

REQUEST FOR PROPOSALS

RFP NUMBER: 0A1300
DATE ISSUED: February 26, 2021

The State of Ohio, through the Department of Administrative Services (DAS), is requesting proposals for:
Managed Services Provider for IT Staff Augmentation Services.

Managed Services Provider for IT Staff Augmentation Services RFP

INQUIRY PERIOD BEGINS: February 26, 2021
INQUIRY PERIOD ENDS: March 12, 2021 at 8:00 am (Columbus, OH local time)
OPENING DATE: March 24, 2021
OPENING TIME: 1:00 pm (Columbus, Ohio local time)
OPENING LOCATION: Department of Administrative Services
Bid Desk
4200 Surface Road
Columbus, Ohio 43228-1313

This RFP consists of seven (7) parts, eleven (11) attachments and eight (8) supplements totaling 70 consecutively numbered pages. Supplements are also attached to this RFP with a beginning header page. Please verify that you have a complete copy.

PART ONE: EXECUTIVE SUMMARY

Purpose. This is a Request for Competitive Sealed Proposals (“RFP”) under Sections 125.071 and 125.18 of the Ohio Revised Code (the “Revised Code”) and Section 123:5-1-8 of the Ohio Administrative Code (the “Administrative Code”). The Ohio Department of Administrative Services (DAS) is soliciting competitive sealed proposals (“Proposals”) for the provision of hourly based information technology services through a Managed Service Provider (MSP) model (the “Work”), and this RFP to fulfill that request. (the “Project”), and this RFP is the result of that request.

The purpose of this Request for Proposal (RFP) is to solicit proposals to pursue a statewide agreement for a comprehensive MSP solution that will manage and administer a network of enrolled providers (or “Subcontractors”), a Vendor Management System (VMS), and the IT staff augmentation process (the “IT Staff Augmentation Services Program”). This RFP provides details on what is required to submit a Proposal for the Work, how the State will evaluate the Proposals, and what will be required of the Contractor in performing the Work.

Background. The State has had an MSP solution for IT staff augmentation services since February 2012 and its current MSP is GuideSoft, Inc. dba Knowledge Services. More information on this contract is available at <http://www.das.ohio.gov/Divisions/GeneralServices/ProcurementServices/ITStaffAugmentation.aspx>. The State is seeking an experienced Contractor who can continue the initiative to provide the processes, resources, expertise and technology to manage the State’s IT staff augmentation workforce needs. The program provides Ohio state agencies and other eligible public entities with an effective and efficient process that is consistent and transparent for procuring and managing quality IT staff augmentation services.

RFP Process. If a suitable offeror solution is made in response to this RFP, the State, through the Department of Administrative Services (DAS), may enter into a contract (the “Contract”) to have the selected Offeror (the “Contractor”) perform all or part of the Project.

This RFP provides details on what is required to submit a Proposal for the Project, how the State will evaluate the Proposals, and what will be required of each Contractor in performing the Project.

This RFP also gives the estimated dates for the various events in the submission process, selection process, and performance of the Project. While these dates are subject to change, prospective offerors must be prepared to meet them as they currently stand.

Once awarded, the term of the Contract will be from the award date until the Project is completed to the satisfaction of the State and the Contractor is paid or June 30, 2023 whichever is sooner. The State may renew this Contract for up to two (2) additional two (2) year term(s), subject to and contingent on the discretionary decision of the Ohio General Assembly to appropriate funds for this Contract in each new biennium for a maximum contract term expiring June 30, 2027. Any such renewal of all or part of the Contract also is subject to the satisfactory performance of the Contractor and the needs of the State.

The State may reject any Proposal if the offeror fails to meet a deadline in the submission or evaluation phases of the selection process or objects to the dates for performance of the Project or the terms and conditions in this RFP.

Minority Business Enterprise (MBE). The State is committed to improving the number of minority-owned enterprises that do business with the State of Ohio. A "minority-owned enterprise" is an individual, partnership, corporation or joint venture of any kind that is owned and controlled by U. S. Citizens and residents of Ohio, who are and have held themselves out as members of the following socially and economically disadvantaged groups: Blacks, American Indians, Hispanics and Asians.

The offeror is encouraged to seek out and set aside work for Ohio certified minority business enterprises (MBEs). The MBE must be certified by the Ohio Department of Administrative Services pursuant to ORC 123.151. For more information regarding MBE and MBE certification requirements please refer to the DAS Equal Opportunity Division Web site at: <https://das.ohio.gov/Divisions/Equal-Opportunity>.

In addition, to search for Ohio MBE-Certified Providers, utilize the following search routine published on the DAS Equal Opportunity Division website:

- Select “MBE Certified Providers” as the EOD Search Area selection;
- On the subsequent screen, at minimum, select the appropriate Procurement Type, e.g., “Information Technology Service” as a search criterion;
- Select “Search”; and
- A list of Ohio MBE Certified Service Providers will be displayed.

Scope of Work. An overview of the Project scope of work is provided below. The Project’s scope of the work and requirements are provided in greater detail within Supplement 1 to this RFP.

The Contractor must provide cost savings and process improvement benefits to the State while providing a high level of quality candidates for job titles listed in Supplement Three, Job Titles and Descriptions. The State is seeking a vendor neutral model where the MSP and its VMS solution will not push orders to itself or give an unfair advantage to any enrolled network provider in the placement of any IT staff augmentation services order. The Contractor awarded the contract resulting from this RFP is prohibited from providing or proposing staff augmentation resources to fill positions they post for State agencies unless authorized by DAS in writing. This limitation also applies to the Contractor’s parent company and any of its subsidiaries. Additionally, the Contractor is prohibited from providing resources to an enrolled network provider as a subcontractor. DAS will make any exception determinations on a case-by-case basis.

The goals of the IT Staff Augmentation Services program are to:

1. Reduce the costs associated with engaging and managing IT staff augmentation services;
2. Increase competition for IT staff augmentation services;
3. Provide opportunities for all suppliers of IT staff augmentation services, including Minority Business Enterprise (MBE) and Encouraging Diversity, Growth and Equity (EDGE) programs;
4. Implement processes and policies that ensure compliance with State and Federal legal, statutory, and regulatory requirements;
5. Track, monitor and manage Supplier (MSP/VMS) and enrolled network provider performance;
6. Enhance visibility into the State’s IT staff augmentation services spending;
7. Increase the overall quality and speed of supplemental staff replacements; and
8. Allow other governmental entities to utilize the Contract and contracted rates.

To meet these goals, the State is seeking an IT staff augmentation services solution administered by a Managed Services Provider that:

1. Provides a broad range of IT staff augmentation resources for State of Ohio Agencies and other eligible entities by:
 - a) Providing timely and responsive service;
 - b) Providing a service structure with flexible rates and categories to meet emerging business needs and recognize service duration and engagement stability.
2. Provides visibility and oversight of the IT staff augmentation services program by:
 - a) Managing spend;
 - b) Ensuring rates in line with the market;

- c) Managing enrolled network provider(s) throughout engagement lifecycle;
 - d) Ensuring and tracking performance of IT Staff Augmentation Services Program, enrolled network providers, and engagements;
 - e) Standardizing definition of job categories and specialty areas;
 - f) Ensuring and tracking compliance with state policy and program procedures.
3. Promotes efficiency in Government by:
- a) Implementing repeatable, consistent processes;
 - b) Implementing a simple workflow;
 - c) Adapting a service and rate structure in response to market driven rates;
 - d) Supporting future demands and market changes.
4. Supports statewide initiatives including:
- a) Addressing the State's goals for Minority Business Enterprise (MBE) and Encouraging Diversity, Growth and Equity (EDGE) programs;
 - b) Mentoring MBE and EDGE enrolled network providers;
 - c) Identifying opportunities for creating efficiencies in state government;
 - d) Exploring innovative ways to deliver state services at the lowest cost and best value to Ohio taxpayers;
 - e) Seeking out means to more effectively and efficiently perform core state functions;
 - f) Demonstrating opportunities for the IT staff augmentation services program to be more transparent, user friendly and accountable to the citizens of the State of Ohio.

Calendar of Events. The schedule for the RFP process and the Project is given below. The State may change this schedule at any time. If the State changes the schedule before the Proposal due date, it will do so through an announcement on the State Procurement Website's question and answer area for this RFP. The Website announcement will be followed by an amendment to this RFP, also available through the State's Procurement Website. After the Proposal due date and before the award of the Contract, the State will make schedule changes through the RFP amendment process. Additionally, the State will make changes in the Work schedule after the Contract award through the change order provisions in the General Terms and Conditions Attachment to this RFP. It is each prospective offeror's responsibility to check the Website question and answer area for this RFP for current information regarding this RFP and its Calendar of Events through award of the Contract.

Dates:

Firm Dates

RFP Issued:	February 26, 2021
Inquiry Period Begins:	February 26, 2021
Inquiry Period Ends:	March 12, 2021 at 8:00 AM (Columbus, Ohio local time)
Proposal Due Date:	March 24, 2021 at 1:00 PM (Columbus, Ohio local time)

Estimated Dates

Award Date:	April 2021
Work Begins:	April-May 2021

There are references in this RFP to the Proposal due date. Unless it is clearly provided to the contrary in this RFP, any such reference means the date and time (Columbus, Ohio local time) that the Proposals are due and not just the date.

PART TWO: STRUCTURE OF THIS RFP

Organization. This RFP is organized into five parts and has eleven (11) attachments. The parts and attachments are listed below. There also may be one or more supplements to this RFP listed below.

Parts:

- Part 1 Executive Summary
- Part 2 Structure of this RFP
- Part 3 General Instructions
- Part 4 Evaluation of Proposals
- Part 5 Award of the Contract

Attachments:

- Attachment One Evaluation Criteria
- Attachment Two Special Provisions
- Attachment Three Requirements for Proposals
- Attachment Four General Terms and Conditions
- Attachment Five Sample Contract
- Attachment Six Offeror Certification Form
- Attachment Seven Offeror Profile Summary
- Attachment Eight Candidate Profile Forms
- Attachment Nine Affirmation and Disclosure
- Attachment Ten: Offeror Cost Proposal and Blank Rate Card Form
- Attachment Eleven: Rate Card

Supplements:

- Supplement 1 Scope of Work
- Supplement 2 Current Contract Utilization
- Supplement 3 Job Titles and Descriptions
- Supplement 4 Service Level Agreements
- Supplement 5 Sample Reports
- Supplement 6 Ohio IT Staff Augmentation Services Contract Rate Card
- Supplement 7 State IT Policy, Standard and Service Requirements
- Supplement 8 State Information Security and Privacy Requirements,
State Data Handling Requirements

PART THREE: GENERAL INSTRUCTIONS

The following sections provide details on how to get more information about this RFP and how to respond to it. All responses must be complete and in the prescribed format.

Contacts. The following person(s) will represent the State during the RFP process:

Procurement Representatives:

Jim Sutton and Jeff Miller, IT Acquisition Analysts
Department of Administrative Services
General Services Division
Office of Procurement Services
Enterprise IT Contracting
4200 Surface Road
Columbus, Ohio 43228

During the performance of the Project, a State representative (the "Project Representative") will represent the State and be the primary contact for the Project. The State will designate the Project Representative after the Contract award.

Inquiries. Offerors may make inquiries regarding this RFP anytime during the inquiry period listed in the Calendar of Events. To make an inquiry, offerors must use the following process:

- Access the State's Procurement Website at <http://procure.ohio.gov/>
- From the Quick Links menu on the right, select "**Bid Opportunities Search**";
- In the "**Document/Bid Number**" field, enter the RFP number found on the first page of this RFP (the RFP number begins with zero followed by the letter "A");
- Select "**Request for Proposal**" from the Opportunity Type dropdown;
- Click the "**Search**" button;
- On the Procurement Opportunity Search Results page, click on the hyperlinked **Document/Bid Number**;
- On the Procurement Opportunity Details page, click the "**Submit Inquiry**" button;
- On the document inquiry page, complete the required "**Personal Information**" section by providing:
 - First and last name of prospective offeror's representative who is responsible for the inquiry,
 - Representative's business phone number,
 - Company Name,
 - Representative's email address;
- Type the inquiry in the space provided including:
 - A reference to the relevant part of this RFP,
 - The heading for the provision under question, and
 - The page number of the RFP where the provision can be found; and
- Enter the Confirmation Number at the bottom of the page
- Click the "**Submit**" button.

An offeror submitting an inquiry will receive an immediate acknowledgement that the State has received the inquiry as well as an email acknowledging receipt. The offeror will not receive a personalized response to the question nor notification when the State has answered the question.

Offerors may view inquiries and responses on the State's Procurement Website by using the "Bid Opportunities Search" feature described above and by clicking the "View Q & A" button on the document information page.

The State usually responds to all inquiries within three (3) business days of receipt, excluding weekends and State holidays. But the State will not respond to any inquiries received after 8:00 a.m. on the inquiry end date.

The State does not consider questions asked during the inquiry period through the inquiry process as exceptions to the terms and conditions of this RFP. **Amendments to the RFP.** If the State revises this RFP before the Proposals are due, it will announce any amendments on the State Procurement Website.

Offerors may view amendments by using the "Bid Opportunities Search" function of the State's Procurement Webpage (described in the Inquiries Section above) and then clicking on the amendment number to display the amendment.

When an amendment to this RFP is necessary, the State may extend the Proposal due date through an announcement on the State Procurement Website. The State may issue amendment announcements any time before 5:00 p.m. on the day before Proposals are due, and it is each prospective offeror's responsibility to check for announcements and other current information regarding this RFP.

After the Proposal due date, the State will distribute amendments only to those offerors whose Proposals are under active consideration. When the State amends the RFP after the due date for Proposals, the State will permit offerors to withdraw their Proposals within five business days after the amendment is issued. This withdrawal option will allow any offeror to remove its Proposal from active consideration should the offeror feel that the amendment changes the nature of the transaction so much that the offeror's Proposal is no longer in its interest. Alternatively, the State may allow offerors that have Proposals under active consideration to modify their Proposals in response to the amendment.

If the State allows offerors to modify their Proposals in response to an amendment, the State may limit the nature and scope of the modifications. Unless otherwise provided in the State's notice, offerors must make any modifications or withdrawals in writing and submit them to the State within five business days after the amendment is issued at the address and in the same manner required for the submission of the original Proposals. If this RFP provides for a negotiation phase, this submission procedure will not apply to changes negotiated during that phase. The State may reject any modification that is broader in scope than the State has authorized in the announcement of the amendment and treat it as a withdrawal of the offeror's Proposal.

Proposal Submittal. Each offeror must submit a technical section and a cost section as part of its total Proposal before the opening time on the Proposal due date. The offeror must submit the technical section as a separate package from the cost section of its Proposal, and each section must be submitted in its own separate, opaque package. The package with the technical section of the Proposal must be sealed and contain one (1) originally signed technical section and [2] additional copies of the technical section, and the package with the cost section also must be sealed and contain [2] complete copies of the cost section of the Proposal.

The offeror must mark the outside of each package with either:

"RFP #0A1300 – Managed Services Provider for IT Staff Augmentation Services – Technical Proposal" or
"RFP #0A1300 - Managed Services Provider for IT Staff Augmentation Services – Cost Proposal," as appropriate.

Included in each sealed package, the offeror also must provide an electronic "searchable" copy of everything contained within the package on a flash drive (portable storage device) in Microsoft Office (native format), Microsoft Word (native format), Microsoft Project (native format), Microsoft Excel (native format) and Adobe Acrobat format, as appropriate. If there is a discrepancy between the hard copy and the electronic copy of the Proposal, the hard copy will control, and the State will base its evaluation of the offeror's Proposal on the hard copy.

Proposals are due no later than 1:00 p.m. on the Proposal due date. Proposals submitted by email, fax, or other electronic means are not acceptable, and the State may reject them. Offerors must submit their Proposals to:

Department of Administrative Services
Attn: Jim Sutton/Jeff Miller c/o Bid Desk RFP 0A1300
4200 Surface Road
Columbus, Ohio 43228

Bid Desk Main Phone Number: 614-466-5090

The State may reject any Proposals or unsolicited modifications it receives after the deadline. An offeror that mails its Proposal must allow for adequate mailing time to ensure its timely receipt. Offerors also must allow for potential delays due to increased security. The Bid Desk accepts packages between the hours of 7:30 A.M. to 5:00 P.M. Monday through Friday, excluding State Holidays. No deliveries will be accepted before or after these hours without prior arrangements. Offerors must allow sufficient time since the State may reject late Proposals regardless of the cause for the delay.

Each offeror must carefully review the requirements of this RFP and the contents of its Proposal. Once opened, Proposals cannot be altered or withdrawn, except as allowed by this RFP.

By submitting a Proposal, the offeror acknowledges it has read this RFP, understands it, and agrees to be bound by its requirements. The State is not responsible for the accuracy of any information regarding this RFP that was gathered through a source other than the inquiry process described in the RFP.

Revised Code Section 9.24 prohibits the State from awarding a contract to any entity against whom the Auditor of State has issued a finding for recovery (a "Finding"), if the Finding is unresolved at the time of the award. This also applies to renewals of contracts. By submitting a Proposal, the offeror warrants it is not subject to an unresolved Finding under Section 9.24 at the time of its submission. Additionally, the offeror warrants it will notify the Department of Administrative Services in writing immediately upon becoming subject to such an unresolved Finding after submitting its Proposal and before the award of a Contract under this RFP. Should the State select the offeror's Proposal for award of a Contract, this warranty of immediate written notice will apply during the term of the Contract, including any renewals or extensions. Further, the State may treat any unresolved Finding against the Contractor that prevents a renewal of the Contract as a breach, in accordance with the provisions of Attachment Four, General Terms and Conditions.

If an offeror includes in its proposal information it considers confidential, proprietary, or trade secret exempt from disclosure in a public records request, it **must** submit a redacted version of any document containing such information, as further described in this paragraph. Offerors must only redact (black out) the specific language that is exempt from disclosure pursuant to the Ohio Public Records Act. Redaction of sections in their entirety simply because they may contain some confidential information is not acceptable. Redaction of the cost proposal in its entirety is also not acceptable. In addition to the redacted document(s), offerors must submit a list of each redaction with a detailed legal explanation for each redaction to demonstrate that the redacted information is protected under the Ohio Public Records Act. A blanket statement that all redactions are exempt from disclosure pursuant to the Ohio Public Records Act and/or the Uniform Trade Secrets Act is not a sufficient explanation. The redacted version(s) must be submitted as an electronic copy in a searchable PDF format. The redacted version(s) and accompanying explanation, as submitted, will be available for inspection and released in response to public records requests.

If redacted version(s) with the accompanying explanation are not submitted, or if an improperly redacted version or insufficient explanation is submitted, the original submission of the proposal may be provided in response to public records requests. By not submitting a redacted version with accompanying explanation, an offeror consents to the release of the original submission in response to a public records request.

The State may reject any Proposal if the offeror takes exception to the terms and conditions of this RFP, includes unacceptable assumptions or conditions in its Proposal, fails to comply with the procedure for participating in the RFP process, or fails to meet any requirement of this RFP. The State also may reject any Proposal it believes is not in its interest to accept and may decide not to award a contract to any or all of the offerors responding to this RFP.

Offerors may not prepare or modify their Proposals on State premises.

All Proposals and other material offerors submit will become the property of the State and may be returned only at the State's option. All Proposals will be open to the public after the State has awarded the Contract.

The State will retain all Proposals, or a copy of them, as part of the Contract file for at least three (3) years. After the three-year retention period, the State may return, destroy, or otherwise dispose of the Proposals and any copies of them.

Waiver of Defects. The State may waive any defects in any Proposal or in the submission process followed by an offeror, but the State will only do so if it believes that it is in the State's interest and will not cause any material unfairness to other offerors.

Multiple or Alternate Proposals. The State will not accept multiple Proposals from a single offeror or any alternative solutions or options to the requirements of this RFP. Additionally, any offeror that disregards a requirement in this RFP simply by proposing an alternative to it may have its Proposal rejected by the State. Further, any offeror that submits multiple Proposals for each of these options may have all of its Proposals rejected.

Changes to Proposals. The State will allow modifications or withdrawals of Proposals only if the State receives them before the Proposal due date. No modifications or withdrawals will be permitted after the due date, except as authorized by this RFP.

Proposal Instructions. Each Proposal must be organized in an indexed binder ordered in the same manner as the response items are ordered in the applicable attachments to this RFP. The requirements for a Proposal's contents and formatting are contained in the attachments to this RFP. The State wants clear and concise Proposals, but offerors must answer questions completely and meet all the RFP's requirements.

The State is not liable for any costs an offeror incurs in responding to this RFP or from participating in the evaluation process, regardless of whether the State awards the Contract through this process, decides not to go forward with the Work, cancels this RFP for any reason, or contracts for the Work through some other process or through another RFP.

PART FOUR: EVALUATION OF PROPOSALS

Disclosure of Proposal Contents. The State will seek to open the Proposals in a manner that avoids disclosing their contents. Additionally, the State will seek to keep the contents of all Proposals confidential until the Contract is awarded. But the State will prepare a registry of Proposals that contains the name of each offeror. The public may inspect that registry after the State opens the Proposals.

Rejection of Proposals. The State may reject any Proposal that proposes to do any work or make any State data available outside the United States. The State also may reject any Proposal for which the Contractor has not submitted the affirmation and disclosure form representing that it will ensure that all work on the Project will be done within the United States and that all State data will remain in the United States.

Evaluation of Proposals Generally. The evaluation process may consist of up to six distinct phases:

1. Initial review;
2. Technical evaluation;
3. Evaluation of costs;
4. Requests for more information;
5. Presentations and Demonstrations and
6. Contract Negotiations.

The State may decide which phases are necessary, and the State may rearrange the order in which it proceeds with the phases. The State also may add or remove sub-phases to any phase at any time, if the State believes doing so will improve the evaluation process.

Clarifications and Corrections. During the evaluation process, in the State's sole discretion, it may request clarifications from any offeror under active consideration and may give any offeror the opportunity to correct defects in its Proposal, if the State believes doing so would not result in an unfair advantage for the offeror, and it is in the State's interest. The State may reject any clarification that is non-responsive or broader in scope than what the State requested. If the State does so, or if the offeror fails to respond to the request for clarification, the State then may request a corrected clarification, consider the offeror's Proposal without the clarification, or disqualify the offeror's Proposal.

Corrections and clarifications must be completed off State premises.

Initial Review. The State will review all Proposals for their format and completeness. The State normally rejects incomplete or incorrectly formatted Proposals, though it may waive any defects or allow an offeror to submit a correction, if the State believes doing so would not result in an unfair advantage for the offeror and it is in the State's interest. Further, if the Auditor of State does not certify a Proposal due to lateness, the State will not open it. After the initial review, the State will forward all timely, complete, and properly formatted Proposals to an evaluation team, which the Procurement Representative will lead.

Technical Evaluation. The State will evaluate each Proposal that it has determined is timely, complete, and properly formatted. The evaluation will be scored according to the requirements identified in this RFP, including the requirements in Attachment One. Other attachments to this RFP may further refine these requirements, and the State has a right to break these requirements into components and weight any components of a requirement according to their perceived importance.

The State also may have the Proposals or portions of them reviewed and evaluated by independent third parties or various State personnel with experience that relates to the Work or to a criterion in the evaluation process. Additionally, the State may seek reviews from end users of the Work or the advice or evaluations of various State personnel that have subject matter expertise or an interest in the Work. The State may adopt or reject any recommendations it receives from such reviews and evaluations or give them such weight as the State believes is appropriate.

During the technical evaluation, the State will calculate a point total for each Proposal that it evaluates. At the sole discretion of the State, it may reject any Proposal receiving a significant number of zeros for sections in the technical portions of the evaluation. The State may select those offerors submitting the highest rated Proposals for the next phase. The number of Proposals that advance to the next phase will be within the State's discretion, but regardless of the number of Proposals selected, they always will be the highest rated Proposals from this phase.

At any time during this phase, in the State's sole discretion, it may ask an offeror to correct, revise, or clarify any portions of its Proposal.

The State will document all major decisions and make these a part of the Contract file, along with the evaluation results for each Proposal considered.

Requirements. Attachment One provides requirements the State will use to evaluate the Proposals, including any mandatory requirements. If the offeror's Proposal meets all the mandatory requirements, the offeror's Proposal may be included in the next phase of the evaluation, which will consider other requirements described in a table in Attachment One.

In the case of any requirements for a team of people the offeror is proposing, the offeror must submit a team to do the Work that collectively meets all the team requirements. But the experience of multiple candidates may not be combined to meet a single requirement. Further, previous experience of the candidate submitted for a Work Manager position may not be used to meet any other team member requirements. Each candidate proposed for the Work team must meet at least one of the requirements.

This RFP asks for responses and submissions from offerors, most of which represent components of the requirements in Attachment One. While each requirement represents only a part of the total basis for a decision to award the Contract to an offeror, a failure by an offeror to make a required submission or meet a mandatory requirement normally will result in a rejection of that offeror's Proposal. The value assigned above to each requirement is only a value used to determine which Proposal is the most advantageous to the State in relation to the other Proposals that the State received. It is not a basis for determining the importance of meeting that requirement.

If the State does not receive any Proposal that meets all the mandatory requirements, the State may cancel this RFP. Alternatively, if the State believes it is in its interest, the State may continue to consider the highest-ranking Proposals despite their failure to meet all the mandatory requirements. In doing this, the State may consider one or more of the highest-ranking Proposals. But the State may not consider any lower-ranking Proposals unless all Proposals ranked above it are also considered, except as provided below.

In any case where no Proposal meets all the mandatory requirements, it may be that an upper ranking Proposal contains a failure to meet a mandatory requirement that the State believes is critical to the success of the RFP's objectives. When this is so, the State may reject that Proposal and consider lower ranking Proposals. Before doing so, the State may notify the offeror of the situation and allow the offeror an opportunity to cure its failure to meet that mandatory requirement.

If the offeror cures its failure to meet a mandatory requirement that the State has deemed critical to the success of the RFP's objectives, the State may continue to consider the offeror's Proposal. But if the offeror is unwilling or unable to cure the failure, its Proposal may be rejected. The State then may continue to consider the other remaining Proposals, including, if the State so chooses, Proposals that ranked lower than the rejected Proposal.

Cost Evaluation. Once the technical merits of the Proposals are considered, the State may consider the costs of one or more of the highest-ranking Proposals. But it is within the State's discretion to wait until after any interviews, presentations, and demonstrations to evaluate costs. Also, before evaluating the technical merits of the Proposals, the State may do an initial review of costs to determine if any Proposals should be rejected because of excessive cost. And the State may reconsider the excessiveness of any Proposal's cost at any time in the evaluation process.

The State may select one or more of the Proposals for further consideration in the next phase of the evaluation process based on the price performance formula contained in Attachment One. The Proposal(s) selected for consideration in the next phase always will be the highest-ranking Proposal(s) based on this analysis. That is, the State may not move a lower-ranking Proposal to the next phase unless all Proposals that rank above it also are moved to the next phase, excluding any Proposals that the State disqualifies because of excessive cost or other irregularities.

If the State finds that it should give one or more of the highest-ranking Proposals further consideration, the State may move the selected Proposals to the next phase. The State alternatively may choose to bypass any or all subsequent phases and make an award based solely on its scoring of the preceding phases, subject only to its review of the highest-ranking offeror's responsibility, as described below.

Requests for More Information. The State may require some offerors to interview, make a presentation about their Proposals, or demonstrate their products or services. If the presentations, demonstrations, or interviews are held as part of the technical evaluation phase, all offerors that have Proposals under evaluation may participate. Alternatively, if the presentations, demonstrations, or interviews are held after the technical evaluation, the State normally will limit them to one or more of the highest ranking offerors. The State normally will limit such presentations, demonstrations, and interviews to areas in which it seeks further information from the highest ranking offeror or offerors. Typically, these discussions provide an offeror with an opportunity to do one or more of the following:

- Clarify its Proposal and ensure a mutual understanding of the Proposal's content;
- Showcase its approach to the Work; and
- Demonstrate the professionalism, qualifications, skills, and work knowledge of its proposed candidates.

The State will schedule the presentations, demonstrations, and interviews at its convenience and discretion. The State will determine the scope and format of any such presentations, demonstrations, and interviews and may record them. Additionally, if the State moves more than one offeror to this phase, the scope and format of these presentations, demonstrations, and interviews may vary from one offeror to the next, depending on the particular issues or concerns the State may have with each offeror's Proposal.

The State normally will not rank interviews, demonstrations, and presentations. Rather, if the State conducts the interviews, demonstrations, or presentations as part of the technical evaluation, the State may use the information it gathers during this process in evaluating the technical merits of the Proposals. If the State holds the demonstrations, presentations, or interviews only for one or more of the top-ranking offerors after the evaluation phase, the State may decide to revise its existing Proposal evaluations based on the results of this process.

Presentations and Demonstrations. The state may request the offeror to perform Presentations and/or Demonstrations involving its proposed solution. The state will coordinate the time and location and provide a framework for any requested presentations and/or demonstrations.

Determination of Responsibility. The State may review the background of one or more of the highest-ranking offerors and its or their key team members and subcontractors to ensure their responsibility. For purposes of this RFP, a key team member is a person that an offeror identifies by name in its Proposal as a member of its proposed team. The State will not award the Contract to an offeror that it determines is not responsible or that has proposed candidates or subcontractors to do the Work that are not responsible. The State's determination of an offeror's responsibility may include the following factors: experience of the offeror and its key team members and subcontractors, its and their past conduct on previous contracts, past performance on previous contracts, ability to execute this Contract properly, and management skill. The State may make this determination of responsibility based on the offeror's Proposal, reference evaluations, a review of the offeror's financial ability, and any other information the State requests or determines is relevant.

Some of the factors used in determining an offeror's responsibility, such as reference checks, may also be used in the technical evaluation of Proposals in phase two of the evaluation process. In evaluating those factors in phase two, the weight the State assigns to them, if any, for purposes of the technical evaluation will not preclude the State from rejecting a Proposal based on a

determination that an offeror is not responsible. For example, if the offeror's financial ability is adequate, the value, if any, assigned to the offeror's relative financial ability in relation to other offerors in the technical evaluation phase may or may not be significant, depending on the nature of the Work. If the State believes the offeror's financial ability is inadequate, the State may reject the offeror's Proposal despite its other merits.

The State may make a responsibility determination at any time during the evaluation process, but it typically will do so only once it has evaluated the technical merits and costs of the Proposals. The State always will review the responsibility of an offeror selected for an award before making the award, if it has not already done so earlier in the evaluation process. If the State determines that the offeror selected for award is not responsible, the State then may go down the line of remaining offerors, according to rank, and determine responsibility with the next highest-ranking offeror.

Reference Checks. As part of the State's determination of an offeror's responsibility, the State may conduct reference checks to verify and validate the offeror's and its proposed candidates' and subcontractors' past performance. Reference checks that indicate poor or failed performance by the offeror or a proposed candidate or subcontractor may be cause for rejection of the offeror's Proposal. Additionally, the State may reject an offeror's Proposal as non-responsive if the offeror fails to provide requested reference contact information.

The State may consider the quality of an offeror's and its candidates' and subcontractors' references as part of the technical evaluation phase, as well as in the State's determination of the offeror's responsibility. The State also may consider the information it receives from the references in weighing any requirement contained in the technical evaluation phase, if that information is relevant to the requirement. In checking an offeror's or any of its proposed candidates' or subcontractors' references, the State will seek information that relates to the offeror's previous contract performance. This may include performance with other governmental entities, as well as any other information the State deems important for the successful operation and management of the Work and a positive working relationship between the State and the offeror. In doing this, the State may check references other than those provided in the offeror's Proposal. The State also may use information from other sources, such as third-party reporting agencies.

Financial Ability. Part of State's determination of an offeror's responsibility may include the offeror's financial ability to perform the Contract. This RFP may expressly require the submission of audited financial statements from all offerors in their Proposals, but if this RFP does not make this an express requirement, the State still may insist that an offeror submit audited financial statements for up to the past three years, if the State is concerned that an offeror may not have the financial ability to carry out the Contract. Also, the State may consider financial information other than the information that this RFP requires as part of the offeror's Proposal, such as credit reports from third-party reporting agencies.

Contract Negotiations. The final phase of the evaluation process may be contract negotiations. It is entirely within the discretion of the State whether to permit negotiations. An offeror must not submit a Proposal assuming that there will be an opportunity to negotiate any aspect of the Proposal, and any Proposal that is contingent on the State negotiating with the offeror may be rejected. The State is free to limit negotiations to particular aspects of any Proposal or the RFP, to limit the offerors with whom the State negotiates, and to dispense with negotiations entirely. If negotiations are held, they will be scheduled at the convenience of the State, and the selected offeror or offerors must negotiate in good faith.

The State may limit negotiations to specific aspects of the RFP or the offeror's Proposal. Should the evaluation result in a top-ranked Proposal, the State may limit negotiations to only that offeror and not hold negotiations with any lower-ranking offeror. If negotiations are unsuccessful with the top-ranked offeror, the State then may go down the line of remaining offerors, according to rank, and negotiate with the next highest-ranking offeror. Lower-ranking offerors do not have a right to participate in negotiations conducted in such a manner.

If the State decides to negotiate simultaneously with more than one offeror, or decides that negotiations with the top-ranked offeror are not satisfactory and therefore negotiates with one or more of the lower-ranking offerors, the State then will determine if an adjustment in the ranking of the offerors with which it held negotiations is appropriate based on the negotiations. The Contract award, if any, then will be based on the final ranking of offerors, as adjusted.

Auction techniques that reveal one offeror's price to another or disclose any other material information derived from competing Proposals are prohibited. Any oral modification of a Proposal will be reduced to writing by the offeror as described below.

Following negotiations, the State may set a date and time for the offeror(s) with which the State conducted negotiations to submit a best and final Proposal. If negotiations were limited and all changes were reduced to signed writings during negotiations, the State need not require a best and final Proposal.

If best and final Proposals are required, they may be submitted only once, unless the State determines that it is in the State's interest to conduct additional negotiations. In such cases, the State may require another submission of best and final Proposals. Otherwise, discussion of or changes in the best and final Proposals will not be allowed. If an offeror does not submit a best and final Proposal, the State will treat that offeror's previous Proposal as its best and final Proposal.

From the opening of the Proposals to the award of the Contract, everyone evaluating Proposals on behalf of the State will seek to limit access to information contained in the Proposals solely to those people with a need to know the information. The State also will seek to keep this information away from other offerors, and the State may not tell one offeror about the contents of another offeror's Proposal in order to gain a negotiating advantage.

Before the award of the Contract or cancellation of the RFP, any offeror that seeks to gain access to the contents of another offeror's Proposal may be disqualified from further consideration.

Negotiated changes will be reduced to writing and become a part of the Contract file, which will be available for public inspection after award of the Contract or cancellation of the RFP, provided the State does not plan to reissue the RFP. If the State plans to reissue the RFP, the Contract file will not be available until the subsequent RFP process is completed. Unless the State agrees otherwise in writing, the offeror must draft and sign the written changes and submit them to the State within five (5) business days. If the State accepts the changes, the State will give the offeror written notice of the State's acceptance, and the negotiated changes to the successful offer will become a part of the Contract.

Failure to Negotiate. If an offeror fails to provide the necessary information for negotiations in a timely manner, or fails to negotiate in good faith, the State may terminate negotiations with that offeror, remove the offeror's Proposal from further consideration, and seek such other remedies as may be available in law or in equity.

PART FIVE: AWARD OF THE CONTRACT

Contract Award. The State plans to award the Contract based on the schedule in the RFP, if the State decides the Work is in its best interest and has not changed the award date.

Included with this RFP, as Attachment Five, is a sample of the Contract for the RFP. The State will issue two (2) originals of the Contract to the Contractor proposed for award. The offeror must sign and return the two (2) originals to the Procurement Representative. The Contract will bind the State only when the State's duly authorized representative signs all copies and returns one to the Contractor with an award letter, the State issues a purchase order, and all other prerequisites identified in the Contract have occurred.

The Contractor must begin work within 15 business days after the State issues a purchase order, or on a mutually agreed start date, under the Contract. If the State awards a Contract pursuant to this RFP, and the Contractor is unable or unwilling to perform the Work, the State may cancel the Contract, effective immediately on notice to the Contractor. The State then may return to the evaluation process under this RFP and resume the process without giving further consideration to the originally selected Proposal. Additionally, the State may seek such other remedies as may be available to the State in law or in equity for the selected Contractor's failure to perform under the Contract.

Contract. If this RFP results in a Contract award, the Contract will consist of this RFP including all Exhibits, written Amendments to this RFP, the Contractor's accepted Proposal and accepted, written authorized amendments and clarifications to the Contractor's Proposal. It will also include any materials incorporated by reference in the above documents and any Amendments issued under the Contract. The Terms and Conditions for the Contract are contained in Attachments 2 and 4 of this RFP. If there are conflicting provisions between the documents that make up the Contract, the order of precedence for the documents is as follows:

1. This one-page Contract Signature Page in its final form;
2. The Offeror's proposal, as negotiated, clarified, and accepted by the State; and
3. This RFP, as amended.

Notwithstanding the order listed above, Amendments issued after the Contract is executed may expressly change the provisions of the Contract. If they do so expressly, then the most recent of them will take precedence over anything else that is part of the Contract.

Attachment One: Evaluation Criteria

Mandatory Requirements. The first table lists this RFP’s mandatory requirements. If the offeror’s Proposal meets the mandatory requirements, the offeror’s Proposal may be included in the next part of the technical evaluation phase.

Mandatory Requirements	Reject	Accept
The offeror must have demonstrated experience on a minimum of two (2) contracts as the MSP providing IT staff augmentation resources obtained from a network of subcontractors to a customer organization. At least one (1) of the contracts provided must involve placement of at least 200 IT resources providing IT staff augmentation services during a twelve (12) month period.		
The offeror must have a minimum of one (1) contract that is completed or has been in full operation for at least 12 months using the proposed Vendor Management System (VMS).		
The offeror must propose an Implementation Manager (e.g., Contractor Project Manager) for the MSP Project.		
The offeror must propose an Account Manager Team for MSP Project that is able to meet at a location specified by the agency using the Contract.		
The offeror must designate an individual to serve as the Contract Manager to support the management of the Contract, facilitate dispute resolution, and to advise the State of performance under the terms and conditions of the Contract.		

Scored Criteria	Weight	Does Not Meet	Meets	Exceeds
Staffing Capabilities	5	0	5	7
Implementation Manager The proposed Implementation Manager (e.g., Contractor Project Manager) for the MSP Project must have a minimum of sixty (60) months of Project Management experience managing implementations of IT related projects.	8	0	5	7
Account Manager Team Each member of the proposed Account Manager Team for the MSP Project must demonstrate a minimum of twenty-four (24) months experience reviewing, evaluating and screening candidates for IT related positions based on their knowledge of the IT industry.	10	0	5	7

Account Manager Team	10	0	5	7
Each member of the proposed Account Manager Team for the MSP Project must demonstrate at least twenty-four (24) months experience providing account management responsibilities in direct contact with customer's end users. The account management experience provided must be in the IT field preferably involving provision of staff augmentation resources.				
Contract Manager	7	0	5	7
The proposed Contract Manager for the MSP Project must have a minimum of thirty-six (36) months experience supporting the management of Contracts, facilitating dispute resolution, and to advising client customers of performance under the terms and conditions of the Contract.				
SUPPLEMENT 1				
1. General Requirements				
<i>b. Implementation</i>	12	0	5	7
<i>c. Contract Start-up Transition Plan</i>	8	0	5	7
<i>d. Establishing, Maintaining and Developing a Network of Enrolled Providers</i>	5	0	5	7
<i>e. Maintaining Job Titles</i>	5	0	5	7
<i>f. Establishing and Maintaining Competitive Hourly Staff Augmentation Rates for the Central Ohio Region</i>	7	0	5	7
<i>g. End of Contract Turnover</i>	3	0	5	7
2. System Requirements				
3. Vendor Management System				
<i>a. General Provisions</i>	3	0	5	7
<i>b. Role Based Access and Workflow</i>	10	0	5	7
<i>c. Supplier and Contractor Management</i>	10	0	5	7
<i>d. Record Tracking and Report Generation</i>	5	0	5	7
<i>e. Usability</i>	5	0	5	7
4a. Staff Augmentation Website Portal	7	0	5	7
5. Ongoing Operations				
<i>i. Agency Consultation</i>	7	0	5	7
<i>ii. Response Management</i>	3	0	5	7
<i>iii. Candidate Screening and Validation</i>	7	0	5	7
<i>iv. Interview Facilitation</i>	3	0	5	7
<i>v. Selected Candidate Background</i>	3	0	5	7

<i>Checks</i>				
<i>vi. Resource Onboarding</i>	5	0	5	7
<i>vii. Initial Candidate Performance Period</i>	2	0	5	7
<i>viii. Timesheet processing</i>	7	0	5	7
<i>ix. Help desk support</i>	3	0	5	7
6. Reporting and Meeting Requirements	15	0	5	7

Performance Formula. The evaluation team will rate the Proposals that meet the Requirements based on the following criteria and respective weights.

Criteria	Percentage
Technical Proposal	60%
Cost Proposal	40%

To ensure the scoring ratio is maintained, the State will use the following formulas to adjust the points awarded to each offeror.

The offeror with the highest point total for the Technical Proposal will receive 600 points. The remaining offerors will receive a percentage of the maximum points available based upon the following formula:

$$\begin{array}{rcl}
 \text{Technical Proposal Points} & = & \frac{\text{Offeror's Technical Proposal Points in Each_Scored Criteria Area}}{\text{Highest Number of Technical Proposal Points Obtained in Each Scored Criteria Area}} \times 600 \\
 \text{(equals)} & & \text{(divided by)} \qquad \qquad \qquad \text{(times)}
 \end{array}$$

The offeror proposing the best Cost Proposal Value (Percentage that is complete and inclusive of all project costs including Revenue Share) according to the cost analysis will receive 400 points. The remaining offerors will receive a percentage of the maximum cost points available based upon the following formula:

$$\begin{array}{rcl}
 \text{Cost Proposal Points} & = & \frac{\text{Lowest Proposed Firm Fixed Mark-up Percentage}}{\text{Offeror's Proposed Firm Fixed Mark-up Percentage}} \times 400 \\
 \text{(equals)} & & \text{(divided by)} \qquad \qquad \qquad \text{(times)}
 \end{array}$$

Total Points Score: The total points score is calculated using the following formula:

Total Points Score = (equals) Technical Proposal Points + (plus) Cost Proposal Points

Veteran's Enterprise Preference. The State will apply the Veterans Friendly Business Enterprise preference as required by ORC 9.318 and OAC 123:5-1-16.

Attachment Two: Special Provisions

Submittal of Deliverables. Should the State require Work elements be submitted as a Deliverable, the Contractor must perform its tasks in a timely and professional manner that produces Deliverables that fully meet the Contract's requirements. And the Contractor must provide the Deliverables no later than the due dates the Contract requires. At the time of delivery of a written Deliverable, the Contractor must submit an original and one copy of each Deliverable, plus an electronic copy. The Contractor must provide the electronic copy in a file format acceptable to the State.

By submitting a Deliverable, the Contractor represents that, it has performed the associated tasks in a manner that meets the Contract's requirements.

The Contractor must provide all Deliverables to the State Project Representative, who will review (or delegate review of) the materials or documents within a reasonable time after receipt, as specified in the State approved, base-lined Project Plan.

If the State determines that a Deliverable is not in compliance, the State Project Representative will note the reason for non-compliance and send notification to the Contractor Project Manager. At no expense to the State, the Contractor then must bring the Deliverable into conformance and re-submit it to the Project Representative within ten business days.

If the State agrees the Deliverable is compliant, the State Project Representative will sign a Deliverable Submittal Form and return a copy to the Contractor. In addition, if the State Project Representative or designee determines that the State should make a payment associated with the Deliverable, the State Project Representative will indicate that the payment should be made on the Deliverable Submittal Form.

The State form authorizing payment and the payment itself do not indicate that the State has accepted the Deliverables associated with the payment. The State's acceptance of the Deliverables that are part of developing the Project is conditioned on a successful performance test upon completion of the Project or Services (if applicable).

General Systems Implementation Standards. The Contractor has and will continue to use its best efforts through quality assurance procedures to ensure there are no viruses or malware or undocumented features in its infrastructure and services and that they do not contain any embedded device or code (e.g., time bomb) that is intended to obstruct or prevent any use of or access to them by the State.

Inconsistencies between Contract and Deliverables. If any terms and conditions that may be incorporated in a User, Operations, Training Document or Guide or Contractor created Deliverable, work product, assumption, responsibility or activity are inconsistent or conflict with the Contract, the Contract will prevail.

Work Hours and Conditions. The State shall be available to participate in the Project during normal business hours Monday through Friday (generally 8:00 a.m. to 5 p.m.) during non-State holidays. The offeror must indicate, as part of its response, any dependencies on the State by way of work location, hours outside those indicated and any other project delivery work, location or conditions requirements.

Inconsistencies between Contract and Deliverables. Any terms and conditions that may be incorporated in a User, Operations, Training Document or Guide or Contractor created Deliverable, work product, assumption, responsibility or activity that are inconsistent or conflicts with the Contract, the Contract will prevail.

The Contractor's Fee Structure. The Contract award will be for a Firm Fixed Mark-up Percentage. The Firm Fixed Mark-up Percentage covers the Contractor's compensation for completion of all activities set forth in this RFP, including Revenue Share.

The proposed hourly rate actually paid by the State for engaged staff augmentation resources must be inclusive of the Firm Fixed Mark-up Percentage, including Revenue Share. In other words, when an hourly rate is

proposed by an enrolled network provider (subcontractor) for a resource, the rate is the total rate and the Contractor is not permitted to add on the Firm Fixed Mark-up Percentage when billing the State.

All orders and payment will be issued directly to the Contractor.

The applicable Firm Fixed Mark-up Percentage is the only compensation the Contractor awarded the Contract may claim for services provided. The Contractor must not charge enrolled network providers additional fees for participating in the program. The Contractor is not permitted to charge other fees from the enrolled network providers for invoicing, registration, or any other portion of the provider's involvement in the program.

Contractor's Sales Report. The Contractor must report the quarterly dollar value (in US currency rounded to the nearest whole dollar) of the sales under this Contract each calendar quarter (i.e., January-March, April-June, July-September and October-December). The dollar value of the sales reported must equal the price paid by all State agencies and Political Subdivisions for Deliverables under this Contract during the reporting period.

The Contractor must report the quarterly dollar value of sales to the State via the Internet using the Web form at the Department of Administrative Services, OIT vendor portal, <https://cm.ohio.gov> (this procedure is subject to change to coincide with our new Ohio Buys Application). If no sales occur, the Contractor must show zero sales on the report. The report must be submitted 30 days after the completion of the reporting period.

The Contractor also must submit a closeout report within 120 days after the expiration of this Contract. The Contract expires on the physical completion of the last, outstanding task or delivery order of the Contract. The closeout report must cover all sales not shown in the final quarterly report and reconcile all errors and credits. If the Contractor reported all Contract sales and reconciled all errors and credits on the final quarterly report, then the Contractor should show zero sales in the closeout report.

If the Contractor fails to submit any sales report in a timely manner or falsifies any sales report, the State may terminate this Contract for cause.

Contractor's Revenue Share. The Contractor must pay the State a share of the sales transacted under this Contract. The Contractor must remit the revenue share in US dollars within 30 days after the end of the quarterly reporting period. The revenue share that the Contractor must pay equals .0075 of the total quarterly sales reported. The revenue share is included in the Contractor's Mark-up Percentage, and the Contractor may not add a surcharge to orders under this Contract to cover the cost of the revenue share.

The Contractor must remit any amount due as the result of a quarterly or closeout report at the time the quarterly or closeout report is submitted to the Department of Administrative Services, Office of Information Technology. The Contractor also must pay the revenue share by check. To ensure the payment is credited properly, the Contractor must identify the check as a "Revenue Share" and include the applicable Contract Number, total report amount, and reporting period covered.

The Contractor must make each check payable to "Treasurer, State of Ohio", and forward it to the following address:

Department of Administrative Services
L-3686
Columbus, OH 43260-3686

If the full amount of the revenue share is not paid within 30 days after the end of the applicable reporting period, the non-payment will constitute a contract debt to the State. The State may set off any unpaid revenue share from any amount owed to the Contractor under this Contract and employ all other remedies available to it under Ohio law for the non-payment of the

revenue share. Additionally, if the Contractor fails to pay the revenue share in a timely manner, the failure will be a breach of this Contract, and the State may terminate this Contract for cause and seek damages for the breach.

Service Level Agreements (SLA): The State requires that the Contractor demonstrate a high level of quality control standards and service to the State. The State has developed a set of minimum SLAs, defined in Supplement Four, Service Level Agreements, which the Contractor must meet or exceed throughout the term of the Contract. Failure to achieve an SLA will result in a service credit as described in Supplement Four, Service Level Agreements. In addition, the Contractor must submit a corrective action plan to the State within fifteen (15) days of the quarter's end for any missed SLA. This plan is subject to State approval. The Contractor must execute the corrective action plan upon State approval.

The Contractor will be allowed a one hundred eighty (180) day grace period during the implementation phase of the Contract to ramp up services, without being evaluated on the SLAs in Supplement Four, Service Level Agreements. After the grace period, tracking of each of the SLAs will begin, and the first report must be due to the Contract Manager one (1) month after the grace period ends.

Note: SLA calculations must be limited to requisitions that have been released to the Contractor's network of staff augmentation resource suppliers.

MBE Set-aside and Reporting. In the State's commitment to make more State contracts, services, benefits and opportunities available to minority business enterprises (MBE), the State may seek staff augmentation resources as a MBE Set-Aside. The Contractor must:

- Utilize a process to which only Ohio certified MBEs may respond;
- Issue the Job Posting to all Ohio certified MBEs enrolled in the provider network;
- Require the Contractor to proactively validate the MBE maintain their certification throughout the term of the Contract, including any renewals; and

The Contractor must submit monthly reports to the DAS Contract Manager or designee and to the named contact person within the DAS Equal Opportunity Division documenting the work performed by Ohio Certified MBE companies as a result of a MBE Set-Aside process. The reports must be filed at a time and in a form prescribed by the DAS Contract Manager or designee and/or the DAS Equal Opportunity Division.

Reimbursable Expenses. None. The State will not pay for any costs in addition to the rate for the appropriate job title and skill category set forth in the Contract for a staff augmentation resource to perform his or her duties during an engagement with the State. This includes, but is not limited to, training, travel, certifications, parking, background checks and security badges.

Overtime Policy. No overtime premiums will be paid to the selected Contractor or its subcontractors (enrolled network providers) for work which is performed after normal business hours. All hours worked during an engagement will be paid in accordance with the rate for the appropriate job title and skill category set forth in the Contract for the resource's job title and skill category.

Bill to Address. The State will provide the bill to address(s) after contract award. The bill to address may vary depending upon the work or services delivered.

Political Subdivisions. Ohio political subdivisions, such as Ohio cities, counties, and townships ("Political Subdivisions"), may rely on this Contract. Whenever a Political Subdivision relies on this Contract to issue a purchase order, the Political Subdivision will step into the shoes of the State under this Contract for purposes of its order, and, as to the Political Subdivision's order, this Contract will be between the Contractor and the Political Subdivision. The Contractor must look solely to the Political Subdivision for performance, including but not limited to payment, and must hold the State harmless with regard

to such orders and the Political Subdivision's performance. But the State will have the right to terminate this Contract and seek such remedies on termination as this Contract provides should the Contractor fail to honor its obligations under an order from a Political Subdivision. Nothing in this Contract requires the Contractor to accept an order from a Political Subdivision, if the Contractor reasonably believes that the Political Subdivision is or will be unable to perform its obligations in relation to that order.

Submittal of Deliverables: Any State form authorizing payment and the payment itself do not indicate that the State has accepted the Deliverables associated with the payment. The State's acceptance of the Deliverables that are part of developing the Project is conditioned on a successful performance test upon completion of the Project.

Supplier Compensation. The Contractor must pay their Supplier (enrolled network provider (subcontractor) within 5 business days upon receiving payment from the State for services rendered.

Contractor as an Agent – The parties acknowledge and agree that solely for purposes of this Contract and only as applicable to the specific services set forth in this Contract, Contractor must operate as an agent of the State. As agent, Contractor must act as a conduit with respect to payments to be made to suppliers under the Contract after such payments are approved by the State. After receipt of payment from the State, Contractor must remit payment to the suppliers on behalf of the State. Contractor must keep financial records in such a way that accurately shows these transactions. As agent, Contractor is not entitled to any other rights of the State as a sovereign entity, and Contractor continues to be liable for its actions pursuant to the provisions of this Contract.

Initial Candidate Performance Period. If a resource begins work for a particular agency, and the agency determines within the first week (5 business days) that the resource does not have the skills or capabilities necessary to complete the job as requested in the original requisition, the agency may request that the resource be replaced immediately, and the agency will not pay for the work conducted by the unacceptable resource. An agency may also reject any replacement resource (within 5 business days) according to these procedures.

Attachment Three: Requirements for Proposals

Proposal Format. Each Proposal must include sufficient data to allow the State to verify the total cost for the Project and all of the offeror's claims of meeting the RFP's requirements. Each Proposal must respond to every request for information in this attachment, whether the request requires a simple "yes" or "no" or requires a detailed explanation. Simply repeating the RFP's requirement and agreeing to comply may be an unacceptable response and may cause the Proposal to be rejected.

These instructions describe the required format for a responsive Proposal. The offeror may include any additional information it believes is relevant. The offeror's proposal submission must be submitted using the Microsoft Word version of the RFP to provide responses to the RFP. An identifiable tab sheet must precede each section of a Proposal, and each Proposal must follow the format outlined below. All pages, except pre-printed technical inserts, must be sequentially numbered. Any material deviation from the format outlined below may result in a rejection of the non-conforming Proposal.

Response Specifics. Offeror responses should use a consistent contrasting color (**blue** is suggested to contrast with the black text of this RFP document) to provide their response to each requirement so that the Offeror response is readily distinguishable to the State. Below is an example of the required format for responding to the RFP requirements. To aid Offerors in the creation of the most favorable depiction of their responses, alternative formats are acceptable that use typefaces, **styles** or **shaded backgrounds**, so long as the use of these formats are consistent (**font size 10**) throughout the Offeror's response and readily distinguishable from the baseline RFP. Alterations to the State provided baseline RFP language is strictly prohibited. The State will electronically compare Offeror responses to the baseline RFP and deviations or alterations to the State's RFP requirements may result in a rejection of the Offeror's Proposal.

To ensure that each Proposal addresses the required sections of the RFP Offerors must address each RFP requirement by section and sub-section heading and provide the Offeror's proposed service or response to the requirement by section and subsection using the provided Microsoft Word version of this RFP.

Additionally, Offerors must include the entire content of Attachment Four as a single section in their proposal. **Offerors must include a statement at the beginning of the section** indicating that the offeror has read, understands and agrees to the General Terms and conditions contained in Attachment Four.

Illustrative Example: Customers Served in the Widget Space:

Instructions: *The offeror is to describe the customers (i.e., companies, agencies, entities, etc.) served in the Widget domain and the nature of the services provided, as well as the duration of the service.*

Offeror Response: *The Acme Corporation has been in business for over 20 years, Acme is a leading supplier of Widget and Widget based services with clients in a variety of sectors including public (23 states) and private (125 of the Fortune 400).*

Each Proposal must include a response to every request for information in this attachment and in Supplements 1 and 2 (per the response options), whether the request requires a simple "yes" or "no" or requires a detailed explanation. Simply repeating the RFP's requirement and agreeing to comply may be an unacceptable response and may cause the Proposal to be rejected.

State evaluators read every RFP from front-to-back inclusive of all Attachments, Supplements, Forms and other elements. Offerors are advised to limit offeror marketing statements and positioning to the area(s) of the RFP applicable to those statement(s) and not include duplicative or otherwise repetitive statements throughout its response.

Each Proposal must contain the following **tabbed sections in the response**:

Technical Proposal

1. Cover Letter
2. Subcontractor Letters
3. Offeror Certification Form
4. Supplier Registration
5. MBE Certification(s)
6. Offeror Profile
7. Proposed Solution – Supplement 1 Response
8. Staffing Capabilities
9. Supplement 7 Response – State IT Policy, Standard and Service Requirements
10. Supplement 8 Response – State Information Security and Privacy Requirements, State Data Handling Requirements
11. Proof of Insurance
12. Payment Address
13. Legal Notice Address
14. W-9 Form
15. Independent Contractor Acknowledgement
16. Affirmation and Disclosure Form
17. Acceptance of Attachment 2: Special Provisions
18. Acceptance of Attachment 4: General Terms and Conditions
19. Assumptions
20. Support Requirements
21. Value-Added Services
22. Supplier Compensation
23. Cost Proposal

Cost Proposal – Attachment Ten (must be separately sealed, in native Excel format – not PDF)

1. **Cover Letter.** The cover letter must be in the form of a standard business letter and must be signed by an individual authorized to legally bind the offeror. The cover letter must include a brief executive summary of the solution the offeror plans to provide. The letter must also have the following:
 1. A statement regarding the offeror's legal structure (e.g., an Ohio corporation), Federal tax identification number, and principal place of business;
 2. A list of the people who prepared the Proposal, including their titles;
 3. The complete contact information for a person to answer questions related to the Proposal; and
 4. A statement certifying the Contractor is a business entity and will not submit the Independent Contractor/Worker Acknowledgement to the ordering agency.
2. **Subcontractor Letters.** For each proposed subcontractor, performing MSP responsibilities, the offeror must attach a letter from the subcontractor, signed by someone authorized to legally bind the subcontractor, with the following included in the letter:
 1. The subcontractor's legal status, federal tax identification number, D-U-N-S number, and principal place of business address;
 2. The name, phone number, fax number, email address, and mailing address of a person who is authorized to legally bind the subcontractor to contractual obligations;

3. A description of the work the subcontractor will do;
4. A commitment to do the work if the offeror is selected; and
5. A statement that the subcontractor has read and understood the RFP and will comply with the requirements of the RFP.

Contractor Agreement. A copy of the proposed subcontractor agreement must be provided within the offeror's proposal submitted in response to this RFP.

- 3. Offeror Certifications.** The offeror must complete Attachment 6, Offeror Certification Form.
- 4. Supplier Registration.** The State of Ohio has changed the way suppliers register to do business with the State of Ohio. To provide suppliers with an enhanced registration experience, a new Website dedicated to new and existing suppliers is now available. To register to do business in Ohio and to access supplier forms, [click here http://www.supplier.obm.ohio.gov/](http://www.supplier.obm.ohio.gov/). Offerors must provide evidence that they are registered with the Ohio Shared Services to do business in the State of Ohio.
- 5. MBE Certification.** Any offeror proposing an MBE subcontractor certified by the Department of Administrative Services pursuant to ORC 123.151 must provide a copy of their Ohio MBE Certification.
- 6. Offeror Profile.** Each Response must include a description of the offeror capability, capacity, and experience in support of the requirements. The description should include the date the offeror was established, its leadership, number of employees, number of employees the offeror will engage in tasks directly related to the Project, and any other background information or relevant experience that will help the State gauge the ability of the offeror to fulfill the obligations of the Contract.

The offeror must use the Offeror Profile Summary Form(s) (Attachment Seven) and fill them out completely to provide the required information. All offerors must demonstrate experience to meet each of the applicable mandatory requirement(s) evaluation criteria by including the offeror mandatory requirement form provided in this RFP. Each offeror must meet the applicable mandatory requirement(s) in the RFP. If an offeror does not meet the applicable mandatory requirement(s), the State may reject the offeror's Proposal as non-responsive.

The offeror must also use the Offeror Profile Summary Form(s) (Attachment Seven) and fill them out completely to provide the required information to demonstrate experience to meet each of the first four scored requirement(s) evaluation criteria by including the offeror scored requirement form provided in this RFP.

These forms may be duplicated to provide multiple experiences.

The various sections of the Offeror Profile Summary Forms are described below:

Experience and Qualifications.

The offeror must complete this section to demonstrate that it has the experience needed to meet the RFP's requirements. For each reference, the offeror must provide the following information:

- **Contact Information.** The offeror must provide a client contact name, title, phone number, email address, company name, and mailing address. The offeror also must include the same information for an alternate client contact, in case the State cannot reach the primary contact. Failure to provide this information or providing information that is inaccurate or out of date may result in the State not including the reference in the evaluation process or rejecting the offeror's Proposal. The contact information given must be for a person within the client's organization and not a co-worker or a contact within the offeror's organization, subsidiaries, partnerships, etc.
- **Project Name.** The offeror must provide the name of the project where it obtained the mandatory experience.

- Dates of Experience. The offeror must complete this area with a beginning month and year and an ending month and year to show the length of time the offeror performed the work, not just the length of time the offeror was engaged by the reference.
- Description of the Related Service Provided. The State will not assume that, since the experience requirement is provided at the top of the page, all descriptions on that page relate to that requirement. The offeror must reiterate the experience being described, including the capacity in which the work was performed and the role of the offeror on the Project. It is the offeror's responsibility to customize the description to clearly substantiate the qualification.
- Description of how the related service shows the offeror's experience, capability, and capacity to develop the Deliverables and to achieve the milestones within the scope of work of this RFP.

The offeror must list each project experience separately and completely every time it is referenced, regardless of whether it is on the same or different pages of the form.

7. Proposed Solution – All Supplements are being provided as a Microsoft Word document through the State's procurement website as a convenience for responding to the RFP. The Supplement's content must not be modified. If the content is modified, reformatted or omitted, the offeror's response may be disqualified. As part of their response, offerors are to provide native Microsoft Word, Excel and Project based documents that comprise the requirements of a Supplement, inclusive of their response.

- **Supplement 1 Response.** Supplement 1 Scope of Work - Requirements is being provided as a Microsoft Word document through the State's procurement website as a convenience for responding to the RFP. The supplement's content must not be modified. If the content is modified, reformatted or omitted, the offeror's response may be disqualified. As part of their response, offerors are to provide native Microsoft Word documents that comprise the requirements of a Supplement, inclusive of their response.
- The offeror must demonstrate a complete and coherent solution to Supplement 1 pertaining to the Project. This area of the offeror's proposal must clearly demonstrate the offeror will be prepared to quickly undertake and successfully complete the required services, activities, and Deliverables.
- The offeror's response to Supplement 1 must be inserted in this section of the offeror's proposal response.

8. Staffing Capabilities. The offeror must provide a staffing plan that identifies the required key personnel by position that the offeror proposes to complete the Project. The offeror must provide an organizational chart highlighting the key people assigned to manage the personnel called for in this RFP and illustrating the lines of authority.

At a minimum, the offeror's proposal must address the following key personnel positions:

- An Implementation Manager who will oversee the project during implementation.
- Account Manager Team who will be responsible for the day-to-day activities related to this Contract throughout the Contract term. The State requires a qualified account team to manage the relationship between the State and the MSP, and the MSP and the enrolled network providers. These team members should have extensive knowledge of IT industry trends and best practices. The offeror's proposal must identify and provide detailed information for team members demonstrating their experience and capability to perform their assigned duties and to handle key responsibilities after implementation "go-live. The State requires that the Contractor provide a team of qualified account managers of sufficient size to manage the volume of work required to be performed as part of the Contract. The State requires the Contractor to provide a plan for managing peaks and valleys in demand for resources.
- An individual to serve as the Contract Manager for the provision of services pursuant to this RFP. The duties of the Contractor's Contract Manager must include but not be limited to:
 - supporting the management of the Contract,
 - facilitating dispute resolution, and
 - advising the State of performance under the terms and conditions of the Contract.

The staffing plan must show each individual's responsibilities on the Project. The State also requires a staffing plan that matches the skills and experience of the proposed Implementation Manager and Project Team to the activities and tasks that will be completed on the Project.

Resumes must be provided for the proposed key personnel to demonstrate proven experience on projects of similar scale and complexity. Representative resumes are not acceptable.

The resumes must include:

1. The person's name;
2. The proposed role on this Project;
3. Listings of completed projects that are comparable to this Project or required similar skills based on the person's assigned role/responsibility on this Project. Each project listed should include at a minimum the beginning and ending dates, client/company name for which the work was performed, client contact information (name, phone number, email address, company name, etc.), project title, project description, and a detailed description of the person's role/responsibility on the project;
4. Education;
5. Professional licenses, certifications, and memberships; and
6. Employment history.

In addition to the resumes requested above, the offeror must also provide in this section of their proposal completed profile forms contained within Attachment Eight for the proposed Implementation Manager and each proposed member of Account Manager Team.

A contingency plan that shows the ability to add more staff if needed to ensure meeting the Project's implementation "go-live" date and to manage the peaks in demands for IT staff augmentation resources within the Contract's SLA requirements.

Offerors must provide a statement that clearly indicates the time commitment of each proposed candidate. The offeror also must include a statement indicating to what extent, if any, the proposed candidate may work on other projects during the term of the Contract. The State may reject any Proposal that commits the proposed candidate to other projects during the term of the Project, if the State believes that any such commitment may be detrimental to the offeror's performance.

9. Supplement 7 Response – State IT Policy, Standard and Service Requirements

Offerors must include a fully completed copy of Supplement 7 in this section of their proposal. Offerors must follow the completion instructions contained in the supplement when preparing their response. When responding, offerors should note the redaction process described in the RFP section entitled "Proposal Submittal." This section is located within the General Instructions (Part 3) of the RFP.

10. Supplement 8 Response – State Information Security and Privacy Requirements, State Data Handling Requirements

Offerors must include a fully completed copy of Supplement 8 in this section of their proposal. Offerors must follow the completion instructions contained in the supplement when preparing their response. When responding, offerors should note the redaction process described in the RFP section entitled "Proposal Submittal." This section is located within the General Instructions (Part 3) of the RFP.

11. Proof of Insurance. The offeror must provide the certificate of insurance required by Attachment Four. The policy may be written on an occurrence or claims made basis.

12. **Payment Address.** The offeror must give the address to which the State should send payments.
13. **Legal Notice Address.** The offeror must give the name, title, and address to which the State should send legal notices under the Contract.
14. **W-9 Form.** The offeror must complete a W-9 form in its entirety. The offeror must submit at least one originally signed W-9. All other copies of a Proposal may contain copies of the W-9. The offeror must indicate on the outside of the binder which Proposal contains the originally signed W-9. A current version of the Internal Revenue's W-9 form is available at: <http://www.irs.gov/pub/irs-pdf/fw9.pdf>
15. **Independent Contractor Acknowledgement Form.** Unless the offeror is a "business entity" as that term is defined in ORC. 145.037 ("an entity with five or more employees that is a corporation, association, firm, limited liability company, partnership, sole proprietorship, or other entity engaged in business"), the offeror must complete and submit an originally signed Independent Contractor Acknowledgement form in its entirety. All other copies of a Proposal may contain copies of the Independent Contractor Acknowledgement form. The offeror must indicate on the outside of the binder which Proposal contains the originally signed Independent Contractor Acknowledgement form. A current version of the Independent Contractor Acknowledgement form is available at: <https://www.opers.org/forms-archive/PEDACKN.pdf>
16. **Affirmation and Disclosure Form.** The offeror must complete and sign the Affirmation and Disclosure Form (Attachment Nine) as part of its Proposal.
17. **Acceptance of Attachment Two – Special Provisions.** Offerors must include the entire content of Attachment Two as a single section in their proposal. The Offerors must include a statement at the beginning of the section indicating that the offeror has read, understands and agrees to the Special Provisions contained in Attachment Two.
18. **Acceptance of Attachment Four – General Terms and Conditions.** Offerors must include the entire content of Attachment Four as a single section in their proposal. The offerors must include a statement at the beginning of the section indicating that the offeror has read, understands and agrees to the General Terms and Conditions contained in Attachment Four.
19. **Assumptions.** The offeror must list all the assumptions the offeror made in preparing the Proposal. If any assumption is unacceptable to the State, the State may at its sole discretion request that the offeror remove the assumption or choose to reject the Proposal. No assumptions may be included regarding the outcomes of negotiation, terms and conditions, or requirements. Assumptions should be provided as part of the offeror response as a stand-alone response section that is inclusive of all assumptions with reference(s) to the section(s) of the RFP that the assumption is applicable to. Offerors should not include assumptions elsewhere in their response.
20. **Support Requirements.** The offeror must describe the support it wants from the State other than what the State has offered in this RFP. Specifically, the offeror must address the following:
 - Nature and extent of State support required in terms of staff roles, percentage of time available, and so on;
 - Assistance from State staff and the experience and qualification levels required; and
 - Other support requirements.

The State may not be able or willing to provide the additional support the offeror lists in this part of its Proposal. The offeror therefore must indicate whether its request for additional support is a requirement for its performance. If any part of the list is a requirement, the State may reject the offeror's Proposal, if the State is unwilling or unable to meet the requirements.

- 21. Value-Added Services.** The offeror must describe in detail any Value-Added Services included in their Proposal above the minimum requirements.
- 22. Supplier Compensation.** The Contractor must pay their Supplier (enrolled network provider (subcontractor)) within 5 business days upon receiving payment from the State for services rendered. This section of the offeror's proposal must provide a detailed resolution plan addressing special invoice discrepancies and the offerors proposed approach to remedy payment in a timely manner within the same pay cycle.
- 23. Cost Proposal (must be a separately sealed package).** This RFP includes an Offeror Cost Proposal form as Attachment Ten. Offerors may not reformat the State's Cost Proposal form. Each offeror must complete the Cost Proposal in the exact format provided. The State may reject any Proposal with a reformatted Cost Proposal or that is not separately sealed. (See: Part Three: General Instructions, Proposal Submittal.)

The Cost Proposal must not include exceptions, additional terms and conditions, or assumptions.

The offeror's proposed Firm Fixed Mark-up Percentage covers compensation for completion of all activities set forth in this RFP, including Revenue Share.

ATTACHMENT FOUR: GENERAL TERMS AND CONDITIONS

PART ONE: PERFORMANCE AND PAYMENT

Statement of Work. The selected offeror's Proposal and the State's Request for Proposal (collectively, the "RFP Documents") are a part of this Contract and describe the work (the "Project") the Contractor must do and any materials the Contractor must deliver (the "Deliverables") under this Contract. The Contractor must do the Project in a professional, timely, and efficient manner and must meet all milestones in a proper fashion. The Contractor also must furnish its own support staff necessary for the satisfactory performance of the Project.

The Contractor must consult with the appropriate State representatives and others necessary to ensure a thorough understanding of the Project and satisfactory performance. The State may give instructions to or make requests of the Contractor relating to the Project, and the Contractor must comply with those instructions and fulfill those requests in a timely and professional manner. Those instructions and requests will be for the sole purpose of ensuring satisfactory completion of the Project and will not amend or alter the scope of the Project.

Term. Unless this Contract is terminated or expires without renewal, it will remain in effect until the Project is completed to the satisfaction of the State, including all optional renewal periods for maintenance or continuing commitments, and the Contractor is paid. However, the current General Assembly cannot commit a future General Assembly to an expenditure. Therefore, this Contract will automatically expire at the end of each biennium, the first of which is June 30, 2023. The State may renew this Contract in the next biennium by issuing written notice to the Contractor of the decision to do so. This expiration and renewal procedure also will apply to the end of any subsequent biennium during which the Project continues, including any optional renewal periods. Termination or expiration of this Contract will not limit the Contractor's continuing obligations with respect to Deliverables that the State paid for before or after termination or limit the State's rights in such.

The State's funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. If the General Assembly fails to continue funding for the payments and other obligations due as part of this Contract, the State's obligations under this Contract will terminate as of the date that the funding expires without further obligation of the State.

The Project has a completion date that is identified in the RFP Documents. The RFP Documents also may have several dates for the delivery of Deliverables or reaching certain milestones in the Project. The Contractor must make those deliveries, meet those milestones, and complete the Project within the times the RFP Documents require. If the Contractor does not meet those dates, the Contractor will be in default, and the State may terminate this Contract under the termination provision contained below.

The State also may have certain obligations to meet. Those obligations, if any, are also listed in the RFP Documents. If the State agrees that the Contractor's failure to meet the delivery, milestone, or completion dates in the RFP Documents is due to the State's failure to meet its own obligations in a timely fashion, then the Contractor will not be in default, and the delivery, milestone, and completion dates affected by the State's failure to perform will be extended by the same amount of time as the State's delay. The Contractor may not rely on this provision unless the Contractor has in good faith exerted reasonable management skill to avoid an extension and has given the State meaningful written notice of the State's failure to meet its obligations within five business days of the Contractor's realization that the State's delay may impact the Project. The Contractor must deliver any such notice to both the Project Representative and Procurement Representative and title the notice as a "Notice of State Delay." The notice must identify any delay in detail, as well as the impact the delay has or will have on the Project. Unless the State decides, in its sole and exclusive judgment, that an equitable adjustment in the Contractor's Fee is warranted in the case of an extended delay, an extension of the Contractor's time to perform will be the Contractor's exclusive remedy for the State's delay. Should the State determine that an equitable adjustment in the Contractor's Fee is warranted, the equitable adjustment will be handled as a Change Order under the Changes Section of this Contract, and the extension of time and equitable adjustment will be the exclusive remedies of the Contractor for the State's delay.

The State seeks a complete project, and the Contractor must provide any incidental items omitted in the RFP Documents as part of the Contractor's Firm Fixed Mark-up Percentage. The Contractor also must fully identify, describe, and document all

systems that are delivered as a part of the Project. Unless expressly excluded elsewhere in the RFP, all hardware, software, supplies, and other required components (such as documentation, conversion, training, and maintenance) necessary for the Project to be complete and useful to the State are included in the Project and the Firm Fixed Mark-up Percentage.

Compensation. In consideration of the Contractor's promises and satisfactory performance, the State will pay the Contractor the amount(s) identified in the RFP Documents (the "Fee"), plus any other expenses identified as reimbursable in the RFP Documents. In no event, however, will payments under this Contract exceed the total amounts payable to the Contractor based on approved hours worked by engaged staff augmentation resources without the prior written approval of the State and, when required, the Ohio Controlling Board and any other source of funding. The Contractor's right to the Fee is contingent on the complete and satisfactory performance of the Project or, in the case of milestone payments or periodic payments of an hourly, daily, weekly, monthly, or annual rate, all relevant parts of the Project tied to the applicable milestone or period. Payment of the Fee also is contingent on the Contractor delivering a proper invoice and any other documents the RFP Documents require. An invoice must comply with the State's then current policies regarding invoices and their submission. The State will notify the Contractor in writing within 15 business days after it receives a defective invoice of any defect and provide the information necessary to correct the defect.

The Contractor must send all invoices under this Contract to the "bill to" address in the RFP Documents or in the applicable purchase order.

The State will pay the Contractor interest on any late payment, as provided in Section 126.30 of the Ohio Revised Code (the "Revised Code"). If the State disputes a payment for anything covered by an invoice, within 15 business days after receipt of that invoice, the State will notify the Contractor, in writing, stating the grounds for the dispute. The State then may deduct the disputed amount from its payment as a nonexclusive remedy. If the Contractor has committed a material breach, in the sole opinion of the State, the State also may withhold payment otherwise due to the Contractor. Both parties will attempt to resolve any claims of material breach or payment disputes through discussions among the Contractor's Implementation Manager (e.g., Contractor's Project Manager), the Contractor's Project executive, the State's Project Representative, and the State Contract Management Administrator. The State will consult with the Contractor as early as reasonably possible about the nature of the claim or dispute and the amount of payment affected. When the Contractor has resolved the matter to the State's satisfaction, the State will pay the disputed amount within 30 business days after the matter is resolved. The State has no obligation to make any disputed payments until the matter is resolved, and the Contractor must continue its performance under this Contract pending resolution of the dispute or claim.

If the State has already paid the Contractor on an invoice but later disputes the amount covered by the invoice, and if the Contractor fails to correct the problem within 30 calendar days after written notice, the Contractor must reimburse the State for that amount at the end of the 30 calendar days as a nonexclusive remedy for the State. On written request from the Contractor, the State will provide reasonable assistance in determining the nature of the problem by giving the Contractor reasonable access to the State's facilities and any information the State has regarding the problem.

Payment of an invoice by the State will not prejudice the State's right to object to or question that or any other invoice or matter in relation thereto. The Contractor's invoice will be subject to reduction for amounts included in any invoice or payment made which are determined by the State not to constitute allowable costs, on the basis of audits conducted in accordance with the terms of this Contract. At the State's sole discretion all payments shall be subject to reduction for amounts equal to prior overpayments to the Contractor.

If the RFP Documents provide for any retainage, the State will withhold from each invoice paid the percentage specified in the RFP Documents as retainage. The State will pay the retainage only after the State has accepted the Project, and then only in accordance with the payment schedule specified in the RFP Documents. The State will withhold all amounts under this section arising from claims or disputes in addition to any retainage specified in the RFP Documents.

Reimbursable Expenses. The State will pay all reimbursable expenses identified in the RFP Documents, if any, in accordance with the terms in the RFP Documents and, where applicable, Section 126.31 of the Revised Code. The Contractor must assume all expenses that it incurs in the performance of this Contract that are not identified as reimbursable in the RFP Documents.

In making any reimbursable expenditure, the Contractor always must comply with the more restrictive of its own, then current internal policies for making such expenditures or the State's then current policies. All reimbursable travel will require the advance written approval of the State's Project Representative. The Contractor must bill all reimbursable expenses monthly, and the State will reimburse the Contractor for them within 30 business days of receiving the Contractor's invoice.

Right of Offset. The State may set off the amount of any Ohio tax liability, liquidated damages or other damages or claims for damages, or other obligation of the Contractor or its subsidiaries to the State, including any amounts the Contractor owes to the State under this or other contracts, against any payments due from the State to the Contractor under this or any other contracts with the State.

Certification of Funds. None of the rights, duties, or obligations in this Contract will be binding on the State, and the Contractor will not begin its performance until all the following conditions have been met:

- (a) All statutory provisions under the Revised Code, including Section 126.07, have been met;
- (b) All necessary funds are made available by the appropriate State entities;
- (c) If required, the Controlling Board of Ohio approves this Contract; and
- (d) If the State is relying on federal or third-party funds for this Contract, the State gives the Contractor written notice that such funds are available.

Employment Taxes. All people furnished by the Contractor (the "Contractor Personnel") are employees or subcontractors of the Contractor, and none are or will be deemed employees or contractors of the State. No Contractor Personnel will be entitled to participate in, claim benefits under, or become an "eligible employee" for purposes of any employee benefit plan of the State by reason of any work done under this Contract. The Contractor will pay all federal, state, local, and other applicable payroll taxes and make the required contributions, withholdings, and deductions imposed or assessed under any provision of any law and measured by wages, salaries, or other remuneration paid by or which may be due from the Contractor to the Contractor Personnel. The Contractor will indemnify, defend (with the consent and approval of the Ohio Attorney General), and hold the State harmless from and against all claims, losses, liability, demands, fines, and expense (including court costs, defense costs, and redeemable attorney fees) arising out of or relating to such taxes, withholdings, deductions, and contributions with respect to the Contractor Personnel. The Contractor's indemnity and defense obligations also apply to any claim or assertion of tax liability made by or on behalf of any Contractor Personnel or governmental agency on the basis that any Contractor Personnel are employees or contractors of the State, that the State is the "joint employer" or "co-employer" of any Contractor Personnel, or that any Contractor Personnel are entitled to any employee benefit offered only to eligible regular fulltime or regular part-time employees of the State.

Sales, Use, Excise, and Property Taxes. The State is exempt from any sales, use, excise, and property tax. To the extent sales, use, excise, or any similar tax is imposed on the Contractor in connection with the Project, such will be the sole and exclusive responsibility of the Contractor. Further, the Contractor will pay such taxes, together with any interest and penalties not disputed with the appropriate taxing authority, whether they are imposed at the time the services are rendered or a later time.

PART TWO: WORK AND CONTRACT ADMINISTRATION

Related Contracts. The Contractor warrants that the Contractor has not and will not enter into any contracts without written approval of the State to perform substantially identical services for the State, such that the Project duplicates the work done or to be done under the other contracts.

Other Contractors. The State may hold other contracts for additional or related work, including among others independent verification and validation (IV&V) work for this Project. The Contractor must fully cooperate with all other Contractors and State employees and coordinate its work with such other Contractors and State employees as may be required for the smooth and efficient operation of all related or additional work. The Contractor may not act in any way that may unreasonably interfere with the work of any other Contractors or the State's employees. Further, the Contractor must fully cooperate with any IV&V Contractor assigned to this Project. Such cooperation includes expeditiously providing the IV&V Contractor with full and complete access to all project work product, records, materials, personnel, meetings, and correspondence as the IV&V Contractor may request. If the State assigns an IV&V Contractor to the Project, the State will obligate the IV&V Contractor to a confidentiality provision similar to the Confidentiality Section contained in this Contract. Additionally, the Contractor must include the obligations of this provision in all its contracts with its subcontractors that work on this project.

Subcontracting. The Contractor may not enter into subcontracts related to the Project after award without written approval from the State. Nevertheless, the Contractor will not need the State's written approval to subcontract for the purchase of commercial goods that are required for satisfactory completion of the Project. All subcontracts will be at the sole expense of the Contractor unless expressly stated otherwise in the RFP Documents.

The State's approval of the use of subcontractors does not mean that the State will pay for them. The Contractor will be solely responsible for payment of its subcontractor and any claims of subcontractors for any failure of the Contractor or any of its other subcontractors to meet the performance schedule or performance specifications for the Project in a timely and professional manner. The Contractor must hold the State harmless for and must indemnify the State against any such claims.

The Contractor assumes responsibility for all Deliverables whether it, a subcontractor, or third-party manufacturer produces them in whole or in part. Further, the Contractor will be the sole point of contact with regard to contractual matters, including payment of all charges resulting from the Contract. Further, the Contractor will be fully responsible for any default by a subcontractor, just as if the Contractor itself had defaulted.

If the Contractor uses any subcontractors, each subcontractor must have a written agreement with the Contractor. That written agreement must incorporate this Contract by reference. The agreement also must pass through to the subcontractor all provisions of this Contract that would be fully effective only if they bind both the subcontractor and the Contractor. Among such provisions are the limitations on the Contractor's remedies, the insurance requirements, record keeping obligations, and audit rights. Some sections of this Contract may limit the need to pass through their requirements to subcontracts to avoid placing cumbersome obligations on minor subcontractors. This exception is applicable only to sections that expressly provide an exclusion for small-dollar subcontracts. Should the Contractor fail to pass through any provisions of this Contract to one of its subcontractors and the failure damages the State in any way, the Contractor must indemnify the State for the damage.

Record Keeping. The Contractor must keep all financial records in accordance with generally accepted accounting principles or equivalent consistently applied. The Contractor also must file documentation to support each action under this Contract in a manner allowing the documentation to be readily located. Additionally, the Contractor must keep all Project-related records and documents at its principal place of business or at its office where the work was performed.

Audits.

During the term of this Contract and for three years after the payment of the Contractor's Fee, on reasonable notice, and during customary business hours, the State may audit the Contractor's records and other materials that relate to the Project. This audit right also applies to the State's duly authorized representatives and any person or organization providing financial support for the Project. State audit rights will apply to those Contractor materials that are required to verify the accuracy of a Contractor invoice to the State inclusive of: Contractor personnel timesheets; Contractor purchased or provided equipment for benefit of

the State that will remain in the State's possession; State deliverable acceptance documentation; any required State written approvals as required herein; final Work products and deliverables; any partial or incomplete Work products or deliverables that should the Contractor submit for partial compensation from the State as a result of termination of this contract.

If any audit reveals any material misrepresentation, overcharge to the State, or violation of the terms of this Agreement, the State will be entitled to recover its damages, including the cost of the audit.

Right to Terminate as a Result of Audit Findings. In the event the State determines that the results of any examination of the Contractor is unsatisfactory per the requirements of the Contract and not remedied within a 30 day period following written notice from the State, the State may terminate this Agreement, in part or in full.

If the Contractor fails to satisfy the requirements of the State with regard to security of information, or if an examination reveals information that would result in a continuing contractual relationship that causes the State to be in violation of any law, the State may terminate this Contract immediately without notice.

Insurance.

Contractor must procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the services hereunder by the Contractor, its agents, representatives, or employees. Contractor must procure and maintain, for the duration of the contract, insurance for claims arising out of their services and including, but not limited to loss, damage, theft or other misuse of data, infringement of intellectual property, invasion of privacy and breach of data.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. Commercial General Liability (CGL): written on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Defense costs shall be outside the policy limit.
2. Automobile Liability: covering Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with a limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation insurance as required by the State of Ohio, or the state in which the work will be performed, with Statutory Limits, and Employer's Liability Insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease. If Contractor is a sole proprietor, partnership or has no statutory requirement for workers' compensation, Contractor must provide a letter stating that it is exempt and agreeing to hold Entity harmless from loss or liability for such.
4. Technology Professional Liability (Errors and Omissions) Insurance appropriate to the Contractor's profession, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall cover all applicable Contractor personnel or subcontractors who perform professional services related to this agreement.
5. Cyber liability (first and third party) with limits not less than \$5,000,000 per claim, \$10,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and

network security. The coverage shall provide for breach response costs as well as regulatory fines and penalties and credit monitoring expenses with limits sufficient to respond to these obligations.

The Insurance obligations under this agreement shall be the minimum Insurance coverage requirements and/or limits shown in this agreement. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits, which are applicable to a given loss, shall be available to the State of Ohio. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the obligations of the Contractor under this agreement.

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

Except for Workers' Compensation and Professional Liability insurance, the State of Ohio, its officers, officials and employees are to be covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. Coverage can be provided in the form of an endorsement to the Contractor's insurance.

Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance. Any insurance or self-insurance maintained by the State of Ohio, its officers, officials and employees shall be excess of the Contractor's insurance and shall not contribute with it.

Umbrella or Excess Insurance Policies

Umbrella or excess commercial liability policies may be used in combination with primary policies to satisfy the limit requirements above. Such Umbrella or excess commercial liability policies shall apply without any gaps in the limits of coverage and be at least as broad as and follow the form of the underlying primary coverage required above.

Notice of Cancellation

Contractor shall provide State of Ohio with 30 days written notice of cancellation or material change to any insurance policy required above, except for non-payment cancellation. Material change shall be defined as any change to the insurance limits, terms or conditions that would limit or alter the State's available recovery under any of the policies required above. A lapse in any required insurance coverage during this Agreement shall be a breach of this Agreement.

Waiver of Subrogation

Contractor hereby grants to State of Ohio a waiver of any right to subrogation which any insurer of said Contractor may acquire against the State of Ohio by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the State of Ohio has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Deductibles and self-insured retentions must be declared to and approved by the State. The State may require the Contractor to provide proof of ability to pay losses and related investigations, claims administration and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the deductible or self-insured retention may be satisfied by either the named insured or the State.

Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work. The Discovery Period must be active during the Extended Reporting Period.

Verification of Coverage

Contractor shall furnish the State of Ohio with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the State of Ohio before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The State of Ohio reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Contractor must require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that State of Ohio is an additional insured on insurance required from subcontractors.

Special Risks or Circumstances

State of Ohio reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Replacement Personnel.

The Contract contains the names of specific people who will work on the Work, and the quality and professional credentials of those people were material factors in the State's decision to enter into this Contract. Therefore, the Contractor will use all commercially reasonable efforts to ensure the continued availability of those people. Also, the Contractor will not remove those people from the Work without the prior, written consent of the State except as provided below.

The Contractor may remove a person listed in the Contract from the Work if doing so is necessary for legal or disciplinary reasons, in the case of the person's resignation, the ceasing of his or her employment with the Contractor, or in the case of a leave of absence due to medical or personal extenuating circumstances. When the unavailability of a listed person becomes known to the Contractor. The Contractor must give the State immediate written notice of the unavailability or removal of the person.

The Contractor must have candidates with equal or better qualifications available to replace any person listed by name in the Contract. The Contractor will submit two (2) resumes of candidates to replace each person removed or who otherwise becomes unavailable, along with such other information as the State may reasonably request, within five (5) business days after the notice.

The State will select one of the two proposed replacements or will reject both of them within ten (10) business days after the Contractor has submitted the proposed replacements to the State. The State may reject the proposed replacements for any reason(s).

In addition, should the Contractor do any of the following, it will be in default:

- Fail to provide candidates with equal or better qualifications;
- Fail to provide the notice required under this Section; or
- Fail to provide two (2) qualified replacement candidates for each removed or unavailable person.

The State has an interest in ensuring, and right to ensure, that its operations are carried out in an efficient, professional, legal, and secure manner. The State, therefore, will have the right to require the Contractor to remove any individual on the Work if

the State determines that any such individual has or may interfere with the State's interests identified above. In such a case, the request for removal will be treated as a case in which an individual providing services under this Contract has become unavailable, and the Contractor will follow the procedures identified above for replacing unavailable people. This provision applies to people engaged by the Contractor's subcontractors.

If the Contractor removes a person listed in the Proposal from the Work for any reason other than those specified above, the State may assess damages in the amount of \$1,800.00 for every day between the date on which the individual was removed and the date that this Contract is terminated or the individual's qualified replacement, selected in accordance with the process identified in this section, starts performing on the Work. The State also may provide the Contractor with written notice of its default under this section. Should the State assess liquidated damages or otherwise be entitled to damages under this provision, it may offset these damages from any Fees due under this Contract.

Suspension and Termination. The State may terminate this Contract in full or in part for cause if the Contractor defaults in meeting its obligations under this Contract and fails to cure its default within the time allowed by this Contract, or if a petition in bankruptcy (or similar proceeding) has been filed by or against the Contractor. The State also may terminate this Contract if the Contractor violates any law or regulation in doing the Project, or if it appears to the State that the Contractor's performance is substantially endangered through no fault of the State. In any such case, the termination will be for cause, and the State's rights and remedies will be those identified below for termination for cause.

On written notice, the Contractor will have 30 calendar days to cure any breach of its obligations under this Contract, provided the breach is curable. If the Contractor fails to cure the breach within 30 calendar days after written notice, or if the breach is not one that is curable, the State will have the right to terminate this Contract immediately on notice to the Contractor. The State also may terminate this Contract in the case of breaches that are cured within 30 calendar days but are persistent. "Persistent" in this context means that the State has notified the Contractor in writing of the Contractor's failure to meet any of its obligations three times. After the third notice, the State may terminate this Contract on written notice to the Contractor without a cure period if the Contractor again fails to meet any obligation. The three notices do not have to relate to the same obligation or type of failure. Some provisions of this Contract may provide for a shorter cure period than 30 calendar days or for no cure period at all, and those provisions will prevail over this one. If a particular section does not state what the cure period will be, this provision will govern.

The State also may terminate this Contract in full or in part for its convenience and without cause or if the Ohio General Assembly fails to appropriate funds for any part of the Project. If a third party is providing funding for the Project, the State also may terminate this Contract should that third party fail to release any Project funds. The RFP Documents normally identify any third party source of funds for the Project, but an absence of such in the RFP Documents will not diminish the State's rights under this section.

The notice of termination, whether for cause or without cause, will be effective as soon as the Contractor receives it. Upon receipt of the notice of termination, the Contractor must immediately cease all work on the project and take all steps necessary to minimize any costs the Contractor will incur related to this Contract. The Contractor also must immediately prepare a report and deliver it to the State. The report must be all-inclusive and must detail the work completed at the date of termination, the percentage of the Project's completion, any costs incurred in doing the Project to that date, and any Deliverables completed or partially completed but not delivered to the State at the time of termination. The Contractor also must deliver all the completed and partially completed Deliverables to the State with its report. However, if the State determines that delivery in that manner would not be in its interest, then the State will designate a suitable alternative form of delivery, which the Contractor must honor.

If the State terminates this Contract for cause, the State will be entitled to cover for the Work by using another Contractor on such commercially reasonable terms as the State and the covering Contractor may agree. The Contractor will be liable to the State for all costs related to covering for the Work to the extent that such costs, when combined with payments already made to the Contractor for the Work before termination, exceed the costs that the State would have incurred under this Contract. The Contractor also will be liable for any other direct damages resulting from its breach of this Contract or other action leading to termination for cause. If the Contractor fails to deliver Deliverables or provide satisfactory services, the State has the right to

withhold any and all payments due to the Contractor without penalty or work stoppage by the Contractor until such failure to perform is cured.

If the termination is for the convenience of the State, the Contractor will be entitled to the Contract price as prorated by the State Contract price for deliverables, products or services accepted by the State and not previously paid for provided in that in no event will total payments exceed the amount payable to the Contractor if the Contract had been fully performed. For items not specifically priced, the State will use fair market value to determine the price owed. The Contractor will use generally accepted accounting principles or equivalent and sound business practices in determining all costs claimed, agreed to, or determined under this clause.

The State will have the option of suspending this Contract in full or in part rather than terminating the Project, if the State believes that doing so would better serve its interests. In the event of a suspension for the convenience of the State, the Contractor will be entitled to receive payment for the work performed before the suspension. In the case of suspension of the Project for cause rather than termination for cause, the Contractor will not be entitled to any compensation for any work performed. If the State reinstates the Project after suspension for cause, rather than terminating this Contract after the suspension, the Contractor may be entitled to compensation for work performed before the suspension, less any damage to the State resulting from the Contractor's breach of this Contract or other fault. Any amount due for work before or after the suspension for cause will be offset by any damage to the State from the default or other event giving rise to the suspension.

In the case of a suspension for the State's convenience, the State will calculate the amount of compensation due to the Contractor for work performed before the suspension in the same manner as provided in this section for termination for the State's convenience. The Contractor will not be entitled to compensation for any other costs associated with a suspension for the State's convenience, and the State will make no payment under this provision to the Contractor until the Contractor submits a proper invoice. If the State decides to allow the work to continue rather than terminating this Contract after the suspension, the State will not be required to make any payment to the Contractor other than those payments specified in this Contract and in accordance with the payment schedule specified in this Contract for properly completed work.

Any notice of suspension, whether with or without cause, will be effective immediately on the Contractor's receipt of the notice. The Contractor will prepare a report concerning the Project just as is required by this Section in the case of termination. After suspension of the Project, the Contractor may not perform any work without the consent of the State and may resume work only on written notice from the State to do so. In any case of suspension, the State retains its right to terminate this Contract rather than to continue the suspension or resume the Project.

The State may not suspend the Project for its convenience more than twice during the term of this Contract, and any suspension for the State's convenience may not continue for more than 30 calendar days. If the Contractor does not receive notice to resume or terminate the Project within the 30-day suspension, then this Contract will terminate automatically for the State's convenience at the end of the 30 calendar day period.

Any default by the Contractor or one of its subcontractors will be treated as a default by the Contractor and all of its subcontractors. The Contractor will be solely responsible for satisfying any claims of its subcontractors for any suspension or termination and must indemnify the State for any liability to them. Notwithstanding the foregoing, each subcontractor must hold the State harmless for any damage caused to them from a suspension or termination. They must look solely to the Contractor for any compensation to which they may be entitled.

Representatives. The State's representative under this Contract will be the person identified in the RFP Documents or in a subsequent notice to the Contractor as the "Project Representative." The Project Representative will review all reports the Contractor makes in the performance of the Project, will conduct all liaison with the Contractor, and will accept or reject the Deliverables and the completed Project. The Project Representative may delegate his responsibilities for individual aspects of the Project to one or more managers, who may act as the Project Representative for those individual portions of the Project.

The Contractor's Implementation Manager under this Contract will be the person identified on the RFP Documents as the "Implementation Manager." The Implementation Manager will be the Contractor's liaison with the State under this Contract. The

Implementation Manager also will conduct all Project meetings and prepare and submit to the Project Representative all reports, plans, and other materials that the RFP Documents require from the Contractor.

Either party, upon written notice to the other party, may designate another representative. However, the Contractor may not replace the Implementation Manager without the approval of the State if that person is identified in the RFP Documents by name or as a key individual on the Project.

Project Responsibilities. The State will be responsible for providing only those things, if any, expressly identified in the RFP Documents. If the State has agreed to provide facilities or equipment, the Contractor, by signing this Contract, warrants that the Contractor has either inspected the facilities and equipment or has voluntarily waived an inspection and will work with the equipment and facilities on an “as is” basis.

The Contractor must assume the lead in the areas of management, design, and development of the Project. The Contractor must coordinate the successful execution of the Project and direct all Project activities on a day-to-day basis, with the advice and consent of the Project Representative. The Contractor will be responsible for all communications regarding the progress of the Project and will discuss with the Project Representative any issues, recommendations, and decisions related to the Project.

If any part of the Project requires installation on the State's property, the State will provide the Contractor with reasonable access to the installation site for the installation and any site preparation that is needed. After the installation is complete, the Contractor must complete an installation letter and secure the signature of the Project Representative certifying that installation is complete and the Project, or applicable portion of it, is operational. The letter must describe the nature, date, and location of the installation, as well as the date the Project Representative certified the installation as complete and operational.

Unless otherwise provided in the RFP Documents, the Contractor is solely responsible for obtaining all official permits, approvals, licenses, certifications, and similar authorizations required by any local, state, or federal agency for the Project and maintaining them throughout the duration of this Contract.

Changes. The State may make reasonable changes within the general scope of the Project. The State will do so by issuing a written order under this Contract describing the nature of the change (“Change Order”). Additionally, if the State provides directions or makes requests of the Contractor without a change order, and the Contractor reasonably believes the directions or requests are outside the specifications for the Project, the Contractor may request a Change Order from the State. The parties will handle such changes as follows: The Contractor will provide pricing to the State. The State will execute a Change Order once it and the Contractor have agreed on the description of and specifications for the change, as well as any equitable adjustments that need to be made in the Contractor's Fee or the performance schedule for the work. Then within five business days after receiving the Change Order, the Contractor must sign it to signify agreement with it.

If a change causes an increase in the cost of, or the time required for, the performance of the Project, the Contractor must notify the State in writing and request an equitable adjustment in its Fee, the delivery schedule, or both before the Contractor signs the Change Order. If the Contractor claims an adjustment under this section in connection with a change to the Project not described in a written Change Order, the Contractor must notify the State in writing of the claim within five business days after the Contractor is notified of the change and before work on the change begins. Otherwise, the Contractor will have waived the claim. In no event will the State be responsible for any increase in the Fee or revision in any delivery schedule unless the State expressly ordered the relevant change in writing and the Contractor has complied with the requirements of this section. Provided the State has complied with the procedure for Change Orders in this section, nothing in this clause will excuse the Contractor from proceeding with performance of the Project, as changed.

Where an equitable adjustment to the Contractor's Fee is appropriate, the State and the Contractor may agree upon such an adjustment. If the State and the Contractor are unable to agree, either party may submit the dispute to the senior management of the Contractor and the senior management of the State's Department of Administrative Services for resolution. If within 30 calendar days following referral to senior management, the claim or dispute has not been resolved, the Contractor must submit its actual costs for materials needed for the change (or estimated amount if the precise amount of materials cannot be determined) and an estimate of the hours of labor required to do the work under the Change Order. The Contractor must break

down the hours of labor by employee position, and provide the actual hourly pay rate for each employee involved in the change. The total amount of the equitable adjustment for the Change Order then will be made based on the actual cost of materials (or estimated materials) and actual rate for each person doing the labor (based on the estimated hours of work required to do the change). Labor rates will be increased by 25% to cover benefits and taxes. The equitable adjustment for the Change Order then will be set based on this amount, plus 15% to cover overhead and profit. This amount will be the not-to-exceed amount of the Change Order. If the change involves removing a requirement from the Project or replacing one part of the Project with the change, the State will get a credit for the work no longer required under the original scope of the Project. The credit will be calculated in the same manner as the Contractor's Fee for the change, and the not-to-exceed amount will be reduced by this credit.

The Contractor is responsible for coordinating changes with its subcontractors and adjusting their compensation and performance schedule. The State will not pay any subcontractor for the Change Order. If a subcontractor will perform any work under a Change Order, that work must be included in the Contractor's not-to-exceed amount and calculated in the same manner as the Contractor's equitable adjustment for the portion of the work the Contractor will perform. The Contractor will not receive an overhead percentage for any work a subcontractor will do under a Change Order.

If the RFP Documents provide for the retainage of a portion of the Contractor's Fee, all equitable adjustments for Change Orders also will be subject to the same retainage, which the State will pay only on completion and acceptance of the Project, as provided in the RFP Documents.

Change Orders must be added to the Contract through a Contract Amendment as described in the Standard Terms and Conditions, Contract Amendments/Waiver section.

Excusable Delay. Neither party will be liable for any delay in its performance that arises from causes beyond its control and without its negligence or fault. The delayed party must notify the other promptly of any material delay in performance and must specify in writing the proposed revised performance date as soon as practicable after notice of delay. In the event of any such excusable delay, the date of performance or of delivery will be extended for a period equal to the time lost by reason of the excusable delay. The delayed party also must describe the cause of the delay and what steps it is taking to remove the cause. The delayed party may not rely on a claim of excusable delay to avoid liability for a delay if the delayed party has not taken commercially reasonable steps to mitigate or avoid the delay. Things that are controllable by the Contractor's subcontractors will be considered controllable by the Contractor, except for third-party manufacturers supplying commercial items and over whom the Contractor has no legal control.

Independent Contractor Acknowledgement. It is fully understood and agreed that Contractor is an independent contractor and is not an agent, servant, or employee of the State of Ohio or the Ohio Department of Administrative Services. Contractor declares that it is engaged as an independent business and has complied with all applicable federal, state, and local laws regarding business permits and licenses of any kind, including but not limited to any insurance coverage, workers' compensation, or unemployment compensation that is required in the normal course of business and will assume all responsibility for any federal, state, municipal or other tax liabilities. Additionally, Contractor understands that as an independent contractor, it is not a public employee and is not entitled to contributions from DAS to any public employee retirement system.

Contractor acknowledges and agrees any individual providing personal services under this agreement is not a public employee for purposes of Chapter 145 of the Ohio Revised Code. Unless Contractor is a "business entity" as that term is defined in ORC. 145.037 ("an entity with five or more employees that is a corporation, association, firm, limited liability company, partnership, sole proprietorship, or other entity engaged in business") Contractor shall have any individual performing services under this agreement complete and submit to the ordering agency the Independent Contractor/Worker Acknowledgement found at the following link: <https://www.opers.org/forms-archive/PEDACKN.pdf>

Contractor's failure to complete and submit the Independent/Worker Acknowledgement prior to commencement of the work, service or deliverable, provided under this agreement, shall serve as Contractor's certification that Contractor is a "Business entity" as the term is defined in ORC Section 145.037.

Background Checks. All Contractor and subcontractor personnel, including any Replacement Personnel, assigned to this project who have access to sensitive or confidential information or to sensitive State systems must have a current fingerprint search and background check performed by the Federal Bureau of Investigation or other Federal investigative authority. The fingerprint search and background checks must be completed before any such Contractor or subcontractor personnel gain access to State facilities, sensitive and/or confidential information or systems. All costs associated with this will be at the Contractor's expense. At its discretion, the State may reject any Contractor or subcontractor personnel based on the information provided in the completed background check.

The Contractor must confirm in their proposal that all Contractor and subcontractor personnel assigned to the project will have background checks completed before project start or before reporting to state designated project facilities.

Selected Candidate Background Checks – Any staff augmentation resource placed on assignment at a State Agency must undergo a complete and thorough background check prior to the start of the Resource's assignment, at no expense to the State Agency. This will include previous work addresses for the last ten (10) years. The Contractor must ensure that background checks are performed to determine if the selected candidate to fulfill a requisition for staff augmentation services has any types of convictions in the following areas:

1. Any record of violence, domestic or otherwise;
2. Drug-related convictions;
3. Theft;
4. Other offenses deemed at risk to the facility or its population.

Those employees and potential employees of the Contractor and subcontractor(s) with felony convictions or other criminal records, unless specifically approved by the requesting State Agency, will not be permitted to be engaged to provide services. Depending on the nature of the work, additional federal and state background checks may be required

Ohio MBE Certification. The MBE must maintain their certification throughout the term of the Contract, including any renewals. Failure to maintain such certification will be considered a breach of the Contract.

OhioBuys. This contract will become part of an eProcurement System which will provide electronic contract and catalog hosting and management services. Ordering Agencies will access a web-based site to place orders for the procurement of goods and services using State of Ohio contracts. The Contractor agrees to establish, maintain and support an online contract and catalog.

Publicity and Branding. The Contractor shall not do the following without prior, written consent from the State:

1. Advertise or publicize that the Contractor is doing business with the State;
2. Use this Contract as a marketing or sales tool; or
3. Affix any advertisement or endorsement, including any logo, graphic, text, sound, video, and company name, to any State-owned property, application, or website, including any website hosted by Contractor or a third party.

PART THREE: OWNERSHIP AND HANDLING OF INTELLECTUAL PROPERTY AND CONFIDENTIAL INFORMATION

Confidentiality. The parties may disclose or learn of information, documents, data, records, or other material that the disclosing party considers confidential (“Confidential Information”) in the performance of this Contract. The receiving party must treat the Confidential Information as such if it is so marked, otherwise defined as such, or when, by its very nature, it deals with matters that, if generally known, would be damaging to the best interests of either party, the public, other contractors or potential contractors with the State, or individuals or organizations about whom the State keeps information. Title to the Confidential Information and all related materials and documentation remains with the disclosing party. The receiving party may only use the Confidential Information solely to perform its obligations under this Contract and may not use or disclose any Confidential Information received as a result of this Contract without the written permission of the disclosing party. The Contractor must assume that all State information, documents, data, source codes, software, models, know-how, trade secrets, or other material when, by its very nature, it deals with matters that, if generally known, would be damaging to the best interest of the public, other contractors, potential contractors with the State, or individuals or organizations about whom the State keeps information is confidential. In addition, the receiving party may not use or disclose any documents or records excluded by Ohio law from public records disclosure requirements.

The receiving party’s obligation to maintain the confidentiality of the Confidential Information will not apply where the information:

1. Was already in the receiving party’s possession without the obligation of confidence;
2. Is independently developed by the receiving party with documentary evidence to support the independent development;
3. Is or becomes publicly available without breach of this Contract, except as provided in the next full paragraph;
4. Is rightfully received by the receiving party from a third party without an obligation of confidence;
5. Is disclosed by the receiving party with the written consent of the disclosing party; or
6. Is released in accordance with a valid order of a court or governmental agency, provided that the receiving party:
 - a. Notifies the disclosing party of such order immediately upon receipt of the order; and
 - b. Makes a reasonable effort to obtain a protective order from the issuing court or agency limiting disclosure and use of the Confidential Information solely for the purposes intended to be serviced by the original order of production.

Although some sensitive personal information, such as medical records, addresses, telephone numbers, and social security numbers may be publicly available through other sources, the receiving party shall not disclose or use such information in any manner except as expressly authorized in this Contract. Therefore, item 3 above does not apply, and the receiving party must treat such sensitive personal information as Confidential Information whether it is available elsewhere or not. The receiving party must restrict circulation of Confidential Information within its organization and then only to people in the receiving party’s organization that have a need to know the Confidential Information to perform under this Contract.

The receiving party must return all originals of any Confidential Information provided by the disclosing party and destroy any copies the receiving party has made upon termination or expiration of this Contract.

The receiving party will not incorporate any portion of any Confidential Information into any work or product, other than a Deliverable, and will have no proprietary interest in any of the Confidential Information. Furthermore, the receiving party may be required to have all of its personnel and subcontractors who have access to any Confidential Information to execute a confidentiality agreement incorporating the obligations in this section.

The receiving party will be liable for the disclosure of any Confidential Information not specifically authorized by this Contract. The parties agree that the disclosure of Confidential Information may cause the disclosing party irreparable damage for which remedies other than injunctive relief may be inadequate, and the receiving party agrees that in the event of a breach of the receiving party’s obligations hereunder, the disclosing party shall be entitled to temporary and permanent injunctive relief to enforce this Contract without the necessity of proving actual damages. This provision shall not, however, diminish or alter any right to claim and recover damages.

This Agreement is not Confidential Information. All its terms and conditions, including pricing and any attachments, represent public information.

Confidentiality Agreements. When the Contractor performs services under this Contract that require the Contractor's and its subcontractors' personnel to access facilities, data, or systems that the State in its sole discretion deems sensitive, the State may require the Contractor's and its subcontractors' personnel with such access to sign an individual confidentiality agreement and policy acknowledgements, and have a background check performed before accessing those facilities, data, or systems. Each State agency, board, and commission may require a different confidentiality agreement or acknowledgment, and the Contractor's and its subcontractors' personnel may be required to sign a different confidentiality agreement or acknowledgment for each agency. The Contractor must immediately replace any of its or its subcontractors' personnel who refuse to sign a required confidentiality agreement or acknowledgment or have a background check performed.

Ownership of Deliverables. The State owns all Deliverables that the Contractor produces under this Contract, including any software modifications, and documentation, with all rights, title, and interest in all intellectual property that come into existence through the Contractor's custom work being assigned to the State. Additionally, the Contractor waives any author rights and similar retained interests in custom-developed material. The Contractor must provide the State with all assistance reasonably needed to vest such rights of ownership in the State. The Contractor will retain ownership of all tools, methods, techniques, standards, and other development procedures, as well as generic and preexisting shells, subroutines, and similar material incorporated into any custom Deliverable ("Pre-existing Materials"), if the Contractor provides the non-exclusive license described in the next paragraph.

The Contractor may grant the State a worldwide, non-exclusive, royalty-free, perpetual license to use, modify, and distribute all Pre-existing Materials that are incorporated into any custom-developed Deliverable rather than grant the State ownership of the Pre-existing Materials. The State may distribute such Pre-existing materials to third parties only to the extent required by governmental funding mandates. The Contractor may not include in any custom Deliverable any intellectual property unless such has been created under this Contract or qualifies as Pre-existing Material. If the Contractor wants to incorporate any Pre-existing Materials into a custom Deliverable, the Contractor must first disclose that desire to the State in writing and seek the State's approval for doing so in advance. The State will not be obligated to provide that approval, unless the Contractor disclosed its intention to do so in the RFP Documents. On the Contractor's request, the State will incorporate into any copies of a custom Deliverable any proprietary notice that the Contractor included with the original copy, if that notice is reasonably necessary to protect the Contractor's interest in any Pre-existing Materials contained in the custom Deliverable.

Subject to the limitations and obligations of the State with respect to Pre-existing Materials, the State may make all custom Deliverables available to the general public without any proprietary notices of any kind.

For Deliverables that include custom materials such as software, scripts, or similar computer instructions developed for the State, the State is entitled to the source material. Scripts and similar functionality may not be locked or otherwise protected from access by the State, unless the State has any passwords or other tools necessary to access the material. Source material must include annotations or comments according to industry standards. Further, the State is entitled to any working papers the Contractor has developed during the performance of the Project that would reasonably assist the State in using the Deliverables that include source materials or that would help the State protect its interests in the Deliverable or update, modify, or otherwise maintain the Deliverable. This also includes all design and architectural materials, such as schemas.

The Contractor may use Confidential Information only as necessary for Contractor's performance under or pursuant to rights granted in this Agreement and for no other purpose. The Contractor's limited right to use Confidential Information expires upon expiration or termination of this Agreement for any reason. The Contractor's obligations of confidentiality and non-disclosure survive termination or expiration for any reason of this Agreement.

License in Commercial Material. As used in this section, "Commercial Material" means anything that the Contractor or a third party has developed at private expense, is commercially available in the marketplace, subject to intellectual property rights, and readily copied through duplication on magnetic media, paper, or other media. Examples include written reports, books, pictures, videos, movies, computer programs, and computer source code and documentation.

Any Commercial Material that the Contractor intends to deliver as a Deliverable must have the scope of the license granted in such material disclosed in the RFP Documents or as an attachment referenced in the RFP Documents, if that scope of license is different from the scope of license contained in this section for Commercial Materials.

Except for Commercial Material that is software ("Commercial Software"), if the Commercial Material is copyrighted and published material, then the State will have the rights permitted under the federal copyright laws for each copy of the Commercial Material delivered to it by the Contractor.

Except for Commercial Software, if the Commercial Material is patented, then the State will have the rights permitted under the federal patent laws for each copy of the Commercial Material delivered to it by the Contractor.

Except for Commercial Software, if the Commercial Material consists of trade secrets, then the State will treat the material as confidential. In this regard, the State will assume all obligations with respect to the Commercial Material that the Contractor assumes under the Confidentiality section of this Contract with respect to the State's Confidential Information. Otherwise, the State will have the same rights and duties permitted under the federal copyright laws for each copy of the Commercial Material delivered to it by the Contractor, whether or not the material is copyrighted when delivered to the State.

PART FOUR: REPRESENTATIONS, WARRANTIES, AND LIABILITIES

General Warranties. The Contractor warrants that the recommendations, guidance, and performance of the Contractor under this Contract will: (1) be in accordance with sound professional standards and the requirements of this Contract and without any material defects; and (2) unless otherwise provided in the RFP Documents, be the work solely of the Contractor. The Contractor also warrants that: (1) no Deliverable will infringe on the intellectual property rights of any third party; and (2) the Contractor's work and the Deliverables resulting from that work will be merchantable and fit for the particular purposes described in the RFP Documents.

Additionally, with respect to the Contractor's activities under this Contract, the Contractor warrants that: (1) the Contractor has the right to enter into this Contract; (2) the Contractor has not entered into any other contracts or employment relationships that restrict the Contractor's ability to perform the contemplated services; (3) the Contractor will observe and abide by all applicable laws and regulations, including those of the State regarding conduct on any premises under the State's control and security for the State's data, systems, and networks; (4) the Contractor has good and marketable title to any goods delivered under this Contract and in which title passes to the State; (5) the Contractor has the right and ability to grant the license granted in any Deliverable in which title does not pass to the State; and (6) the Contractor is not subject to any unresolved findings of the Auditor of State under Revised Code Section 9.24 and will not become subject to an unresolved finding that prevents the extension or renewal of this Contract.

The warranties regarding material defects, merchantability, and fitness are one-year warranties. All other warranties will be continuing warranties. If any portion of the Project fails to comply with these warranties, and the Contractor is so notified in writing, the Contractor must correct such failure with all due speed or must refund the amount of the compensation paid for such portion of the Project. The Contractor also must indemnify the State for any direct damages and claims by third parties based on a breach of these warranties. This obligation of indemnification will not apply where the State has modified or misused the Deliverable and the claim is based on the modification or misuse. The State will give the Contractor notice of any such claim as soon as reasonably practicable. If a successful claim of infringement is made, or if the Contractor reasonably believes that an infringement claim that is pending may actually succeed, the Contractor must do one of the following things: (1) modify the Deliverable so that it is no longer infringing; (2) replace the Deliverable with an equivalent or better item; (3) acquire the right for the State to use the infringing Deliverable as it was intended for the State to use under this Contract; or (4) remove the Deliverable and refund the amount the State paid for the Deliverable and the amount of any other Deliverable or item that requires the availability of the infringing Deliverable for it to be useful to the State.

Indemnity for Property Damage, Bodily Injury, and Data Breach. The Contractor must indemnify the State for all liability and expense resulting from bodily injury to any person (including injury resulting in death), damage to tangible or real property, or disclosure/breach of State Data including personally identifiable information and State sensitive information arising out of the performance of this Contract, provided that such bodily injury, property damage, or disclosure/breach is due to the negligence or other tortious conduct of the Contractor, its employees, agents, or subcontractors. The Contractor will not be responsible for any damages or liability to the extent caused by the negligence or willful misconduct of the State, its employees, other Contractors, or agents.

Limitation of Liability. Neither party will be liable for any indirect, incidental, or consequential loss or damage of the other party, including but not limited to lost profits, even if the parties have been advised, knew, or should have known of the possibility of such damages. Additionally, neither party will be liable to the other for direct or other damages in excess of two times the annual contract value up to a maximum of \$25,000,000.00 Contract. The limitations in this paragraph do not apply to: (i) any obligation of the Contractor to indemnify the State against claims made against it; (ii) disclosure/breach of State Data including personally identifiable information or State sensitive information, or for (iii) damages to the State caused by the Contractor's negligence or other tortious conduct.

PART FIVE: ACCEPTANCE AND MAINTENANCE

Standards of Performance and Acceptance. There will be a period for performance testing of the completed Project. During the performance period, the State, with the assistance of the Contractor, will perform acceptance testing. The performance period will last up to 90 calendar days, during which time the Project must meet the standard of performance required by the RFP Documents for 30 consecutive calendar days. The performance criteria in the RFP Documents will be supplemented with the relevant user manuals, technical materials, and related writings, to the extent that the specifications in those writings supplement and refine rather than contradict the performance criteria in the RFP Documents. Acceptance of the Project depends on a successful completion of the performance period defined in this section and the RFP Documents. This section applies to the Project, and any part of it, as well as replacements or substitutes for the Project after completion of a successful performance period.

If the Project does not meet the standard of performance during the initial performance period, the State will give the Contractor details about the problems in a timely manner and in a useful and relevant form. Until the Contractor demonstrably corrects all outstanding problems, the second performance period will not start, and the State will not accept the Project (or part thereof). The second performance test will continue on a day-by-day basis until the standard of performance is met for a total of 30 consecutive calendar days or until the 90-day performance period has ended without meeting the standard of performance.

If the Project fails to meet the standard of performance after 90 calendar days from the start of the second performance period, the Contractor will be in default and will not have a cure period. In addition to all other remedies the State may have under this Contract, the State may request a correction or replacement of the relevant portion of the Project.

The Project may have components that can be tested for acceptance individually. If that is so, there may be acceptance criteria listed on the RFP Documents for each part of the Project that will be independently tested and accepted. However, unless the RFP Documents expressly provide otherwise, the failure of any independently tested component to meet its acceptance criteria will give the State the right to reject the entire Project. Alternatively, if the State determines that it is in the State's interest to reject only the part of the Project that was independently and unsuccessfully tested, it may do so. If the State chooses this option, the State will be entitled to a refund or credit toward the Contractor's Fee equal to the cost of acquiring a replacement for the rejected component.

The acceptable level of performance for the Project will be 99.5%, unless otherwise specified in the RFP Documents. The performance level for the Project is computed by dividing the sum of the uptime by the number of working hours during the test time. "Uptime" means the total hours, rounded to the nearest quarter hour, during which all components of the Project are operational and all functions of the Project are available to its users. The number of "working hours" means the total number of working hours for the period during which the Project was scheduled to be available to its users. Uptime and downtime will be measured in hours and quarter hours.

The Project "downtime" is that period when any part of the Project is inoperable due to failure of the Project or a particular Deliverable to operate according to the specifications in the RFP Documents, the user documentation, or the published technical specifications. During a period of downtime, the State may use operable components of the Project when that will not interfere with repair of inoperable components of the Project. Downtime will start from the time the State notifies the Project Manager of the inoperable condition of the Project until the Project is returned in proper operating condition.

The Project will not be accepted until the performance period is complete.

Should it be necessary, the State may delay the start of the performance period, but the delay will not exceed 30 consecutive calendar days after the scheduled date for implementation of the Project. Such a delay will not be considered a suspension of work under the Suspension and Termination section of this Contract.

Passage of Title. Title to any Deliverable will pass to the State only on acceptance of the Deliverable. All risk of loss, regardless of the cause, will remain with the Contractor until title to the Deliverable passes to the State.

Principal Period of Maintenance (General). This section applies if software or Equipment will be a Deliverable under this Contract.

The Contractor must make maintenance available twelve working hours per weekday, between 7:00 a.m. and 7:00 p.m. (Columbus, Ohio local time). Travel time and expenses related to remedial and preventive maintenance will not be considered billable but will be included in the Contractor's firm, fixed Transaction and Maintenance costs for the Project during the warranty period and a part of the annual maintenance Fee during later annual maintenance periods.

Maintenance Access (General). This section applies if software or Equipment will be a Deliverable under this Contract.

The Contractor must keep the Project in good operating condition during the warranty period and any annual maintenance period during which the State contracts for continued maintenance. The State will provide the Contractor with reasonable access to the Project to perform maintenance. All maintenance that requires the Project to be inoperable must be performed outside the State's customary working hours, except when the Project is already inoperable. Preventive or scheduled maintenance will be performed at mutually agreeable times, within the parameters of the manufacturer's published schedule.

Key Maintenance Personnel (General). This section applies if software or Equipment will be a Deliverable under this Contract.

The Contractor must identify all key people responsible for providing maintenance on the Project, furnish the State with a means of identifying these people, furnish the State with their credentials, and notify the State at least 30 calendar days in advance of any reductions in staffing levels of key people at the office serving the State.

PART SIX: CONSTRUCTION

Entire Document. This Contract is the entire agreement between the parties with respect to its subject matter and supersedes any previous agreements, whether oral or written.

Binding Effect. This Contract will be binding upon and inure to the benefit of the respective successors and assigns of the State and the Contractor.

Amendments – Waiver.

- 1. AMENDMENTS.** No change to any provision of this Contract will be effective unless it is in writing and signed by parties to the Contract. However, the State may document non-material changes in writing and provide notice to the Contractor. No “click-through,” “shrink-wrap,” “browse-wrap,” or other terms that have not been specifically negotiated by the Contractor and the State, whether before, on, or after the date of this Contract, will be effective to add or modify the terms of this Contract, regardless of any party’s “acceptance” of those terms by electronic means. No State employee has the authority to modify, amend, or supplement this Contract through electronic means.
- 2. WAIVER.** The failure of either party at any time to demand strict performance by the other party of any of the terms of this Contract will not be a waiver of those terms or to any other terms of this Contract. Waivers must be in writing to be effective, and either party may at any later time demand strict performance.

Severability. If any provision of this Contract is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Contract will remain in full force and effect to the extent that such does not create an absurdity.

Construction. This Contract will be construed in accordance with the plain meaning of its language and neither for nor against the drafting party.

Headings. The headings used herein are for the sole sake of convenience and may not be used to interpret any section.

Notices. For any notice under this Contract to be effective, it must be made in writing and sent to the address of the appropriate contact provided elsewhere in the Contract, unless such party has notified the other party, in accordance with the provisions of this section, of a new mailing address. This notice requirement will not apply to any notices that this Contract expressly authorized to be made orally.

Continuing Obligations. The terms of this Contract will survive the termination or expiration of the time for completion of Project and the time for meeting any final payment of compensation, except where such creates an absurdity.

Time. Unless otherwise expressly provided, any reference in this document to a number of days for an action or event to occur means calendar days, and any reference to a time of the day, such as 5:00 p.m., is a reference to the local time in Columbus, Ohio.

Time is of the Essence. Contractor hereby acknowledges that time is of the essence for performance of this Contract unless, otherwise agreed to in writing by the parties.

PART SEVEN: LAW AND COURTS

Compliance with Law. The Contractor must comply with all applicable federal, state, and local laws while performing under this Contract.

Drug-Free Workplace. The Contractor must comply with all applicable state and federal laws regarding keeping a drug-free workplace. The Contractor must make a good faith effort to ensure that all the Contractor's Personnel, while working on state property, will not have or be under the influence of illegal drugs or alcohol or abuse prescription drugs in any way.

Conflicts of Interest and Ethics Compliance Certification. None of the Contractor's Personnel may voluntarily acquire any personal interest that conflicts with their responsibilities under this Contract. Additionally, the Contractor may not knowingly permit any public official or public employee who has any responsibilities related to this Contract or the Project to acquire an interest in anything or any entity under the Contractor's control, if such an interest would conflict with that official's or employee's duties. The Contractor must disclose to the State knowledge of any such person who acquires an incompatible or conflicting personal interest related to this Contract. The Contractor also must take steps to ensure that such a person does not participate in any action affecting the work under this Contract. However, this will not apply when the State has determined, in light of the personal interest disclosed, that person's participation in any such action would not be contrary to the public interest.

Ohio Ethics Law and Limits on Political Contributions. The Contractor certifies that it is currently in compliance and will continue to adhere to the requirements of the Ohio ethics laws. The Contractor also certifies that all applicable parties listed in Ohio Revised Code Section 3517.13 are in full compliance with Ohio Revised Code Section 3517.13.

Unresolved Finding for Recovery. If the Contractor was subject to an unresolved finding of the Auditor of State under Revised Code Section 9.24 on the date the parties sign this Contract, the Contract is void. Further, if the Contractor is subject to an unresolved finding of the Auditor of State under Revised Code Section 9.24 on any date on which the parties renew or extend this Contract, the renewal or extension will be void.

Equal Employment Opportunity. The Contractor will comply with all state and federal laws regarding equal employment opportunity and fair labor and employment practices, including Ohio Revised Code Section 125.111 and all related Executive Orders.

Before a contract can be awarded or renewed, an Affirmative Action Program Verification Form must be submitted to the Department of Administrative Services Equal Opportunity Division to comply with the affirmative action requirements. Affirmative Action Verification Forms and approved Affirmative Action Plans can be found by going to the Ohio Business Gateway at: <http://business.ohio.gov/efiling/>

Use of MBE and EDGE Suppliers. The State encourages Contractor to purchase goods and services from Minority Business Enterprises (MBE) and Encouraging Diversity, Growth, and Equity (EDGE) suppliers.

Security & Safety Rules. When using or possessing State data or accessing State networks and systems, the Contractor, its employees, subcontractors and agents must comply with all applicable State rules, policies, and regulations regarding State-provided IT resources, data security and integrity. When on any property owned or controlled by the State, the Contractor must comply with all security and safety rules, regulations, and policies applicable to people on those premises.

The State may require the Contractor, its employees, subcontractors and agents to sign a confidentiality agreement and policy acknowledgements and have a background check performed before accessing facilities, data, or systems. Each Ordering Agency may require a different confidentiality agreement or acknowledgement, and the Contractor, its employees, subcontractors and agents may be required to sign a different confidentiality agreement or acknowledgement for each Ordering Agency. The Contractor must immediately replace anyone who refuses to sign a required confidentiality agreement or acknowledgment or have a background check performed.

Prohibition of the Expenditure of Public Funds for Offshore Services. No State Cabinet, Agency, Board or Commission will enter into any contract to purchase services provided outside the United States or that allows State data to be sent, taken,

accessed, tested, maintained, backed-up, stored, or made available remotely outside (located) of the United States, unless a duly signed waiver from the State has been attained. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in the Contract.

The Contractor must complete the Contractor/Subcontractor Affirmation and Disclosure Form affirming the Contractor understands and will meet the requirements of the above prohibition. During the performance of this Contract, if the Contractor changes the location(s) disclosed on the Affirmation and Disclosure Form, Contractor must complete and submit a revised Affirmation and Disclosure Form reflecting such changes.

Injunctive Relief. Nothing in this Contract is intended to limit the State's right to injunctive relief, if such is necessary to protect its interests or to keep it whole.

Assignment. The Contractor may not assign this Contract or any of its rights or obligations under this Contract without the prior, written consent of the State. The State is not obligated to provide its consent to any proposed assignment.

Governing Law. This Contract will be governed by the laws of Ohio, and venue for any disputes will lie exclusively with the appropriate court in Franklin County, Ohio.

Registration with the Secretary of State. Contractor certifies that it is one of the following:

1. A company that is properly registered with the Ohio Secretary of State; or
2. A foreign corporation, not incorporated under the laws of the State of Ohio, but is registered with the Ohio Secretary of State pursuant to Sections 1703.01 to 1703.31 of the Ohio Revised Code, as applicable; or
3. Exempt from registration requirements of the Ohio Secretary of State.

Boycotting. Pursuant to Ohio Revised Code 9.76 (B) Contractor warrants that Contractor is not boycotting any jurisdiction with whom the State of Ohio can enjoy open trade, including Israel, and will not do so during the contract period.

**ATTACHMENT FIVE
SAMPLE CONTRACT**

**A CONTRACT BETWEEN
THE DEPARTMENT OF ADMINISTRATIVE SERVICES
ON BEHALF OF THE DEPARTMENT
AND**

(CONTRACTOR)

THIS CONTRACT, which results from RFP 0A1300, entitled Managed Services Provider for IT Staff Augmentation Services, is between the State of Ohio, through the Department of Administrative Services, on behalf of the Department and _____ (the "Contractor").

The Contract is the result of agreed upon changes to the RFP including all Exhibits and written Amendments to this RFP, the Contractor's accepted Proposal and accepted, written authorized amendments and clarifications to the Contractor's Proposal. It will also include any materials incorporated by reference in the above documents and any Amendments issued under the Contract. The Terms and Conditions for the Contract are contained in Attachments 2 and 4 of this RFP. If there are conflicting provisions between the documents that make up the Contract, the order of precedence for the documents is as follows:

This Contract consists of the following in this order of precedence:

1. This one-page Contract Signature Page in its final form;
2. The Offeror's proposal, as negotiated, clarified, and accepted by the State and dated: insert date of BAFO; and
3. This RFP, as amended.

The Contract also includes Amendments issued after the Contract is executed that may expressly change the provisions of the Contract. If they do so expressly, then the most recent of them will take precedence over anything else that is part of the Contract.

Once awarded, the term of the Contract will be from the award date through June 30, 2023. The State may renew this Contract for up to two (2) additional two-year term(s). Any such renewal of all or part of the Contract also is subject to the satisfactory performance of the Contractor and the needs of the State of Ohio.

This Contract has an effective date of the later of _____, 2021, or the occurrence of all conditions precedent specified in the Terms and Conditions, Attachments 2 and 4.

TO SHOW THEIR AGREEMENT, the parties have executed this Contract as of the dates below.

CONTRACTOR

STATE OF OHIO
DEPARTMENT OF ADMINISTRATIVE SERVICES

SAMPLE – DO NOT FILL OUT

By: _____ By: Matthew M. Damschroder

Title: _____ Title: DAS Director

Date: _____ Date: _____

ATTACHMENT SIX
OFFEROR CERTIFICATION FORM

Note: Offeror must provide a response to each of the numbered items in the Offeror Certification Form.

1. The offeror is not currently subject to an “unresolved” finding for recovery under Revised Code Section 9.24, and the offeror will notify the Procurement Representative any time it becomes subject to such a finding before the award of a Contract arising out of this RFP.

2. The offeror certifies that its responses to the following statements are true and accurate. The offeror’s answers apply to the last seven years. Please indicate yes or no in each column.

Yes/No	Description
	The offeror has had a contract terminated for default or cause.
	The offeror has been assessed any penalties in excess of \$10,000.00, including liquidated damages, under any of its existing or past contracts with any organization (including any governmental entity).
	The offeror was the subject of any governmental action limiting the right of the offeror to do business with that entity or any other governmental entity.
	Trading in the stock of the company has ever been suspended with the date(s) and explanation(s).
	The offeror, any officer of the offeror, or any owner of a 20% interest or greater in the offeror has filed for bankruptcy, reorganization, a debt arrangement, moratorium, or any proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding.
	The offeror, any officer of the offeror, or any owner with a 20% interest or greater in the offeror has been convicted of a felony or is currently under indictment on any felony charge.

If the answer to any item above is affirmative, the offeror must provide complete details about the matter. While an affirmative answer to any of these items will not automatically disqualify an offeror from consideration, at the sole discretion of the State, such an answer and a review of the background details may result in a rejection of the Proposal. The State will make this decision based on its determination of the seriousness of the matter, the matter’s possible impact on the offeror’s performance under the Contract, and the best interest of the State.

3. The offeror certifies that neither it nor any of its people that may work on or benefit from the Contract through the offeror has a possible conflict of interest (e.g., employed by the State of Ohio, etc.) other than the conflicts identified immediately below:

Potential Conflicts (by person or entity affected)

(Attach an additional sheet if more space is need.)

The State may reject a Proposal in which an actual or apparent conflict is disclosed. And the State may cancel or terminate the Contract for cause if it discovers any actual or apparent conflict of interest that the offeror did not disclose in its Proposal.

4. The offeror certifies that all its and its subcontractors' personnel provided for the Work will have a valid I-9 form on file with the offeror or subcontractor, as appropriate, and will have presented valid employment authorization documents, if they are not United States citizens.
5. The offeror certifies that it's regular, fulltime employees will perform at least 30% of the Work.
6. The following is a complete list of all subcontractors, if any, that the offeror will use on the Work, if the State selects the offeror to do the Work:

The offeror certifies that it has obtained and submitted a subcontractor letter, as required by Attachment Three, for each subcontractor it plans to use to do the Work.

7. The offeror certifies that that any MBE program participants will provide necessary data to ensure program reporting and compliance.
8. If the offeror qualifies as a Veterans Friendly Business Enterprise as defined by ORC 9.318 and OAC 123:5-1-01 (KK), the offeror certifies that it is a Veterans Friendly Business Enterprise.

Provide the following information for a contact person who has authority to answer questions regarding the offeror's Proposal:

Name:	
Title:	
Mailing Address:	
Office Phone Number:	
Cell Phone Number:	
Fax Number:	
Email Address:	

Signature

Name

Title

Company Name

Company D-U-N-S Number

ATTACHMENT SEVEN: MANDATORY REQUIREMENTS

MANDATORY REQUIREMENT: The offeror must propose an Implementation Manager (e.g., Contractor Project Manager) for the MSP Project.

Provide name of proposed Implementation Manager (e.g., Contractor Project Manager) for the MSP Project below:

Indicate whether the proposed Implementation Manager is an employee or a subcontractor. If the proposed Implementation Manager is employed by a subcontractor, provide the name of the subcontractor below:

ATTACHMENT SEVEN: MANDATORY REQUIREMENTS

MANDATORY REQUIREMENT: The offeror must propose an Account Manager Team for MSP Project that is able to meet on-site with Agencies using the Contract.

Provide name of each proposed Account Manager for the MSP Project

Provide a statement indicating understanding that the offeror understands that each Account Manager must be a fulltime employee.

ATTACHMENT SEVEN: MANDATORY REQUIREMENTS

MANDATORY REQUIREMENT: The offeror must designate an individual to serve as the Contract Manager to support the management of the Contract, facilitate dispute resolution, and to advise the State of performance under the terms and conditions of the Contract.

Provide name of proposed Contract Manager for the MSP Project below:

Indicate whether the proposed Implementation Manager is an employee or a subcontractor. If the proposed Implementation Manager is employed by a subcontractor, provide the name of the subcontractor below:

ATTACHMENT EIGHT: CANDIDATE PROFILE FORMS

Implementation Manager Candidate Name _____:

Implementation Manager: The proposed Implementation Manager (e.g., Contractor Project Manager) for the MSP Project must have a minimum of sixty (60) months of Project Management experience managing implementations of IT related projects.

Customer Name:	Contact Name:	
Customer Address:	Contact Title:	
Project Name:	Contact Phone Number:	Contact Email Address:
	Beginning Date of Experience: Month/Year	Ending Date of Experience: Month/Year
Describe the candidate's Project Management experience managing implementations of IT related projects.		

Note: The offeror may duplicate this form as necessary to demonstrate the requirement.

ATTACHMENT EIGHT: CANDIDATE PROFILE FORMS

Account Manager Candidate Name _____ :

Account Manager Team: Each member of the proposed Account Manager Team for the MSP Project must demonstrate a minimum of twenty-four (24) months experience reviewing, evaluating and screening candidates for IT related positions based on their knowledge of the IT industry.

Customer Name:	Contact Name:	
Customer Address:	Contact Title:	
Project Name:	Contact Phone Number:	Contact Email Address:
	Beginning Date of Experience:	Ending Date of Experience:
	<small>Month/Year</small>	<small>Month/Year</small>
Describe the candidate's experience reviewing, evaluating and screening candidates for IT related positions based on their knowledge of the IT industry.		

Note: The offeror may duplicate this form as necessary to demonstrate the requirement.

ATTACHMENT EIGHT: CANDIDATE PROFILE FORMS

Account Manager Candidate Name _____ :

Account Manager Team: Each member of the proposed Account Manager Team for the MSP Project must demonstrate at least twenty-four (24) months experience providing account management responsibilities in direct contact with customer's end users. The account management experience provided must be in the IT field preferably involving provision of staff augmentation resources.

Customer Name:	Contact Name:	
Customer Address:	Contact Title:	
Project Name:	Contact Phone Number:	Contact Email Address:
	Beginning Date of Experience:	Ending Date of Experience:
	Month/Year	Month/Year
Describe the candidate's experience providing account management responsibilities in direct contact with customer's end users.		
<p>Was this project in the IT field? <input type="checkbox"/> Yes <input type="checkbox"/> No (Check one)</p> <p>Did this project involve the provision of staff augmentation resources? <input type="checkbox"/> Yes <input type="checkbox"/> No (Check one)</p>		

Note: The offeror may duplicate this form as necessary to demonstrate the requirement.

ATTACHMENT EIGHT: CANDIDATE PROFILE FORMS

Contract Manager Candidate Name _____:

Contract Manager: The proposed Contract Manager for the MSP Project must have a minimum of thirty-six (36) months experience supporting the management of Contracts, facilitating dispute resolution, and to advising client customers of performance under the terms and conditions of the Contract.

Customer Name:	Contact Name:	
Customer Address:	Contact Title:	
Project Name:	Contact Phone Number:	Contact Email Address:
	Beginning Date of Experience:	Ending Date of Experience:
	Month/Year	Month/Year
Describe the candidate's experience supporting the management of Contracts, facilitating dispute resolution, and to advising client customers of performance under the terms and conditions of the Contract.		

Note: The offeror may duplicate this form as necessary to demonstrate the requirement.

ATTACHMENT NINE: AFFIRMATION AND DISCLOSURE FORM

By the signature affixed hereto, the Contractor affirms and understands that if awarded a contract, both the Contractor and any of its subcontractors shall perform no services requested under this Contract outside of the United States, nor allow State data to be sent, taken, accessed, tested, maintained, backed-up, stored or made available remotely (located) outside of the United States unless a duly signed waiver from the State has been attained.

The Contractor shall provide all the name(s) and location(s) where services under this Contract will be performed and where data is located in the spaces provided below or by attachment. Failure to provide this information may result in no award. If the Contractor will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal location of business of Contractor:

(Address) (City, State, Zip)

Name/Principal location of business of subcontractor(s):

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

2. Location where services will be performed by Contractor:

(Address) (City, State, Zip)

Name/Location where services will be performed by subcontractor(s):

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

3. Location where state data will be located, by Contractor:

(Address) (Address, City, State, Zip)

Name/Location(s) where state data will be located by subcontractor(s):

(Name) (Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

Contractor also affirms, understands and agrees that Contractor and its subcontractors are under a duty to disclose to the State any change or shift in location of services performed by Contractor or its subcontractors before, during and after execution of any contract with the State. Contractor agrees it shall so notify the State immediately of any such change or shift in location of its services. The State has the right to immediately terminate the contract, unless a duly signed waiver from the State has been attained by the Contractor to perform the services outside the United States.

On behalf of the Contractor, I acknowledge that I am duly authorized to execute this Affirmation and Disclosure Form and have read and understand that this form is a part of any Contract that Contractor may enter into with the State and is incorporated therein.

By: _____
Contractor

Print Name: _____

Title: _____

Date: _____

ATTACHMENT TEN: OFFEROR COST PROPOSAL

Offerors must use the Cost Proposal form included within this RFP. No changes may be made to the cost proposal format.

Offeror proposals must specify a Firm Fixed Mark-up Percentage for completion of all activities set forth in this RFP, including Revenue Share. The Contractor's compensation will be based on a percentage mark-up of the hourly rate actually paid to the enrolled network provider (subcontractor) for the engaged staff augmentation resource.

The proposed hourly rate actually paid by the State for engaged staff augmentation resources must be inclusive of the Firm Fixed Mark-up Percentage, including Revenue Share. In other words, when an hourly rate is proposed by an enrolled network provider (subcontractor) for a resource, the rate is the total rate, and the Contractor is not permitted to add on the Firm Fixed Mark-up Percentage when billing the State.

The applicable Firm Fixed Mark-up Percentage is the only compensation the Contractor awarded the Contract may claim for services provided. The Contractor must not charge enrolled network providers additional fees for participating in the program. The Contractor is not permitted to charge other fees from the enrolled network providers for invoicing, registration, or any other portion of the provider's involvement in the program.

Description	Firm Fixed Mark-up Percentage
Mark-up Fees	%

ATTACHMENT ELEVEN: RATE CARD

Job Title	Job Code	Current Target Market Price Rate (Rate paid to enrolled network provider (subcontractor) + Firm Fixed Mark-up Percentage)
Architect 1	AR1	
Business Analyst 1	BA1	
Business Analyst 2	BA2	
Business Analyst 3	BA3	
Business Analyst 4	BA4	
Business Analyst 5	BA5	
CADD/GIS Administrator 1	CGA1	
CADD/GIS Administrator 2	CGA2	
CADD/GIS Administrator 3	CGA3	
Data Architect 1	DA1	
Data Entry Operator 1	DE1	
Data Entry Operator 2	DE2	
Database Administrator 1	DBA1	
Database Administrator 2	DBA2	
Database Administrator 3	DBA3	
Database Administrator 4	DBA4	
Functional Architect 1	FA1	
Functional Architect 2	FA2	
Functional Architect 3	FA3	
Help Desk Analyst 1	HDA1	
Help Desk Analyst 2	HDA2	
Help Desk Analyst 3	HDA3	
Intern 1	INT1	
Intern 2	INT2	
Intern 3	INT3	
IT Business Systems Analyst 1	BSA1	
IT Consultant 1	ITC1	
IT Consultant 2	ITC2	
IT Consultant 3	ITC3	
IT Security Analyst 1	ITSA1	
IT Security Analyst 2	ITSA2	
IT Security Analyst 3	ITSA3	
IT Security Specialist 1	ITSS1	
IT Security Specialist 2	ITSS2	
LAN/WAN Administrator 1	ADM1	
LAN/WAN Administrator 2	ADM2	
LAN/WAN Administrator 3	ADM3	
Mobile Specialist 1	MS1	
Mobile Specialist 2	MS2	
Network Architect 1	NA1	

Network Architect 2	NA2	
Network Architect 3	NA3	
Network Engineer 1	NE1	
Network Engineer 2	NE2	
Network Engineer 3	NE3	
Product Specialist 1	PS1	
Product Specialist 2	PS2	
Product Specialist 3	PS3	
Product Specialist 4	PS4	
Product Specialist 5	PS5	
Program Manager 1	PM1	
Program Manager 2	PM2	
Program Manager 3	PM3	
Program Manager 4	PM4	
Program Manager 5	PM5	
Programmer 1	PR1	
Programmer 2	PR2	
Programmer 3	PR3	
Programmer 4	PR4	
Programmer 5	PR5	
Quality Assurance Specialist 1	QAS1	
Quality Assurance Specialist 2	QAS2	
Quality Assurance Specialist 3	QAS3	
Quality Assurance Specialist 4	QAS4	
Senior Architect 1	SAR1	
Senior Architect 2	SAR2	
Senior Business Subject Matter Expert 1	SME1	
Senior Database Architect 1	SDA1	
Senior Program Manager 1	SPM1	
Service Desk 1	SD1	
Service Desk 2	SD2	
Service Desk 3	SD3	
Software Process Engineer 1	SPS1	
Software Process Engineer 2	SPS2	
Software Process Engineer 3	SPS3	
System Administrator 1	SA1	
System Administrator 2	SA2	
System Administrator 3	SA3	
System Administrator 4	SA4	
System Administrator 5	SA5	
System Specialist 1	SS1	
System Specialist 2	SS2	
System Specialist 3	SS3	
Team Lead 1	TL1	
Team Lead 2	TL2	

Technical Architecture Specialist 1	TAS1	
Technical Architecture Specialist 2	TAS2	
Technical Architecture Specialist 3	TAS3	
Technical Specialist 1	TS1	
Technical Specialist 2	TS2	
Technical Specialist 3	TS3	
Technical Specialist 4	TS4	
Technical Trainer 1	TT1	
Technical Writer 1	TW1	
Technical Writer 2	TW2	
Technical Writer 3	TW3	
Technical Writer 4	TW4	
Telecom Engineer 1	TE1	
Telecom Engineer 2	TE2	
Telecom Engineer 3	TE3	
Tester 1	Test1	
Tester 2	Test2	
Tester 3	Test3	
Tester 4	Test4	
Video Conference Specialist 1	VCS1	
Video Conference Specialist 2	VCS2	
Voice/Data Engineer 1	VDE1	
Voice/Data Engineer 2	VDE2	
Voice/Data Engineer 3	VDE3	