: Kelly Loll	**By:** C. Kenneth Jones
Name: Kelly Loll	**Name:** E. Kenneth Jones
Title: Chief Procurement Officer and Director of State Purchasing	**Title:** Contract Manager
Date: 4/23/13	**Date:** 3/12/13

Attachment __

Preferred Pricing Affidavit

REGARDING THE CONTRACT BETWEEN

UNISYS CORPORATION (THE "CONTRACTOR")
AND
THE FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

CONTRACT NO.: 252-500-09-1 DATED 05/14/2009 (THE "CONTRACT")

PURSUANT TO SECTION 216.0133, FLORIDA STATUTES, THE UNDERSIGNED CONTRACTOR HEREBY ATTESTS THAT THE CONTRACTOR COMPLIES WITH THE PREFERRED-PRICING CLAUSE CONTAINED IN SECTION 4.4(b) OF THE CONTRACT.

PRINT CONTRACTOR NAME: Unisys Corporation

BY: E. Kenneth Jones
SIGNATURE OF AUTHORIZED REPRESENTATIVE

DATE: 3/12/13

PRINT REPRESENTATIVE'S NAME/TITLE: E. Kenneth Jones / Contract Manager

STATE OF GEORGIA
COUNTY OF COBB

Sworn to (or affirmed) and subscribed before me this 12TH day of March, 2013, by KENNETH JONES.

V. BURNS NOTARY PUBLIC Exp. Jan. 30, 2015 COBB COUNTY, GA

Signature of Notary

V. BURNS
(Print, Type, or Stamp Commissioned Name of Notary Public)

[Check One] ✓ Personally Known OR ✓ Produced the following I.D. GA D/L

VENDOR NAME Unisys Corporation FEIN# 38-0387840
VENDOR'S AUTHORIZED REPRESENTATIVE NAME AND TITLE E. Kenneth Jones, Contract Manager
ADDRESS 4651 Woodstock Road, Suite 208-135
CITY, STATE, ZIP Roswell, GA 30075
PHONE NUMBER 770 676 0715
EMAIL ADDRESS e.kenneth.jones@unisys.com

CORPORATE SEAL (IF APPLICABLE)

AMENDMENT 2
TO
State Term Contract No.: 252-500-09-1

This Amendment, effective as of the last date signed below, is by and between the State of Florida, Department of Management Services (Department), Division of State Purchasing (Division), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and Allen Systems Group, Inc., (Contractor), and amends State Term Contract No. 252-500-09-1 (Contract). Department and Contractor are collectively referred to herein as the "Parties.

The parties hereto agree to amend the contract as follows:

1.0 REPORTING REQUIREMENTS

Section 5.10, of Contract No. 252-500-09-1, is superseded and entirely replaced with the following:

5.10 Contract Reporting Requirements

Each Contractor shall submit a sales report on a Quarterly basis. Reporting periods coincide with the State Fiscal Year:

- Quarter 1- (July-September) due by October 31
- Quarter 2 - (October-December) due by January 31
- Quarter 3 - (January-March) due by April 30
- Quarter 4 - (April-June) due by July 31

Each Quarterly Sales Report must be in Excel format (see attached form) and shall include:

- Contractor's Name and contact information as required on the Department of Management Services "Contract Quarterly Report"
- Detail of time period covered by included data
- Total sales including detail of list price and contract price
- Transaction detail will include:

Part Number/SKU	Your product part number if applicable
Item / Service Name	Given name of Item or Service
MFG	Manufacturer, Publisher, Service Provider
Item Category	Description of the product category, according to attached table
Item Subcategory	Additional grouping for item
Product Description	Additional detail for item
Customer Name	State Agencies, Universities, Political Subdivisions, Other Eligible Users
Florida Commodity Code	Florida Commodity Code
UOM	Unit of Measure
UOM Desc	Description of unit of measure (see example)
Volume Qty	Number of items/services purchased/provided
Order Date	Order date
Date Delivered	Delivered date to customer
Purchase Type	Purchase Order, Payment Card, Other
List Price	List price (Market + fee contracts use market price)

Contract Price	Contracted price with state per contract terms
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2.0 CONFLICT

To the extent any of the terms of this Agreement conflict with the terms of the Contract, the terms of this Agreement shall control. All other terms of the Contract, or as previously amended, remain in full force.

3.0 WARRANTY OF AUTHORITY

Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party.

State of Florida,
Department of Management Services

By: Kelly Loll

Name: Kelly Loll

Chief Procurement Officer and

Title: Director of State Purchasing

Date: 4/23/13

Allen Systems Group, Inc.

By: Linda J. Stephenson

Name: Linda J. Stephenson

Title: Sr Dir of Contracting

Date: 4-10-2013

FINAL – Reviewed by Legal - SS

AMENDMENT 2
TO
State Term Contract No.: 252-500-09-1

This Amendment, effective as of the last date signed below, is by and between the State of Florida, Department of Management Services (Department), Division of State Purchasing (Division), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and BMC Software, Inc., (Contractor), and amends State Term Contract No. 252-500-09-1 (Contract). Department and Contractor are collectively referred to herein as the "Parties.

The parties hereto agree to amend the contract as follows:

1.0 REPORTING REQUIREMENTS

Section 5.10, of Contract No. 252-500-09-1, is superseded and entirely replaced with the following:

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State of Florida,
Department of Management Services

By: Kelly Loli

Name: Kelly Loli

Chief Procurement Officer and

Title: Director of State Purchasing

Date: 4/23/13

BMC Software, Inc.

By: Judy Schafer

Name:

Title: Judy Schafer
Sr Manager of Order Services

Date: MAR 6 2013

AMENDMENT 2
TO
State Term Contract No.: 252-500-09-1

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The parties hereto agree to amend the contract as follows:

1.0 REPORTING REQUIREMENTS

Section 5.10, of Contract No. 252-500-09-1, is superseded and entirely replaced with the following:

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State of Florida,
Department of Management Services

By: Kelly Loll

Name: Kelly Loll

Chief Procurement Officer and

Title: Director of State Purchasing

Date: 4/23/13

CA, Inc.

By: Lisa Kiefer

Name: Lisa Kiefer

Principal, Sales Accounting

Title:

Date: 4/18/13

AMENDMENT 2
TO
State Term Contract No.: 252-500-09-1

This Amendment, effective as of the last date signed below, is by and between the State of Florida, Department of Management Services (Department), Division of State Purchasing (Division), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and Compuware Corporation, (Contractor), and amends State Term Contract No. 252-500-09-1 (Contract). Department and Contractor are collectively referred to herein as the "Parties.

The parties hereto agree to amend the contract as follows:

1.0 REPORTING REQUIREMENTS

Section 5.10, of Contract No. 252-500-09-1, is superseded and entirely replaced with the following:

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State of Florida,
Department of Management Services

By: Kelly Loll

Name: Kelly Loll

Chief Procurement Officer and

Title: Director of State Purchasing

Date: 4/23/13

Compuware Corporation

By: Thomas M. Iacobelli

Name: Thomas M. Iacobelli

Title: Senior Counsel

Date: MAR 12 2013

AMENDMENT 2
TO
State Term Contract No.: 252-500-09-1

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The parties hereto agree to amend the contract as follows:

1.0 REPORTING REQUIREMENTS

Section 5.10, of Contract No. 252-500-09-1, is superseded and entirely replaced with the following:

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State of Florida,
Department of Management Services

By: Kelly Loll

Name: Kelly Loll

Title: Chief Procurement Officer and Director of State Purchasing

Date: 4/23/13

Hewlett-Packard Company

By:

Name: Judith M. Alexander, Esq.

Title: Public Sector Contracts Negotiator

Date: March 13, 2013

AMENDMENT 2
TO
State Term Contract No.: 252-500-09-1

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The parties hereto agree to amend the contract as follows:

1.0 REPORTING REQUIREMENTS

Section 5.10, of Contract No. 252-500-09-1, is superseded and entirely replaced with the following:

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State of Florida,
Department of Management Services

By: Kelly Loll

Name: Kelly Loll

Title: Chief Procurement Officer and Director of State Purchasing

Date: 4/23/13

Information Builders, Inc.

By: [illegible]

Name: David Boyle

Title: Vice President, Sales Operation

Date: 4/17/2013

AMENDMENT 2
TO
State Term Contract No.: 252-500-09-1

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The parties hereto agree to amend the contract as follows:

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State of Florida,
Department of Management Services

By: Kelly Loll

Name: Kelly Loll

Chief Procurement Officer and

Title: Director of State Purchasing

Date: 4/23/13

International Business Machines Corp.

By: Russell Boles

Name: Russell Boles

Title: Public Sector Contract Sales Manager

Date: 3/20/2013

AMENDMENT 2
TO
State Term Contract No.: 252-500-09-1

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The parties hereto agree to amend the contract as follows:

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State of Florida,
Department of Management Services

By: Kelly Loll

Name: Kelly Loll

Title: Chief Procurement Officer and Director of State Purchasing

Date: 4/22/13

Unisys Corp.

By: E. Kenneth Jones

Name: E. Kenneth Jones

Title: Contract Manager

Date: 3/7/13

AMENDMENT 1
TO
State Term Contract No.: 252-500-09-1

This Amendment, effective as of the last date signed below, is by and between the State of Florida, Department of Management Services (Department), Division of State Purchasing (Division), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and (Contractor), and amends State Term Contract No. 252-500-09-1 (Contract).

Whereas, the Department awarded the Contract to Contractor for the provision of Mainframe Software, pursuant to ITN No. 15-252-500-H; and,

Now therefore, in consideration of the mutual promises contained in the Contract, the parties agree to the following:

1.0 ORDERING INSTRUCTIONS

Section 5.12, of ITN No. 15-252-500-H, is superseded and entirely replaced with the following:

5.12 Implementation of Contract

All awarded contractors must make their awarded products, prices, and ordering instructions available on the Contractor's Florida Specific website as required in Section 5.13, Contractor's State Contract Webpage.

2.0 PREFERRED PRICE

The Contractor agrees to submit to Department, at least annually, an affidavit from an authorized representative attesting that the Contractor is in compliance with the preferred pricing provision as defined in the Contract.

3.0 EMPLOYMENT ELIGIBILITY VERIFICATION

Contractor agrees that it will enroll and participate in the federal E-Verify Program for Employment Verification under the terms provided in the "Memorandum of Understanding" governing the program. Contractor further agrees to provide to the Agency, within thirty days of the effective date of this amendment, documentation of such enrollment in the form of a copy of the E-Verify "Edit Company Profile" screen, which contains proof of enrollment in the E-Verify Program (this page can be accessed from the "Edit Company Profile" link on the left navigation menu of the E-Verify employer's homepage).

Contractor further agrees that it will require each subcontractor that performs work under this contract to enroll and participate in the E-Verify Program within ninety (90) days of the effective date of this amendment or within ninety (90) days of the effective date of the contract between the Contractor and the subcontractor, whichever is later. The Contractor shall obtain from the subcontractor(s) a copy of the "Edit Company Profile" screen indicating enrollment in the E-Verify Program and make such record(s) available to the Agency upon request.

Contractor further agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the Agency or other authorized state entity consistent with the terms of the Memorandum of Understanding.

4.0 SCRUTINIZED COMPANIES LISTS

In executing this amendment, Contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes. Pursuant to section 287.135(5), F.S., Contractor agrees the Department may immediately terminate this contract for cause if the Contractor is found to have submitted a false certification or if Contractor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List during the term of the contract.

5.0 WARRANTY OF AUTHORITY

Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party.

State of Florida, **Department of Management Services**	**Contractor**
By:_____	**By:**_____
Name:_____	**Name:**_____
Title:_____	**Title:**_____
Date:_____	**Date:**_____

Approved as to form and legality

By:_____ _____
Office of the General Counsel ***Date***

MAINFRAME SOFTWARE

(INCLUDES VALUE ADD AND BALANCE OF LINE PRODUCTS AND SERVICES)

252-500-09-1

CONTRACT START DATE: MAY 14, 2009
EXPIRATION DATE: MAY 13, 2013

REFER ALL INQUIRES TO:
LORI POTTS
PURCHASING ANALYST
DIVISION OF STATE PURCHASING
DEPARTMENT OF MANAGEMENT SERVICES
4050 ESPLANADE WAY, SUITE 360
TALLAHASSEE, FL 32399

CERTIFICATION OF CONTRACT

TITLE: Mainframe Software

CONTRACT NO.: 252-500-09-1

ITN NO.: 15-252-500-H

EFFECTIVE: May 14, 2009 – May 13, 2013

SUPERSEDES: New

CONTRACTOR(S):

- Allen Systems Group (A) Effective 5/20/2009
- Information Builders, Inc. (A) Effective 5/14/2009
- Unisys Corporation (A) Effective 5/18/2009
- Compuware (A) Effective 12/02/2009 (**REV 12/02/09**)
- Other vendors may follow

A. AUTHORITY - Upon affirmative action taken by the State of Florida Department of Management Services, a contract has been executed between the State of Florida and the designated contractors.

B. EFFECT - This contract was entered into to provide economies in the purchase of Mainframe Software by all State of Florida agencies and institutions. Therefore, in compliance with Section 287.042, Florida Statutes, all purchases of these commodities shall be made under the terms, prices, and conditions of this contract and with the suppliers specified.

C. ORDERING INSTRUCTIONS - All purchase orders shall be issued in accordance with the attached ordering instructions. Purchaser shall order at the prices indicated, exclusive of all Federal, State and local taxes.

All contract purchase orders shall show the State Purchasing contract number, product number, quantity, description of item, with unit prices extended and purchase order totaled. (This requirement may be waived when purchase is made by a blanket purchase order.)

D. CONTRACTOR PERFORMANCE - Agencies shall report any vendor failure to perform according to the requirements of this contract on Complaint to Vendor, form PUR 7017. Should the vendor fail to correct the problem within a prescribed period of time, then form PUR 7029, Request for Assistance, is to be filed with this office.

E. SPECIAL AND GENERAL CONDITIONS - Special and general conditions are enclosed for your information. Any restrictions accepted from the supplier are noted on the ordering instructions.

_____

Authorized Signature (date)

DSP/llp

Attachments

CONTRACT

This Contract, effective the last date signed below, is by and between the State of Florida, Department of Management Services ("Department"), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and the entity identified below as Contractor ("Contractor").

The Contractor responded to the Department's Invitation to Negotiate No. 15-252-500-H Mainframe Software. The Department has determined to accept the Contractor's bid and to enter into this Contract in accordance with the terms and conditions of the solicitation. The specific products awarded to Contractor, and the maximum rates Contractor may charge Eligible Customers, are identified on the attached Price Sheets.

Accordingly, and in consideration of the mutual promises contained in the Contract documents, the Department and the Contractor do hereby enter into this Contract, which is a state term contract authorized by section 287.042(2)(a) of the Florida Statutes (2001). The term of the Contract begins on the last date signed and expires on 5/13 /2013. The Contract consists of the following documents, which, in case of conflict, shall have priority in the order listed, and which are hereby incorporated as if fully set forth:

- Any written amendments to the Contract
- This document, including Price Sheets, approved product updates, etc.
- The dated and signed Certification page
- ITN and Addenda
- Contractor's Response, including any appendix or addenda
- Technical Specifications
- Special Instructions
- Special Conditions
- General Instruction to Respondents (PUR 1001)
- General Contract Conditions (PUR 1000)

_____

State of Florida, Date
Department of Management Services
By: Linda H. South, Secretary

Contractor Name: _____ (Seal)
Street Address or P.O. Box: _____
City, State, Zip: _____

_____

By: Date
Its:

Approved as to form and legality
by the Department General Counsel's Office: _____

TABLE OF CONTENTS:

1.0 INTRODUCTION

2.0 GENERAL INSTRUCTIONS TO RESPONDENTS (PUR 1001)

3.0 SPECIAL INSTRUCTIONS TO RESPONDENTS

4.0 GENERAL CONTRACT CONDITIONS (PUR 1000)

5.0 SPECIAL CONTRACT CONDITIONS

6.0 TECHNICAL SPECIFICATIONS

7.0 FORMS, ATTACHMENTS, AND WORKSHEETS

SECTION 1.0

INTRODUCTION

CONTENTS:

1.1 BACKGROUND

1.2 PLAN

1.3 PURPOSE / TERM

1.4 PRODUCT OFFERINGS

1.5 CONTACT INFORMATION

1.6 EVENT TIMELINE

1.1 Background

The State of Florida, Department of Management Services, Division of State Purchasing provides centralized statewide contracts for software and other commodities and services for use by all state agencies, political sub-divisions (such as municipalities, towns, schools, universities, etc.) and others authorized by law to use state contracts. Due to the proliferation of software contract requests over the recent years and the recent passing of Chapter 2008-116 (SB 1892) authorizing the consolidation of agency networks, the Division of State Purchasing has developed a new plan for implementing software contracts.

1.2 Plan

In anticipation of future software needs, The Division of State Purchasing has developed a plan for the acquisition of software and related services as follows:

a. **The first phase of software acquisition will consist of Mainframe software.** (Awarded vendors from this phase will be permitted to provide enterprise (or similar type) agreements for their entire software product line).
b. **The next phase will be Distributed Network software.** (Vendors who are awarded in the first phase and who have provided a balance of line product list which includes Distributed Network software, will not need to respond to the Distributed phase as their products will already be on contract.)
c. **Additional phases of software acquisitions may follow these initial phases.**

To qualify for a contract, a software manufacturer **must** be the **Intellectual Property Rights holder** and must have an **annual national sales volume of at least $50 million.** Meeting the sales volume requirement does not entitle a software Intellectual Property Rights holder to an award of a contract with the state, but is the **minimum** threshold to be considered for eligibility. See Section 3.12 for evaluation criteria.

If you are interested in bidding on this software contract, you must be registered in MyFloridaMarketPlace, registered with the Florida Department of State - Division of Corporations, and follow all "who may bid" requirements as outlined in Section 3.4 of this solicitation.

1.3 Purpose / Term

The State of Florida, Department of Management Services, Division of State Purchasing, invites interested Bidders to submit proposals in accordance with these solicitation documents. The purpose of this solicitation is to establish a forty-eight (48) month State Term Contract with the option for renewals per section 287.057 (14)(a.) for the purchase of Mainframe Software. The contract term is anticipated to begin on or about April 20, 2009. The State's MyFloridaMarketPlace e-Procurement system (the "System") will be used to conduct this competitive event.

1.4 Product Offerings

Products available under this Contract are set forth in Section 6 of this solicitation. These offerings may be updated during the Contract term to incorporate new Product offerings, as well as price revisions and to discontinue items no longer offered by Contractor. Offering updates must be submitted as outlined in Section 5.18 of this solicitation.

a. **Developer's Software Product Line:** Proprietary Product(s) where the intellectual property rights are owned by the Contractor and offered directly through a Contractor's U.S. Commercial Price List or under a reseller's supply schedule, may be included under this Contract.

b. **Third Party Products:** To the extent that the Contractor's U.S. Commercial Price List includes third party Products other than Contractor's intellectual property, which third party products overlap with offerings under other State Contracts, the State reserves the right, in its sole judgment, to exclude or delete overlapping items from this Contract, or to include such items under this Contract only if the Contractor offers it at or below the alternative Contract price. Only third party Products which are included in the Contractor's U.S. Commercial Price List may be sold under this Contract.

c. **Services:** Eligible Users may acquire services, including maintenance, consulting, and training under this Contract. Consulting and training services as set forth in Section 6.3 of this solicitation may be acquired from Contractor on a limited basis. Pricing for these services must be included in the price sheet in Section 7.1 and approved by the Department. Consulting services purchased under any contract resulting from this ITN shall be limited to the installation of software or customization of the Contractor's product line and must directly relate to products sold. Consulting for installation or customization of products sold and training for products sold may not exceed Category two purchasing threshold amounts. Consulting and training which exceed the Category two threshold limit shall be procured competitively using the appropriate procurement process selected by the Eligible Users.

1.5 Contact Information

The primary contact for this solicitation is:

Lori Potts
Purchasing Analyst, State Purchasing
Department of Management Services
4050 Esplanade Way, Suite 360
Tallahassee, FL 32399-0950
Office: (850) 487-4196 (850) 414-8331 (facsimile)
Lori.Potts@dms.myflorida.com

1.6 Event Timeline.

EVENT TIMELINE

Event	Time (EDT)	Date
ITN Release		20 Jan 09
Optional MFMP Sourcing Training	2:00 PM	26 Jan 09
Deadline for Questions Submitted via the Q&A Board within MyFloridaMarketPlace	2:00 PM	3 Feb 09
Answers to Respondents Questions Posted		10 Feb 09
ITN Submission Deadline	2:00 PM	24 Feb 09
Evaluation		24 Feb – 10 Mar 09
Evaluation Scoring Session	2:00 PM	17 Mar 09
Electronic Posting of Promotion to Stage 2 (Pricing and Negotiation)		17 Mar 09
Final Pricing and Negotiation (if required)		18 Mar – 8 Apr 09
Posting of Intent to Award		On or about 14 Apr 09
Contract Start Date		On or about 20 Apr 09

DO NOT RELY ON THE MYFLORIDAMARKETPLACE SOURCING TOOL'S TIME REMAINING CLOCK. THE OFFICIAL SOLICITATION CLOSING TIME SHALL BE AS REFLECTED IN SECTION 1.6, TIMELINE. The response deadline(s) shall be as reflected in Section 1.6, Event Timeline, of this solicitation. The MyFloridaMarketPlace Sourcing Tool's time remaining clock is not the official submission date and time deadline, it is intended only to approximate the solicitation closing and may require periodic adjustments.

SECTION 2.0

GENERAL INSTRUCTIONS TO RESPONDENTS, STATE OF FLORIDA FORM PUR 1001

Please refer to Section 1.4 on the RFX info tab of this solicitation within the MyFloridaMarketPlace Sourcing Tool.

CONTENTS:

2.1 Definitions
2.2 General Instructions
2.3 Electronic Submission of Responses
2.4 Terms and Conditions
2.5 Questions
2.6 Conflict of Interest
2.7 Convicted Vendors
2.8 Discriminatory Vendors
2.9 Respondent's Representation and Authorization
2.10 Manufacturer's Name and Approved Equivalents
2.11 Performance Qualifications
2.12 Public Opening
2.13 Electronic Posting of Notice of Intended Award
2.14 Firm Response
2.15 Clarifications/ Revisions
2.16 Minor Irregularities/Right to Reject
2.17 Contract Formation
2.18 Contract Overlap
2.19 Public Records
2.20 Protests
2.21 Limitation on Vendor Contact with Agency During Solicitation Period

2.1. Definitions. The definitions found in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

(a) "Buyer" means the entity that has released the solicitation. The "Buyer" may also be the "Customer" as defined in the PUR 1000 if that entity meets the definition of both terms.
(b) "Procurement Officer" means the Buyer's contracting personnel, as identified in the Introductory Materials.
(c) "Respondent" means the entity that submits materials to the Buyer in accordance with these Instructions.
(d) "Response" means the material submitted by the respondent in answering the solicitation.
(e) "Timeline" means the list of critical dates and actions included in the Introductory Materials.

2.2. General Instructions.

Potential respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare responses accordingly.

2.3. Electronic Submission of Responses.

Respondents are required to submit responses electronically. For this purpose, all references herein to signatures, signing requirements, or other required acknowledgments hereby include electronic signature by means of clicking the "Submit Response" button (or other similar symbol or process) attached to or logically associated with the response created by the respondent within MyFloridaMarketPlace. The respondent agrees that the action of electronically submitting its response constitutes:

- an electronic signature on the response, generally,
- an electronic signature on any form or section specifically calling for a signature, and
- an affirmative agreement to any statement contained in the solicitation that requires a definite confirmation or acknowledgement.

2.4. Terms and Conditions.

All responses are subject to the terms of the following sections of this solicitation, which, in case of conflict, shall have the order of precedence listed:

- Technical Specifications,
- Special Conditions and Instructions,
- Instructions to Respondents (PUR 1001),
- General Conditions (PUR 1000), and
- Introductory Materials.

The Buyer objects to and shall not consider any additional terms or conditions submitted by a respondent, including any appearing in documents attached as part of a respondent's response. In submitting its response, a respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect. Failure to comply with terms and conditions, including those specifying information that must be submitted with a response, shall be grounds for rejecting a response.

2.5. Questions.

Respondents shall address all questions regarding this solicitation to the Procurement Officer. Questions must be submitted via the Q&A Board within MyFloridaMarketPlace and must be RECEIVED NO LATER THAN the time and date reflected on the Timeline. Questions shall be answered in accordance with the Timeline. All questions submitted shall be published and answered in a manner that all respondents will be able to view. Respondents shall not contact any other employee of the Buyer or the State for information with respect to this solicitation. Each respondent is responsible for monitoring the MyFloridaMarketPlace site for new or changing information. The Buyer shall not be bound by any verbal information or by any written information that is not contained within the solicitation documents or formally noticed and issued by the Buyer's contracting personnel. Questions to the Procurement Officer or to any Buyer personnel shall not constitute formal protest of the specifications or of the solicitation, a process addressed in paragraph 19 of these Instructions.

2.6. Conflict of Interest.

This solicitation is subject to chapter 112 of the Florida Statutes. Respondents shall disclose with their response the name of any officer, director, employee or other agent who is also an employee of the State. Respondents shall also disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the respondent or its affiliates.

2.7. Convicted Vendors.

A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any of the following for a period of 36 months from the date of being placed on the convicted vendor list:

- submitting a bid on a contract to provide any goods or services to a public entity;
- submitting a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submitting bids on leases of real property to a public entity;
- being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
- transacting business with any public entity in excess of the Category Two threshold amount ($25,000) provided in section 287.017 of the Florida Statutes.

2.8. Discriminatory Vendors.

An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134 of the Florida Statutes may not:

- submit a bid on a contract to provide any goods or services to a public entity;
- submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submit bids on leases of real property to a public entity;
- be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or
- transact business with any public entity.

2.9. Respondent's Representation and Authorization.

In submitting a response, each respondent understands, represents, and acknowledges the following (if the respondent cannot so certify to any of following, the respondent shall submit with its response a written explanation of why it cannot do so).

- The respondent is not currently under suspension or debarment by the State or any other governmental authority.
- To the best of the knowledge of the person signing the response, the respondent, its affiliates, subsidiaries, directors, officers, and employees are not currently under investigation by any governmental authority and have not in the last ten (10) years been convicted or found liable for any act prohibited by law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.
- Respondent currently has no delinquent obligations to the State, including a claim by the State for liquidated damages under any other contract.

- The submission is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive response.
- The prices and amounts have been arrived at independently and without consultation, communication, or agreement with any other respondent or potential respondent; neither the prices nor amounts, actual or approximate, have been disclosed to any respondent or potential respondent, and they will not be disclosed before the solicitation opening.
- The respondent has fully informed the Buyer in writing of all convictions of the firm, its affiliates (as defined in section 287.133(1)(a) of the Florida Statutes), and all directors, officers, and employees of the firm and its affiliates for violation of state or federal antitrust laws with respect to a public contract for violation of any state or federal law involving fraud, bribery, collusion, conspiracy or material misrepresentation with respect to a public contract. This includes disclosure of the names of current employees who were convicted of contract crimes while in the employ of another company.
- Neither the respondent nor any person associated with it in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, or position involving the administration of federal funds:
  - Has within the preceding three years been convicted of or had a civil judgment rendered against them or is presently indicted for or otherwise criminally or civilly charged for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
  - Has within a three-year period preceding this certification had one or more federal, state, or local government contracts terminated for cause or default.
- The product offered by the respondent will conform to the specifications without exception.
- The respondent has read and understands the Contract terms and conditions, and the submission is made in conformance with those terms and conditions.
- If an award is made to the respondent, the respondent agrees that it intends to be legally bound to the Contract that is formed with the State.
- The respondent has made a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the response, and has been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in the response.
- The respondent shall indemnify, defend, and hold harmless the Buyer and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the respondent's preparation of its bid.
- All information provided by, and representations made by, the respondent are material and important and will be relied upon by the Buyer in awarding the Contract. Any misstatement shall be treated as fraudulent concealment from the Buyer of the true facts relating to submission of the bid. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817 of the Florida Statutes.

2.10. Manufacturer's Name and Approved Equivalents.

Unless otherwise specified, any manufacturers' names, trade names, brand names, information or catalog numbers listed in a specification are descriptive, not restrictive. With the Buyer's prior approval, the Contractor may provide any product that meets or exceeds the applicable specifications. The Contractor shall demonstrate comparability, including appropriate catalog materials, literature, specifications, test data, etc. The Buyer shall determine in its sole discretion whether a product is acceptable as an equivalent.

2.11. Performance Qualifications.

The Buyer reserves the right to investigate or inspect at any time whether the product, qualifications, or facilities offered by Respondent meet the Contract requirements. Respondent shall at all times during the Contract term remain responsive and responsible. In determining Respondent's responsibility as a vendor, the agency shall consider all information or evidence which is gathered or comes to the attention of the agency which demonstrates the Respondent's capability to fully satisfy the requirements of the solicitation and the contract.

Respondent must be prepared, if requested by the Buyer, to present evidence of experience, ability, and financial standing, as well as a statement as to plant, machinery, and capacity of the respondent for the production, distribution, and servicing of the product bid. If the Buyer determines that the conditions of the solicitation documents are not complied with, or that the product proposed to be furnished does not meet the specified requirements, or that the qualifications, financial standing, or facilities are not satisfactory, or that performance is untimely, the Buyer may reject the response or terminate the Contract. Respondent may be disqualified from receiving awards if respondent, or anyone in respondent's employment, has previously failed to perform satisfactorily in connection with public bidding or contracts. This paragraph shall not mean or imply that it is obligatory upon the Buyer to make an investigation either before or after award of the Contract, but should the Buyer elect to do so, respondent is not relieved from fulfilling all Contract requirements.

2.12. Public Opening.

Responses shall be opened on the date and at the location indicated on the Timeline. Respondents may, but are not required to, attend. The Buyer may choose not to announce prices or release other materials pursuant to s. 119.071(1)(b), Florida Statutes. Any person requiring a special accommodation because of a disability should contact the Procurement Officer at least five (5) workdays prior to the solicitation opening. If you are hearing or speech impaired, please contact the Buyer by using the Florida Relay Service at (800) 955-8771 (TDD).

2.13. Electronic Posting of Notice of Intended Award.

Based on the evaluation, on the date indicated on the Timeline the Buyer shall electronically post a notice of intended award at http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu. If the notice of award is delayed, in lieu of posting the notice of intended award the Buyer shall post a notice of the delay and a revised date for posting the notice of intended award. Any person who is adversely affected by the decision shall file with the Buyer a notice of protest within 72 hours after

the electronic posting. The Buyer shall not provide tabulations or notices of award by telephone.

2.14. Firm Response.

The Buyer may make an award within sixty (60) days after the date of the opening, during which period responses shall remain firm and shall not be withdrawn. If award is not made within sixty (60) days, the response shall remain firm until either the Buyer awards the Contract or the Buyer receives from the respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Buyer's sole discretion, be accepted or rejected.

2.15. Clarifications/Revisions.

Before award, the Buyer reserves the right to seek clarifications or request any information deemed necessary for proper evaluation of submissions from all respondents deemed eligible for Contract award. Failure to provide requested information may result in rejection of the response.

2.16. Minor Irregularities/Right to Reject.

The Buyer reserves the right to accept or reject any and all bids, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if the Buyer determines that doing so will serve the State's best interests. The Buyer may reject any response not submitted in the manner specified by the solicitation documents.

2.17. Contract Formation.

The Buyer shall issue a notice of award, if any, to successful respondent(s), however, no contract shall be formed between respondent and the Buyer until the Buyer signs the Contract. The Buyer shall not be liable for any costs incurred by a respondent in preparing or producing its response or for any work performed before the Contract is effective.

2.18. Contract Overlap.

Respondents shall identify any products covered by this solicitation that they are currently authorized to furnish under any state term contract. By entering into the Contract, a Contractor authorizes the Buyer to eliminate duplication between agreements in the manner the Buyer deems to be in its best interest.

2.19. Public Records.

Article 1, section 24, Florida Constitution, guarantees every person access to all public records, and Section 119.011, Florida Statutes, provides a broad definition of public record. As such, all responses to a competitive solicitation are public records unless exempt by law. Any respondent claiming that its response contains information that is exempt from the public records law shall clearly segregate and mark that information and provide the specific statutory citation for such exemption.

2.20. Protests.

Any protest concerning this solicitation shall be made in accordance with sections 120.57(3) and 287.042(2) of the Florida Statutes and chapter 28-110 of the Florida Administrative Code. Questions to the Procurement Officer shall not constitute formal

notice of a protest. It is the Buyer's intent to ensure that specifications are written to obtain the best value for the State and that specifications are written to ensure competitiveness, fairness, necessity and reasonableness in the solicitation process.

Section 120.57(3)(b), F.S. and Section 28-110.003, Fla. Admin. Code requires that a notice of protest of the solicitation documents shall be made within seventy-two hours after the posting of the solicitation.

Section 120.57(3)(a), F.S. requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

Section 28-110.005, Fla. Admin. Code requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

2.21. Limitation on Vendor Contact with Agency During Solicitation Period.

Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.

SECTION 3.0

SPECIAL INSTRUCTIONS TO RESPONDENTS

SPECIAL INSTRUCTIONS TO RESPONDENTS CONTAINED IN THIS SECTION 3.0 MAY SUPERCEDE OR SUPPLEMENT GENERAL INSTRUCTIONS TO RESPONDENTS CONTAINED IN SECTION 2.0.

CONTENTS

3.1 ADDITIONAL DEFINITIONS
3.2 ORDER OF EVENTS
3.3 ORDER OF PRECEDENCE
3.4 WHO MAY RESPOND
3.5 MYFLORIDAMARKETPLACE (MFMP) ITN OVERVIEW
3.6 THE MFMP SOURCING TOOL
3.6.1 OPTIONAL MFMP SOURCING TRAINING
3.6.2 ON-DEMAND TRAINING
3.7 SOURCING TOOL TIPS
3.8 EMAIL NOTIFICATION
3.9 SUBMITTAL OF RESPONSE
3.9.1 RESPONSE FORMAT/INSTRUCTIONS
3.10 AMENDMENTS TO THE ITN DOCUMENTS
3.11 INITIAL DETERMINATION OF RESPONSIVENESS
3.12 EVALUATION AND SELECTION PROCESS
3.13 INVITATION TO NEGOTIATION PHASE
3.14 NEGOTIATIONS AND CONTRACT AWARD
3.15 ELECTRONIC POSTING OF RANKING OF RESPONDENTS PRIOR TO NEGOTIATIONS AND UPON FINAL AWARD
3.16 STATE OBJECTIVES
3.16.1 DIVERSITY
3.16.2 ENVIRONMENTAL CONSIDERATIONS
3.16.3 CERTIFICATION OF DRUG-FREE WORKPLACE PROGRAM
3.16.4 PRODUCTS AVAILABLE FROM THE BLIND OR OTHER HANDICAPPED
3.16.5 PRISON REHABILITATIVE INDUSTRIES AND DIVERSIFIED ENTERPRISES, INC. (PRIDE)
3.17 FIRM RESPONSE
3.18 LOBBYING

3.1 Additional Definitions.

The definitions found in §60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

a) "**Authorized Dealer**" means an agent/reseller/dealer/subcontractor authorized by the Manufacturer, in writing, to provide products and/or services under the DIRECT SUPERVISION of the Manufacturer. The Contractor/Manufacturer is responsible for all liability, terms and conditions within the contract. If an agent is authorized to conduct business on behalf of the Manufacturer and the agent is to receive compensation from the Manufacturer for its services, then any dispute between the Manufacturer and the agent shall be resolved between the Manufacturer and the agent. The State of Florida is not a party to any agreement entered into between the Manufacturer and its agent(s).

b) "**Commercial Software**" means software developed or regularly used that (1) has been sold, leased, or licensed to the general public; (2) has been offered for sale, lease, or license to the general public; (3) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this contract; or (4) satisfies a criterion expressed in (1), (2), or (3) above and would require only minor modifications to meet the requirements of this contract.

c) **"Department"** means the Florida Department of Management Services. The Department will be a party to the Contract. "State Purchasing," a division within the Department's Support Program, is responsible for administration of this solicitation and will be responsible for day-to-day administration of the Contract. State Purchasing may be reached at 4050 Esplanade Way, Suite 360, Tallahassee, FL 32399-0950, or via links posted at http://www.myflorida.com/myflorida/business/index.html.

d) **"Eligible Users"** means political subdivisions of the State of Florida (county, local county board of public instruction, municipal, or other local public agency or authority), State Universities, and any other public entities authorized by State statute, which may desire to purchase under the terms and conditions of the Agreement.

e) **"Intellectual Property Rights Holder"** means an entity holding a category of intangible rights protecting commercially valuable products of the human intellect. The category comprises primarily trademark, copyright, and patent rights, but also includes trade-secret rights, publicity rights, moral rights, and rights against unfair competition.

f) **"Mandatory"** - The Terms "must", "shall", "will", "is required," identify a mandatory item or factor (as opposed to "desirable"). Failure to meet a mandatory item or factor will result in the rejection of the offeror's/bidder's proposal.

g) "**Manufacturer**" means the entity that holds the trademark in the identified brand name.

h) "**Manufacturer's Price List**" means the most recent document published by the Manufacturer that details products available, model numbers, options, and prices for each.

i) "**Operating Software**" means those routines, whether or not identified as Program products that reside in the Equipment and are required for the Equipment to perform its intended function(s), and which interface the operator, other Contractor-supplied programs, and user programs to the Equipment.

j) **"Responsible Bidder" means a** bidder who has the capability in all respects to perform fully the contract requirements, and the experience, integrity, perseverance, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.

k) **"Responsive Bidder" or "Responsive Proposal"** means an offer or proposal that conforms in all material respects to the requirements set forth in the Invitation to Negotiate. Material respects of an Invitation to Negotiate include, but are not limited to price, quality, quantity, or delivery requirements.

l) **"Site License"** means for each product, the term "Site License" shall mean the license established upon acquisition of the applicable number of copies of such product and payment of the applicable license fees as set forth in the Statement of Work.

m) **"Software"** means an all-inclusive term which refers to any computer programs, routines, or subroutines supplied by the Contractor, including Operating Software, Programming Aids, Application Programs, and Program Products.

n) **"Software Failure"** means a malfunction in the Contractor-supplied Software, other than Operating Software, which prevents the accomplishment of work, even though the Equipment (including its Operating Software) may still be capable of operating properly.

o) "**State**" means the State of Florida and its agencies.

3.2 Order of Events.

Respondents will review and become familiar with the Event Timeline and solicitation documents, enter any questions in the MFMP Sourcing Tool Q&A Board before the date and time specified in the Event Timeline, answer all questions requested for the proposal, submit required documents, develop cost savings structures, and upload final responses into the MFMP Sourcing Tool.

The Event Timeline gives the date and time (where applicable) for major activities in the solicitation. See Section 1.6 of this solicitation document for the Event Timeline.

3.3 Order of Precedence

Potential respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare responses accordingly. In the event any conflict exists between the Special and General Instructions, those instructions specified in the Special Instructions shall prevail.

All responses are subject to the terms of the following sections of this ITN, which, in case of conflict, shall have the order of precedence listed:

- Technical Specifications, Section 6.0
- Price Sheets, Section 7.0
- Special Instructions to Respondents, Section 3.0
- Special Contract Conditions, Section 5.0
- General Instruction to Respondents (PUR 1001), Section 2.0
- General Contract Conditions (PUR 1000), Section 4.0
- Introduction, Section 1.0
- Forms, Attachments and Worksheets, Section 7.0

3.4 Who May Respond.

The Department will accept Responses from responsive and responsible Respondents that meet all requirements of this Invitation to Negotiate including but not limited to the following:

- Only vendors with documented volume sales of at least $50 million in annual national sales and who provide evidence that they are the intellectual property rights holder of the mainframe software products offered in response to this ITN, as defined in Section 3.1 of this solicitation, may respond to this ITN.

- Respondents must be a registered vendor in the MyFloridaMarketPlace (MFMP) Vendor Registration system to do business with the State of Florida. If you are not already a registered vendor, you may view registration information as well as other pertinent information at: http://dms.myflorida.com/business_operations/state_purchasing/myflorida_marketplace/vendors/vendor_toolkit/mfmp_vendor_registration

- Respondents must be registered with the Florida Department of State - Division of Corporations. To check your registration or to register with the Division of Corporations, please go to: www.sunbiz.org.

- Respondents **may** create and maintain a MyFloridaMarketPlace Punch-Out site, or, if not capable of producing a punch-out site, Respondent **shall** work with the MFMP team to develop a line-item catalog for MFMP within the Aravo tool. See Section 7.10 to view the Punch-Out Capability Questionnaire and Section 7.16 to view a sample Aravo template for a Line-Item catalog.

- Only Respondents that are capable of Electronic Invoicing through MyFloridaMarketPlace may respond to this solicitation. See Section 7.11 to view the MyFloridaMarketPlace Electronic Invoicing Requirements.

3.5 MyFloridaMarketPlace (MFMP) Overview

MyFloridaMarketPlace is the State of Florida's online eProcurement system for buyers and vendors. In operation for more than five years, the system streamlines interactions between vendors and state government entities, is a source for centralized procurement activities, and provides the tools to support world-class procurement for the State of Florida.

3.6 The MFMP Sourcing Tool

This solicitation will be conducted using the MyFloridaMarketPlace Sourcing Tool ("Sourcing Tool"). Training materials can be found at:
http://marketplace.myflorida.com/vendor/vendor_solicitation_help.htm.
Copy link and paste in to web browser to access site!

Download and review the document titled RFP Event User Guide.

a. For all technical questions about the Sourcing Tool, vendors should contact the MyFloridaMarketPlace Customer Service Desk at (866) FLA-EPRO or vendorhelp@myfloridamarketplace.com.

b. For additional information / assistance on using the Sourcing Tool, please visit the MyFloridaMarketPlace website at following link:
https://marketplace.myflorida.com/vendor/vendor_solicitation_help.htm.
This site includes:
   a. Solicitation User Guides
   b. OnDemand web-based Sourcing Tool training link
   c. WinZip FAQs
   d. Vendor FAQs

3.6.1 Optional MFMP Sourcing Tool Training

An optional conference call training session on how to use the MyFloridaMarketPlace Sourcing Tool for this ITN is scheduled on the date indicated on the Event Timeline at 2:00PM ET. The Conference Call number is (888) 808-6959. Conference Code 4881086.

Please go to:
http://marketplace.myflorida.com/vendor/vendor_solicitation/rfp_event_user_guide.pps. Please have this document open on your desktop while participating on the call. To participate in the conference call, please call in to the number provided approximately 1 minute before the scheduled time.

3.6.2 On-Demand Training

On-Demand is a web-based interactive training application available to all respondents to assist in learning how to respond to an event using the MyFloridaMarketPlace sourcing tool. The link is

http://training.myfloridamarketplace.com/vendor/toc.html click on Responding to Sourcing Event.

3.7 Sourcing Tool Tips

When working in the Sourcing Tool, be aware of the twenty (20) minute time-out function (with a two (2) minute warning) in the tool. This means that you should save your work (click the SAVE button) at intervals of less than twenty minutes to ensure your entries (since last saved) are not lost.

Please note that clicking the SAVE button within the Sourcing Tool only saves your bid responses. The SAVE button **does not transmit your bid response to the State**. In order to transmit your bid response to the State, you must click the **SUBMIT** button on the SUMMARY page of the bid response.

After clicking the SUBMIT button, it is the **Respondent's** responsibility to check your submitted bid response within the Sourcing Tool to verify that your response is accurately and completely captured within the Sourcing Tool. You must do this while there is time remaining in the response period in case you discover an error and need to submit a revised bid response.

To validate your bid response, you should do the following before the bidding period ends:

a. Go to the "My Bids / My Responses" tab within Sourcing Tool after you submitted your bid response
b. Click on the Bid ID number of your last submitted bid response
c. Review entire bid response to make sure all responses are complete, accurate and as you intended to submit.

Minimum areas to check are:

- ✓ Text boxes – Is your entire answer viewable?
- ✓ Yes/No questions – Is the displayed answer correct?
- ✓ All uploaded document files / scanned documents – Can you open attached document and clearly view entire content?
- ✓ Offline electronic backup copy sent to the State (if applicable) - Can you open attached document and clearly view entire content? Does content of this file match your bid response within the tool (e.g., not an earlier version or working copy)?
- ✓ Pricing Information – Are all prices you intended to submit visible and accurately captured within Sourcing Tool?

IT IS STRONGLY RECOMMENDED THAT YOU SUBMIT YOUR BID AS EARLY AS POSSIBLE. YOU SHOULD ALLOW TIME TO RECEIVE ANY REQUESTED ASSISTANCE AND TO RECEIVE VERIFICATION OF YOUR SUBMITTAL; WAITING UNTIL THE LAST HOURS OF THE SOLICITATION COULD IMPACT THE TIMELY SUBMITTAL OF YOUR BID.

DO NOT RELY ON THE "MYFLORIDAMARKETPLACE" SOURCING TOOL'S TIME REMAINING CLOCK. THE OFFICIAL SOLICITATION CLOSING TIME SHALL BE AS REFLECTED IN THE TIMELINE (SECTION 1.6) OF THIS ITN.

The MyFloridaMarketPlace (MFMP) Sourcing Tool's time remaining clock is NOT the official submission date and time deadline, it is intended only to approximate the solicitation closing and may require periodic adjustments

3.8 Email Notification

Respondents are reminded that the Sourcing Tool's email notifications are an option provided to respondents as a courtesy. The State of Florida is not under any obligation to provide, and does not guarantee that respondents will receive, email notifications concerning any posting, amendment or close of solicitations (ITNs).

Vendors are responsible to check the Sourcing Tool and / or the Vendor Bid System for information and updates concerning solicitations. (The Vendor Bid System does not generate automatic emails.)

3.9 Submittal of Response.

Respondents shall view and download the documents in the MFMP Sourcing Tool (http://dms.myflorida.com/egovernment_tools/myflorida_marketplace). Each Respondent is responsible for ensuring that its response and all associated documents are submitted before the proper date and time. In the event a Respondent submits more than one response, only the last response received prior to the response deadline specified in Section 1.6 shall be considered for award. Other responses will not be opened. Offers not submitted as indicated in this section shall be rejected.

The Department shall not consider late responses and the MyFloridaMarketPlace Sourcing Tool will NOT accept responses after the due date and time specified in the Event Timeline, or as amended by the Department. **RESPONSES MUST BE SUBMITTED IN THE MYFLORIDAMARKETPLACE SOURCING TOOL BEFORE THE DATE AND TIME SPECIFIED IN THE EVENT TIMELINE.**

Failure to provide all requested information within the response package before the response deadline specified in Section 1.6 may result in rejection of the response.

DO NOT RELY ON THE MFMP SOURCING TOOL'S TIME-REMAINING CLOCK. The official response deadline shall be as reflected in Section 1.6, Timeline, of this solicitation. The MFMP Sourcing Tool's time-remaining clock is intended only to approximate the solicitation closing, and may require periodic adjustments.

3.9.1 Response Format / Instructions

A Respondent shall, in a separate and clearly identified response paragraph(s), expressly condition or qualify its Response on acceptance or identify any proposed changes to the terms and conditions outlined in this ITN. To facilitate this process, the Respondent is

required to review Sections 3, 5, and 6 on a provision by provision basis. The Respondent shall respond to these sections by inserting their response immediately below the text of each numbered provision and respond to each provision with one of the following conventions:

a. **Agreed**
Where the term is acceptable as stated.

b. **Modification Proposed**
Where Respondent is unable to accept the term as stated but will accept a modification of the term. Respondent must provide: (1) the reason for its inability to accept the term as stated and (2) modified language which would be acceptable.

c. **Not Agreed**
Where the term is completely unacceptable to Respondent and no modification is possible. Respondent must state the reason such term is unacceptable.

The Department reserves the right to modify, by addition or deletion, terms and conditions during the negotiation process.

Respondents are reminded that the terms and conditions listed in Sections 2 and 4 will not be negotiated and are required language for all State of Florida Contracts. Minor clarification within Sections 2 & 4 may be added in Section 3.11 beneath the Responsiveness Checklist chart.

CERTIFICATION OF ACCEPTANCE FOR THE TERMS AND CONDITIONS DETAILED IN SECTIONS 2 AND 4 IS TO BE DONE WITHIN THE TABLE IN SECTION 3.11 OF THIS ITN.

3.10 Amendments to the ITN Documents

The Department reserves the right to issue amendments to this ITN. Notice of any amendment will be posted within the MFMP Sourcing Tool and the VBS. Such notice, if required, will contain the appropriate details for identifying and/or reviewing the formal changes to this ITN. Each Respondent is responsible for monitoring the sites for new or changing information concerning this ITN.

3.11 Initial Determination of Responsiveness

The Department shall evaluate eligible ("responsible and responsive") responses. Responses that do not meet the minimum requirements of this solicitation; or fail to provide all required information, documents, or materials may be rejected as non-responsive. Respondents whose responses, past performance, or current status with the State that do not reflect the capability, integrity or reliability to fully, and in good faith, perform the requirements of the Contract, may be rejected as non-responsible. The Department reserves the right to determine which responses meet the requirements of this solicitation, and which Respondents are responsive and responsible. **This paragraph is in addition to, and shall not be construed to limit or override, any right or remedy available to the Department in, Section 2.0, PUR 1001, or Section 4.0, PUR 1000.**

Failure to comply with each of the requirements listed below may result in the response being deemed non-responsive and therefore may not receive further consideration in this ITN process. This includes, but is not limited to the following:

Initial Responsiveness Checklist
1. Did the Respondent submit its reply before the indicated deadline?
2. Is Respondent the owner of the intellectual property rights for the Mainframe Software Products offered?
3. Did the Respondent document (via an official financial report such as Dun & Bradstreet) a minimum of $50 million in annual national sales?
4. Did the Respondent submit a detailed pricing structure indicating the minimum percentage discount?
5. Did the Respondent submit a Supplier Qualifier Report (SQR) from Dun & Bradstreet (D&B)? (See Section 3.12.)
6. Has the Respondent met the requirement for having no Conflicts of Interest? (See Section 2.6.)
7. Does the Respondent comply with the requirement for not being placed on the Convicted Vendor list for committing a public entity crime within the last 36 months? (See Section 2.7.)
8. Does the Respondent comply with the requirement for not being placed on the Discriminatory Vendor List per Section 287.134, F.S.? (See Section 2.8.)
9. Is the Respondent on the Suspended Vendor List or have any open Complaints to Vendor? (DMS will determine if open complaints would prevent a vendor from being considered responsive.)
10. Did the Respondent submit the completed Vendor Responsibility form and receive a passing score?
11. Is the Respondent a registered vendor in the MFMP Vendor Registration System?
12. Is the Respondent registered with the Department of State – Division of Corporations?

Please certify that your Response conforms to each of the following requirements by responding with either a "Yes" or "No" in the blocks and submit the completed WORD Document in the MyFloridaMarketPlace Sourcing Tool.

Certifications

	YES	NO
1. Does the Respondent certify acceptance and compliance with all of the Terms and Conditions detailed in **Section 2** (PUR1001) of the ITN document?		

2. Does the Respondent certify acceptance and compliance with all of the Terms and Conditions detailed in **Section 4** (PUR1000) of the ITN document?		
3. Does the Respondent certify that they have documented sales of at least $50 million in annual national sales?		
4. Has the Respondent completed pricing worksheets as noted in Section 5.16 and Section 7.1of the ITN Document?		
5. Has Respondent submitted a Dun and Bradstreet Supplier Qualifier Report per 3.12 (Financial Status)?		
6. Does the Respondent certify compliance with the "General Requirements", and "Standard Support Levels" listed in Section 6.3 for each Category submitted for bid?		
7. Respondent certifies they are the owner of the intellectual property rights for the software products offered in response to the Mainframe ITN?		
8. Does the Respondent certify that they are a registered vendor in the MFMP Vendor Registration System?		
9. Does the Respondent certify that they are registered with the Division of Corporations through the Florida Department of State?		
10. Is Respondent capable of providing electronic invoicing through MyFloridaMarketPlace?		
11. Does Respondent certify that they will accept the State of Florida's Purchasing Card?		

*** Respondents must provide an explanation or modification for any "No" answer indicated above.**

3.12 Evaluation and Selection Process

Evaluation will consist of the review and assessment of the Respondents' submittals. Top-scoring Respondents will be invited to negotiate their offerings and proposed pricing. (See Section 3.13 of this ITN.)

All areas of evaluation listed in the table below are to be addressed by the Respondent in its submittal.

Proposals that are substantially incomplete or lack key information may be rejected as non-responsive by the Department, at its discretion. Responses should be concise, summarizing the Respondent's pertinent experience and capabilities. Emphasis should be placed on completeness and clarity. Responses that do not provide sufficient content or satisfactory information, as requested in this ITN document, may receive lower scores. Points will be assigned to all categories (see table, below, for point-allocation per category) and then totaled in order to determine each Respondent's ranking:

Evaluation Category	Maximum Possible Pts.
Vendor Responsiveness	Pass/Fail
Vendor Responsibility	Pass/Fail
Section 1 – Sales Volume (min $50 Million in national sales)	Pass/Fail
Section 2 – PUR 1001	Agree/Disagree
Section 3 – Financials	24
Section 4 – PUR 1000	Agree/Disagree
Section 5 – Special Contract Conditions	115
Section 5 – References - Track record of Vendor in meeting commitments (verified through references and vendor performance tracking within MFMP)	50
Section 5 – Purchase Orders Review	25
Section 6 – Technical Specifications	65
Section 7 – Pricing Models, Strategies and Commitments proposed	120
Section 7 – Vendor Responsibility Questionnaire	Pass/Fail
Total Points Possible:	**399 pts.**

Except for Cost Information, all evaluation categories will be scored with each response having the opportunity to achieve the maximum total point allocation indicated.

Financials (Supplier Qualifier Report):

Each Respondent is required to provide information regarding its "Financial and Industry Standing and Strength" in order to demonstrate that it is financially stable, in good standing with creditors and manufacturers, and has the resources necessary to perform the services outlined in this ITN on a state-wide basis. The State requires each Respondent to provide a Supplier Qualifier Report (SQR) prepared by Dun & Bradstreet (D&B), in accordance with the instructions below. The SQR is a standard report that details financial and operational capabilities. This report must be submitted to the Department as part of the ITN proposal. Each Respondent will be responsible for the cost and timely submission of this report. Each Respondent will be assigned points during the evaluation phase of the solicitation based on the D&B score.

The prospective Contractor will request the SQR from D&B at:

https://sor.dnb.com/sor/jsp/forms/SOF.jsp?SORTAG1=JQ37hS4r&SORTAG2=j58Gjk4x

1. Enter the ITN number in the text field entitled "Enter your RFP Number" and select "Submit."
2. Enter your company's Dun Number. (If you don't know your company's Dun number, you may use the search feature to find it.)
3. Confirm Registration

4. Enter payment method and information and complete registration. The cost of the preparation of the D&B report shall be the responsibility of the Respondent.

Respondents are advised to allow a minimum of ten (10) business days for D&B to process a report request. If the Department does not receive an SQR from D&B prior to the opening date and time of the solicitation but one is submitted as part of a Respondent's Response, the Respondent shall be required to demonstrate that it requested the SQR after the posting date of the ITN and that the SQR was requested for this particular solicitation. Once the process is complete, a copy of the report will be provided to the Department and an identical report will be sent to the Respondent. If the Department does not receive a report or cannot determine on the face of the document that the SQR is that of the proposing entity, then the Department will instruct the Evaluation Team to award zero points to that company for that evaluation category. It is the responsibility of the Respondent to ensure the timely submission of a D&B report to the Department prior to the opening date of the proposals. The Department will use the financial scoring scale below when evaluating and scoring the financial viability of the prospective Contractors.

Financial Scoring Scale:

SQR Risk Score		Points Assigned
1	Lowest Risk Rating	24.0
2		21.0
3		18.0
4		15.0
5		12.0
6		9.0
7		6.0
8		3.0
9	Highest Risk Rating	0.0

3.13 Invitation to Negotiation Phase.

The Department shall evaluate and rank responsive responses against all evaluation criteria set forth in the Invitation to Negotiate and shall select, based on the ranking, one or more Respondents with which to commence negotiations. Invitations to the negotiations will be posted in the MFMP Sourcing Tool and on the VBS. Email will be sent to each selected Respondent's contact person.

3.14 Negotiations and Contract Award.

The Department, at its discretion, may require Respondents to make formal presentations of their responses.

The Department reserves the right to finalize the negotiations at any point and post a notice of Intent to Award. Respondents should recognize the Department's right to

finalize the negotiation process without the need to explicitly request a revised final offer after negotiations.

After negotiations are conducted, the Department shall award the Contract to one or more responsible and responsive Respondents whose product(s) the Department determines will provide the best value to the State.

3.15 Electronic Posting of Ranking of Respondents prior to Negotiations and upon Final Award.

Offers shall be opened on the date and time indicated on the Event Timeline ("Timeline"), and thereafter evaluated. Prices will not be read, pursuant to Section 119.071(1) (b) 2.a.of the Florida Statutes. After evaluating the responses, on the date indicated on the Timeline, the Department shall electronically post the rankings in the MFMP Sourcing Tool.

After negotiations, on the date indicated on the Timeline, the Department shall electronically post a notice of intent to award. If the ranking or award is delayed, in lieu of posting it on the date indicated on the Timeline, the Department shall post a notice of the delay and a revised date for posting the ranking or notice of intent to award. Any person who is adversely affected by the decision shall file with the Department a notice of protest within 72 hours after the electronic posting (see Section 2.20 of the General Instructions (PUR 1001) for more information on protests). The Department shall not provide reply rankings or notices of award by telephone.

3.16 State Objectives.

Within thirty (30) calendar days following award of the Contract, the successful Respondent shall submit plans addressing each of the State's five (5) objectives listed below, to the extent applicable to the items / services covered by this solicitation.

3.16.1 Diversity.

The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority-, women-, and service-disabled veteran business enterprises in the economic life of the state. The State of Florida Mentor Protégé Program connects minority-, women-, and service-disabled veteran business enterprises with private corporations for business development mentoring. We strongly encourage firms doing business with the State of Florida to consider this initiative. For more information on the Mentor Protégé Program, please contact the Office of Supplier Diversity at (850) 487-0915.

The state is dedicated to fostering the continued development and economic growth of small, minority-, women-, and service-disabled veteran business enterprises. Participation by a diverse group of Vendors doing business with the state is central to this effort. To this end, it is vital that small, minority-, women-, and service-disabled veteran business enterprises participate in the state's procurement process as both Contractors and sub- contractors in this solicitation. Small, minority-, women-, and

service-disabled veteran business enterprises are strongly encouraged to contribute to this solicitation.

The Contractor shall submit documentation addressing diversity and describing the efforts being made to encourage the participation of small, minority-, women-, and service-disabled veteran business enterprises

Information on Certified Minority Business Enterprises (CMBE) and Certified Service-Disabled Veteran Business Enterprises (CSDVBE) is available from the Office of Supplier Diversity at:

http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/.

Quarterly Reports of revenue paid to certified W/MBE and certified SDVBE contractors (agents or subcontractors) as a result of any award shall be provided to the Agency Purchasing Office by the Prime Contractor on an Agency by Agency (or other eligible user) level.

3.16.2 Environmental Considerations

Florida Governor Charlie Crist signed Executive Order 07-126, titled "Leadership by Example: Immediate Actions to Reduce Greenhouse Gas Emissions from Florida State Government"; Executive Order 07-127, "Immediate Actions to Reduce Greenhouse Gas Emissions within Florida"; and Executive Order 07-128, "Florida Governor's Action Team on Energy and Climate Change."

The State supports and encourages initiatives to protect and preserve our environment. The Prime Contractor shall submit as part of any response the Prime Contractor's plan to support the procurement of products and materials with recycled content, and the intent of Section 287.045, Florida Statutes. The Prime Contractor shall also provide a plan for reducing and or handling of any hazardous waste generated by Prime Contractor's company. Reference Rule 62-730.160, Florida Administrative Code. It is a requirement of the Florida Department of Environmental Protection that a generator of hazardous waste materials that exceeds a certain threshold must have a valid and current Hazardous Waste Generator Identification Number. This identification number shall be submitted as part of Prime Contractor's explanation of its company's hazardous waste plan and shall explain in detail its handling and disposal of this waste.

Describe what efforts your company (as Contractor) will take to encourage the participation and support of these and other environmental programs.

3.16.3 Certification of Drug-Free Workplace Program.

The State supports and encourages initiatives to keep the workplaces of Florida's Suppliers and Prime Contractors drug free. Section 287.087 of the Florida Statutes provides that, where identical tie responses are received, preference shall be given to a response received from a Respondent that certifies it has implemented a drug-free

workforce program. If applicable, Respondent shall certify that the Respondent has a drug-free workplace program using the "Certification of Drug-Free Workplace" as provided in Sourcing Tool for this solicitation. The Prime Contractor shall describe how it will address the implementation of a drug free workplace in offering the items of the solicitation. Certification shall be submitted (in the Sourcing Tool) using the form in Section 7.5.

3.16.4 Products Available from the Blind or Other Handicapped (RESPECT).

The State supports and encourages the gainful employment of citizens with disabilities. It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this Contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in Section 413.036(1) and (2), Florida Statutes; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for the state agency insofar as dealings with such qualified nonprofit agency are concerned. Additional information about the designated nonprofit agency and the products it offers is available at http://www.respectofflorida.org.

The Respondent shall describe how it will address the use of RESPECT in offering the items of the solicitation.

3.16.5 Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).

The State supports and encourages the use of Florida correctional work programs. It is expressly understood and agreed that any articles which are the subject of, or required to carry out, this Contract shall be purchased from the corporation identified under Chapter 946, F.S., in the same manner and under the same procedures set forth in Section 946.515(2), and (4), F.S.; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for this agency insofar as dealings with such corporation are concerned. Additional information about PRIDE and the products it offers is available at http://www.pridefl.com.

The Prime Contractor shall describe how it will address the use of PRIDE in offering the items of the solicitation.

3.17 Firm Response.

The Department may make an award within one hundred eighty (180) days after the date of the opening, during which period responses shall remain firm and shall not be withdrawn. If award is not made within one hundred eighty (180), the response shall remain firm until either the Department awards the Contract or the Department receives from the Respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Buyer's sole discretion, be accepted or rejected.

3.18 Lobbying.

The Service Provider or Respondent shall not lobby the legislative, judicial, or executive branches, or any State Agency about any aspect of this Contract during the procurement process (i.e. from the time the Contract is advertised to the execution of the Contract) associated with the Contract. Violation of this restriction may be cause for disqualification from the procurement process. Respondents are advised that the following will be included in the Contract for these services:

In accordance with Section 216.347, Florida Statutes, and as provided herein, the Service Provider or Contractor may not expend any State funds for the purpose of lobbying the legislature, the judicial branch, the executive branch, or any State Agency.

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SECTION 4.0

GENERAL CONTRACT CONDITIONS, STATE OF FLORIDA FORM PUR 1000

Contents

4.1 Definitions.
4.2 Purchase Orders.
4.3 Product Version.
4.4 Price Changes Applicable only to Term Contracts.
4.5 Additional Quantities.
4.6 Packaging.
4.7 Inspection at Contractor's Site.
4.8 Safety Standards.
4.9 Americans with Disabilities Act.
4.10 Literature.
4.11 Transportation and Delivery.
4.12 Installation.
4.13 Risk of Loss.
4.14 Transaction Fee.
4.15 Invoicing and Payment.
4.16 Taxes.
4.17 Governmental Restrictions.
4.18 Lobbying and Integrity.
4.19 Indemnification.
4.20 Limitation of Liability.
4.21 Suspension of Work.
4.22 Termination for Convenience.
4.23 Termination for Cause.
4.24 Force Majeure, Notice of Delay, and No Damages for Delay.
4.25 Changes.
4.26 Renewal.
4.27 Purchase Order Duration.
4.28 Advertising.
4.29 Assignment.
4.30 Antitrust Assignment
4.31 Dispute Resolution.
4.32 Employees, Subcontractors, and Agents.
4.33 Security and Confidentiality.
4.34 Contractor Employees, Subcontractors, and Other Agents.
4.35 Insurance Requirements.
4.36 Warranty of Authority.
4.37 Warranty of Ability to Perform.
4.38 Notices.
4.39 Leases and Installment Purchases.
4.40 Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).

4.41 Products Available from the Blind or Other Handicapped.
4.42 Modification of Terms.
4.43 Cooperative Purchasing.
4.44 Waiver.
4.45 Annual Appropriations.
4.46 Execution in Counterparts.
4.47 Severability.

1. **Definitions.**
The definitions contained in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

(a) "Contract" means the legally enforceable agreement that results from a successful solicitation. The parties to the Contract will be the Customer and Contractor.

(b) "Customer" means the State agency or other entity identified in a contract as the party to receive commodities or contractual services pursuant to a contract or that orders commodities or contractual services via purchase order or other contractual instrument from the Contractor under the Contract. The "Customer" may also be the "Buyer" as defined in the PUR 1001 if it meets the definition of both terms.

(c) "Product" means any deliverable under the Contract, which may include commodities, services, technology or software.

(d) "Purchase order" means the form or format a Customer uses to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, contract or other authorized means).

2. **Purchase Orders.**
In contracts where commodities or services are ordered by the Customer via purchase order, Contractor shall not deliver or furnish products until a Customer transmits a purchase order. All purchase orders shall bear the Contract or solicitation number, shall be placed by the Customer directly with the Contractor, and shall be deemed to incorporate by reference the Contract and solicitation terms and conditions. Any discrepancy between the Contract terms and the terms stated on the Contractor's order form, confirmation, or acknowledgement shall be resolved in favor of terms most favorable to the Customer. A purchase order for services within the ambit of section 287.058(1) of the Florida Statutes shall be deemed to incorporate by reference the requirements of subparagraphs (a) through (f) thereof. Customers shall designate a contract manager and a contract administrator as required by subsections 287.057(15) and (16) of the Florida Statutes.

3. **Product Version.**
Purchase orders shall be deemed to reference a manufacturer's most recently release model or version of the product at the time of the order, unless the Customer specifically requests in writing an earlier model or version and the contractor is willing to provide such model or version.

4. **Price Changes Applicable only to Term Contracts.**
If this is a term contract for commodities or services, the following provisions apply.

(a) Quantity Discounts. Contractors are urged to offer additional discounts for one time delivery of large single orders. Customers should seek to negotiate additional price concessions on quantity purchases of any products offered under the Contract. State Customers shall document their files accordingly.

(b) Best Pricing Offer. During the Contract term, if the Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of the Contract, then at the discretion of the Customer the price under the Contract shall be immediately reduced to the lower price.

(c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor shall submit to the Contract Specialist documentation identifying the proposed (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to all Customers. Upon approval, the Contractor shall provide conspicuous notice of the promotion.

(d) Trade-In. Customers may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between the Customer and the Contractor. Customers are obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process. For State agencies, it may be necessary to provide documentation to the Department of Financial Services and to the agency property custodian pursuant to Chapter 273, F.S.

(e) Equitable Adjustment. The Customer may, in its sole discretion, make an equitable adjustment in the Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor's control, (2) the volatility affects the marketplace or industry, not just the particular Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so affects the Contractor that continued performance of the Contract would result in a substantial loss.

5. **Additional Quantities.**
For a period not exceeding ninety (90) days from the date of solicitation award, the Customer reserves the right to acquire additional quantities up to the amount shown on the solicitation but not to exceed the threshold for Category Two at the prices submitted in the response to the solicitation.

6. **Packaging.**
Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging shall become and remain Customer's property.

7. **Inspection at Contractor's Site.**
The Customer reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of a Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.

8. **Safety Standards.**
All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.

9. **Americans with Disabilities Act.**
Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.

10. **Literature.**
Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.

11. **Transportation and Delivery.**
Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Transportation of goods shall be FOB Destination to any point within thirty (30) days after the Customer places an Order. A Contractor, within five (5) days after receiving a purchase order, shall notify the Customer of any potential delivery delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Contractor suspension.

12. **Installation.**
Where installation is required, Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Contract or purchase order. Contractor's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation

shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Contractor shall protect the site from damage and shall repair damages or injury caused during installation by Contractor or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. Contractor shall perform installation work so as to cause the least inconvenience and interference with Customers and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

13. Risk of Loss.

Matters of inspection and acceptance are addressed in s. 215.422, F.S. Until acceptance, risk of loss or damage shall remain with the Contractor. The Contractor shall be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer shall: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. When a Customer rejects a product, Contractor shall remove it from the premises within ten days after notification or rejection. Upon rejection notification, the risk of loss of rejected or non-conforming product shall remain with the Contractor. Rejected product not removed by the Contractor within ten days shall be deemed abandoned by the Contractor, and the Customer shall have the right to dispose of it as its own property. Contractor shall reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of rejected product.

14. Transaction Fee.

The State of Florida has instituted MyFloridaMarketPlace, a statewide eProcurement System ("System"). Pursuant to section 287.057(23), Florida Statutes (2002), all payments shall be assessed a Transaction Fee of one percent (1.0%), which the Contractor shall pay to the State, unless exempt pursuant to 60A-1.032, F.A.C.

For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the Contractor. If automatic deduction is not possible, the Contractor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, Contractor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

Contractor shall receive a credit for any Transaction Fee paid by the Contractor for the purchase of any item(s) if such item(s) are returned to the Contractor through no fault, act, or omission of the Contractor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the Contractor's failure to perform or comply with specifications or requirements of the agreement.

Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering reprocurement costs from the Contractor in addition to

all outstanding fees. **CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE SUBJECT TO BEING REMOVED FROM THE DEPARTMENT OF MANAGEMENT SERVICES' VENDOR LIST AS PROVIDED IN RULE 60A-1.006, F.A.C.**

15. Invoicing and Payment.

Invoices shall contain the Contract number, purchase order number if applicable, and the appropriate vendor identification number. The State may require any other information from the Contractor that the State deems necessary to verify any purchase order placed under the Contract.

At the State's option, Contractors may be required to invoice electronically pursuant to guidelines of the Department of Management Services. Current guidelines require that Contractor supply electronic invoices in lieu of paper-based invoices for those transactions processed through the system. Electronic invoices shall be submitted to the Customer through the Ariba Supplier Network (ASN) in one of the following mechanisms – EDI 810, cXML, or web-based invoice entry within the ASN.

Payment shall be made in accordance with sections 215.422 and 287.0585 of the Florida Statutes, which govern time limits for payment of invoices. Invoices that must be returned to a Contractor due to preparation errors will result in a delay in payment. Contractors may call (850) 413-7269 Monday through Friday to inquire about the status of payments by State Agencies. The Customer is responsible for all payments under the Contract. A Customer's failure to pay, or delay in payment, shall not constitute a breach of the Contract and shall not relieve the Contractor of its obligations to the Department or to other Customers.

16. Taxes.

The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages. Any exceptions to this paragraph shall be explicitly noted by the Customer in the special contract conditions section of the solicitation or in the Contract or purchase order.

17. Governmental Restrictions.

If the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the products offered under the Contract, the Contractor shall immediately notify the Customer in writing, indicating the specific restriction. The Customer reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Customer.

18. Lobbying and Integrity.

Customers shall ensure compliance with Section 11.062, FS and Section 216.347, FS. The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to

give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Customer's Inspector General, or other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: http://dlis.dos.state.fl.us/barm/genschedules/gensched.htm). The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

19. Indemnification.

The Contractor shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and Customers, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Contractor, its agents, employees, partners, or subcontractors, provided, however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or a Customer.

Further, the Contractor shall fully indemnify, defend, and hold harmless the State and Customers from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to a Customer's misuse or modification of Contractor's products or a Customer's operation or use of Contractor's products in a manner not contemplated by the Contract or the purchase order. If any product is the subject of an infringement suit, or in the Contractor's opinion is likely to become the subject of such a suit, the Contractor may at its sole expense procure for the Customer the right to continue using the product or to modify it to become non-infringing. If the Contractor is not reasonably able to modify or otherwise secure the Customer the right to continue using the product, the Contractor shall remove the product and refund the Customer the amounts paid in excess of a reasonable rental for past use. The customer shall not be liable for any royalties.

The Contractor's obligations under the preceding two paragraphs with respect to any legal action are contingent upon the State or Customer giving the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable for any cost, expense, or compromise incurred or made by the State or Customer in any legal action without the Contractor's prior written consent, which shall not be unreasonably withheld.

20. Limitation of Liability.

For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a contract or purchase order for direct damages shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contain in this agreement.

Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

21. Suspension of Work.

The Customer may in its sole discretion suspend any or all activities under the Contract or purchase order, at any time, when in the best interests of the State to do so. The Customer shall provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall not accept any purchase orders. Within ninety days, or any longer period agreed to by the Contractor, the Customer shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract or purchase order. Suspension of work shall not entitle the Contractor to any additional compensation.

22. Termination for Convenience.

The Customer, by written notice to the Contractor, may terminate the Contract in whole or in part when the Customer determines in its sole discretion that it is in the State's interest to do so. The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.

23. Termination for Cause.

The Customer may terminate the Contract if the Contractor fails to (1) deliver the product within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Customer. The rights and remedies of the Customer in this clause are in addition to any other rights and remedies provided by law or under the Contract.

24. Force Majeure, Notice of Delay, and No Damages for Delay.

The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Customer in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Customer. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Customers, in which case the Customer may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs

and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

25. Changes.

The Customer may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Customer may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld. If unusual quantity requirements arise, the Customer may solicit separate bids to satisfy them.

26. Renewal.

Upon mutual agreement, the Customer and the Contractor may renew the Contract, in whole or in part, for a period that may not exceed 3 years or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

27. Purchase Order Duration.

Purchase orders issued pursuant to a state term or agency contract must be received by the Contractor no later than close of business on the last day of the contract's term to be considered timely. The Contractor is obliged to fill those orders in accordance with the contract's terms and conditions. Purchase orders received by the contractor after close of business on the last day of the state term or agency contract's term shall be considered void.

Purchase orders for a one-time delivery of commodities or performance of contractual services shall be valid through the performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the single delivery/performance, and shall survive the termination of the Contract.

Contractors are required to accept purchase orders specifying delivery schedules exceeding the contracted schedule even when such extended delivery will occur after expiration of the state term or agency contract. For example, if a state term contract calls for delivery 30 days after receipt of order (ARO), and an order specifies delivery will occur both in excess of 30 days ARO and after expiration of the state term contract, the Contractor will accept the order. However, if the Contractor expressly and in writing notifies the ordering office within ten (10) calendar days of receipt of the purchase order that Contractor will not accept the extended delivery terms beyond the expiration of the state term contract, then the purchase order will either be amended in writing by the ordering entity within ten (10) calendar days of receipt of the contractor's notice to reflect the state term contract delivery schedule, or it shall be considered withdrawn.

The duration of purchase orders for recurring deliveries of commodities or performance of services shall not exceed the expiration of the state term or agency contract by more than twelve months. However, if an extended pricing plan offered in the state term or agency

contract is selected by the ordering entity, the contract terms on pricing plans and renewals shall govern the maximum duration of purchase orders reflecting such pricing plans and renewals.

Timely purchase orders shall be valid through their specified term and performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the recurring delivery/performance as provided herein, and shall survive the termination of the Contract.

Ordering offices shall not renew a purchase order issued pursuant to a state term or agency contract if the underlying contract expires prior to the effective date of the renewal.

28. Advertising.
Subject to Chapter 119, Florida Statutes, the Contractor shall not publicly disseminate any information concerning the Contract without prior written approval from the Customer, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Customer or the State as a reference, or otherwise linking the Contractor's name and either a description of the Contract or the name of the State or the Customer in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.

29. Assignment.
The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any purchase order issued pursuant to the Contract, without the prior written consent of the Customer. In the event of any assignment, the Contractor remains secondarily liable for performance of the contract, unless the Customer expressly waives such secondary liability. The Customer may assign the Contract with prior written notice to Contractor of its intent to do so.

30. Antitrust Assignment.
The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Florida. Therefore, the contractor hereby assigns to the State of Florida any and all claims for such overcharges as to goods, materials or services purchased in connection with the Contract.

31. Dispute Resolution.
Any dispute concerning performance of the Contract shall be decided by the Customer's designated contract manager, who shall reduce the decision to writing and serve a copy on the Contractor. The decision shall be final and conclusive unless within twenty one (21) days from the date of receipt, the Contractor files with the Customer a petition for administrative hearing. The Customer's decision on the petition shall be final, subject to the Contractor's right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the Contractor's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.

Without limiting the foregoing, the exclusive venue of any legal or equitable action that arises out of or relates to the Contract shall be the appropriate state court in Leon County, Florida; in any such action, Florida law shall apply and the parties waive any right to jury trial.

32. Employees, Subcontractors, and Agents.

All Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Customer and shall comply with all controlling laws and regulations relevant to the services they are providing under the Contract. The State may conduct, and the Contractor shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Contractor. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with a Customer's security or other requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract. The State may reject and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.

33. Security and Confidentiality.

The Contractor shall comply fully with all security procedures of the United States, State of Florida and Customer in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or Customer. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the State's or Customer's confidential information, or material that is otherwise obtainable under State law as a public record. To insure confidentiality, the Contractor shall take appropriate steps as to its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.

34. Contractor Employees, Subcontractors, and Other Agents.

The Customer and the State shall take all actions necessary to ensure that Contractor's employees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.

35. Insurance Requirements.

During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The

limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.

36. Warranty of Authority.
Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

37. Warranty of Ability to Perform.
The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Customer in writing if its ability to perform is compromised in any manner during the term of the Contract.

38. Notices.
All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the agency designee identified in the original solicitation, or as otherwise identified by the Customer. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.

39. Leases and Installment Purchases.
Prior approval of the Chief Financial Officer (as defined in Section 17.001, F.S.) is required for State agencies to enter into or to extend any lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes.

40. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).
Section 946.515(2), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, the Contract shall be purchased from the corporation identified under Chapter 946 of the Florida Statutes (PRIDE) in the same manner and under the same procedures set forth in section 946.515(2) and (4) of the Florida Statutes; and for purposes of the Contract the person, firm, or other business entity carrying out the provisions of the Contract shall be deemed to be substituted for the agency insofar as dealings with such corporation are concerned." Additional information about PRIDE and the products it offers is available at http://www.pridefl.com.

41. Products Available from the Blind or Other Handicapped.
Section 413.036(3), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the Blind or for the Severely Handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in section 413.036(1) and (2), Florida

Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned." Additional information about the designated nonprofit agency and the products it offers is available at http://www.respectofflorida.org.

42. Modification of Terms.

The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Customer and the Contractor. The Contract may only be modified or amended upon mutual written agreement of the Customer and the Contractor. No oral agreements or representations shall be valid or binding upon the Customer or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Customer. The Contractor may not unilaterally modify the terms of the Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. The Customer's acceptance of product or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

43. Cooperative Purchasing.

Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Customer purchases are independent of the agreement between Customer and Contractor, and Customer shall not be a party to any transaction between the Contractor and any other purchaser.

State agencies wishing to make purchases from this agreement are required to follow the provisions of s. 287.042(16)(a), F.S. This statute requires the Department of Management Services to determine that the requestor's use of the contract is cost-effective and in the best interest of the State.

44. Waiver.

The delay or failure by the Customer to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Customer's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

45. Annual Appropriations.

The State's performance and obligation to pay under this contract are contingent upon an annual appropriation by the Legislature.

46. Execution in Counterparts.

The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

47. Severability.

If a court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

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SECTION 5.0

SPECIAL CONDITIONS

CONTENTS

5.1 Purchasing Card Program

5.2 Product Acceptance

5.3 Ownership/Title

5.4 Contractors Obligation with Regard to ISV (Third Party) Products

5.5 Proof of License

5.6 Product Version

5.7 Changes to Product or Service Offerings

5.8 Contract Service Requirements

5.9 Delivery

5.10 Contract Reporting Requirements

5.11 Business Review Meetings

5.12 Implementation of Contract

5.13 Contractor's State Contract Webpage

5.14 Electronic Invoicing

5.15 Request for Quotes

5.16 Pricing

5.16.1 Growth Capacity Expectations

5.16.2 Pricing Models

5.17 Price Adjustments

5.18 Contract Revisions

5.19 New Product Additions

5.20 References

5.21 Purchase Orders

5.22 Authorized Dealers

5.23 Environmental Standards

5.1 Purchasing Card Program.

The State of Florida has implemented a purchasing card program, using the Visa platform. Vendors may receive payment from state agencies by the purchasing card in the same manner as other Visa purchases. Visa acceptance is mandatory but is not the exclusive method of payment.

5.2 Product Acceptance.

Unless otherwise provided by mutual agreement of the Eligible Users and the Contractor, Eligible User(s) shall have thirty (30) days from the date of delivery to accept all licensed software Product(s). Eligible users shall accept renewal of software maintenance or renewal of software licenses upon the effective date of the Eligible User contract or purchase order. Where the Contractor is responsible for installation, acceptance shall be from completion of installation, configuration and setup, including training and testing, as specified in the Eligible User contract or purchase order. Failure to provide notice of acceptance, rejection, or a deficiency statement to the Contractor by the end of the period provided for under this clause constitutes acceptance by the Eligible User(s) as of the expiration of that period. The License Term shall be extended by the time periods allowed for trial use, testing and acceptance unless the Eligible User agrees to accept the Product at completion of trial use. See Section 6.2 for additional acceptance information.

5.3 Ownership/Title.

Title and ownership to Software Product(s) delivered by the Contractor or Contractor's Authorized Dealer under the Contract to an Eligible User under a valid Eligible User contract or purchase order that is normally commercially distributed on a license basis by the Contractor or other third party products which are included under any contract resulting from this solicitation, shall remain with the Contractor or other intellectual property owner. Effective upon acceptance, such Product shall be licensed to Eligible Users in accordance with the Contractor or other intellectual property owner's standard license agreement, provided, however, that such standard license, must, at a minimum: (a) grant the Eligible Users a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless Contractor advises Eligible Users as part of Contractor's proposal that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the Eligible User's satisfaction) and distribute Existing Licensed Product to the Eligible User up to the license capacity stated in the Purchase Order or work order with all license rights necessary to fully effect the general business purpose(s) stated in the Bid or Eligible User's contract or Purchase Order and (b) recognize the State of Florida as the licensee where the Eligible User is a state agency, department, board, commission, office or institution. Where these rights are not otherwise covered by the other intellectual property owner's standard license agreement, the Contractor shall be responsible for obtaining these rights at its sole cost and expense. The Eligible User shall reproduce all copyright notices and any other legend of ownership on any copies authorized under this paragraph. See Section 6.4 (e) for transfer of license language, which shall apply to all software purchased under this agreement.

5.4 Contractor's Obligation with Regard to Intellectual Property Owner's Product.

Where the Contractor furnishes products other than the Contractor's third party products where the state has determined the third party products are included in the Contractor's U.S. Commercial Price List and may be sold under any State Term Contract (STC) resulting from this solicitation and sufficient rights necessary to effect the purposes of this section are not otherwise provided in the Contractor's or intellectual property owner's standard license agreement, Contractor shall be responsible for obtaining from the intellectual proprietary owner the rights set forth herein to the benefit of the Eligible User at the Contractor's sole cost and expense.

5.5 Proof of License.

The Contractor/Authorized Dealer must provide to each Eligible User either: (i) the Contractor's certified license confirmation certificates in the name of such Licensee; or (ii) a written confirmation from the Contractor or third party product owner accepting the Eligible User's contract or purchase order as proof of license. Contractor shall submit the certificate, or alternatively such written confirmation from all applicable third party product owners to the benefit of the Eligible User. Such certificates must be in a form acceptable to the Eligible User.

5.6 Product Version.

Purchase Orders shall be deemed to reference the Contractor's most recently released model or version of the Product at time of order, unless an earlier model or version is specifically requested in writing by the Eligible User and the Contractor is willing to provide such version.

5.7 Changes to Product or Service Offerings.

a. **Product or Service Discontinuance** Where the Contractor is the Product intellectual property owner and the Contractor publicly announces to all U.S. customers ("date of notice") that a Product is being withdrawn from the U.S. market or that maintenance service or technical support provided by the Contractor ("withdrawn support") is no longer going to be offered, the Contractor shall be required to: (i) notify the Contract Manager, each Licensee and each Eligible User then under contract for maintenance or technical support in writing of the intended discontinuance; and (ii) continue to offer Product or withdrawn support upon the Contract terms previously offered for the greater of: a) the best terms offered by Contractor to any other customer, or b) not less than twelve (12) months from the date of notice; and (iii) at Eligible User's option, provided that the Eligible User is under contract for maintenance on the date of notice, either: provide the Eligible User with a Product replacement or migration path with at least equivalent functionality at no additional charge to enable Eligible User to continue use and maintenance of the Product.

   In the event that the Contractor is not the intellectual property owner, the Contractor shall be required to: (i) provide the notice required under the paragraph above, to the entities described within five (5) business days of the Contractor receiving notice from the third party intellectual property owner, and (ii) include in such notice the period of

time from the date of notice that the third party intellectual property owner will continue to provide Product or withdraw support.

The provisions of this subdivision (a) shall not apply or eliminate the Contractor's obligations where withdrawn support is being provided by the third party intellectual property owner. In the event that such third party intellectual property owner ceases to provide service, the Contractor shall be responsible for subcontracting such service, subject to state approval, to an alternate Subcontractor.

b. **Product or Service Re-Bundling** In the event that the Contractor is the Product intellectual property owner and publicly announces to all U.S. customers ("date of notice") that a Product or maintenance or technical support offering is being re-bundled in a different manner from the structure or licensing model of the prior U.S. commercial offering, the Contractor shall be required to: (i) notify the Contract Manager and each Eligible User in writing of the intended change; (ii) continue to provide Product or withdrawn support upon the same terms and conditions as previously offered on the then-current State of Florida Contract for the greater of: a) the best terms offered by the Contractor to any other customer, or b) not less than twelve (12) months from the date of notice; and (iii) shall submit the proposed re-bundling change to the Contract Manager for approval prior to its becoming effective for the remainder of the Contract term. The provisions of this section do not apply if the Contractor is not the Product intellectual property owner.

c. **No Hardship/Passive License Monitoring.** Unless an Eligible User is otherwise specifically advised to the contrary in writing at the time of order and prior to purchase, the Contractor hereby warrants and represents that the Product and all Upgrades do not and will not contain any computer code that would disable the Product or Upgrades or impair in any way its operation based on the elapsing of a period of time, exceeding an authorized number of copies, advancement to a particular date or other numeral, or other similar self-destruct mechanisms (sometimes referred to as "time bombs," "time locks," or "drop dead" devices) or that would permit Contractor to access the Product to cause such disablement or impairment (sometimes referred to as a "trap door" device). Contractor agrees that in the event of a breach or alleged breach of this provision that Eligible User shall not have an adequate remedy at law, including monetary damages, and that Eligible User shall consequently be entitled to seek a temporary restraining order, injunction, or other form of equitable relief against the continuance of such breach, in addition to any and all remedies to which Authorized User shall be entitled.

d. **Source Code Escrow for Licensed Product.** If Source Code or Source Code escrow is offered by either Contractor or Product intellectual property owner to any other commercial customers, Contractor shall either: (i) provide Licensee with the Source Code for the Product; or (ii) place the Source Code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the State, and who shall be directed to release the deposited Source Code in accordance with a standard escrow agreement acceptable to the State; or (iii) will certify to the State that the Product manufacturer/developer/Contractor has named the State, acting by and through the

Eligible User, and the Licensee, as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the State and Licensee, and who shall be directed to release the deposited Source Code in accordance with the terms of escrow. Source Code, as well as any corrections or enhancements to such source code, shall be updated for each new release of the Product in the same manner as provided above and such updating of escrow shall be certified to the State in writing. Contractor shall identify the escrow agent upon commencement of the Contract term and shall certify annually that the escrow remains in effect in compliance with the terms of this paragraph.

The State may release the Source Code to Licensees under this Contract who have licensed Product or obtained services, who may use such copy of the Source Code to maintain the Product.

5.8 Contract Service Requirements.

Requests by State Agencies and Eligible Users for Product Literature, Price Lists, and Specifications must be provided within five (5) working days after receipt of written request, at no charge to Eligible Users. However, the Department reserves the right to review and approve all Product Literature, Price Lists, and promotional materials before distribution to State Agencies and Eligible Users.

Awarded contractor(s) shall have a single point of contact for customer support. This individual may support multiple Eligible Users and respond to Eligible User calls and/or emails within twenty-four (24) hours. Customer Support contact information shall be provided on the Ordering Instructions form. The Contractor(s) shall make all Eligible Users of the contract aware of its existence at the time of order to ensure that contractual pricing is utilized.

Contractor(s) shall provide toll-free customer service phone support from 7:00 AM (EST) to 6:00 PM (EST) Monday through Friday, except for National and State recognized holidays. TDD (Telecommunication Device for the Deaf) access must be made available during the above customer service operating hours.

Contractor(s) shall provide an after-hours contact number for use by Eligible Users for emergency orders after standard customer service operating hours.

5.9 Delivery.

Pricing shall include inside delivery to the ordering agency within 30 days after receipt of purchase order.

5.10 Contract Reporting Requirements.

The Contractor shall be responsible to report sales data to the Contract Manager on a quarterly basis using the (State Term Contract) STC Reporting Form in Section 7.15 of the ITN. The State of Florida is not a party to the contractual relationship between the Contractor and their resellers.

- The following data must be reported to the Contract Manager on a quarterly contract basis: Report shall include:
  - Contractor/Reseller Name and FEIN number
  - Contact Information
  - Reporting Period
  - Total dollar value of purchases per quarter as noted on the form.
  - Total dollar value of purchases per quarter indicating product group.
  - Minority Business Spend shall be included in the same report on the tab marked CMBE Spend Report.
- Financial Viability Statement. Contractor shall provide a copy of their Dun and Bradstreet report and shall be responsible to immediately notify the Contract Manager of any changes in the company's financial status that would affect the Contractor's ability to fulfill their contract obligations with the State.

Failure to provide quarterly sales reports, including providing a report when there have been no sales, within thirty (30) calendar days following the end of each quarter (January, April, July and October) may result in the contract supplier being found in default and may cause termination of the contract.

Submission of the Contract Sales Summaries shall be the responsibility of the Contractor without prompting or notification by the Contract Manager. The Contractor will submit the completed Contract Sales Summary report by email to the Contract Manager.

5.11 Business Review Meetings.

In order to maintain the partnership between the Department and the Contractor, each quarter the Department may request a Business Review meeting. The business review meeting may involve, but not be limited to, the following:

- Review of Contractor performance
- Review of minimum required reports
- Review of continuous improvement plans

The Department encourages Contractors to identify opportunities to generate lower costs. A continuous improvement effort, consisting of various ideas to enhance business efficiencies, may be discussed at the Business Review meetings or as identified.

5.12 Implementation of Contract.

In order to streamline the procurement process and ease of use for state agency buyers, the Contractor **may** provide its catalog data electronically using the State's eProcurement system through a "punch-out" solution in which the Agency accesses the Contractor's website directly from the system, rather than the system maintaining the Contractor's data. This solution must allow the Agency to reach the Contractor's site, browse for Contracted items only, and return to the system with a list of items ready to be inserted into a requisition. Returned product information must include, but is not limited to, Contractor name, brand/manufacturer, SKU, product name, brief description (for supplies, include what machine product is for), recycled content flag, approved green product flag, certifying green label / standard, unit of measure, and price.

If the Contractor does not choose to provide a punch-out catalog, the Contractor shall provide a Line-Item catalog. All awarded contractors must make their awarded products and prices available on the Contractor's Florida Specific website as required in Section 5.13 Contractor's State Contract Webpage.

The Contractor will have up to sixty (60) days, after contract award, to establish a State Contract punch-out website or a Line Item Catalog. The MyFloridaMarketPlace ("MFMP") third-party Service Provider is responsible for working with Contractor to assist in the implementation of a punch-out solution with the eProcurement System or a Line-Item Catalog in Aravo. To accomplish this conversion, the awarded Contractor shall provide requested information directly to the Service Provider in the format required by the Service Provider. No costs or expenses associated with providing this information shall be charged to the Department, Eligible Users, or Service Provider.

Contractor punch-out solution must meet the following requirements:

- The solution must conform to cXML 1.0 or 1.1 standards.
- The solution must conform to the technical specifications and implementation requirements provided by the Department of Management Service's MFMP third party provider, and the Contractor must work with the third party provider to ensure successful integration of the punch-out solution into the system
- The solution must have the capability to provide only those products awarded under the Contract, and block any non-Contract item(s) from being added to the requisition.
- The punch-out site must provide the Contract Manager, or designee, the ability to audit catalog items and prices and must provide a method to download loaded items and prices into an Excel file format. Audit time and date shall be determined by the Contract Manager and shall occur at random intervals.

(Note: Contractors who currently have e-commerce capabilities should already have the ability to do a punch-out site. See Section 7.10 to review the Punch-out Capability Questionnaire, Section 7.16 to see a sample Aravo template used for Line Item catalogs, and Section 7.11 to view the Electronic Invoicing Requirements.)

5.13 Contractor's State Contract Webpage.

The Contract resulting from this solicitation will become a public document. State Purchasing uses its web page to distribute State Term Contract and product information to eligible users and other interested entities.

The Contractor shall, within thirty (30) days after the date of award listed on the Certification of Contract document, develop and maintain a State Contract web page on the Internet to post approved Contract information, which shall include pricing, percentage discounts, terms, catalogs, ordering instructions, descriptive information, list of products that meet the State of Florida's approved green product labels / standards, and product pictures. The Home Page must be compatible with the most recent version of browser software being used by the Department. As of the writing of this solicitation, Internet

Explorer 7.0 is the Department's Internet browser standard. The Department intends to upgrade to new browser versions as they become available and fully tested, at its discretion. The Universal Resource Locator (URL) for the Internet Home Page must be listed in the space provided on the Ordering Instructions page of the solicitation. No costs or expenses associated with providing this information shall be charged to the State.

The State Contract vendor supplied web site must have the following requirements:

- Specify that the web page is for the State of Florida
- Contract Number and Beginning and Ending Contract Dates
- State of Florida approved Contract pricing;
- Detailed item descriptions, item numbers, unit of measure;
- Robust search engine capabilities;
- Authorized Dealers, if any;
- Additional links or information to access product literature of awarded items;
- Additional links to the vendor's home page, the history of the company, etc.;
- Additional links to access technical product literature of awarded items;
- Servicing dealers with current contact information;
- Offer photos of awarded products (where applicable);
- List of products that meet the State of Florida's approved green product labels / standards;
- When possible, provide indicators of recycled product and minority manufactured products; and
- Universal Resource Locator (URL) for the Internet Page must be supplied to the Department and approved prior to the implementation of the Contract.

Additional mandates include:

- If unauthorized information is discovered on the State Contract Web Page, the Contractor's link may be immediately disconnected and the Contractor shall be liable for any incorrect or unauthorized purchases.
- Access to the Contractor's State Contract Web Page, or to links or documents on that Web Page, shall not require a password.
- Contractor's State Contract Web Page shall be compatible with the current version of browser software used by State Purchasing.
- Barring unexpected technological interruptions or forces of nature, frequent or consistent web page inaccessibility may be grounds for contract termination.

Contractors should note that the US Federal Trade Commission's Guides to the Use of Environmental Marketing Claims (Green Guides) regulate how companies label and advertise using environmental claims / terms. See Environmental marketing claims (16 C.F.R. Part 260) for details. It is the Contractor's responsibility to accurately identify their products that meet the State of Florida's approved green product labels / standards (e.g., Energy Star, Green Seal) in their electronic catalog, punch-out site and on State Contract web page. Failure to accurately represent green products may result in the Contractor's immediate removal from the contract.

5.14 Electronic Invoicing.

Notwithstanding any provision of the contract, the contractor shall supply electronic invoices in lieu of paper-based invoices for those transactions processed through the State's eProcurement system. Electronic invoices shall be submitted to the agency through the Ariba Supplier Network (ASN) in one of the following mechanisms – cXML, EDI 810 or web-based invoice entry within the ASN.

For the purposes of this section, the contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the State's third party eProcurement provider, the right and license to use, reproduce, transmit, distribute and publicly display within the system the information outlined above. In addition, the contractor warrants and represents that it is authorized and empowered to and hereby grants the State, and the third party provider, the right and license to reproduce and display within the system the contractor's trademarks, system marks, logos, trade dress or other branding designation that identifies the products made available by the contractor under the contract. If the contractor is not the manufacturer, it shall be the contractor's responsibility to obtain authorization from the manufacturer to comply with the provisions of this section, including securing any intellectual property rights of the manufacturer.

5.15 Requests for Quotes.

Additional quotes are not required under this contract; however, customers have the option to initiate a request for quotes (RFQ), which is an oral or written request for written pricing or service information from a Contractor/Authorized Dealer for products available under the Contract from that Contractor. If Eligible Users elect to utilize a RFQ, they shall create and maintain written records of oral and written requests, as well as records of quotes received. Quotes shall be in writing but otherwise informal, and need not be received or posted publicly or at a particular time or place. A Customer shall initiate a sufficient number of requests to obtain a minimum of three quotes, and shall place its purchase order with the Contractor quoting the lowest price, unless the Customer documents in writing that the lowest price quote would not result in best value.

5.16 Pricing.

It is the intent of this solicitation to obtain pricing that is better than or comparable to pricing models provided to other government entities of the same size and class as the State of Florida. Similarly situated states shall include California, Texas and New York.

Cost savings/avoidance shall reflect a discount percentage off of the awarded contractor(s) current "Manufacturers Retail Price." Price sheets shall reflect the pricing models requested within this ITN. State agencies and any Eligible Users shall have the right to purchase additional software products offered by the Contractor under the same negotiated terms and conditions, for the length of this contract, to simplify additional purchases.

5.16.1 <u>Growth Capacity Expectations</u> – Respondent is encouraged to provide pricing that takes into account the potential for growth or any new data center consolidation models that may require larger capacities.

5.16.2 <u>Pricing Models</u> - Respondent shall provide pricing models for software meeting the categories in Section 6.1, Eligible Software. Prices must be submitted using the attached Price Sheet in Section 7.1 of this solicitation. Pricing models shall include one or more of the following:

i. MIPS
ii. Subcapacity
iii. Partition (LPAR)
iv. MSU
v. CPU
vi. Instance-Based
vii. Usage-Based
viii. Transfer or assignment of contracts from state agencies to hosting or "primary" data centers.
ix. Location licensing, which will allow for a change in location and transfer of ownership.
x. One-time upgrade costs
xi. Maintenance agreements (standard and consolidated)
xii. Added Value such as tiered discounts, additional service, etc.
xiii. Special Pricing Incentives
   - In accordance with the terms and conditions of this Invitation to Negotiate, the Contractor may submit offerings for special pricing incentives related to areas such as competitive replacement, consolidation and standardization, or other opportunities to support cost savings to the state. Such offerings may be bundled with services as noted in Section 1.4 of this solicitation.

5.17 Price Adjustments.

Prices shall be firm against increase for twenty-four (24) months from the original effective date of contract. After this period, requests for decrease may be submitted to the State if there has been, or is, a documented decrease in cost, with the State reserving the right to accept or reject requests within thirty (30) days after receipt of request. Price decreases may be requested by either party one (1) time per year (following the 24-month price freeze) by using the Producer Price Index (PPI) for Industry: Electronic Computer Manufacturing, as published by the U.S. Bureau of Labor Statistics. The rate adjustments will be based on the PPI (Series ID pcu5112-5112). The State may request a reduction in price any time the PPI shows de-escalation in costs.

The last published non-preliminary Producer Price Index for the month prior to award/anniversary date of the contract will be the reference date for the beginning (old) PPI Index. The most recent published Producer Price Index prior to the contract year to be priced will establish the reference data for the New PPI Index.

All requests for price adjustments must be substantiated by manufacturer's certification of cost or other documentation and approved by the State of Florida' Contract Administrator prior to implementation. There can only be one rate adjustment per twelve (12) month period and the maximum net rate percentage decrease per twelve (12) month period shall not exceed the PPI allowable amount or 3%, whichever is less.

The price de-escalation formula will be tied to the change in the commodity for Software Publishers, PPI Series ID pcu5112--5112. The formula is calculated by dividing the New PPI Index by the Old PPI Index to identify the Price Escalation Rate. The Old Price is multiplied by the Price De-escalation Rate to determine if a price reduction is warranted. This formula applies after Year 2 of the contract and on each subsequent anniversary of the contract effective date.

Details on how this PPI has historically performed can be found at the Bureau of Labor Statistics web site and following the below steps:

- Go to BLS website: http://www.bls.gov/ppi/
- Navigate to the "Get Detailed PPI Statistics" section
- Select "Create Customized Tables (one screen)"
- Click on the link titled "Industry Data"
- Type "5112" in the "Select an Industry" box for the Electronic Computer Manufacturing category and hit the adjacent "Find" button.
- Select "5112--5112" for Software Publishers in the "Select One or More Products" box and hit the adjacent "Find" button. A table similar to the one shown below will be created.

Series Id: PCU5112--5112--
Industry: Software publishers
Product: Software publishers
Base Date: 0312

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
2003												100.0	
2004	99.4	100.5	100.4	100.4	100.0	100.2	99.8	99.7	98.6	99.9	99.8	99.3	99.8
2005	98.8	99.5	99.3	99.9	99.4	99.7	99.2	99.7	100.7	100.8	100.6	100.3	99.8
2006	101.0	100.1	99.1	98.7	100.3	100.3	100.0	100.1	100.3	100.6	100.6	100.3	100.1
2007	99.5	99.9	99.9	100.1	99.6	99.4	99.5	99.9	99.5	99.4	99.4	99.3	99.6
2008	99.5(P)	99.1(P)	100.9(P)	101.8(P)									

P: Preliminary. All indexes are subject to revision four months after original publication.

Example:

Index at one year anniversary..... 99.1
Divided by index at time base price was set 100.1
Equals (De-Escalation Rate)..... 0.99

To determine the new discount percent:

New PPI / Old PPI = Price Escalation/De-escalation Rate (rounded to the four decimal points). Then take Old Price Discount % / Price Escalation De-escalation Rate = New Price Discount % (rounded to two decimal points).

Calculation:

99.1 ÷ 100.1 = .9900 (which equates to a Price De-escalation Rate of 99%)
25% ÷ 99.00% = 25.25% (New Price Discount Percent)
Any decreases negotiated during the term of the contract shall become effective no later than thirty (30) days after approval of the request.

5.18 Contract Revisions

Revisions to product offerings, pricing, terms, or presented materials must be approved by the Department prior to advertisement or implementation. Requests for revision shall be submitted in writing to the Contract Administrator for review and approval. Revision requests must be submitted to the Contract Manager on the Product Update Form in Section 7.7.

5.19 New Product Additions

New products may be considered for addition to the contract. All requests for review shall be made in writing and shall include product literature and pricing (in Excel format with a copy provided on CD). New products may not be marketed as approved products prior to written approval from the Contract Administrator. New Product addition requests must be submitted to the Contract Manager using the Product Update Form in Section 7.7.

5.20 References

All respondents shall provide a minimum of five references for Mainframe software products sold in the last twenty-four (24) months. References provided should support the Contractor's ability to meet the needs of "Eligible Users" within the State of Florida. References must complete the form set forth in Section 7.6. References shall include the following: the name of the agency, university, city, county or school board, contact information and indicate the specific software and were it was purchased in addition to the questions contained in the form. Failure to supply the required documentation may result in disqualification of your proposal. The State of Florida reserves the right to contact the references regarding the products/services provided.

5.21 Purchase Orders

All respondents shall provide a minimum of five (5) purchase orders or invoices with the proposal package to document the sales of each manufacturer's brand proposal. Purchase Orders shall indicate the date the order was received and the date the order was shipped to the customer. Purchase Orders provided should be comparable or represent a typical order that would be placed by a state agency or eligible user such as city, county or school. Purchase orders may, but are not required to, match the references cited above. Failure to supply the required documentation may result in disqualification of your proposal.

5.22 Authorized Dealers

Respondents may allow authorized dealers, as defined is Section 3.1, to provide products and services on their behalf using the Authorized Dealer Form indicated in Section 7.17. Respondents are encouraged to utilize Certified Minority Business Enterprise (CMBE) dealers. Respondent shall identify any CMBE dealers on the Authorized Dealer Form. Each dealer named will be responsible for product delivery and service for any orders received as well as providing assistance to Eligible Users. Dealers receiving orders on behalf of the Contractor are required to register in MyFloridaMarketPlace and with the Division of Corporations. All authorized dealers shall be under the DIRECT SUPERVISION of the awarded vendor and shall follow all contract requirements.

5.23 Environmental Standards

Florida Governor Charlie Crist signed Executive Order 07-126, titled "Leadership by Example: Immediate Actions to Reduce Greenhouse Gas Emissions from Florida State Government"; Executive Order 07-127, "Immediate Actions to Reduce Greenhouse Gas Emissions within Florida"; and Executive Order 07-128, "Florida Governor's Action Team on Energy and Climate Change."

The State supports and encourages initiatives to protect and preserve our environment. The Respondent shall submit as part of any response the Respondent's plan to support the procurement of products and materials with recycled content, and the intent of Section 287.045, Florida Statutes. The Respondent shall also provide a plan for reducing and or handling of any hazardous waste generated by Respondent's company. Reference Rule 62-730.160, Florida Administrative Code. It is a requirement of the Florida Department of Environmental Protection that a generator of hazardous waste materials that exceeds a certain threshold must have a valid and current Hazardous Waste Generator Identification Number. This identification number shall be submitted as part of Respondent's explanation of its company's hazardous waste plan and shall explain in detail its handling and disposal of this waste.

Describe what efforts your company (as Contractor) will take to encourage the participation and support of these and other environmental programs.

5.23.1 Florida Climate Friendly Products

Contractors are encouraged to propose products that meet the Florida approved green product labels/standards.

Under the leadership of Florida Governor Charlie Crist, the Department of Management Services (DMS) encourages the purchase of environmentally preferable products (EPPs) by Florida governmental entities where possible. Upon award, Contractors will be encouraged to submit a list of their qualifying products for review and posting to the Florida Climate Friendly Products List. The current list can be viewed at the following DMS website link: http://dms.myflorida.com/business_operations/state_purchasing/vendor_information/state_contracts_agreements_and_price_lists/florida_climate_friendly_products_list

The Florida Climate Friendly Products List includes state contract approved products that have received one or more of the following certifications, labels, and standards:

California Energy Commission (CEC) Appliance Efficiency Regulations
California Environmentally Preferred Products Guide
California State Agency Buy Recycled Program (SABRC)
Electronic Product Environmental Assessment Tool (EPEAT)
Energy Star

EPA Comprehensive Procurement Guidelines (CPG)
EPA SmartWay and SmartWay Elite
EPA WaterSense
Forest Stewardship Council (FSC)
Green Seal
Greenguard
MDBC's Cradle to Cradle Silver Certification (or higher)
Minnesota Green Guardian EPP Guide
NEMA Premium
RoHS
SCS (Scientific Cert. Sys.) / NSF International
Terra Choice / Ecologo
US Federal Energy Management Program (FEMP)
USDA Organic Label

SECTION 6.0

TECHNICAL SPECIFICATIONS

Contents

6.2 ELIGIBLE SOFTWARE

6.3 SOFTWARE ACCEPTANCE

6.2.1 ACCEPTANCE OF STAND ALONE SOFTWARE

6.2.2 ACCEPTANCE OF SELF-DEVELOPED SOFTWARE OR SOFTWARE DEVELOPED BY THIRD PARTIES

6.4 STANDARD SUPPORT

6.5 SOFTWARE LICENSE

6.1 Eligible Software

Mainframe software will be divided into the following categories. Respondents may, but are not required, to submit proposals for all categories. Respondents shall indicate on the Software Category form (found in Section 7.12) the product categories for which the respondent will supply software products. The State of Florida does not guarantee the purchase of any of the products listed on the form. The product category list will be published on the DMS website upon contract award to indicate to Eligible Users the products available along with the name of the software providers for ordering purposes.

The products categories included in this Invitation are:

1. Application Development
2. Network & Systems Management Software
3. Application Integration & Middleware
4. Security Software
5. Database Management Systems
6. Miscellaneous Mainframe Software (see the Product Category List in Section 7.12. This is not the same as items that may be listed in the Balance of Line on the Price Sheet)
7. Balance of Line Software products
   - Balance of Line – Enterprise Software Agreements may be offered as part of the Respondent's proposal. Software Agreements offered may encompass Respondent's entire software line; however, software products may not be on more than one State Term Contract. The Department reserves the right to accept or reject any items submitted. The Department further expects pricing commensurate with Government entities of comparable size and volume. Vendors who are awarded balance of line software products on this contract would not need to respond to any other phase of these software solicitations.

6.2 Software Acceptance

Once software has been physically received, the Contractor shall consider the Product accepted for use in order to comply with the Sarbanes Oxley reporting requirements; however, the State has additional acceptance criteria, which will be used to justify product returns. Eligible users who have software installation permissions granted by the user's agency shall be responsible for determining acceptance of products purchased. Minimum acceptance criteria are as follows:

6.2.1 Acceptance of Stand Alone Software: Acceptance of software products is conditioned upon the following:

- The software is free of computer viruses
- The software is compatible with other products in use

- The software can operate in the intended working environment and required parameters
- The software was delivered with the relevant manuals or access was provided to electronic manuals as applicable.
- The required functionality is fulfilled.

6.2.2 Acceptance of self-developed software or software developed by third parties: Acceptance will be denied if any of the following occur:

- Serious errors are detected in the software
- Test cases occur where the calculated results do not correspond to the estimated results
- User manuals or operating instructions are not available or are inadequate

6.3 Standard Support

Contractors shall provide the following levels of support under the Contract:

- Inside delivery, with buyer set-up and installation
- Standard intellectual property owner's warranty
- 30-day money back guarantee (after acceptance criteria noted in Section 6.2), return to Contractor, with no shipping charges or restocking fee or comparable charges
- Installation advisory support – help with installation and updating of standalone applications or products in a network environment.
- Corrective support – to resolve identifiable and reproducible software product problems and to help customers identify problems that are difficult to reproduce; includes assistance with trouble-shooting and with setting configuration parameters.
- Escalation management – Establish escalation procedures and enlist specialized expertise from Contractor and selected third parties.
- Electronic software information – Provide access to software patches, a symptom-solution database, product descriptions, specifications, technical literature, etc.
- Coverage windows – minimum of 7:00 a.m. – 6:00 p.m. EST Monday – Friday, excluding holidays.
- After hours contact for emergency orders (see Section 5.8 for details).

Optional Support that may be offered on particular purchases such as:

- Warranty upgrade (to 3-year maximum). Warranty upgrade may be purchased at time of system purchase or during the warranty period
- Software product and documentation updates
- Software Training (for individual products or product suites)
- Manufacturer provided installation
- Consulting Services (limited to customizations of product offered or directly related to products sold).
- Additional coverage options such as:
    - 24/7/365
    - Extended hours

- Other

Optional support levels resulting in increased cost to Customers shall be clearly and separately identified on the Contractor's authorized product and price list. Integrated components shall carry the same support level and warranty provisions as the system. Optional support shall also be offered at the same percentage discount as the awarded category of items that the optional support is associated with.

6.4 Software License.

Where product is acquired on a licensed basis, the following terms shall constitute the license grant.

a. Scope: Licensee is granted a non-exclusive license to use, execute, reproduce, display, perform, or merge the product within its business enterprise in the United States up to the maximum licensed capacity identified on the purchase order. The product may be accessed, used, executed, reproduced, displayed, or performed up to the capacity measured by the applicable licensing unit identified on the purchase order (i.e., MIPS, MSU, LPAR, Subcapacity, etc.). Licensee shall have the right to use and distribute modifications and customizations of the product to and for use by any Customers otherwise licensed to use the product, provided that any modifications, however extensive, shall not diminish licensor's proprietary title or interest. This paragraph grants no license, right, or interest in any trademark, trade name, or service mark.

b. Term: The license term shall begin the date the product is accepted. Where a license involves licensee's right to copy a previously licensed and accepted master copy, the term shall begin the date the purchase order is executed.

c. Documentation: Upon request, the Contractor/Authorized Dealer shall deliver to the licensee at the Contractor's expense (1) one master electronic copy and one hard copy of product documentation or (2) one master electronic copy and hard copies of the product documentation by type of license in the following amounts, unless otherwise agreed: for individual/named user, one copy per licensee; for concurrent users, ten copies per site; for processing capacity, ten copies per site. The master electronic copy shall be in either CD-ROM or other acceptable format and usable without conversion (for example, if a unit has only a CD-ROM drive, software shall be provided on CD). The Contractor hereby grants the Customer a perpetual license right to make, reproduce (including downloading electronic copies), and distribute, either electronically or otherwise, copies of product documentation as necessary to enjoy full use of the product in accordance with the terms of the license.

d. Technical Support and Maintenance: Licensee may elect the technical support and maintenance ("maintenance") set forth in the Contract by giving written notice to the Contractor any time during the Contract term. Maintenance shall include, at a minimum, (1) providing error corrections, patches, updates, revisions, fixes, upgrades, and new releases to licensee, and (2) Help Desk assistance accessible via

toll-free or local telephone call or on-line. The Contractor shall maintain the products so as to provide licensee with the ability to use the products in accordance with the product documentation, without significant functional downtime to ongoing operations during the maintenance term. The maintenance term(s) and any renewals are independent of the Contract term. The Customer may discontinue maintenance at the end of any current maintenance term upon notice to the Contractor; provided, the term shall not automatically renew. If the Customer does not initially acquire, or discontinues, maintenance, the Customer may at any later time reinstate maintenance without any penalties or other charges, by paying the Contractor the amount, if any, that would have been due under the Contract for the period that maintenance had lapsed, or for twelve months, whichever is less.

e. Transfers/Reassignment: Licensee's operations may be altered, expanded, or diminished. Licenses may be transferred, renegotiated or combined for use at an alternative or consolidated site not originally specified in the license, including transfers between agencies and sites. There shall be no additional license or other transfer fees due, provided that (1) the maximum capacity of the consolidated machine is equal to the combined individual license capacity of all licenses running at the consolidated or transferred site (see pricing model in Section 5.16.2) or (2) if the maximum capacity of the consolidated machine is greater than the individual license capacity being transferred, a logical or physical partition or other means of restricting access will be maintained within the computer system to restrict use and access to the product to that unit of licensed capacity solely dedicated to beneficial use for licensee. If the maximum capacity of the consolidated machine is greater than the combined individual license capacity of all licenses running at the consolidated or transferred site, and a logical or physical partition or other means of restricting use is not available, the fees due the Contractor shall not exceed the fees otherwise payable for a single license for the upgrade capacity.

f. Restricted Use by Third Parties: Outsourcers, facilities management, service bureaus, or other services retained by licensee shall have the right to use the product to maintain licensee's operations, including data processing, provided that (1) licensee gives notice to the Contractor of such third party, site of intended use of the product, and means of access, (2) the third party has executed, or agrees to execute, the product manufacturer's standard nondisclosure or restricted use agreement, which agreement shall be accepted by the Contractor, and (3) the third party shall maintain a logical or physical partition within its computer system to restrict access to the program to that portion solely dedicated to beneficial use for licensee. Licensee shall not be liable for any third party's compliance or noncompliance with the terms of the nondisclosure agreement, nor shall the nondisclosure agreement create or impose any liabilities on the State or the licensee. Any third party with whom a licensee has a relationship for a State function or business activity shall have the temporary right to use product (e.g., Java applets), provided that such use shall be limited to the period during which the third party is using the product for the function or activity.

g. Archival Backup: Licensee may use and copy the product and related documentation in conjunction with reproducing a reasonable number of copies for archival backup and disaster recovery procedures.

h. Source Code Escrow: If either the product manufacturer/developer or the Contractor offers source code or source code escrow to any other commercial customer, or if either entity seeks bankruptcy protection, then the Contractor shall either (1) provide licensee with source code for the product, (2) place the source code in a third-party escrow arrangement with a designated escrow agent, which shall be identified to the Department, and which shall be directed to release the deposited source code in accordance with a standard escrow agreement acceptable to the Department, or (3) certify to the Department that the product manufacturer/developer has named the State, acting by and through the Department, and the licensee, as named beneficiaries of an established escrow arrangement with its designated escrow agent, which shall be identified to the Department and licensee, and which shall be directed to release the deposited source code in accordance with the terms of escrow. Source code, as well as any corrections or enhancements, shall be updated for each new release of the product in the same manner as provided above and such updates shall be certified in writing to the Department. The Contractor shall identify the escrow agent upon commencement of the Contract term and shall certify annually that the escrow remains in effect in compliance with the terms of this paragraph. The State may release the source code to licensees under the Contract which have licensed the product or obtained services, and which may use the copy of the source code to maintain the product.

i. Confidentiality: The product is a trade secret, copyrighted and propriety product. Licensee and its employees shall not disclose or otherwise distribute or reproduce any product to anyone other than as authorized under the Contract. Licensee shall not remove or destroy any of the Contractor's proprietary markings.

j. Restricted Use: Except as expressly authorized by the terms of license, licensee shall not: copy the product; cause or permit reverse compilation or reverse assembly of the product or any portion; or export the product in violation of any U.S. Department of Commerce export administration regulations.

k. Proof of License: The Contractor shall provide to each licensee that places a purchase order either (1) the product developer's certified license confirmation certificates in the name of the licensee or (2) a written confirmation from the proprietary owner accepting the product invoice as a proof of license. The Contractor shall submit a sample certificate, or alternative confirmation, which shall be in a form acceptable to the licensee.

l. Audit of Licensed Usage: The Contractor may periodically audit, no more than annually and at its expense, use of licensed product at any site where a copy resides provided that (1) the Contractor gives licensee at least thirty days written advance notice, (2) the audit is conducted during the licensee's normal business hours, (3)

the audit is conducted by a State Inspector General's office or, for non-State licensees, by an independent auditor chosen by mutual agreement of the licensee and Contractor as follows: the Contractor shall recommend a minimum of three auditing/accounting firms, from which the licensee shall select one; in no case shall the Business Software Alliance, Software Publishers Association, or Federation Against Software Theft be recommended by the Contractor or used, directly or indirectly, to conduct audits, (4) the Contractor and licensee shall designate a representative who shall be entitled to participate, who shall mutually agree on audit format, and who shall be entitled to copies of all reports, data, or information obtained from the audit, and (5) if the audit shows that the licensee was not in compliance, the licensee shall purchase additional licenses or capacities necessary to bring it into compliance and shall pay for the unlicensed capacity at the Contract price then in effect or, if none, then at the Contractor's U.S. commercial list price. Once such additional licenses and capacities are purchased, licensee shall be deemed to have been in compliance retroactively, and licensee shall have no further liability of any kind for the unauthorized use of the product.

m. Bankruptcy: The Contract is subject to the terms of section 365(n) of the United States Bankruptcy Code ("Code") if the licensor files a bankruptcy petition. Licensor's failure to perform its continuing obligations shall constitute a material breach of the Contract excusing performance by the licensee. Royalty payments for use of intellectual property shall be separate from and independent of payments for performance of all other obligations under the Contract (e.g., continuing development obligations, maintenance and support obligations, obligations to provide updates, indemnity obligations, etc.). Upon request, the licensor shall furnish licensee any intellectual property, as defined in the Code, and any embodiment of that intellectual property held by the licensor. If licensee must hire third-parties to perform support, maintenance, or development tasks previously performed by licensor, the licensee may provide intellectual property to such third-parties without violating non-disclosure or exclusivity provisions.

SECTION 7.0

FORMS, ATTACHMENTS, AND WORKSHEETS

THE FORMS, ATTACHMENTS, AND WORKSHEETS ARE LOCATED IN AND ARE DOWNLOADABLE FROM THE MYFLORIDAMARKETPLACE SOURCING TOOL.

CONTENTS

7.1 PRICE SHEET
7.2 SAVINGS/PRICE REDUCTIONS
7.3 CONTACT INFORMATION
7.4 ORDERING INSTRUCTIONS
7.5 CERTIFICATION OF DRUG-FREE WORKPLACE PROGRAM (PUR 7009)
7.6 REFERENCES FORM
7.7 STC CHANGE FORM
7.8 CONTRACT
7.9 STATE OF FLORIDA VENDOR RESPONSIBILITY QUESTIONNAIRE
7.10 PUNCH-OUT CAPABILITY QUESTIONNAIRE
7.11 MYFLORIDAMARKETPLACE ELECTRONIC INVOICING REQUIREMENTS
7.12 PRODUCT CATEGORY LIST
7.13 EMERGENCY SITUATIONS FORM
7.14 VENDOR CHECKLIST
7.15 STC QUARTERLY REPORT FORM
7.16 SAMPLE ARAVO TEMPLATE FOR LINE ITEM CATALOGS
7.17 AUTHORIZED DEALER FORM

5.2 Product Acceptance.

Unless otherwise provided by mutual agreement of the Eligible Users and the Contractor, Eligible User(s) shall have up to thirty (30) days from the date of delivery or download to accept all licensed software Product(s). Eligible users shall accept renewal of software maintenance or renewal of software licenses upon the effective date of the Eligible User contract or purchase order. Where the Contractor is responsible for installation, acceptance shall be from completion of installation, configuration and setup, including training and testing, as specified in the Eligible User contract or purchase order. Software that includes installation, configuration, setup, testing or training services shall be accepted (1) within the initial 30 days of delivery or (2) upon demonstrated completion of the mutually agreed to completion date for the services. Acceptance should include a signed document of acceptance from the Eligible User. Failure to provide notice of acceptance, rejection, or a deficiency statement to the Contractor by the end of the period provided under this clause or on the agreed upon date constitutes acceptance by the Eligible User(s) as of the expiration of that period. The License Term shall be extended by the time periods allowed for trial use, testing and acceptance unless the Eligible User agrees to accept the Product at completion of trial use. See Section 6.2 for additional acceptance information.

Section 5.3

The words "adapt" and "adaptation" in this section applies only to customizations or adaptations that are described in the applicable user manuals.

5.8 Contract Service Requirements

Contract(s) shall provide toll-free customer service phone support minimum of 8 hours a day, 5 days a week (Monday through Friday), except for State recognized holidays.

5.16.2 Pricing Models - Respondent shall provide pricing models for software meeting the categories in Section 6.1, Eligible Software. Prices must be submitted using the attached Price Sheet in Section 7.1 of this solicitation. Pricing models shall include one or more of the following:

xiv. MIPS
xv. Subcapacity
xvi. Partition (LPAR)
xvii. MSU
xviii. CPU
xix. Instance-Based
xx. Usage-Based
xxi. CORES
xxii. Transfer or assignment of contracts from state agencies to hosting or "primary" data centers.
xxiii. Location licensing, which will allow for a change in location and transfer of ownership.
xxiv. One-time upgrade costs
xxv. Maintenance agreements (standard and consolidated)

xxvi. Added Value such as tiered discounts, additional service, etc.
xxvii. Special Pricing Incentives
- In accordance with the terms and conditions of this Invitation to Negotiate, the Contractor may submit offerings for special pricing incentives related to areas such as competitive replacement, consolidation and standardization, or other opportunities to support cost savings to the state. Such offerings may be bundled with services as noted in Section 1.4 of this solicitation.

5.17 Price Adjustments.

Prices other than maintenance shall be firm against increase for twenty-four (24) months from the original effective date of the contract. (Vendors may submit requests for price increases for maintenance after year three. Price increase requests shall be submitted to the contract manager for approval and shall not exceed a maximum of 3% per year and may not exceed the Special Florida Price offered on the effective date of this contract.)

After the initial 24 month period, requests for price decrease for all other may be submitted by the State to the vendor, if there has been, or is, a documented decrease in cost. Price decreases may be requested by either party one (1) time per year (following the 24-month price freeze) by using the Producer Price Index (PPI) for Industry: Electronic Computer Manufacturing, as published by the U.S. Bureau of Labor Statistics. The rate adjustments will be based on the PPI (Series ID pcu5112-5112). The State may request a reduction in price any time the PPI shows de-escalation in costs.

6.2 Software Acceptance

The State has additional acceptance criteria which will be used by the Eligible User in accepting the software as part of its acceptance as defined in Section 5.2. These criteria are as follows:

6.2.1 Acceptance of Stand Alone Software: Acceptance of software products is conditioned upon the following:

- The software is free of computer viruses as determined by commercially available antivirus software.
- The software is compatible with other products in use
- The software can operate in the intended working environment and required parameters as determined by the specifications of the applicable software.
- The software was delivered with the relevant manuals or access was provided to electronic manuals as applicable.
- The required functionality is fulfilled as determined by the software operating in conformity with its applicable specifications.

6.2.2 Acceptance of self-developed software or software developed by third parties: Acceptance will be denied if any of the following occur:

- Serious errors are detected in the software which demonstrates substantial noncompliance with the applicable specifications.
- User manuals or operating instructions are not available or are inadequate to demonstrate operation of the software.

6.3 Standard Support

Contractors shall provide the following levels of support under the Contract:

- Inside delivery, with buyer set-up and installation
- Standard intellectual property owner's warranty
- 30-day money back guarantee (after acceptance criteria noted in Section 6.2), return to Contractor, with no shipping charges or restocking fee or comparable charges
- Installation advisory support – help with installation and updating of standalone applications or products in a network environment.
- Corrective support – to resolve identifiable and reproducible software product problems and to help customers identify problems that are difficult to reproduce; includes assistance with trouble-shooting and with setting configuration parameters.
- Escalation management – Establish escalation procedures and enlist specialized expertise from Contractor and selected third parties.
- Electronic software information – Provide access to software patches, a symptom-solution database, product descriptions, specifications, technical literature, etc.
- Coverage windows – minimum of 8 hours a day, 5 days a week minimum coverage Monday – Friday, excluding holidays.
- After hours contact for emergency orders (see Section 5.8 for details).

Optional Support that may be offered on particular purchases such as:

- Warranty upgrade (to 3-year maximum). Warranty upgrade may be purchased at time of system purchase or during the warranty period
- Software product and documentation updates
- Software Training (for individual products or product suites)
- Manufacturer provided installation
- Consulting Services (limited to customizations of product offered or directly related to products sold).
- Additional coverage options such as:
  - 24/7/365
  - Extended hours
- Other

Optional support levels resulting in increased cost to Customers shall be clearly and separately identified on the Contractor's authorized product and price list.

Integrated components shall carry the same support level and warranty provisions as the system. Optional support shall also be offered at the same percentage discount as the awarded category of items that the optional support is associated with.

6.4 Software License.

a. Scope: The term "customizations" in this paragraph means adaptations that are described in the applicable user manuals.

m. Bankruptcy: This section has been revised to only include the following language:
The Contract is subject to the terms of section 365(n) of the United States Bankruptcy Code ("Code") if the licensor files a bankruptcy petition. Licensor's failure to perform its continuing obligations shall constitute a material breach of the Contract excusing performance by the licensee.

Renfroe, Chelsey

From: Brown, Elizabeth
Sent: Wednesday, March 01, 2017 11:20 AM
To: Renfroe, Chelsey
Cc: Ossi, Thomas; Johnson, Kevin; Turner, Michael; Willis, Ann; Davis, Julia; Lathrop, Kenneth
Subject: FW: City of Jacksonville- Follow up
Attachments: APPROVED - CA COI all other.pdf; APPROVED - CA COI - Cyber and Prof.pdf; CA Indemnification and Insurance Requirements.docx

Chelsey,

Per our phone conversation, below is email confirmation that we have acceptable insurance certificates and verbiage from CA, Inc. to go ahead with a SOF piggyback contract.

Our attorney, Julia Davis, has confirmed that we do not need the finalized contract before going to GGAC to cancel/re-award the method of procurement from sole source to SOF piggyback.

Please let me know if you need anything else from ITD in order for this to be placed on the GGAC agenda for next week.

Thank you in advance,

Elizabeth Brown
IT Operations Manager | Information Technologies Division | Finance and Administration
Ed Ball Building, 9th Floor
Office: 904.255.8199
Cell: 904.652.9186

From: Willis, Ann
Sent: Monday, February 13, 2017 10:31 AM
To: Brown, Elizabeth
Cc: Ossi, Thomas; Johnson, Kevin
Subject: RE: City of Jacksonville- Follow up

Good Morning!

The email from the AIG underwriter stating that AIG cannot offer the 30 Day Notice of cancellation is acceptable. The contract can be piggybacked but the attached APPROVED COI's and Indemnification and Insurance Requirements must be attached to and become a part of the contract.

Ann Willis, AINS, CRIS
Property and Casualty Compliance Administrator
Risk Management Division
Department of Finance
City of Jacksonville
117 W Duval Street, Suite 335

APPROVED
By Ann Willis at 9:48 am, Feb 13, 2017

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
01/20/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Aon Risk Services Northeast, Inc.
New York NY Office
199 Water Street
New York NY 10038-3551 USA

CONTACT NAME:
PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): 800-363-0105
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	New Hampshire Ins Co	23841
INSURER B:	National Union Fire Ins Co of Pittsburgh	19445
INSURER C:	The Insurance Co of the State of PA	19429
INSURER D:	Illinois National Insurance Co	23817
INSURER E:		
INSURER F:		

INSURED
CA, Inc. and all Subsidiaries
One Computer Associates Plaza
Islandia NY 11749 USA

COVERAGES **CERTIFICATE NUMBER:** 570065312499 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. **Limits shown are as requested**

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
C	X COMMERCIAL GENERAL LIABILITY			GL3796570	04/01/2016	04/01/2017	EACH OCCURRENCE	$1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$1,000,000
							MED EXP (Any one person)	$10,000
							PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$3,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$3,000,000
	OTHER:							
A	AUTOMOBILE LIABILITY			CA 3434120 (AOS)	04/01/2016	04/01/2017	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
B	X ANY AUTO			CA 3434121 (MA)	04/01/2016	04/01/2017	BODILY INJURY (Per person)	
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	
	DED / RETENTION							
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WC015519352 (AOS)	04/01/2016	04/01/2017	X PER STATUTE / OTH-ER	
	ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N N (Mandatory in NH)	N/A		SIR applies per policy terms & conditions			E.L. EACH ACCIDENT	$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE-EA EMPLOYEE	$1,000,000
							E.L. DISEASE-POLICY LIMIT	$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Jacksonville and City's members, officials, officers, employees and agents are included as Additional Insured in accordance with the policy provisions of the general liability and auto liability policies. General Liability evidenced herein is primary and non-contributory to other insurance available to the additional insured, but only in accordance with the policy's provisions. Waiver of subrogation applies to general liability, auto liability and workers' compensation in favor of additional insured. 30 days notice of cancellation applies to the certificate holder.

CERTIFICATE HOLDER

City of Jacksonville
Attention: Chief of Risk Management
117 W. Duval Street
Suite 335
Jacksonville FL 32202 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Services Northeast, Inc.

Holder Identifier :

Certificate No : 570065312499

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AGENCY CUSTOMER ID: 460000000525
LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY Aon Risk Services Northeast, Inc.	NAMED INSURED CA, Inc. and all Subsidiaries
POLICY NUMBER See Certificate Number: 570065312499	
CARRIER See Certificate Number: 570065312499 — NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 **FORM TITLE:** Certificate of Liability Insurance

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER	
INSURER	
INSURER	
INSURER	

ADDITIONAL POLICIES If a policy below does not include limit information, refer to the corresponding policy on the ACORD certificate form for policy limits.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
	WORKERS COMPENSATION							
A		N/A		WC015519351 (FL) SIR applies per policy terms & conditions	04/01/2016	04/01/2017		
B		N/A		WC015519354 (CA) SIR applies per policy terms & conditions	04/01/2016	04/01/2017		
D		N/A		WC015519353 (MA, OH, WA, WI) SIR applies per policy terms & conditions	04/01/2016	04/01/2017		

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ACORD®

CE

APPROVED
By Ann Willis at 9:52 am, Feb 13, 2017

DATE (MM/DD/YYYY)
01/19/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Marsh USA Inc
1166 Avenue of the Americas
New York, NY 10036-2774
Attn NewYork Certs@marsh.com Fax 212 948-0500

CONTACT NAME:
PHONE (A/C, No, Ext): FAX (A/C, No):
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Illinois National Insurance Company	23817
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
CA, Inc.
One CA Plaza
and all locations
Islandia, NY 11749

COVERAGES CERTIFICATE NUMBER: NYC-008704878-06 REVISION NUMBER: 19

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	CLAIMS-MADE / OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER						GENERAL AGGREGATE	$
	POLICY / PRO-JECT / LOC						PRODUCTS - COMP/OP AGG	$
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS / NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DED / RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N	N/A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Professional Liability			01-261-69-14	04/01/2016	04/01/2017	Limit:	1,000,000
A	Cyber Liability			01-261-69-14	04/01/2016	04/01/2017	Limit:	1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Jacksonville is included as Additional Insured where required by written contract. Waiver of subrogation is applicable in favor of City of Jacksonville, its members, officials, officers employees and agents where required by written contract and subject to policy terms and conditions. Should any of the above policies be cancelled, the insurance Company will endeavor to send written notice of cancellation to the certificate holder at least 30 days prior to the cancellation date applicable to the policies.

CERTIFICATE HOLDER

City of Jacksonville
Attention: Chief of Risk Management
117 W. Duval Street, Suite 335
Jacksonville, FL 32202

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
of Marsh USA Inc.

Morgan Frick — Morgan Frick

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EXHIBIT B
INDEMNIFICATION

Company shall hold harmless, indemnify, and defend the City of Jacksonville and City's members, officers, officials, employees and agents (collectively the "Indemnified Parties") from and against, without limitation, any and all claims, suits, actions, losses, damages, injuries, liabilities, fines, penalties, costs and expenses of whatsoever kind or nature, which may be incurred by, charged to or recovered from any of the foregoing Indemnified Parties for:

1. General Tort Liability, for any negligent act, error or omission, recklessness or intentionally wrongful conduct on the part of the Indemnifying Parties that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to the Indemnifying Parties' performance of the Contract, operations, services or work performed hereunder; and

2. Environmental Liability, to the extent this Contract contemplates environmental exposures, arising from or in connection with any environmental, health and safety liabilities, claims, citations, clean-up or damages whether arising out of or relating to the operation or other activities performed in connection with the Contract; and

3. Intellectual Property Liability, to the extent this Contract contemplates intellectual property exposures, arising directly or indirectly out of any allegation that the Services, any product generated by the Services, or any part of the Services as contemplated in this Contract, constitutes an infringement of any copyright, patent, trade secret or any other intellectual property right. If in any suit or proceeding, the Services, or any product generated by the Services, is held to constitute an infringement and its use is permanently enjoined, the Indemnifying Parties shall, immediately, make every reasonable effort to secure within 60 days, for the Indemnified Parties a license, authorizing the continued use of the Service or product. If the Indemnifying Parties fail to secure such a license for the Indemnified Parties, then the Indemnifying Parties shall replace the Service or product with a non-infringing Service or product or modify such Service or product in a way satisfactory to Buyer, so that the Service or product is non-infringing.

If an Indemnifying Party exercises its rights under this Contract, the Indemnifying Party will (1) provide reasonable notice to the Indemnified Parties of the applicable claim or liability, and (2) allow Indemnified Parties, at their own expense, to participate in the litigation of such claim or liability to protect their interests. **The scope and terms of the indemnity obligations herein described are separate and apart from, and shall not be limited by any insurance provided pursuant to the Contract or otherwise. Such terms of indemnity shall survive the expiration or termination of the Contract.**

In the event that any portion of the scope or terms of this indemnity is in derogation of Section 725.06 or 725.08 of the Florida Statutes, all other terms of this indemnity shall remain in full force and effect. Further, any term which offends Section 725.06 or 725.08 of the Florida Statutes will be modified to comply with said statutes.

EXHIBIT C
Insurance Requirements

Without limiting its liability under this Contract, Company shall at all times during the term of this Contract procure prior to commencement of work and maintain at its sole expense during the life of this Contract (and Company shall require its, subcontractors, laborers, materialmen and suppliers to provide, as applicable), insurance of the types and limits not less than amounts stated below:

Insurance Coverages

Schedule	Limits
Worker's Compensation	Florida Statutory Coverage
Employer's Liability	$ 100,000 Each Accident
	$ 500,000 Disease Policy Limit
	$ 100,000 Each Employee/Disease

This insurance shall cover the Company (and, to the extent they are not otherwise insured, its subcontractors) for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employers' Liability Act, USL&H and Jones, and any other applicable federal or state law.

Commercial General Liability	$2,000,000	General Aggregate
	$2,000,000	Products & Comp. Ops. Agg.
	$1,000,000	Personal/Advertising Injury
	$1,000,000	Each Occurrence
	$ 50,000	Fire Damage
	$ 5,000	Medical Expenses

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those reasonably required by the City's Office of Insurance and Risk Management. An Excess Liability policy or Umbrella policy can be used to satisfy the above limits.

Automobile Liability $1,000,000 Combined Single Limit
(Coverage for all automobiles, owned, hired or non-owned used in performance of the Contract)

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Business Auto Coverage Form (ISO Form CA0001) as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or equivalent manuscript form, must be attached to the policy equivalent endorsement as filed with ISO (i.e., mandatory endorsement).

Professional Liability (Technology E&O) $1,000,000 per Claim and Aggregate

Any entity hired to perform professional services as a part of this contract shall maintain professional liability coverage on an Occurrence Form or a Claims Made Form with a retroactive date to at least the first date of this Contract and with a three year reporting option beyond the annual expiration date of the policy.

Cyber Liability & Data Storage $1,000,000 per Claim and Aggregate

Such insurance shall be on a form acceptable to the City and shall cover, at a minimum, the following:

- Data Loss and System Damage Liability (when applicable)
- Security Liability
- Privacy Liability
- Privacy/Security Breach Response Coverage, including Notification Expenses

Such Cyber Liability coverage must be provided on an Occurrence Form or, if on a Claims Made Form, the retroactive date must be no later than the first date of this Contract and such claims-made coverage must respond to all claims reported within three years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

The Cyber Liability coverage may be included as part of the Professional Liability (Technology E&O) coverage required above.

Additional Insurance Provisions

A. Additional Insured: All insurance except Worker's Compensation and Professional Liability shall be endorsed to name the City of Jacksonville and City's members, officials, officers, employees and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010; Automobile Liability CA2048.

B. Waiver of Subrogation. All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City of Jacksonville and its members, officials, officers employees and agents.

C. Company's Insurance Primary. The insurance provided by the Company shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City or any City members, officials, officers, employees and agents.

D. Deductible or Self-Insured Retention Provisions. All deductibles and self-insured retentions associated with coverages required for compliance with this Contract shall remain the sole and exclusive responsibility of the named insured Company. Under no circumstances will the City of Jacksonville and its members, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Contract.

E. Company's Insurance Additional Remedy. Compliance with the insurance requirements of this Contract shall not limit the liability of the Company or its Subcontractors, employees or agents to the City or others. Any remedy provided to City or City's members, officials, officers, employees or agents shall be in addition to and not in lieu of any other remedy available under this Contract or otherwise.

F. Waiver/Estoppel. Neither approval by City nor failure to disapprove the insurance furnished by

Company shall relieve Company of Company's full responsibility to provide insurance as required under this Contract.

G. Certificates of Insurance. Company shall provide the City Certificates of Insurance that shows the corresponding City Contract Number in the Description, if known, Additional Insureds as provided above and waivers of subrogation. The certificates of insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.

H. Carrier Qualifications. The above insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.

I. Notice. The Company shall provide an endorsement issued by the insurer to provide the City thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal. If such endorsement is not available then the Company, as applicable, shall provide said a thirty (30) days written notice of any change in the above coverages or limits, coverage being suspended, voided, cancelled, including expiration or non-renewal.

J. Survival. Anything to the contrary notwithstanding, the liabilities of the Company under this Contract shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.

K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the City may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the City also be named as an additional insured.

L. Special Provisions: Prior to executing this Agreement, Company shall present this Contract and Exhibit B & C to its Insurance Agent affirming: 1) That the Agent has personally reviewed the insurance requirements of the Contract Documents, and(2) That the Agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of Company.

QWS3270X 3/6/2017 7:19 AM
FAML6350 V5.1 ** NW COJ FAMIS PRODUCTION ** 03/06/2017
LINK TO: ACCOUNT SUMMARY INQUIRY 7:19 AM

FISCAL MO/YEAR : 06 2017 CURRENCY CODE :
INDEX CODE : AFIT531CSCS INFORMATION TECHNOLOGIES
SUBOBJECT : 04662 HARDWARE/SOFTWARE MAINTENANCE & LICENSES
PROJECT :
PROJECT DETAIL :
GRANT :
GRANT DETAIL :
USER CODE :

S	MAR 2017	ANNUAL BALANCE	ALL YEARS BALANCE
ESTIMATED REVENUES	.00	.00	.00
REVENUES	.00	.00	.00
UNREALIZED REVENUES	.00	.00	.00
BUDGET	.00	3,652,165.49	3,652,165.49
EXPENDITURES	6,593.07	1,961,688.61	1,961,688.61
ENCUMBRANCES	-5,421.43	818,842.35	818,842.35
PRE-ENCUMBRANCES	13,296.00	13,296.00	13,296.00
REMAINING BALANCE	-14,467.64	858,338.53	858,338.53

F1-HELP F2-SELECT F4-PRIOR F5-NEXT
F9-LINK F10-PRIOR-MO F11-NEXT-MO

G014 - RECORD FOUND