



Development of Statewide Online Courses

Prepared December 16, 2013

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INTRODUCTION, BACKGROUND, AND SCHEDULE OF EVENTS**PURPOSE OF THE REQUEST FOR PROPOSALS**

The DAS Human Resources Division (HRD), and specifically the Office of Learning and Professional Development (OLPD), is seeking a vendor to create a web-based, SCORM and ADA-compliant training on the topic of Competencies (as they are defined by the state of Ohio Department of Administrative Services). This training would be made available to all state of Ohio employees via the state's Enterprise Learning Management system, ELM (a PeopleSoft product). The training should be no less than 30 minutes in length and no more than one hour. While informational, we expect the course to have some interactivity (for example, scenarios with multiple choice questions for learners to answer) and a brief assessment at the end to provide a score so that learners will receive credit for the course on their electronic ELM transcript.

BACKGROUND

OLPD is responsible for the coordination, development, and/or delivery of all statewide training that is not agency-specific. As part of this effort, we have undertaken the coordination of training for a large statewide initiative: competencies. In an effort to provide timely and pertinent information to a large body of learners (some of whom are not geographically in the Columbus area), we would like to develop web-based learning on the aforementioned topic. We have already launched some eLearning training for this initiative, so we are continuing along an established path with this effort.

SCHEDULE OF EVENTS

All times are Eastern Standard Time (EST).

Event	Date
1. RFP Distribution to vendors; period for questions* from vendors begins	12/16/13
2. Period for questions from vendors closes	12/16/13-12/23/13
3. Proposal Due Date	12/30/13 at 5:00 PM
4. Anticipated decision and selection of vendor(s) – Week of	1/6/14
5. Anticipated commencement date of work	1/27/14
The State will try to respond to all inquiries within 24 hours, excluding weekends and State holidays.	

Please refer to the Scope of Work, Attachment A, for additional details.

ADMINISTRATIVE

PROPOSAL INQUIRIES

Vendors may make inquiries regarding this RFP during the inquiry period listed on the RFP cover sheet. The State will try to respond to all inquiries within 24 hours, excluding weekends and State holidays. The State may not respond to any improperly formatted inquiries or inquiries submitted after the inquiry period.

To make an inquiry, vendors must use the process outlined below.

- Access the State Procurement Web site at <http://procure.ohio.gov/>.
- From the Navigation Bar on the left, select "Find It Fast".
- Select "Doc/Bid/Schedule #" as the Type.
- Enter the RFP number found on the first page of this RFP (the RFP number begins with "DAS").
- Click the "Find It Fast" button.
- On the document information page, click the "Submit Inquiry" button.
- On the document inquiry page, complete the required "Personal Information" section by providing:
 - First and last name of the prospective vendor's representative who is responsible for the inquiry;
 - Name of the prospective vendor;
 - Representative's business phone number, and
 - Representative's e-mail 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.
 - Click the "Submit" button.

A vendor submitting an inquiry will receive an acknowledgement that the State has received the inquiry as well as an e-mail acknowledging receipt. The vendor will not receive a personalized response to the question nor notification when the State has answered the question. The vendor is responsible for going to the website to review the answer.

Vendors may view inquiries and responses on the State's Procurement Web site by using the "Find It Fast" feature described above and by clicking the "View Q & A" button on the document information page.

DUE DATES

All Proposals are due by the time and date specified in the Schedule of Events. Any proposal received at the designated location after the required time and date specified for receipt shall be considered late and non-responsive. Late proposals will not be evaluated for award. The State may extend the proposal due date at its sole discretion.

GUIDELINES FOR PROPOSAL PREPARATION

PROPOSAL SUBMISSION

Award of the contract resulting from this RFP will be based upon the most responsive vendor whose offer will be the most advantageous to the State of Ohio in terms of functionality and other factors as specified elsewhere in this RFP.

The State of Ohio reserves the right to:

- Reject any or all offers and discontinue this RFP process without obligation or liability to any potential vendor,
- Award a contract on the basis of initial offers received, without discussions or requests for best and final offers, and
- Award more than one contract.

Vendor's proposal shall be submitted in several parts as set forth below. The vendor will confine its submission to those matters sufficient to define its proposal and to provide an adequate basis for State of Ohio's evaluation of the vendor's proposal.

In order to address the needs of this procurement, State of Ohio encourages vendors to work cooperatively in presenting integrated solutions. Vendor team arrangements may be desirable to enable the companies involved to complement each other's unique capabilities, while offering the best combination of performance and delivery for the project being provided under this RFP. State of Ohio will recognize the integrity and validity of vendor team arrangements provided that:

- The arrangements are identified and relationships are fully disclosed and
- A prime vendor is designated that will be fully responsible for all contract performance.

Vendor's proposal in response to this RFP will be incorporated by reference into the final agreement between State of Ohio and the selected vendor(s). The submitted proposals must include each of the following sections:

1. Cover Letter
2. Executive Summary
3. Scope, Approach, and Methodology
4. Project Tasks
5. Vendor Qualification
6. Detailed and Itemized Pricing (In a separately sealed envelope)
7. Appendix A: References and sample work
8. Appendix B: Project Team Staffing
9. Appendix C: Vendor Overview
10. Appendix D: Acknowledgement of Personal Services Contract and Execution of Other Documents (if applicable)

DETAILED RESPONSE REQUIREMENTS

COVER LETTER

This section must include a statement of the vendor's interest in submitting a response and general overview explaining the experience and qualifications of the vendor as relevant to this RFP.

EXECUTIVE SUMMARY

This section must include a high-level synopsis of the vendor's responses to the RFP. The Executive Summary should be a brief overview of the engagement, and should identify the main features and benefits of the proposed work.

SCOPE, APPROACH AND METHODOLOGY

This section must provide information regarding the vendor's approach to creation of such deliverables, including the vendor's methodology for approaching such a project. Additional information demonstrating and understanding of the scope of the work required should be included.

PROJECT TASKS

Describe how the engagement proceeds from beginning to end. Provide a draft timeline that clearly identifies high-level milestones. The vendor must supply a high level, time-phased schedule of work. This schedule will be refined with the State upon project initiation.

The vendor must include a narrative description of how it will accomplish the activities as set forth in the Scope of Work. Additionally, in this section the vendor must identify any assumptions upon which its proposal or proposal is based including any assumptions that are necessary for unique consideration of the vendor's proposal.

VENDOR QUALIFICATIONS

In order for the selected vendor and its proposed candidates to be successful, it is important that they have relevant, successful experience in related services as outlined in this request. Specify vendor background information/history, list experience with the State of Ohio, list experience with public sector, provide overview of the areas the vendor specializes in (primary related to the scope of this effort) and how the vendor plans to support this engagement. The contract vendor will assemble a delivery team consisting of the contract vendor's personnel or authorized agents. At minimum, the proposed team must consist of a Project Manager/Team Lead who will manage the day to day operations of the project and all other PM duties and responsibilities as it pertains to successful completion of the work.

DETAILED AND ITEMIZED PRICING

Vendor must provide its quote on vendor letterhead including information responsive to any Detailed and Itemized Pricing Tables contained in the Scope of Work (Attachment A). Costs must include the position description, hourly rate, and number of hours proposed, if applicable. This quote must be submitted in a separate sealed envelope.

Please note, no additional costs, such as travel, meals, lodging, taxes, parking or other associated costs may be charged separately under the Agreement.

APPENDIX A: REFERENCES AND SAMPLE WORK

Provide three current corporate or governmental references for similar work. Additionally, vendors must submit at least one but no more than three examples of web-based deliverables previously-created for projects of similar size and scope to those sought by this RFP by including a link to an internet site that features its work or a CD with a sample of its work. The samples must demonstrate interactivity and user-friendly navigation as well as an overall clean and contemporary look. The vendor must include background information as to the type of project (size, scope) for which the samples submitted were developed.

APPENDIX B: PROJECT TEAM STAFFING

The vendor must provide resumes and relevant experience of all staff and management personnel that will be working on the project. Describe the qualifications, relevant experience, and a past project list (if available) of the people that would be assigned to this contract by providing biographies for those staff members. Please indicate the role that each person is being proposed to fill. Describe bonding process and coverage levels of employees (if available). Affirm that no work will be performed off-shore by either the vendor or through outsourcing.

Please note, a major criterion on which the State bases the award of the contract is the quality of the vendor's staff members assigned to the work. Changing personnel after the award may be a basis for termination of the contract.

APPENDIX C: VENDOR OVERVIEW

Provide the following for your vendor:

- Official registered name (Corporate, D.B.A., Partnership, etc.), Dun & Bradstreet Number, Primary and secondary SIC numbers, address, main telephone number, toll-free numbers, and facsimile numbers, including payment address as registered in OAKS, if registered in OAKS.
- Key contact name, title, address (if different from above address), direct telephone and fax numbers
- Person authorized to contractually bind the organization for any proposal against this RFP.
- Brief history, including year established and number of years your vendor has been providing services related to the work outlined in the Scope of Services.
- MBE Certification, if applicable
- State Term Schedule Certification, if applicable
- Conflict of Interest Statement

APPENDIX D: AGREEMENT FOR SERVICES

The vendor awarded the Contract by the State of Ohio is required to execute a "Personal Services Contract" (Agreement). The State of Ohio has provided the core of the Agreement as Attachment B to this document. The vendor must agree to all of the terms and conditions contained in the Agreement. Those portions left blank and highlighted will be finalized after negotiation between the vendor awarded the contract and the State of Ohio, at which time the agreement shall be executed by the parties. No other terms are subject to negotiation.

The vendor must affirm it understands of the terms and conditions of the Agreement and its willingness to enter into the standard Agreement following final negotiation of those terms highlighted and left blank in Attachment B.

The vendor must execute and return any agreements attached as additional exhibits (if applicable).

PROPOSAL SUBMITTAL

(1) Each vendor must submit four (4) complete, sealed and signed copies of its proposal (excluding cost information), and each proposal must be clearly marked “[OLPD Web-Based Project]” on the outside of its envelope along with vendors name.

(2) The envelope must be clearly marked “[OLPD Web-Based Project]” on the outside of its envelope along with vendor’s name. **The cost information MUST be signed, and submitted in a SEPARATELY SEALED ENVELOPE.**

(3) A single electronic copy of the complete proposal must also be submitted with the printed proposals. Electronic submissions should be on a CD, DVD or USB memory stick. **The electronic copy MUST be submitted in a SEPARATELY SEALED ENVELOPE.**

The State may reject late proposals regardless of the cause for the delay. The State may also reject any proposal that it believes is not in its interest to accept and may decide not to do business with any of the vendors responding to this RFP.

Proposals MUST be submitted to the State’s Procurement Representative:

Tammy Johnson, Service Assurance Business Manager
Ohio Department of Administrative Services
Office of Finance
30 East Broad Street, 40th Floor, Room 4060
Columbus, OH 43215

PROPRIETARY INFORMATION

All proposals and other material submitted will become the property of the State and may be returned only at the State's option. Proprietary information should not be included in a proposal or supporting materials because the State will have the right to use any materials or ideas submitted in any proposal without compensation to the vendor. Additionally, all proposals will be open to the public after the contract has been awarded.

The State may reject any Proposal if the vendor takes exception to the terms and conditions of this RFP.

WAIVER OF DEFECTS

The State has the right to waive any defects in any proposal or in the submission process followed by a vendor. But the State will only do so if it believes that is in the State's interest and will not cause any material unfairness to other vendors.

REJECTION OF PROPOSALS

The State may reject any proposal that is not in the required format, does not address all the requirements of this RFP, or that the State believes is excessive in price or otherwise not in its interest to consider or to accept.

EVALUATION OF PROPOSALS

Criteria

Any award to be made pursuant to this RFP will be based upon the proposal with appropriate consideration given to operational, technical, and management requirements. Evaluation of offers will be based upon the vendor’s responsiveness to the RFP and the total price quoted for all items covered by the RFP. State of Ohio may, at their discretion and without explanation to the prospective vendors, at any time choose to discontinue this RFP without obligation to such prospective vendors.

The evaluation committee will compare those submitted responses on how each response particularly addresses the following areas:

1. Expertise and background of proposed contractor personnel

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2. The extent to which the contractor's proposed solution fulfills State of Ohio's stated requirements as set out in this RFP
3. Experience of contractor with similar projects
4. The extent to which the vendor-provided samples (as outlined in Appendix A, above) demonstrate interactivity, user-friendly navigation, and an overall clean and contemporary look

Clarifications and Corrections

During the evaluation process, the State may request clarifications from any vendor under active consideration. It also may give any vendor the opportunity to correct defects in its proposal. But the State will allow corrections only if they do not result in an unfair advantage for the vendor and it is in the State's best interest.

Requirements

This RFP asks for responses and submissions from vendors. While each criterion represents only a part of the total basis for a decision to award the contract to a vendor, a failure by a vendor to make a required submission or meet a requirement will normally result in a rejection of that vendor's proposal.

The evaluation process may consist of:

1. The procurement representative's initial review of all proposals for defects; and
2. The review committee's evaluation of the proposals.

Initial Review

The procurement representative normally will reject any incomplete or incorrectly formatted proposal, though the procurement representative may elect to waive any defects or allow a vendor to submit a correction. If a late proposal is rejected, the procurement representative will not open or evaluate the late proposal. The procurement representative will forward all timely, complete, and properly formatted proposals to a review committee.

Committee Review of the Proposals

The review committee will evaluate each proposal that the procurement representative has forwarded to it. At any time during this phase, the State may ask a vendor to correct, revise, or clarify any portions of its proposal. The State will document all major decisions in writing and make these a part of the file for each proposal considered.

Determination of Responsibility

The State may review the highest-ranking vendors or its key team members to ensure that the vendor is responsible. The Contract may not be awarded to a vendor that is determined to be not responsible. The State's determination of a vendor's responsibility may include, but is not limited to, the following factors: the vendor's and its key team members' experience; past conduct on previous Contracts; past performance on previous Contracts; ability to execute this contract properly; and management skill. The State will make such determination of responsibility based on the vendor's proposal, reference evaluations and any other information the State requests or determines to be relevant.

Contract Award Process

It is the State of Ohio's intention to award one contract under the scope of this RFP, based on the RFP Calendar of Events schedule, so long as the State determines that doing so is in the State's best interests and the State has not otherwise changed the award date. Any award decision by the State under this RFP is final. After the State makes its decision under this RFP, all Proposers will be notified in writing of the State's final determination as to their proposals.

Attachment A

Scope of Work

[The vendor for this project will provide, as a final deliverable, one 30-60 minute SCORM-complaint and ADA-compliant web-based training (that is, JAWS enabled and closed-captioned) to be launched from the state's Enterprise Learning Management application (ELM). This deliverable should be of a quality consistent with the vendor's best work for public viewing, as reflected by the samples supplied by the vendor per "Proposal Submission, Appendix A" (above). The specific deliverable is as follows.

1. **Competency Training**: The State of Ohio has developed competencies for its dedicated workforce; the competencies plug into the state's ePerformance module (a PeopleSoft module in the state's OAKS enterprise Human Capital Management application) for performance evaluations. We require a web-based training to be developed that teaches 1) the differences between a competency and a goal 2) a look at how supervisors can use and measure competencies on performance reviews, with specific scenarios based on a number of specific statewide competencies. General information about the statewide competencies and their definitions can be found here: <http://das.ohio.gov/LinkClick.aspx?fileticket=s8YjjgD6b3c%3d&tabid=947> The training should be interactive (that is, not solely comprised of reading text or bullet points but including, for example, scenarios with multiple choice responses for learners to choose,) and offer a brief assessment at the end in order for the state LMS to register completion. The vendor will provide a detailed outline or storyboard to be approved by DAS before beginning development of the web-based deliverable. The outline or story board must be of such detail that it clearly demonstrates the course objectives, the specific topics to be presented, the verbiage to be used in each topic, the testing and/or interactivity built into the course, and the navigational structure of the web-based deliverable.]

[The vendor will be compensated based on the successful completion of the following deliverables:

1. A completed storyboard or detailed outline that provides the content generated by state SMEs and shows navigation, linkages, activities and/or quizzes to be used in the web-based training, as described above. This storyboard/outline must be approved and signed-off by the State of Ohio training representative(s) and/or subject matter experts deemed appropriate by the state. The Storyboard/outline will not be considered "complete" until DAS has approved the draft.

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2. A 30-60 minute web-based training based on the completed storyboard/outline indicated above. The training must be ADA-complaint, SCORM-compliant, and contain activities and a quiz. This deliverable will not be considered “complete” until it is successfully tested in the Development environment of ELM.]

THE OFFEROR’S FEE STRUCTURE. Contractor(s) shall be compensated at the “not to exceed” total contract cost.

COST SUMMARY FORM. The Cost Summary Form must be submitted with the Offeror’s Proposal. The Offeror’s total cost for the entire Project must be represented as the firm fixed price, for a not-to-exceed cost. Offerors shall provide a comprehensive cost analysis; this cost must include all ancillary costs. All costs for furnishing the services must be included in the Cost Proposals as requested. No mention of or reference to, the Cost Proposals may be made in responses to the general, technical, performance, or support requirements of this RFP.

NOTE: Offeror’s should ensure Cost Proposals are submitted separately from the Technical Proposals, as indicated the Proposal Submittal paragraph of this RFP (see Attachment Three). This information should not be included in the Technical Proposal.

The State shall not be liable for any costs the Offeror does not identify in its Proposal.

COST SUMMARY FORM

Offeror’s Firm Fixed Price: Not-To-Exceed Total Contract Cost.

Description (Per Attachment A—Scope of Work)	Offeror Proposed Fixed Price
<u>Item 1:</u> Storyboard/Outline for Competencies	\$ _____
<u>Item2:</u> Web-based training for Competencies	\$ _____

Attachment B

PERSONAL SERVICE CONTRACT

This contract is made by and between the State of Ohio, Department of Administrative Services (the "ODAS"), 30 East Broad Street, Columbus, Ohio, 43215, and [REDACTED] (the "Contractor"), located at [REDACTED].

ARTICLE I: STATEMENT OF WORK

- 1.1 Contractor shall undertake the work and activities set forth in the Scope of Work, which is attached hereto as Exhibit I, and incorporated by reference as if fully written herein. Contractor shall consult with ODAS personnel and other appropriate persons, agencies, and instrumentalities as necessary to assure understanding of the work and satisfactory completion thereof.
- 1.2 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 that is required in the normal course of business. Additionally, Contractor understands that as an independent contractor, contractor and contractor's employees are not public employees and are not entitled to contributions from ODAS to any public employee retirement system.
- 1.3 Contractor shall furnish professional services performed in accordance with standards necessary for the satisfactory performance of the work hereunder. ODAS shall not be required to provide any training to the Contractor to enable it to perform services required hereunder. Contractor agrees that it does not have any authority to sign agreements, notes, and/or obligations or to make purchases and/or dispose of property for, or on behalf of, the State of Ohio or ODAS.
- 1.4 Unless stated otherwise in Exhibit I, Contractor shall furnish its own support staff, materials, tools, equipment, and other supplies necessary for the satisfactory performance of the work hereunder. Contractor shall be responsible for and assume all office and business expenses that are incurred as a result of the performance of this contract, unless stated otherwise in Exhibit I.
- 1.5 Any reimbursable travel-related expenses, specifically provided in Exhibit I of this contract, shall be paid in accordance with the requirements and rates as set forth in Rule 126-1-02 of the Ohio Administrative Code, as updated from time to time.
- 1.6 ODAS may, from time to time as it deems appropriate, communicate specific instructions and requests to Contractor concerning the performance of the work described in this contract. It is expressly understood by the parties that these instructions and requests are for the sole purpose of performing the specific tasks requested to ensure satisfactory completion of the work described in this contract. The management of the work, including the exclusive right to control or direct the manner or means by which the work described herein remains with and is retained by the Contractor. ODAS retains the right to ensure that the work of the Contractor is in conformity with the terms and conditions of the Contract, as specified herein and in Exhibit 1.

ARTICLE II: TIME OF PERFORMANCE

- 2.1 This contract shall **commence** _____ **and shall expire on June 30, 2013.**
- 2.2 In the event that the work hereunder is to be done in separate phases or tasks, each phase or task shall be completed within the time prescribed in Exhibit I.
- 2.3 Upon the expiration of this contract, ODAS and the Contractor may renew this contract under the same terms and conditions stated herein. Such renewal shall be by written addendum executed by the both parties evidencing their agreement to renew the contract. In the event that the parties hereto do not execute an addendum evidencing the parties' agreement to renew this contract, the contract shall expire on the date set forth above and neither party to this Contract shall have any further obligations hereunder.

ARTICLE III: COMPENSATION

- 3.1 In consideration for the promises and performance of Contractor as set forth herein, ODAS agrees:
- A. To pay to Contractor, upon completion of each deliverable or task and upon actual receipt of proper invoices, compensation at the rate(s) specified in Exhibit I;
 - B. To pay to Contractor, upon actual receipt of proper invoices, compensation at the hourly rate(s) specified in Exhibit I for services performed;
 - C. A lump sum amount of \$_____ for services performed in accordance with Exhibit I.
- 3.2 It shall be mutually agreed and understood between both parties that the total amount to be paid by ODAS to the Contractor under this contract shall in no event exceed the sum of \$_____ unless Contractor receives prior approval from ODAS or when required, approval of the Controlling Board and is so notified of such approval by ODAS in writing.
- 3.3 In accordance with Section 126.30 of the Revised Code, and any applicable rules thereto, ODAS shall make prompt payment for any services acquired from the Contractor. Upon receipt of a proper invoice and unless otherwise stated, payment shall be made within thirty (30) calendar days. The adequacy and sufficiency of all invoices shall be determined solely by ODAS. If ODAS determines that an invoice is inadequate or insufficient, or determines that further documentation or clarification is required, the burden of providing the required information or documentation is on the Contractor. ODAS shall notify the Contractor in writing of the inadequacy or insufficiency and may provide any information necessary to correct the inadequacy or insufficiency. If such notification of inadequacy or insufficiency is sent, the required payment date shall be thirty (30) days after receipt of the corrected invoice.
- 3.4 ODAS shall pay interest on overdue payments in accordance with Section 126.30 of the Revised Code. The interest rate shall be at the rate per calendar month which equals one twelfth of the rate per annum prescribed by Section 5703.47 of the Revised Code.
- 3.5 It is expressly understood by the parties that none of the rights, duties, and obligations described in this contract shall be binding on either party until all statutory provisions under the

Ohio Revised Code, including but not limited to Section 126.07, have been complied with and until such time as all necessary funds are made available and forthcoming from the appropriate state agencies, and, when required, such expenditure of funds is approved by the General Assembly and by the Controlling Board of the State of Ohio or, in the event that federal funds are used, until such time that ODAS gives the Contractor written notice that such funds have been made available to it, by ODAS's funding source.

- 3.6 In the event that the activities contemplated herein are to be financed in whole or in part by a gift, grant, loan, or donation from any person, agency, or instrumentality other than ODAS, the Contractor shall submit to ODAS such reports and information and comply with such other conditions as ODAS may require in order to fulfill its obligations under any agreement providing for such financial assistance. ODAS shall give the Contractor timely notice in writing of such requirements.

ARTICLE IV: RECORD KEEPING REQUIREMENTS

- 4.1 The Contractor shall keep all financial records in a manner consistent with generally accepted accounting principles. Documentation to support each action shall be filed in a manner allowing it to be readily located.
- 4.2 During the period covered by this contract and until the expiration of three years after final payment under this contract, the Contractor agrees to provide ODAS, its duly authorized representatives or any person, agency, or instrumentality providing financial support to the work undertaken hereunder, with access to and the right to examine any books, documents, papers, and records of Contractor involving transactions related to this contract. Contractor shall, for each subcontract in excess of twenty-five hundred dollars (\$2,500.00), require its subcontractors to agree to the same provisions of this Article.

ARTICLE V: RELATED CONTRACTS

- 5.1 The work contemplated in this contract is to be performed by Contractor, who may subcontract without State's approval for the purchase of articles, supplies, components, or special mechanical services, that do not involve the type of work or services described in Exhibit I, but which are required for its satisfactory completion. Contractor shall not enter into other subcontracts without written approval by ODAS. All work subcontracted shall be at the expense of the Contractor.
- 5.2 Contractor agrees that it has not entered into nor shall it enter into other contracts, without written approval of ODAS, to perform substantially identical work for the Ohio Department of Administrative Services such that the work product contemplated under this contract duplicates the work done or to be done under the other contracts.

ARTICLE VI: CONFLICTS OF INTEREST

- 6.1 No personnel of Contractor shall, prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of the work.
- 6.2 Any such person who acquires an incompatible or conflicting personal interest on or after the effective date of this contract or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to ODAS in writing. Thereafter,

he or she shall not participate in any action affecting the work under this contract, unless ODAS shall determine that, in the light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

ARTICLE VII: NONDISCRIMINATION OF EMPLOYMENT

- 7.1 Pursuant to R.C. 125.111, Contractor agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or a subcontractor, shall not discriminate, by reason of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry against any citizen of this state in the employment of any person qualified and available to perform the Work. Contractor further agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or a subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of the Work on account of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry.
- 7.2 Contractor represents that it has a written affirmative action program for the employment and effective utilization of economically disadvantaged persons pursuant to R.C. 125.111(B) and has filed an Affirmative Action Program Verification form with the Equal Employment Opportunity and Affirmative Action Unit of the Department of Administrative Services.

ARTICLE VIII: DELIVERABLES; RIGHTS IN DATA, PATENTS AND COPYRIGHTS

- 8.1 Unless stated otherwise in Exhibit 1, Deliverables means all documents, data, materials, information, processes, studies, reports, surveys, proposals, plans, codes, scientific information, technological information, regulations, maps, equipment, charts, schedules, photographs, exhibits, software, software source code, documentation, and other materials and property prepared or developed or created or discovered under or in connection with this contract.
- 8.2 Unless stated otherwise in Exhibit 1, all Deliverables provided by the Contractor shall become the intellectual property of ODAS and ODAS shall have an unrestricted right to reproduce, distribute, modify, maintain, and use the Deliverables. Contractor shall not obtain copyright, patent, or other proprietary protection for the Deliverables. Contractor shall reserve its rights in all methods, pre-existing work, and pre-existing software applications and data, used to prepare such Deliverables.
- 8.3 Contractor shall not include in any Deliverable any copyrighted matter, unless the copyright owner and any person, agency, or instrumentality providing financial assistance to the work hereunder gives prior written approval to use such copyrighted matter in the manner provided herein.
- 8.4 Neither Contractor nor any of the Contractor's employees, agents, subcontractors, or assigns shall make a disclosure for the purpose of securing a patent in the United States or any other country for any of the Deliverables unless such disclosure is approved in writing by ODAS prior to application for the patent. In the event that such patent is obtained, the Contractor shall, at the request of ODAS, provide ODAS with written authorization for ODAS and any other person, agency, or instrumentality contributing financial support to the work contemplated hereunder to make use of the subject of the said patent disclosure without payment therefore.
- 8.5 Contractor agrees that all Deliverables may be made freely available to the general public, to the extent allowed by law.

ARTICLE IX: TERMINATION

- 9.1 ODAS may, at any time prior to completion of the Work, suspend or terminate this Agreement with or without cause by giving written notice to Contractor. In the event that the Work includes divisible services, ODAS may, at any time prior to completion of the Work, by giving written notice to Contractor, suspend or terminate any one or more such portions of the Work.
- 9.2 If it appears to ODAS that the Contractor has failed to perform any of the requirements of this contract, or that Contractor is in violation of a specific provision of this contract, ODAS may provide the Contractor with notice of the failure to perform or the violation and shall provide a thirty (30) day period to cure any and all defaults under this contract. During the thirty (30) day cure period, Contractor shall incur only those obligations or expenditures which are necessary to enable the Contractor to continue its operation and achieve compliance as set forth in the notice.
- 9.3 In the event of termination under this Article, the Contractor shall cease work, terminate all subcontracts relating to such terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report describing the status of all work under this contract, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as ODAS may require.
- 9.4 In the event of termination under this Article, Contractor shall be entitled to compensation, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination, less any funds previously paid by or on behalf of ODAS. ODAS shall not be liable for any further claims, and the claims submitted by the Contractor shall not exceed the total amount of consideration stated in this contract. In the event of suspension or termination, any payments made by ODAS in which services have not been rendered by the Contractor shall be returned to ODAS.
- 9.5 Contractor may terminate this Agreement upon sixty (60) days' prior written notice to ODAS.

ARTICLE X: RESPONSIBILITY FOR CLAIMS

- 10.1 Contractor agrees to hold the State of Ohio, Department of Administrative Services harmless from any and all claims for personal injury or property damage resulting from the fault or negligence of the Contractor and from claims for wages or overtime compensation due its employees in rendering services pursuant to this Contract, including payment of all costs in defense of any claim made under the Fair Labor Standards Act or any other federal or state law.
- 10.2 When applicable, Contractor shall reimburse ODAS for any judgments for infringement of patent or copyright rights and agrees to defend against any such claims or legal actions if called upon by ODAS to do so.

ARTICLE XI: COMPLIANCE WITH LAW

- 11.1 Contractor agrees to comply with all applicable federal, state, and local laws in the conduct of the work hereunder. Contractor accepts full responsibility for payment of all taxes including without limitation, unemployment compensation insurance premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by Contractor in the performance of the work authorized by this contract.

ODAS shall not be liable for any taxes under this contract.

ARTICLE XII: LIMITATION OF LIABILITY

12.1 ODAS's liability for damages, whether in contract or in tort, shall not exceed the total amount of compensation payable to Contractor under Article III or the amount of direct damages incurred by Contractor, whichever is less. The Contractor's sole and exclusive remedies for the ODAS's failure to perform under the contract shall be as set forth in this Article. IN NO EVENT SHALL ODAS BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, EVEN IF ODAS HAD BEEN ADVISED, KNEW, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

ARTICLE XIII: AMENDMENTS OR MODIFICATIONS

13.1 Either party may, at any time during the term of this contract, request amendments or modifications. Requests for amendments or modifications shall be in writing and shall specify the requested changes and the justifications of such changes. Should the parties consent to modification of the contract, then an amendment shall be drawn, approved, and executed in the same manner as the original contract.

ARTICLE XIV: ASSIGNMENT

14.1 This contract, and any rights, duties, or obligations described herein, shall not be assigned by either party hereto without the prior express written consent of the other party.

ARTICLE XV: GOVERNING LAW

15.1 This Contract and any claims arising out of this Contract shall be governed by the laws of the State of Ohio. Any provision of this Contract prohibited by the law of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Contract or the performance thereunder shall be brought only in the courts of Ohio, and the Contractor hereby irrevocably consents to such jurisdiction. To the extent that ODAS is a party to any litigation arising out of or relating in any way to this Contract or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.

ARTICLE XVI: DRUG-FREE WORKPLACE

16.1 Contractor agrees to comply with all applicable state and federal laws regarding drug-free workplace. Contractor shall make a good faith effort to ensure that all Contractor employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

ARTICLE XVII: ETHICS AND DEBARMENT

17.1 Contractor represents, warrants and certifies that it and its employees engaged in the administration or performance of this Agreement are knowledgeable of and understand the Ohio Ethics and Conflict of Interest laws. Contractor further represents, warrants, and certifies that neither Contractor nor any of its employees will do any act that is inconsistent with such laws.

17.2 Contractor represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either R.C. 153.02 or R.C. 125.25.

ARTICLE XVIII: GOVERNING THE EXPENDITURE OF PUBLIC FUNDS ON OFFSHORE SERVICES (EO 2011-12K).

18.1 The Contractor affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. 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 this Contract.

18.2 The Contractor agrees to complete the attached Executive Order 2011-12K Affirmation and Disclosure Form which is incorporated and becomes a part of this Agreement.

ARTICLE XIX: OHIO ELECTIONS LAW

19.1 Contractor hereby certifies that neither Contractor nor any of Contractor's partners, officers, directors or shareholders, nor the spouse of any such person, has made contributions in excess of the limitations specified in R.C. 3517.13.

ARTICLE XX: WORKERS' COMPENSATION

20.1 Contractor shall provide its own workers' compensation coverage throughout the duration of the contract and any extensions thereof. The agency is hereby released from any and all liability for injury received by the contractor, his employees, agents, or subcontractors, while performing tasks, duties, work, or responsibilities as set forth in this contract.

ARTICLE XXI: STATE AUDIT FINDINGS

21.1 Contractor warrants that it is not subject to an "unresolved" finding for recovery under R.C. 9.24.

21.2 If the warranty in paragraphs 21.1 is found to be false, this Agreement is void ab initio and Contractor shall immediately repay to ODAS any funds paid under this Agreement.

ARTICLE XXII: INDEPENDENT CONTRACTOR ACKNOWLEDGMENT

22.1 Unless Contractor is a "business entity" as that term is defined in R.C. 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 ODAS Exhibit III.

22.2 Contractor's failure to complete and submit Exhibit III at the time Contractor executes this agreement shall serve as Contractor's certification that Contractor is a "business entity" as that term is defined in R.C. 145.037.

If Contractor is a "business entity" and is not returning Exhibit III, initial here: _____

ARTICLE XXIII: NOTICES AND SIGNATURES

23.1 Any person executing this Contract in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this Contract on such principal's behalf.

23.2 All notices, consents and communications required hereunder (each, a "Notice") shall be in writing and shall be deemed to have been properly given when: 1) hand delivered with delivery acknowledged in writing; 2) sent by U.S. Certified mail, return receipt requested, postage prepaid; 3) sent by overnight delivery service (Fed Ex, UPS, etc.) with receipt; or 4) sent by fax or email. Notices shall be deemed given upon receipt thereof, and shall be sent to the addresses first set forth above. Notwithstanding the foregoing, notices sent by fax or email shall be effectively given only upon acknowledgement of receipt by the receiving party. Any party may change its address for receipt of Notices upon notice to the other party. If delivery cannot be made at any address designated for Notices, a Notice shall be deemed given on the date on which delivery at such address is attempted.

IN WITNESS WHEREOF, the parties have executed this contract as of the day and year last written below.

STATE OF OHIO
Department of Administrative Services

CONTRACTOR:

By: _____
DIRECTOR

By: _____

Print Name

Title

Date: _____

Date: _____

For Use by Office of Legal Services Only:

EXHIBIT I SCOPE OF WORK

Contractor shall perform the following:

Compensation:

Contractor shall be compensated _____

Invoices shall be sent to:

Ohio Department of Administrative Services
30 E. Broad St., _____ Floor
Columbus, Ohio 43215

ATTN: _____

3. Location where state data will be stored, accessed, tested, maintained or backed-up, by Contractor:

(Address)

(Address, City, State, Zip)

Name/Location(s) where state data will be stored, accessed, tested, maintained or backed-up by subcontractor(s):

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

4. Location where services to be performed will be changed or shifted by Contractor:

(Address)

(Address, City, State, Zip)

Name/Location(s) where services will be changed or shifted to be performed by subcontractor(s):

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

Exhibit III



INDEPENDENT CONTRACTOR/WORKER ACKNOWLEDGMENT

Ohio Public Employees Retirement System
277 East Town Street, Columbus, Ohio 43215-4642

Employer Outreach: 1-888-400-0965
www.opers.org

This form is to be completed if you are an individual who begins providing personal services to a public employer on or after Jan. 7, 2013 but are not considered by the public employer to be a public employee and will not have contributions made to OPERS. This form must be completed not later than 30 days after you begin providing personal services to the public employer.

STEP 1: Personal Information

Social Security Number

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First Name

MI

Last Name

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Name of Current Employer

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STEP 2: Public Employment Information

Name of Public Employer for Which You Are Providing Personal Services

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Employer Contact

First Name

MI

Last Name

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Employer Code

Employer Contact Phone Number

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Service Provided to Public Employer

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Start Date of Service

End Date of Service

Month Day Year

Month Day Year

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STEP 3: Acknowledgment

The public employer identified in Step 2 has identified you as an independent contractor or another classification other than a public employee. Ohio law requires that you acknowledge in writing that you have been informed that the public employer identified in Step 2 has classified you as an independent contractor or another classification other than a public employee for the services described in Step 2 and that you have been advised that contributions to OPERS will not be made on your behalf for these services.

If you disagree with the public employer's classification, you may contact OPERS to request a determination as to whether you are a public employee eligible for OPERS contributions for these services. Ohio law provides that a request for a determination must be made within five years after you begin providing personal services to the public employer, unless you are able to demonstrate through medical records to the Board's satisfaction that at the time the five-year period ended, you were physically or mentally incapacitated and unable to request a determination.

By signing this form, you are acknowledging that the public employer for whom you are providing personal services has informed you that you have been classified as an independent contractor or another classification other than a public employee and that no contributions will be remitted to OPERS for the personal services you provide to the public employer. This acknowledgment will remain valid as long as you continue to provide the same services to the same employer with no break in service regardless of whether the initial contract period is extended by any additional agreement of the parties. You also acknowledge that you understand you have the right to request a determination of your eligibility for OPERS membership if you disagree with the public employer's classification.

This form must be retained by the public employer and a copy sent to OPERS. The public employer's failure to retain this acknowledgment may extend your right to request a determination beyond the five years referenced above.

Signature _____ Today's Date / /
Do not print or type name