

REQUEST FOR PROPOSALS

RFP NUMBER: 0A04017
DATE ISSUED: April 29, 2004

The state of Ohio, through the Department of Administrative Services, Information Technology Governance Division, for the Department of Education is requesting proposals for an:

Ohio Career Information System Database & Software

INQUIRY PERIOD BEGINS: April 29, 2004
INQUIRY PERIOD ENDS: May 21, 2004
OPENING DATE: May 27, 2004
OPENING TIME: 11:00 A.M.
OPENING LOCATION: Department of Administrative Services
IT Governance Division Bid Room
30 East Broad Street, 40th Floor
Columbus, Ohio 43215

This RFP consists of five (5) Parts and Seven (7) Attachments, totaling 48 consecutively numbered pages. Supplements may be attached to the RFP with a beginning header page and an ending trailer page. Please verify that you have a complete copy.

PART ONE: EXECUTIVE SUMMARY

Purpose. This is a Request for Competitive Sealed Proposals (RFP) under Section 125.071 of the Ohio Revised Code (the Code) and Section 123:5-1-8 of the Ohio Administrative Code (the Administrative Code). The Ohio Department of Education (ODE) has asked the Department of Administrative Services (DAS) to solicit competitive sealed proposals (Proposals) for an Ohio Career Information System Database & Software (the Work), and this RFP is in response to that request. If a suitable offer is made in response to this RFP, the state of Ohio (State), through DAS, may enter into a contract (the Contract) to have the selected offeror (the Contractor) perform all or part of the Work. 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.

This RFP also gives the estimated dates for the various events in the submission process, selection process, and performance of the Work. 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 July 1, 2004 through June 30, 2005. The State may renew this Contract for the next five (5) fiscal years in one (1) year increments, subject to and contingent upon the discretionary decision of the Ohio General Assembly to appropriate funds for this Contract in each new biennium. The State may renew all or part of this Contract subject to the satisfactory performance of the Contractor and the needs of the Department of Education. The maximum duration of this contract will be until June 30, 2010 if ODE exercises the five 1-year renewals.

Any failure to meet a deadline in the submission or evaluation phases and any objection to the dates for performance in the Work phase may result in the State refusing to consider the Proposal of the offeror.

Background. Ohio was one of the original states to receive funding from the Department of Labor to develop a model career information delivery system in August, 1975. The Ohio Department of Economic and Community Development was the original grantee. In January 1976, the career information delivery system was transferred to the Ohio Bureau of Employment Services. In July 1982, it was transferred to the ODE, its current location. Since then, the number of Ohio Career Information System (OCIS) users has increased each year.

The OCIS is available to youth and adults in Ohio at public and private schools; two and four-year colleges; libraries; correctional facilities and offices of the Bureau of Employment Services; Job Training Partnership Services; Bureau of Apprenticeship Training; Ohio Industrial Commission; the Ohio Rehabilitation Services Commission; and other agencies and institutions.

The OCIS, as an integral part of the ODE, is developed through the Office of Career-Technical and Adult Education, Career Development Systems. OCIS is provided as an Internet application to approximately 650 sites in Ohio. Also, approximately 900 building sites access the system through the use of IBM, or IBM compatible, or Macintosh micro computers.

The overall goal for the work of the Office of Career-Technical and Adult Education is to ensure that all career-technical and adult education students will be prepared with the academic and technical skills needed to be successful in postsecondary education and the workplace, and all students will be provided the career knowledge needed to make informed career decisions. OCIS is essential and integral in accomplishing the latter element of that goal.

Minimum Mandatory Requirements. The following is a mandatory requirement for all Proposals submitted. Any Proposal submitted that does not comply with this requirement may be disqualified:

Mandatory Criteria	Reject	Accept
Two (2) sets of CD-ROMs for one of the platform versions required (Windows, Mac, or HTML), containing all the national file information ready to be loaded on an appropriate system. All documentation needed to load, test and run the application must also be provided.		

Objectives. The State has the following objectives that it wants this Work to fulfill, and it will be the Contractor's obligation to ensure that the people the Contractor provides are qualified to perform their portions of the Work.

The objective of this RFP is to enter into a Contract for an unlimited license for software running as an Internet application and microcomputer software containing national occupational information, armed services occupational information, two and four-year college information, graduate and professional school information, and national financial aid information. The national information files will be merged with the current Ohio information files of the Ohio Career Information System (OCIS) to produce a consistent and user friendly interface for the end user to access national and state career information.

The career information software and associated data needed to fulfill the RFP requirements must be usable for individuals in grade 7 through adult. The software for both the Internet and microcomputer versions must contain identical information. Software must be provided for all Internet and all OCIS microcomputer sites in Ohio. The Contractor must update each file once per year and issue updates to users twice a year.

Overview of the Work's Scope. The scope of the Work is provided in an attachment to this RFP. This section only gives a summary of the Work. If there is any inconsistency between this summary and the attachment's description of the Work, the attachment will govern.

The selected Contractor must provide the necessary software application which runs as a World Wide Web application under IIS 5.0+ utilizing the Windows 2000 operating system on hardware platform certified by the supplier of the server software. Any database storage requirements must utilize SQL Server 2000. The selected Contractor must provide a version of the software to be run on standalone computers or networked Intel-based servers running Windows 98/ME/NT/2000/XP and Macintosh computers using Mac OS 9/Mac OS X 10.1+. (In addition to the full version, the Windows and Macintosh versions will also be prepared for use in junior high/middle schools. This version will contain all sections of the full version, with the exception of the national school files, and the financial aid files). The total software package must be a multi-user license for unlimited use for the State. The State must have the right to make the software package available, through the Contractor, to any interested party in the State of Ohio. Also the State must have the right to charge interested parties a fee for receiving the Ohio Career Information System, including the system software and associated data. This fee will be used by the State to cover the cost of administering the software.

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

Dates:

Firm Dates

RFP Issued:	April 29, 2004
Inquiry Period Begins:	April 29, 2004
Inquiry Period Ends:	May 21, 2004
Proposal Due Date:	May 27, 2004 at 11:00 a.m. Eastern Standard Time

Estimated Dates

Award Date/Issuance of Purchase Order:	June 21, 2004
Work Begins:	July 5, 2004

There are references in this RFP to the Proposal due date. Prospective offerors must assume, unless it is clearly stated to the contrary, that any such reference means the date and time that the Proposals are due and not just the date.

PART TWO: STRUCTURE OF THIS RFP

Organization. This RFP is organized into five (5) parts, Seven (7) attachments, and one (1) supplement. The parts, attachments and supplement are listed below:

Parts:

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

Attachments:

Attachment 1	Work Requirements and Special Provisions
Attachment 2	Requirements for Proposals
Attachment 3	General Terms and Conditions
Attachment 4	Contract Performance
Attachment 5	The Sample Contract
Attachment 6	Cost Summary
Attachment 7	Offeror Profile Summary

Supplements:

Supplement 1	W-9 Form
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PART THREE: GENERAL INSTRUCTIONS

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

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

Christopher J. Hoffman, Acquisition Analyst
The Department of Administrative Services
30 East Broad Street, 39th floor
Columbus, Ohio 43215

During the performance of the Project, a State representative (the "Project Representative") will represent the State and be the primary contact for matters relating to the Project. The Project Representative will be designated in writing after the Contract award.

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

- Access the State Procurement Web site at <http://www.ohio.gov/procure>;
- From the Navigation Bar on the left, select "Find It Fast";
- Select "Doc/Bid/Schedule #" as the Type;
- Enter the RFP Number found on Page 1 of the document (RFP Numbers begin with zero followed by the letter "A");
- 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 offeror's representative who is responsible for the inquiry,
 - Name of the prospective offeror,
 - 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; and
- Click the "Submit" button.

Offerors submitting inquiries will receive an immediate acknowledgement that their inquiry has been received as well as an e-mail acknowledging receipt. Offerors will not receive a personalized e-mail response to their question nor will they receive notification when the question has been answered.

Offerors may view inquiries using the following process:

- Access the State Procurement Web site at <http://www.ohio.gov/procure>;
- From the Navigation Bar on the left, select "Find It Fast";
- Select "Doc/Bid/Schedule #" as the Type;
- Enter the RFP Number found on Page 1 of the document (RFP Numbers begin with zero followed by the letter "A");
- Click the "Find It Fast" button;
- On the document information page, click the "View Q & A" button to display all inquiries with responses submitted to date.

Amendments to the RFP. If the State decides to revise this RFP before the Proposal due date, amendments will be announced on the State Procurement Web site.

Offerors may view amendments using the following process:

- Access the State Procurement Web site at <http://www.ohio.gov/procure>;
- From the Navigation Bar on the left, select “Find It Fast”;
- Select “Doc/Bid/Schedule #” as the Type;
- Enter the RFP Number found on Page 1 of the document (RFP Numbers begin with zero followed by the letter “A”);
- Click the “Find It Fast” button;
- On the document information page, click 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 Acquisition Management’s Web site question and answer area for this RFP. Amendment announcements may be provided any time before 5:00 p.m. on the day before the proposal is due. It is the responsibility of each prospective offeror to check for announcements and other current information regarding this RFP.

The State will try to respond to all inquiries within 48 hours, 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.

After the submission of Proposals, amendments will be distributed only to those offerors whose submissions are under active consideration. When the State makes an amendment to the RFP after Proposals have been submitted, the State will permit offerors to withdraw their Proposals within 10 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 interests. Alternatively, the State may allow offerors that have Proposals under active consideration to modify their Proposals in response to the amendment, as described below.

Whenever the State makes an amendment after the Proposal due date, the State will tell all offerors whose Proposals are under active consideration whether they have the option to modify their Proposals in response to the amendment. Any time the State amends the RFP after the Proposal due date, an offeror will have the option to withdraw its Proposal even if the State permits modifications to the Proposals. If the offerors are allowed to modify their Proposals, the State may limit the nature and scope of the modifications. Unless otherwise stated in the State’s notice, modifications and withdrawals must be made in writing and must be submitted within 10 business days after the amendment is issued. If this RFP provides for a negotiation phase, this procedure will not apply to changes negotiated during that phase. Withdrawals and modifications must be made in writing and submitted to the State at the address and in the same manner required for the submission of the original Proposals. Any modification that is broader in scope than the State has authorized may be rejected and treated as a withdrawal of the offeror’s Proposal.

Proposal Submittal. Each offeror must submit eight (8) complete, sealed, and signed copies of its Proposal, along with two (2) digital copies of the proposal in CD-ROM format, and each Proposal must be clearly marked "Ohio Career Information System Database & Software RFP# 0A04017" on the outside of its envelope. In addition, offeror must include two (2) digital copies of the software sample in one of the required formats (Windows, Mac, or HTML.) See the “Demonstration Software” section of this RFP for more details.

Proposals are due no later than the proposal due date, at 11:00 a.m., Eastern Standard Time. Proposals must be submitted to:

Acquisition Management Bid Room
30 East Broad Street, 40th Floor
Columbus, Ohio 43215

The State may reject any Proposals or unsolicited Proposal amendments that are received after the deadline. An offeror that mails its Proposal must allow for adequate mailing time to ensure its timely

receipt. **Offerors must also allow for potential delays due to increased security. 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, except as allowed by this RFP.

By submitting a Proposal, the offeror acknowledges that 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 different from the inquiry process described in the RFP.

Revised Code Section 9.24 prohibits the State from awarding a Contract to any offeror(s) against whom the Auditor of State has issued a finding for recovery if the finding for recovery is “unresolved” at the time of award. By submitting a proposal, offeror warrants that it is not now, and will not become subject to an “unresolved” finding for recovery under Section 9.24 prior to the award of a Contract arising out of this RFP, without notifying DAS of such finding.

The State may reject any Proposal if the offeror takes exception to the terms and conditions of this RFP, fails to comply with the procedure for participating in the RFP process, or the offeror’s Proposal fails to meet any requirement of this RFP. The State may also reject any Proposal that it believes is not in its interests to accept and may decide not to do business with any of the offerors responding to this RFP.

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 offeror. Additionally, all Proposals will be open to the public after the Contract has been awarded.

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

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 is in the State’s interests and will not cause any material unfairness to other offerors.

Multiple or Alternate Proposals. The State welcomes multiple Proposals from a single offeror, but the State requires each such Proposal to be submitted separately from every other Proposal the offeror makes. Additionally, the offeror must treat every Proposal submitted as a separate and distinct submission and include in each Proposal all materials, information, documentation and other items this RFP requires for a Proposal to be complete and acceptable. No alternate Proposal may incorporate materials by reference from another Proposal made by the offeror or refer to another Proposal. The State will judge each alternate Proposal on its own merits.

Amendments to Proposals. Amendments or withdrawals of Proposals will be allowed only if the amendment or withdrawal is received before the Proposal due date. No amendment 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 attachment(s) to this RFP.

The State wants clear and concise Proposals. But offerors should take care to completely answer questions and meet the RFP’s requirements.

The requirements for the Proposal’s contents and formatting are contained in an attachment to this RFP.

The State will not be liable for any costs incurred by an offeror in responding to this RFP, regardless of whether the State awards the Contract through this process, decides not to go forward with the Project, cancels this RFP for any reason, or contracts for the Project through some other process or by issuing 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 containing the name and address of each offeror. That registry will be open for public inspection after the Proposals are opened.

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 interests to consider or to accept. In addition, the State may cancel this RFP, reject all the Proposals, and seek to do the Project through a new RFP or other means.

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

1. The Procurement Representative's initial review of all Proposals for defects;
2. The evaluation committee's evaluation of the Proposals;
3. Request for more information (interviews, presentations, and/or demonstrations); and
4. Negotiations.

The evaluation committee may decide whether phases three and four are necessary. But the committee has the right to eliminate or add phases three or four at any time in the evaluation process. The committee also may add or remove sub-phases to phases 2 through 4 at anytime if the committee believes doing so will improve the evaluation process.

Clarifications & Corrections. During the evaluation process, the Procurement Representative or the evaluation committee may request clarifications from any offeror under active consideration and may give any offeror the opportunity to correct defects in its Proposal if the Procurement Representative believes doing so does not result in an unfair advantage for the offeror and it is in the State's interests.

Reference Checks. The state may conduct reference checks to verify and validate the offeror or proposed candidate's past performance. Reference checks indicating poor or failed performance by the offeror or proposed candidate may be cause for rejection of the proposal.

Initial Review. The Procurement Representative will review all Proposals for their format and completeness. The Procurement Representative normally rejects any incomplete or incorrectly formatted Proposal, though he or she may waive any defects or allow an offeror to submit a correction.

If the Auditor of State does not certify a proposal due to lateness, the Procurement Representative will not open it or evaluate it for format or completeness.

The Procurement Representative will forward all timely, complete, and properly formatted Proposals to an evaluation committee, which the Procurement Representative will chair.

Committee Review of the Proposals. The evaluation committee will evaluate and numerically score each Proposal that the Procurement Representative has forwarded to it. The evaluation will be according to the criteria contained in this Part of the RFP. An attachment to this RFP may further refine these criteria, and the committee has a right to break these criteria into components and weight any components of a criterion according to their perceived importance.

The committee may also have the Proposals or portions of them reviewed and evaluated by independent third parties or other State personnel with technical or professional experience that relates to the Work or to a criterion in the evaluation process. The committee may also seek reviews of end users of the Work or the advice or evaluations of other State committees that have subject matter expertise or an interest in the Work. In seeking such reviews, evaluations, and advice, the committee will first decide, in writing, how to incorporate the results in the numerical scoring of the Proposals. The committee may adopt or reject any recommendations it receives from such reviews and evaluations.

The evaluation will result in a point total being calculated for each Proposal. Those offerors submitting the highest-rated Proposals may be scheduled for the next phase. The number of Proposals forwarded to the next phase will be within the committee's discretion, but regardless of the number of Proposals selected for the next phase, they will always be the highest rated Proposals from this phase.

At any time during this phase, the committee may ask an offeror to correct, revise, or clarify any portions of its Proposal.

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

Proposal Evaluation Criteria. In the Proposal evaluation phase, the committee will rate the Proposals submitted in response to this RFP based on the following criteria and weight assigned to each criterion:

Table One – Proposal Mandatory Criteria

Mandatory Criteria	Reject	Accept
Two (2) sets of CD-ROMs for one of the platform versions required (Windows, Mac, or HTML), containing all the national file information ready to be loaded on an appropriate system. All documentation needed to load, test and run the application must also be provided.		

Table Two – Proposal Evaluation Criteria

Criteria	Weight	Does Not Meet	Meets	Exceeds	Greatly Exceeds
Offeror Profile	5	0	5	7	9
Development and Support Capabilities	5	0	5	7	9
Work plan:					
National Files	10	0	5	7	9
Ohio Files	10	0	5	7	9
File Updates	10	0	5	7	9
System Description & File Enhancements	20	0	5	7	9
Access Method	10	0	5	7	9
Wage Data	10	0	5	7	9
System Support	15	0	5	7	9
Demonstration Software	20	0	5	7	9
Total for Proposal					
Total from Table Three, "Demonstration Software"					
Grand Total					

Once the technical merits of a Proposal are considered, as described above, the costs of that Proposal will be considered. But it is within the committee's discretion to wait to factor in a Proposal's cost until after any interviews, presentations and discussions. Also, before evaluating the technical merits of the Proposals, the committee may do an initial review of costs to determine if any Proposals should be

rejected because of excessive cost. And the committee may reconsider the excessiveness of any Proposal's cost at any time in the evaluation process.

The committee will then divide the offeror's total not-to-exceed fixed price for the Project by the Proposal's totaled score based on the points received from the evaluation of the Proposal's technical merits. One or more of the Proposals will then be selected for further consideration in the next phase of the evaluation process. The Proposal(s) selected to be considered in the next phase always will be the highest-ranking Proposal(s) based on this analysis. That is, the committee may not move a lower-ranking Proposal to the next phase unless all Proposals that rank above it are also moved to the next phase, excluding any Proposals that the committee disqualifies because of excessive cost or other irregularities. Alternatively, if there is to be no more phases because the committee feels they are unnecessary or inappropriate, the highest-ranking Proposal will be awarded the Contract.

If the committee finds that one or more Proposals should be given further consideration, the committee may select one or more of the highest-ranking Proposals to move to the next phase. The committee may alternatively choose to bypass any or all subsequent phases and make an award based solely on the evaluation phase.

This RFP asks for responses and submissions from offerors, most of which represent components of the above criteria. While each criterion 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 will normally result in a rejection of that offeror's Proposal. The value assigned above to each criterion 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 any requirement to participate in the Proposal process.

If the committee does not receive any Proposal that meets all the mandatory requirements, the committee may cancel this RFP. Alternatively, if the committee believes it is in the State's interest, the committee may continue to consider the highest-ranking Proposals despite their failure to meet all the mandatory requirements. In doing this, the committee may consider one or more of the highest-ranking Proposals. But the committee 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 committee believes is critical to the success of the RFP's objectives. When this is so, the committee may reject that Proposal and consider lower ranking Proposals. But before doing so, the committee must notify the offeror of the situation and give the offeror an opportunity to cure the critical mandatory requirement.

If the offeror cures its failure to meet a critical mandatory requirement, its Proposal will continue to be considered. But if the offeror is unwilling or unable to cure the failure, its Proposal may be rejected. The committee then may continue to consider the other remaining Proposals, including, if the committee so chooses, proposals that ranked lower than the rejected Proposal.

Financial Ability. Part of the Proposal evaluation criteria is the qualifications of the offeror, which includes as a component the offeror's financial ability to perform the Contract. This RFP may expressly require the submission of audited financial statements from all offerors in the Proposal contents attachment. But if the Proposal contents attachment does not make this an express requirement, the evaluation committee may still insist that an offeror submit audited financial statements for the past three years if the committee is concerned that an offeror may not have the financial ability to carry out the Contract.

In evaluating an offeror's financial ability, the weight the committee assigns, if any, to that financial ability will depend on whether the offeror's financial position is adequate or inadequate. That is, if the offeror's financial ability is adequate, the value assigned to the offeror's relative financial ability in relation to other offerors may or may not be significant, depending on the nature of the Work. But if the evaluation committee believes the offeror's financial ability is not adequate, that decision will be a fatal one for the offeror's Proposal, and the committee may reject the Proposal despite its other merits.

Software Evaluation. In the software evaluation phase, the committee will rate the software submitted with the proposal. Offerors must be prepared to answer any questions evaluators may have regarding their software which result from the evaluation phase. All software from offerors not receiving an award will be returned within 30 days of contract award.

Offerors are required to submit the following as part of their proposals:

1. Two (2) CD-ROMs for one of the platform versions required (Windows, Mac, or HTML), containing all the national file information ready to be loaded on an appropriate system. All documentation needed to load, test and run the application must also be provided.
2. The name and phone number of a contact person to call to answer technical questions regarding loading and running the software must also be provided.

The software will be evaluated on the following merits as described in the ACSCI standards:

1. **National Data: occupation file & school.**
2. **Financial Aid.**
3. **Major Enhancements: ease of use, on-line help, other.**
4. **Printing Capabilities.**
5. **Direct Access Method.**
6. **Search Access Method: by schools, occupation, and financial aid.**
7. **Documentation: user manuals, load instructions.**

Table three shows the criteria that will be used to evaluate the software:

Table Three – Demonstration of Software; evaluated on three platforms

Criteria	Weight	Does Not Meet	Meets	Exceeds	Greatly Exceeds
1. National Data: occupation file & school.	5	0	5	7	9
2. Financial Aid.	5	0	5	7	9
3. Major Enhancements: ease of use, on-line help, other.	5	0	5	7	9
4. Printing Capabilities.	5	0	5	7	9
5. Direct Access Method.	5	0	5	7	9
6. Search Access Method: by schools, occupation, and financial aid.	5	0	5	7	9
7. Documentation: user manuals, load instructions.	5	0	5	7	9
Total					

Interviews, Demonstrations, and Presentations. The Proposal evaluation committee may require some offerors to interview with the committee, make a presentation about their Proposal, and/or demonstrate their products or services. Such presentations, demonstrations, and interviews provide an offeror with an opportunity to:

- Clarify its proposal and to ensure a mutual understanding of the proposal's content;

- Show the features and functions of its proposed hardware, software or solution; or
- Test or probe the professionalism, qualifications skills and work knowledge of the proposed candidates.

The presentations, demonstrations, and interviews will be scheduled at the convenience and discretion of the evaluation committee. The evaluation committee may record any presentations, demonstrations, and interviews.

The evaluation committee normally will not numerically rank interviews, demonstrations, and presentations. Rather, the committee may decide to revise its existing proposal evaluations based on the interviews, demonstrations, and/or presentations.

Determination of Responsibility. The evaluation committee may review the highest-ranking offerors or its key team members to ensure that the offeror is responsible. The Contract may not be awarded to an offeror that is determined to be not responsible. The evaluation committee's determination of an offeror's responsibility may include the following factors: the offeror'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 evaluation committee will make such determination of responsibility based on the offeror's proposal, reference evaluations and any other information the committee requests or determines to be relevant.

Contract Negotiations. The final phase of the evaluation process may be contract negotiations. Negotiations will be scheduled at the convenience of the committee. The selected offeror(s) must negotiate in good faith.

Negotiations may be conducted with any offeror who submits a competitive Proposal, but the committee may limit discussions to specific aspects of the RFP. Any clarifications, corrections, or negotiated revisions that may occur during the negotiations phase will be reduced to writing and incorporated in the RFP or the offeror's Proposal, as appropriate. Any offeror whose response continues to be competitive will be accorded fair and equal treatment with respect to any clarification, correction, or revision of the RFP and will be given the opportunity to negotiate revisions to its Proposal based on the amended RFP. But should the evaluation process have resulted in a top-ranked Proposal, the committee 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 committee may then 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 committee decides to negotiate with all the remaining offerors, or decides that negotiations with the top-ranked offeror are not satisfactory and negotiates with one or more of the lower-ranking offerors, the committee will then determine if an adjustment in the ranking of the remaining offerors is appropriate based on the negotiations. The Contract award, if any, will then 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 committee may set a date and time for the submission of best and final Proposals by the remaining offeror(s) with which the committee conducted negotiations. If negotiations were limited and all changes were reduced to signed writings during negotiations, the committee need not require the submissions of best and final Proposals.

If best and final Proposals are required, they may be submitted only once, unless the committee makes a written determination that it is in the State's interest to conduct additional negotiations. In such cases, the committee 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 offeror's previous Proposal will be considered the offeror's best and final Proposal.

It is entirely within the discretion of the committee 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. The committee is free to limit negotiations to particular aspects of any Proposal, to limit the offerors with whom the committee wants to negotiate, and to dispense with negotiations entirely.

The evaluation committee generally will not rank negotiations. The negotiations will normally be held to correct deficiencies in the preferred offeror's Proposal. If negotiations fail with the preferred offeror, the committee may negotiate with the next offeror in ranking. Alternatively, the committee may decide that it is in the interests of the State to negotiate with all the remaining offerors to determine if negotiations lead to an adjustment in the ranking of the remaining offerors.

From the opening of the Proposals to the award of the Contract, everyone working on behalf of the State to evaluate the Proposals will seek to limit access to information contained in the Proposals solely to those people with a need to know the information. They will also seek to keep this information away from other offerors, and the evaluation committee will not be allowed to 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 open to inspection to the public. The written changes will be drafted and signed by the Contractor and submitted to the evaluation committee within five business days. If the evaluation committee accepts the change, the Procurement Representative will give the offeror written notice of the committee's acceptance. 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 and collect on the offeror's bid bond, if a bid bond was required in order to respond to this RFP.

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 Project is in its best interests and has not changed the award date.

Included with this RFP as attachment four (4), is a sample of the contract for the RFP. In awarding the Contract, the State will issue three (3) copies of the Contract to the selected offeror. The Contractor will sign the Contracts and return them to the Procurement Representative. The Contract will not be binding on the State until the State's duly authorized representative signs all copies and returns one to the Contractor, the State issues a purchase order, and all other prerequisites identified in the Contract have occurred.

The State expects the Contractor to commence work within five (5) working days after the State issues a purchase order under the Contract.

Contract. If this RFP results in a Contract award, the Contract will consist of this RFP, written amendments to this RFP, the Contractor's Proposal, and written, authorized amendments to the Contractor's Proposal. It will also include any materials incorporated by reference in the above documents and any change orders issued under the Contract. The form of the Contract is attached as a one-page attachment to this RFP, but it incorporates all the documents identified above. The general terms and conditions for the Contract are contained in another attachment to 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 RFP, as amended;
2. The documents and materials incorporated by reference in the RFP;
3. The Contractor's proposal, as amended, clarified, and accepted by the state; and
4. The documents and materials incorporated by reference in the Contractor's Proposal.

Notwithstanding the order listed above, change orders, and 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: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS

PART ONE: PROJECT REQUIREMENTS

This section describes the Project and what the Contractor must do to get the job done. It also describes what the Contractor must deliver as part of the completed Project (the "Deliverables"). And it gives a detailed description of the Projects schedule.

Scope of Work. The Contractor must provide file merger and database build for the Windows, Mac and HTML versions for both the Internet and microcomputer versions of the Ohio Career Information System. Each version must perform at an equivalent level, with equal functionality and features.

- A. National Files.** The Contractor must meet all information development standards for the national information files, as set by Association of Computer-based Systems for Career Information (ACSCI), in their publication "Standards Implementation Handbook" (2002). As noted in the ACSCI publication, the national occupational information must be reviewed and updated at least once a year.

The Contractor must provide a database containing, but not limited to, the following national information files used by the ODE:

1. National occupational data.
2. National four-year college listings: all accredited four-year colleges and their programs in the 50 states and U.S. territories, public and private.
3. National two-year college listings: all accredited two-year colleges and their programs in the 50 states and U.S. territories, public and private.
4. National graduate school program listings: all accredited graduate schools and all of their respective programs in the 50 states and U.S. territories, public and private.
5. National Programs of Study and Training, including apprenticeship programs.
6. National financial aid sources.
7. Armed services occupational information.

- B. Ohio Files.** The Contractor must collect data, develop, and update the following existing Ohio files:

1. Ohio occupational information.
2. Ohio proprietary schools.
3. Ohio schools offering health instructional programs.
4. Ohio career-technical and adult programs.
5. Ohio financial aid.
6. Information on job seeking skills.
7. Career development activities.
8. Careers of the future in technology.

The Ohio Department of Education staff produces/gathers internally some of some of the data for the above files and provides it in hard copy documents to the Contractor. The Contractor must convert these data to an electronic format suitable for this software application.

- C. File Updates.** At least once a year, the Contractor must update the national information files and certify that these national files meet the computerized career information standards described in this RFP. The Ohio file information must also be updated on an annual basis.

The resulting merged national and Ohio career information files will comprise the OCIS master software release. The Contractor must provide microcomputer, Mac, and Internet software copies from the master which must be compatible. In addition to the full version, the Windows and Macintosh versions will also be prepared for use in junior high/middle schools.

This version will contain all sections of the full version, with the exception of the national school files, and the financial aid files.

A single copy of the Internet software must be mailed by the Contractor to a designated OCIS data center. Sufficient copies of the software for each site using the software must be provided to the ODE.

D. System Description: File Enhancements. The Contractor's software must have the following features:

1. On-screen assistance for using basic commands and using the access method.
2. On-screen assistance offering explanations regarding concepts, questions, and information.
3. On-screen assistance enabling the user to easily move from file to file within the system.
4. On-screen interest inventory score-entry of raw scores from frequently used, standardized career assessment interest inventories and abilities assessments. These interest inventories and abilities must result in a related list of occupations.
5. On-screen standardized occupational sorting which results in a list of related occupations.
6. On-screen menus providing search characteristics for national and state files.
7. The Crosswalk (direct link) between occupations and training institutions.
8. On-screen school sorting resulting in a list of appropriate schools.
9. On-screen financial aid sorting resulting in a list of appropriate financial aid resources.

E. Access Method. The accessing strategies available to users to obtain national information must provide for "direct access" and "structured search" mode.

The national information files currently being utilized by the ODE contain the following categorical search characteristics. The Contractor must provide a database containing, but not limited to, the search characteristics listed below.

1. Occupational information search characteristics.

- a) Specific occupational requirements, including interests, aptitudes, physical demands, work conditions, work environment, national average starting salary, education, location, and training.

2. Two-year college information search characteristics.

- a) Location by region and state and size of city or town in which college is located.
- b) All major programs of study.
- c) Comprehensive costs.
- d) Admissions requirements, including level of academic difficulty.
- e) School size.
- f) Degree level.
- g) Financial aid availability.
- h) Length of study program.
- i) School setting.
- j) Tuition & Fees.

3. Four-year college information search characteristics.

- a) Location by region and state and size of city or town in which college is located.
- b) All major programs of study.
- c) Comprehensive costs, including annual tuition and fees.
- d) Admissions requirements, including level of academic difficulty.
- e) School size.
- f) Degree level.
- g) Financial aid availability.

- h) Length of study program.
- i) School setting.
- j) Tuition & Fees.

4. Graduate and professional school information search characteristics.

- a) Location by region and state and size of city or town in which college is located.
- b) All major programs of study.
- c) Comprehensive costs, including annual tuition and fees.
- d) Degree level.
- e) Admissions requirements, including level of academic difficulty.
- f) Financial aid availability.

5. Financial aid information search characteristics.

- a) Aid requirements, including types of financial aid, educational level, and financial need.
- b) Academic programs of study as qualifiers for aid.
- c) Personal requirements, including gender, religious affiliation, personal qualifications, descent requirement and personal military qualifications.
- d) Parental requirements, including parental military qualifications.
- e) Local community including financial aid for Ohio regions and counties.
- f) Financial aid deadlines.

F. Wage Data. The Contractor must validate wage data and job outlook of occupations; the Contractor must employ techniques to develop industry employment projections and derive occupational employment projections from these industry employment forecasts.

G. OCIS System Platform. The Contractor must produce copies of the merged computer software of national and Ohio career information to operate in the environment described below:

The Contractor must provide the necessary software application which runs as a World Wide Web application under IIS 5.0+ utilizing the Windows 2000 operating system on hardware platform certified by the supplier of the server software. Any database storage requirements must utilize SQL Server 2000. This Internet version must be able to function with Netscape and Microsoft Internet Explorer. There also must be a text-only version that works with screen readers for the visually impaired. In addition the selected Contractor must provide a version of the software to be run on a standalone computers or networked servers running Intel-based Windows 98/ME/NT/2000/XP and Macintosh computers using Mac OS 9/Mac OS X 10.1+.

H. System Support. The Contractor must supply and update the printed and electronic materials required to support the needs of the end users for the proposed system, including but not limited to loading instructions and user manuals each time the software and data is updated. These materials will be used by all Internet computer centers, and all microcomputer sites.

1. Contractor must provide the following customer services:

- a) Printed or electronic materials required to support the needs of the end users for the proposed system.
- b) Support to end users, including a toll-free hotline.
- c) (Optional) Professional and technical support to the Department of Education in such matters as contracts and new products for the life of the Contract as needed..
- d) (Optional) Assistance to the Department of Education with training workshops, required travel, and other special circumstances as needed.
- e) (Optional) Ohio file data collection, programming, and editing for the Department of Education.

2. **Licensing and Updates.** The total software package must be a multi-user license for unlimited use for the State, who will become the sole distributor in the State during the contract period. The State has the right to make it available, through the Contractor, to any interested party in the state of Ohio. The State also has the right to charge interested parties a fee for receiving the Ohio Career Information System, including the system software and associated data. This fee will be used by the State to cover the cost of administering the software. The Contractor must also agree that the ODE will be the sole distributor/provider of the selected computer system in Ohio and must comply with the following policies for the software:
 - a) Supply compatible software upon request to Ohio users that change hardware types, consistent with hardware specifications as described in this RFP.
 - b) Distribute updated software and data two times a year (January and September) to the ODE.
 - c) Supply explicit printed loading instructions as well as updated corresponding printed documentation with each shipment of software to the Department of Education.
 - d) The software for all versions must contain identical information within the files.

Milestone, Delivery and Completion Dates.

The Contractor must complete the first initial merge of the databases by September 1, 2004, including the product for the 3 platforms and any support and print material. Once a year the Contractor must complete a major update to the product for the three platforms, including support and print materials, in September and issue updates to users twice a year in September and January.

The Contractor's Fee Structure. The Contractor will be paid the fiscal year cost in four (4) equal, quarterly payments, according to the cost summary contained in this RFP. Failure to produce the deliverables will result in default and the quarterly payment will be held until the deliverable is provided pursuant to this Contract. All other rights and remedies outlined elsewhere in this Contract remain.

Project Contact. The offeror must provide a project contact for the life of the contract, including address, phone, fax and e-mail address.

Project Reports. Project reports from the Contractor are required every quarter. The Contractor must be available for meetings and status reports as requested by ODE.

Reimbursable Expenses. None.

Bill to Address.

Ohio Department of Education
Career Development
25 South Front St. MS 609
Columbus, Ohio 43215-4183

Permits the State Will Obtain. None.

ATTACHMENT TWO: REQUIREMENTS FOR PROPOSALS

Proposal Format. Each Proposal must include sufficient data to allow the evaluation committee 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 will 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. 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.

Each Proposal must contain the following:

- Cover Letter
- Offeror Profile
- Contract Performance
- Development and Support Capabilities
- Work Plan:
 - A. National Files
 - B. Ohio Files
 - C. File Updates
 - D. System Description – File Enhancements
 - E. Access Method
 - F. Wage Data
 - G. OCIS system platform
 - H. System Support
 - I. Licensing and Updates
 - J. System Output
 - K. Demonstration Software
- Support Requirements
- Cost Summary
- Conflict of Interest
- Payment Address
- Pre-existing Materials
- Commercial Materials
- Warranty for Commercial Software
- Proof of Insurance
- W-9 Form

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 will provide an executive summary of the solution the offeror plans to provide. The letter must also have the following:

- a. A statement regarding the offeror's legal structure (e.g., an Ohio corporation), Federal tax identification number, and principal place of business;
- b. A list of the people who prepared the Proposal, including their titles;
- c. The name, phone number, and fax number of a contact person who has authority to answer questions regarding the Proposal;
- d. A list of all subcontractors, if any, that the offeror will use on the Project if the offeror is selected to do the work;

- e. For each proposed subcontractor, 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, tax identification number, and principal place of business address;
 - 2. The name and phone number of someone 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;
 - 5. A statement that the subcontractor has read and understood the RFP and will comply with the requirements of the RFP; and
 - 6. A statement that the offeror's proposal for the Project meets all the requirements of this RFP;
- f. A statement that the offeror has not taken any exception to the Terms and Conditions;
- g. A statement that the offeror does not assume there will be an opportunity to negotiate any aspect of the proposal;
- h. A statement indicating the offeror will comply with all Federal and Ohio (Ohio Revised Code) Laws and Rules of the Ohio Administrative Code as those law and rules are currently enacted and promulgated, and as they may subsequently be amended and adopted; and
- i. A statement that the offeror is not now, and will not become subject to an "unresolved" finding for recovery under ORC 9.24, prior to the award of a Contract arising out of this RFP, without notifying DAS of such finding.

Offeror Profile. Each Proposal must include a profile of the offeror's relevant experience working on projects similar to this Work. The profile must also include the offeror's legal name, address, and telephone number; home office location; date established; ownership (such as public firm, partnership, or subsidiary); firm leadership (such as corporate officers or partners); number of employees; number of employees engaged in tasks directly related to the Work; and any other background information that will help the evaluation committee gauge the ability of the offeror to fulfill the obligations of the Contract.

The offeror must also include three (3) project references for which the offeror has successfully provided services on projects that were similar in their nature, size, and scope to the Work. These project references must relate to work that was completed within the past five (5) years. This RFP includes a reference form as an attachment. The offeror must use this form and fill it out completely for each reference. **The forms must be completed using typewritten or electronic means.** The forms may be recreated electronically, but all fields and formats must be retained. Failure to recreate the forms accurately may lead to the rejection of the offeror's proposal.

References provided to meet each requirement must be from a client for whom work was performed. References cannot come from a company affiliated or associated with the prime contractor or subcontractor including but not limited to subsidiary companies, partnerships, joint ventures or sister companies within a conglomerate.

Each reference must be willing to discuss the offeror's performance with the evaluation committee.

Contract Performance. The offeror must complete attachment 4 of this RFP.

Development and Support Capabilities. Each offeror must describe its capability and capacity for completing the Work, as well as describe contingency plans if the primary plan is not able to meet the Project's needs.

Work Plan. The offeror must fully describe its approach, methods, and specific work steps for doing the Work and producing the deliverables. The State encourages responses that demonstrate a thorough understanding of the nature of the work and what the Contractors must do to get the work done well. The offeror must also provide a complete and detailed description of the way it will do the work that addresses the areas of concern identified below.

The State seeks insightful responses that describe proven state-of-the-art methods. Recommended solutions should demonstrate that the Contractor would be prepared to quickly undertake and successfully complete the required tasks.

- A. **National Files.** Offerors must describe and explain their ability and method to meet the requirements, and describe how the updates will occur, as stated in Attachment one, subsection A, National Files:

“The Contractor must meet all information development standards for the national information files, as set by Association of Computer-based Systems for Career Information (ACSCI), in their publication “Standards Implementation Handbook” (2002). As stated in the ACSCI publication, the occupations included in the national occupational file must cover 90 percent of the United States employment. Furthermore, as noted in the ACSCI publication, the national occupational information must be reviewed and updated at least once a year. “

The offeror must describe all of the national files that will be utilized on the software proposed for this RFP and the procedure used to produce them.

The offeror must document awareness and utilization of most, if not all, of the sources of national information of the National Occupational Information Coordinating Committee (NOICC) Administrative Memorandum 86- NOICC Guidelines for Development of State Policies on Career Information Delivery, dated April 30, 1986.

- B. **Ohio Files.** The offeror must describe how they will collect data, develop and update all of the Ohio files for the software proposed for this RFP. The offeror must describe the process used to merge the national and state information files.
- C. **File Updates.** The offeror must describe the proposed file update process required to meet the RFP requirements. In addition, the offeror must include a description of the methodology and resources utilized in the update of each of the proposed files. The offeror must describe the methodology utilized to collect, analyze, update and merge the Ohio information with the national information.
- D. **System Description: File Enhancements.** The offeror must describe in detail each of the items listed below.
1. On-screen assistance for using basic commands and using the access method.
 2. On-screen assistance offering explanations regarding concepts, questions, and information.
 3. On-screen assistance enabling the user to easily move from file to file within the system.
 4. On-screen interest inventory score-entry of raw scores from frequently used, standardized career assessment interest inventories and abilities assessments. These interest inventories and abilities must result in a related list of occupations.
 5. On-screen standardized occupational sorting which results in a list of related occupations.
 6. On-screen menus providing search characteristics for national and state files.
 7. The Crosswalk (direct link) between occupations and training institutions.
 8. On-screen school sorting resulting in a list of appropriate schools.
 9. On-screen financial aid sorting resulting in a list of appropriate financial aid resources.
- E. **Access Method.** The offeror must describe all methods of access that must be utilized on the software proposed for this RFP. The search Characteristics must include:
1. Occupational information search characteristics.
 2. Two-year college information search characteristics.
 3. Four-year college information search characteristics.
 4. Graduate and professional school information search characteristics.
 5. Financial aid information search characteristics.

- F. **Wage Data.** The offeror must describe the method used to validate wage data and job outlook of occupations, with specific discussion of the taxonomies and techniques used to develop industry employment projections and derive occupational employment projections from these industry employment forecasts.
- G. **OCIS system platform.** The offeror must verify their ability to produce the required copies in the various formats. The offeror must also identify other compatible hardware on which the software will operate.
- H. **System Support.** The offeror must verify in their response that all listed support (see Attachment one, subsection H.1., System Support) will be provided and a brief overview given of how these support items will be accomplished.
- I. **Licensing and Updates.** The offeror must agree in writing that the Department of Education will be provided an unlimited use multi-user license. The offeror must also agree that the Department of Education will be the sole distributor/provider of the selected computer system in Ohio and must verify compliance with the policy specifications for software as listed in Attachment one, sub-section H.2., Licensing and Updates.
- J. **System Output.** The offeror must provide a sample printout from each current national file and a written description of any printouts for proposed files.
- K. **Software Evaluation.** The offeror is required to submit the following as part of their RFP response:
 1. Two (2) sets of CD-ROMs for one of the platform versions required (Windows, Mac, or HTML), containing all the national file information ready to be loaded on an appropriate system. All documentation needed to load, test and run the application must also be provided.
 2. The name and phone number of a contact person to call to answer technical questions regarding loading and running the software must also be provided.

In addition to the above, the offeror's software will be evaluated according to the criteria set in Table Three of the "Demonstration Software" section of this RFP.

All software from vendors not receiving an award will be returned within 30 days of contract award.

Support Requirements. The offeror must describe the support it wants from the State other than what the State has offered elsewhere in this RFP. Specifically, the offeror should address the following:

- Nature and extent of State support required;
- Assistance from State staff and the experience/qualification level 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 must therefore 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.

Cost Summary. This RFP includes a Cost Summary Form provided as an attachment. Offerors may not reformat this form. Each offeror must complete the cost summary sheet in the exact format provided. Any reformatting may cause the State to reject the offeror's Proposal.

The offeror's total cost for the entire Project must be represented as the not-to-exceed fixed price.

The State will not be liable for any costs the offeror does not identify in its Proposal.

Conflict of Interest. Each Proposal must include a statement indicating whether the offeror or any people that may work on the Project through the offeror have a possible conflict of interest (e.g., employed by the state of Ohio, etc.) and, if so, the nature of that conflict. The State has the right to reject a Proposal in which a conflict is disclosed or cancel the Contract if any interest is later discovered that could give the appearance of a conflict.

Payment Address. The offeror must give the address to which payments to the offeror will be sent.

Pre-existing Materials. The offeror must list any Pre-existing Materials that the offeror owns that will be included in a Deliverable and for which the offeror wants a proprietary notice if the Deliverable is copied or distributed. For example, the offeror may have standard user interfaces or standard shells that it incorporates in what is otherwise custom software. (See the Ownership of the Work section of the General Terms and Conditions.) The evaluation committee may reject any Proposal that includes existing materials for a custom solution if the committee believes that such is not appropriate or desirable for the Project.

Commercial Materials. Here the offeror must list any commercial and proprietary materials that the offeror will deliver that are easily copied (e.g., software) and in which the State will be granted less than full ownership. Generally, these will be from third parties and readily available in the open market. Patented parts of equipment need not be listed since they are not readily copied. If the State will be expected to sign a license for the Commercial Material, the license agreement must be attached. If the State finds any provisions of the license agreement objectionable for any reason and cannot or does not negotiate an acceptable solution with the third party, regardless of the reason and in the State's sole discretion, then the offeror's Proposal will be rejected. If the State is not going to sign a license, but there will be limits on the State's use of the Commercial Materials different from the standard license in the General Terms and Conditions, then the unique scope of license needs to be spelled out here. Unless otherwise provided elsewhere in this RFP, proposing to use Commercial Materials in a custom solution may, in the committee's sole discretion, be a basis for rejection of the offeror's Proposal if the committee believes that such is not appropriate or desirable for the Project. Any deviation from the standard license, warranty, and other related terms in the General Terms section for Commercial Material will likely result in a rejection of the Proposal, in the committee's sole discretion.

Warranty for Commercial Software. If the offeror plans to provide a Deliverable that contains Commercial Software with warranty terms that differ from the warranty terms in the General Terms and Conditions attachment, then the scope of warranty must to be spelled out here. This is so even if the State will not be required to sign a license for the software. Any deviation from the standard warranty in the General Terms section of this RFP for Commercial Material will likely result in a rejection of the Proposal.

Proof of Insurance. In this section, the offeror must provide the certificate of insurance required by the General Terms & Conditions. The policy may be written on an occurrence or claims made basis.

W-9 Form. The offeror must complete the attached W-9 form in its entirety. At least 1 original W-9 form must be submitted. All other copies of a Proposal may contain copies of the W-9 form. Please indicate on the outside of the binder which Proposal contains the original signature.

ATTACHMENT THREE: GENERAL TERMS AND CONDITIONS
PART ONE: PERFORMANCE AND PAYMENT

Statement of Work. The RFP and the Contractor's Proposal (Collectively referred to as the "RFP") are a part of this Contract and describe the work (the "Project") the Contractor will do and any materials the Contractor will deliver (the "Deliverables") under this Contract. The Contractor will do the Project in a professional, timely, and efficient manner and will provide the Deliverables in a proper fashion. The Contractor will also furnish its own support staff necessary for the satisfactory performance of the Project.

The Contractor will 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 will 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 and the Contractor is paid. But the current General Assembly cannot commit a future General Assembly to an expenditure. Therefore, this Contract will automatically expire at the end of the current biennium, which is June 30, 2005. But 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 will also apply to the end of any subsequent biennium during which the Project continues. Termination or expiration of this Contract will not limit the Contractor's continuing obligations with respect to Deliverables that the State paid for before termination or limit the State's rights in such.

It is understood that the State's funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. If the General Assembly fails at any time to continue funding for the payments and other obligations due as a part of this Contract, the State's obligations under this Contract are terminated as of the date that funding expires without further obligation of the State.

The Project has a completion date that is identified in the RFP. It may also have several dates for delivery of Deliverables or reaching certain milestones in the Project. If so, those dates are also contained in the RFP. The Contractor must make those deliveries, meet those milestones, and complete the Project within the times the RFP requires. 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. But the State may also have certain obligations to meet. Those obligations, if any, are also listed in the RFP. If the State agrees that the Contractor's failure to meet the delivery, milestone, or completion dates in the RFP 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 effected 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 all professional management skill to avoid an extension and given the State meaningful written notice of the State's failure to meet its obligations within 5 business days of the Contractor's realization that the State's delay will impact the Project. The notice to the State must be directed at making the State aware of its delay and the impact of its delay. It must be sent to the State Project Representative and the State Procurement Representative. The extension of the Contractor's performance time will be, at the State's discretion, the Contractor's only remedy for the State's delay.

The State seeks a complete Project. Any incidental items omitted in the RFP will be provided as part of the Contractor's not-to-exceed fixed price. The Contractor must fully identify, describe, and document all systems that are delivered as a part of the Project. All hardware, software, supplies, and other required components (such as documentation, conversion, training, and maintenance) for the Project to be complete and useful to the State are included in the Project and the not-to-exceed fixed price.

Compensation. In consideration of the Contractor's promises and satisfactory performance, the State will pay the Contractor the amount(s) identified in the RFP (the "Fee"), plus any other expenses identified

as reimbursable in the RFP. But in no event will payments under this Contract exceed the "not-to-exceed" amount in the RFP 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 is also contingent on the Contractor delivering a proper invoice and any other documents required by the RFP. 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 will send all invoices under this Contract to the "bill to" address in the RFP 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 "Code"). That section of the Code currently requires monthly interest payments of one 12th of the annual rate in Section 5703.47 of the 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 may then deduct the disputed amount from its payment as a non-exclusive remedy. In addition, the State will consult with the Contractor as early as reasonably possible about the nature of the dispute and the amount of payment affected. When the Contractor has resolved the disputed matter to the State's satisfaction, the State will pay the disputed amount within 30 business days after the matter is resolved.

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 will reimburse the State for that amount at the end of the 30 calendar days as a non-exclusive 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.

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

In making any reimbursable expenditure, the Contractor will always comply with the more restrictive of its own, then-current internal policies for making such expenditures or with the State's then-current policies. All reimbursable travel will require the advance written approval of the State's Representative. All reimbursable expenses will be billed monthly and paid by the State within 30 business days of receiving the Contractor's invoice.

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 Code, including Section 126.07, have been met;
- (b) All necessary funds are made available by the appropriate state agencies;
- (c) If required, approval of this Contract is given by the Controlling Board of Ohio; 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 have been made available.

Employment Taxes. Each party will be solely responsible for reporting, withholding and paying all employment related taxes, payments and withholdings for its own personnel, including, but not limited to, Federal, state and local income taxes, social security, unemployment or disability deductions, withholdings, and payments (together with any interest and penalties not disputed with the appropriate taxing authority). All people the Contractor provides to the State under this Contract will be deemed employees of the Contractor for purposes of withholdings, taxes, and other deductions or contributions required under the law.

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. And 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: PROJECT & 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.

Subcontracting. The Contractor may not enter into subcontracts for the Work after award without written approval from the State. But 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 Work. All subcontracts will be at the sole expense of the Contractor unless expressly stated otherwise in the RFP.

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 will hold the State harmless for and will indemnify the State against any such claims.

The Contractor will assume responsibility for all Deliverables whether it, a subcontractor, or third-party manufacturer produces them in whole or in part. Further, the State will consider the Contractor to be the sole point of contact with regard to contractual matters, including payment of all charges resulting from the Contract. And 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 must also 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. But 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 will indemnify the State for the damage.

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

The Contractor will keep a separate account for the Project (the "Project Account"). All payments made from the Project Account will be only for obligations incurred in the performance of this Contract and will be supported by contracts, invoices, vouchers, and any other data needed to audit and verify the payments. All payments from the Project Account will be for obligations incurred only after the effective date of this Contract unless the State has given specific written authorization for making prior payments from the Project Account.

Audits. During the term of this Contract and for 3 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 will also apply to the State's duly authorized representatives and any person or organization providing financial support for the Project.

Unless it is impracticable to do so, all records related to this Contract must be kept in a single location, either at the Contractor's principle place of business or its place of business where the work was done. If this is not practical, the Contractor will assume the cost of collecting, organizing, and relocating the records and any technology need to access the records to the Contractor's office nearest Columbus whenever the State or anyone else with audit rights requests access to the Contractor's Project records. The Contractor will do so with all due speed, not to exceed 5 business days.

If any audit reveals any material deviation from the Project's specifications, any misrepresentation, or any overcharge to the State, the State will be entitled to recover damages, as well as the cost of the audit.

For each subcontract in excess of \$25,000.00, the Contractor will require its subcontractors to agree to the requirements of this section and of the record-keeping section. Subcontracts with smaller amounts involved need not meet this requirement. But the Contractor may not artificially break up contracts with its subcontractors to take advantage of this exclusion.

Equal Employment Opportunity. During the Project, the Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, age, or Vietnam-era veteran status ("Protected Status"). The Contractor will ensure that applicants for employment and employees are treated without regard to their Protected Status.

The Contractor agrees to post notices with the provisions of this section in conspicuous places that are available to employees and applicants and to state in all solicitations and advertisements for employees that it is an equal opportunity employer.

Insurance. The Contractor will provide the following insurance coverage at its own expense throughout the term of this Contract:

- (a) Workers' compensation insurance, as required by Ohio law, and, if some of the Project will be done outside Ohio, the laws of the appropriate state(s) where work on the Project will be done. The Contractor will also maintain employer's liability insurance with at least a \$1,000,000.00 limit.
- (b) Commercial General Liability insurance coverage for bodily injury, personal injury, wrongful death, property damage. The defense cost shall be outside of the policy limits. Such policy shall designate the State of Ohio as an additional insured, as its interest may appear. The policy will also be endorsed to include a blanket waiver of subrogation. At a minimum, the limits of the insurance shall be:

- \$ 2,000,000 General Aggregate
- \$ 2,000,000 Products/Completed Operations Aggregate
- \$ 1,000,000 Per Occurrence Limit
- \$ 1,000,000 Personal and Advertising Injury Limit
- \$ 100,000 Fire Legal Liability
- \$ 10,000 Medical Payments

The policy shall also be endorsed to provide the State with 30-day prior written notice of cancellation or material change to the policy. It is agreed upon that the Contractor's Commercial General Liability shall be primary over any other insurance coverage.

- (c) Commercial Automobile Liability insurance with a combined single limit of \$500,000.

- (d) Professional Liability insurance covering all staff with a minimum limit of \$1,000,000 per incident and \$3,000,000 aggregate. If the offeror's policy is written on a "claims made" basis, the offeror shall provide the state with proof of continuous coverage at the time the policy is renewed. If for any reason the policy expires, or coverage is terminated, the offeror must purchase and maintain "tail" coverage through the applicable statute of limitations. The certificate(s) must be in a form that is reasonably satisfactory to the State as to the contents of the policies and the quality of the insurance carriers. All carriers must have at least an "A-" rating by A.M. Best.

State Personnel. During the term of this Contract and for 1 year after completion of the Project, the Contractor will not hire or otherwise contract for the services of any state employee involved with the Project.

Bond. If the RFP provides a dollar amount for a performance bond, the Contractor will provide the State with a performance bond in that amount within 5 business days after execution of this Contract. The performance bond will serve as an assurance that the Contractor and all of its subcontractors will comply with all the requirements of this Contract. The performance bond will also indemnify the State against all direct damages it suffers from any failure of the Contractor to properly perform. The bond must be issued by a company authorized by Ohio's Department of Insurance to do business in Ohio. Failure of the Contractor to provide the performance bond on or before the date it is required to be delivered to the State will result in a breach of this Contract without a cure period and termination or suspension (or ultimately both) of this Contract for cause.

The bond will remain in effect for the duration of this Contract and any extensions of this Contract's initial term.

The terms of the bond must reflect the terms of this section, or the State will reject it and treat the failure of conformance as a failure by the Contractor to deliver the bond in a timely fashion.

The Contractor will be solely liable for all the costs associated with getting and keeping the performance bond in place.

Replacement Personnel. If the RFP contains the names of specific people who will work on the Project, then 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 Project without the prior, written consent of the State, except as provided below.

The Contractor may remove a person listed in the RFP from the Project if doing so is necessary for legal or disciplinary reasons. But the Contractor must make a reasonable effort to give the State 30 calendar days' prior, written notice of the removal.

The Contractor must have qualified replacement people available to replace any people listed by name in the RFP. When the removal of a listed person is permitted under this Section, or if a person becomes unavailable, the Contractor will submit the resumes for 2 replacement people for each person removed or who otherwise becomes unavailable. The Contractor will submit the 2 resumes, along with such other information as the State may reasonably request, within 5 business days after the decision to remove a person is made or the unavailability of a listed person becomes known to the Contractor.

The State will select one of the two proposed replacements or will reject both of them within ten business days after the Contractor has submitted the proposed replacements to the State. The State may reject the proposed replacements for any legal reason(s). Should the State reject both replacement candidates due to their failure to meet the minimum qualifications identified in the RFP, or should the Contractor fail to provide the notice required under this Section or fail to provide two qualified replacement candidates for each removed or unavailable person, the Contractor will be in default and the cure period for default specified elsewhere in this Contract will not apply. In the event of such a default, the State will have the right to terminate this Contract and to have the damages specified elsewhere in this Contract for termination due to default.

The State may determine that proposed replacement candidates meet the minimum qualifications of this Contract and still substantially reduce the value the State perceived it would receive through the work of the original individual(s) the Contractor proposed and on whose credentials the State decided to enter into this Contract. Therefore, the State will have the right to reject any candidate that the State determines will provide it with diminished value.

Should the State reject both proposed candidates for any legal reason other than their failure to meet the minimum qualifications identified in the RFP, then such rejection will be deemed a termination for convenience.

The State has an interest in providing a healthy and safe environment for its employees and guests at its facilities. The State also 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 working on the Project 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 they are listed as key people on the RFP.

Suspension and Termination. The State may terminate this Contract 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 may also 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. The State may also 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 3 times. After the third notice, the State may terminate this Contract without a cure period if the Contractor again fails to meet any obligation. The 3 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. 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 may also terminate this Contract 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 may also terminate this Contract should that third party fail to release any Project funds. The RFP identifies any third party source of funds for the Project.

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 will 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 will also immediately prepare a report and deliver it to the State. The report 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 will also deliver all the completed and partially completed Deliverables to the State with its report. But, if delivery in that manner would not be in the State's interest, then the Contractor will propose a suitable alternative form of delivery.

If the State terminates this Contract for cause, it will be entitled to cover for the Project by using another contractor on such commercially reasonable terms as it and the covering contractor may agree. The Contractor will be liable to the State for all costs related to covering for the Project to the extent that such

costs, when combined with payments already made to the Contractor for the Project before termination, exceed the costs that the State would have incurred under this Contract. The Contractor will also be liable for any other direct damages resulting from its breach of this Contract or other action leading to termination for cause.

If the termination is for the convenience of the State, the Contractor will be entitled to compensation for any work on the Project that the Contractor has performed before the termination. Such compensation will be the Contractor's exclusive remedy in the case of termination for convenience and will be available to the Contractor only once the Contractor has submitted a proper invoice for such, with the invoice reflecting the amount determined to be owing to the Contractor by the State. The State will make that determination based on the lesser of the percentage of the Project completed or the hours of work performed in relation to the estimated total hours required to perform the entire applicable unit(s) of Work.

The State will have the option of suspending rather than terminating the Project where 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 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 amount of compensation due to the Contractor for work performed before the suspension will be determined 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 costs associated with a suspension for the State's convenience. No payment under this provision will be made to the Contractor until the Contractor submits a proper invoice.

Any notice of suspension, whether with or without cause, will be effective immediately on the Contractor's receipt of the notice. And 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 will perform no work without the consent of the State and will 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. If the suspension is for the convenience of the State, then termination of the Contract will be a termination for convenience. If the suspension is with cause, the termination will also be for cause.

The State will not suspend the Project for its convenience more than once during the term of this Contract, and any suspension for the State's convenience will 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 period, 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 will indemnify the State for any liability to them. Each subcontractor will hold the State harmless for any damage caused to them from a suspension or termination. They will 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 on the RFP or a subsequent notice to the Contractor as the "Project Representative." The Project Representative will review all reports made in the performance of the Project by the Contractor, will conduct all liaison with the Contractor, and will accept or reject the Deliverables and the complete Project. The Project Representative may assign a manager responsibilities for individual aspects of the Project to act as the Project Representative for those individual portions of the Project.

The Contractor's Project Manager under this Contract will be the person identified on the RFP as the "Project Manager." The Project Manager will conduct all liaison with the State under this Contract. Either party, upon written notice to the other party, may designate another representative. But the Project Manager may not be replaced without the approval of the State if s/he is identified in the RFP as a key individual on the Project.

Work Responsibilities. The State will be responsible for providing only those things expressly identified, if any, in the RFP. 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/or equipment or has voluntarily waived an inspection and will work with the equipment and/or facilities on an "as is" basis.

Normal working hours on State property are Monday through Friday, except for State holidays, from 8:00 a.m. to 5:00 p.m., Eastern Standard Time, with a 1 hour for lunch. The Contractor must plan to work within these time constraints.

The Contractor will assume the lead in the areas of management, design, and development of the Project. The Contractor will 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 the Project, or parts of it, require 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 will complete an installation letter and secure the signature of Project Representative certifying that installation is complete and the Project, or applicable portion of it, is operational. The letter will describe the nature, date, and location of the installation, as well as the date it was certified as installed and operational by the Project Representative.

The Contractor will provide a written report to the Project Representative at least as often as the end of every other week throughout the term of the Project, or as otherwise provided in the RFP. The reports will include the number of hours worked by task and a percentage-to-completion rate, if applicable, as well as any other special requirements in the RFP.

Unless otherwise provided in the RFP, the Contractor will be responsible for obtaining all official permits, approvals, and similar authorizations required by any local, state, or Federal agency for the Project.

Changes. The State may make reasonable changes, within the general scope of the Project, in any one or more of the following: (I) Project tasks or subtasks; (ii) time or place of delivery; or (iii) period of performance. 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 will have the right to request a Change Order from the State. Scope of work changes will be managed as follows: pricing will be provided from the Contractor 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. Within 5 business days after receiving the Change Order, the Contractor will 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 will notify the State in writing and request an equitable adjustment in the Contractor's 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 of the claim within 5 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 relevant change was specifically ordered in writing by the State 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, and the Contractor seeks an equitable adjustment in its Fee, 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 hours of labor will be broken down by employee position, and the actual hourly pay rate for each employee involved in the change must be provided. The total amount of the equitable adjustment for the Change Order will then 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 will then 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. But 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 will be 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 work a subcontractor will do under a Change Order.

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 will notify the other promptly of any material delay in performance and will 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 must also 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 Contractor has no legal control.

Independent Status of the Contractor. The parties will be acting as independent contractors. The partners, employees, officers, and agents ("Personnel") of one party, in the performance of this Contract, will act only in the capacity of representatives of that party and not as Personnel of the other party and will not be deemed for any purpose to be Personnel of the other. Each party assumes full responsibility for the actions of its Personnel while they are performing services pursuant to this Contract and will be solely responsible for paying its Personnel (including withholding of and/or paying income taxes and social security, workers' compensation, disability benefits and the like). Neither party will commit, nor be authorized to commit, the other party in any manner. The Contractor's subcontractors will be considered the agents of the Contractor for purposes of this Contract.

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

Confidentiality. The State may disclose to the Contractor written material or oral or other information that the State treats as confidential ("Confidential Information"). Title to the Confidential Information and all related materials and documentation the State delivers to the Contractor will remain with the State. The Contractor must treat such Confidential Information as secret if it is so marked, otherwise identified as such, or when, by its very nature, it deals with matters that, if generally known, would be damaging to the best interests of the public, other contractors or potential contractors with the State, or individuals or organizations about whom the State keeps information. By way of example, information should be treated

as confidential if it includes any proprietary documentation, materials, flow charts, codes, software, computer instructions, techniques, models, information, diagrams, know-how, trade secrets, data, business records, or marketing information. By way of further example, the Contractor also must treat as confidential materials such as police and investigative records, files containing personal information about individuals or employees of the State, such as personnel records, tax records, and so on, court and administrative records related to pending actions, any material to which an attorney-client, physician-patient, or similar privilege may apply, and any documents or records expressly excluded by Ohio law from public records disclosure requirements.

The Contractor agrees not to disclose any Confidential Information to third parties and to use it solely to do the Project. The Contractor will restrict circulation of Confidential Information within its organization and then only to people in the Contractor's organization that have a need to know the Confidential Information to do the Project. The Contractor will be liable for the disclosure of such information whether the disclosure is intentional, negligent, or accidental, unless otherwise provided below.

The Contractor will not be liable for any unintentional disclosure of Confidential Information that results despite the Contractor's exercise of at least the same degree of care as it normally takes to safeguard its own secrets, except when the Contractor's procedures are not reasonable given the nature of the Confidential Information or when the disclosure nevertheless results in liability to the State.

The Contractor 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 Contractor will cause all of its employees who have access to any Confidential Information to execute a confidentiality agreement incorporating the obligations in this section.

The Contractor's obligation to maintain the confidentiality of the Confidential Information will not apply where such: (1) was already in the Contractor's possession before disclosure by the State, and such was received by the Contractor without obligation of confidence; (2) is independently developed by the Contractor; (3) is or becomes publicly available without breach of this Contract; (4) is rightfully received by the Contractor from a third party without an obligation of confidence; (5) is disclosed by the Contractor with the written consent of the State; or (6) is released in accordance with a valid order of a court or governmental agency, provided that the Contractor (a) notifies the State 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 served by the original order of production. The Contractor will return all originals of any Confidential Information and destroy any copies it has made on termination or expiration of this Contract.

The Contractor may disclose Confidential Information to its subcontractors on a need-to-know basis, but they will be obligated to the requirements of this section.

Ownership of Deliverables. All custom Work done by the Contractor and covered by this Contract will be owned by the State, 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 will provide the State with all assistance reasonably needed to vest such rights of ownership in the State. But 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 in 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 license to use, modify, sell, and otherwise distribute all Pre-existing Materials that are incorporated in any custom-developed Deliverable rather than grant the State ownership of the Pre-existing Materials. The Contractor will 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 in a custom Deliverable, the Contractor must first disclose this and seek the State's approval for doing so in advance. On the request of the Contractor, the State will incorporate any proprietary notice the

Contractor may reasonably want for any Pre-existing Materials included in a custom Deliverable in all copies the State makes of that 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.

License in Commercial Material. As used in this section, "Commercial Material" means anything that has been developed at private expense by the Contractor or a third party, 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 or as an attachment referenced in the RFP, 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 State secrets. 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.

For Commercial Software, the State will have the rights in items (1) through (8) of this section with respect to the software. The State will not use any Commercial Software except as provided in items (1) through (8) of this section or as expressly stated otherwise in this Contract. The Commercial Software may be:

- (1) Used or copied for use in or with the computer or computers for which it was acquired, including use at any State installation to which such computer or computers may be transferred;
- (2) Used or copied for use in or with a backup computer for disaster recovery and disaster recovery testing purposes or if any computer for which it was acquired is inoperative;
- (3) Reproduced for safekeeping (archives) or backup purposes;
- (4) Modified, adapted, or combined with other computer software, but the modified, combined, or adapted portions of the derivative software incorporating any of the Commercial Software will be subject to same restrictions set forth in this Contract;
- (5) Disclosed to and reproduced for use on behalf of the State by support service contractors or their subcontractors, subject to the same restrictions set forth in this Contract; and
- (6) Used or copied for use in or transferred to a replacement computer.

However:

- (7) If the Commercial Software delivered under this Contract is published and copyrighted, it is licensed to the State without disclosure prohibitions; but
- (8) If any Commercial Software is delivered under this Contract with the copyright notice in 17 U.S.C. 401, it will be presumed to be published, copyrighted, and licensed to the State without disclosure restrictions, unless a statement substantially as follows accompanies such copyright notice: "Unpublished -- rights reserved under the copyright laws of the

United States." The State will treat such Commercial Software as Confidential Information to the extent that such is actually the case.

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; (2) unless otherwise provided in the RFP, be the work solely of the Contractor; and (3) no Deliverable will infringe on the intellectual property rights of any third party.

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; (4) the Contractor has good and marketable title to any goods delivered under this Contract and in which title passes to the State; (5) all hardware, software, firmware, and similar devices and materials provided under this Contract will "year 2000 compliant," meaning that the hardware, software, firmware, and similar devices and materials are designed to operate without regard to the turning of the century and processes dates in a manner that takes into account dates occurring before and after the turning of the century; and (6) the Contractor has the right and ability to grant the license granted in any Deliverable in which title does not pass to the State.

The warranty regarding material defects is a 1-year warranty. 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 will correct such failure with all due speed or will refund the amount of the compensation paid for such portion of the Project. The Contractor will also 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 agrees to 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 will do 1 of the following 4 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.

Software Warranty. If this Contract involves software as a Deliverable, then, on acceptance and for 12 months after the date of acceptance of any Deliverable that includes software, the Contractor warrants as to all software developed under this Contract that: (a) the software will operate on the computer(s) for which the software is intended in the manner described in the relevant software documentation, the Contractor's Proposal, and the RFP; (b) the software will be free of any material defects; (c) the Contractor will deliver and maintain relevant and complete software documentation, commentary, and source code; and (d) the source code language used to code the software is readily available in the commercial market, widely used and accepted for the type of programming involved, and support programming in the language is reasonably available in the open market; and (g) the software and all maintenance will be provided in a professional, timely, and efficient manner.

For Commercial Software licensed from a third party that is incorporated in a Deliverable, the Contractor represents and warrants that it has done 1 of the following 3 things: (a) obtained the right from the third-party licensor to commit to the warranties and maintenance obligations in this Section; (b) obtained a binding commitment from the licensor to make those warranties and maintenance obligations directly to the State; or (c) fully disclosed in the RFP any discrepancies between the requirements of this section and the commitment the third-party licensor has made.

In addition, for Commercial Software that is incorporated in a Deliverable, the Contractor will: (a) maintain or cause the third-party licensor to maintain the Commercial Software so that it operates in the manner

described in the RFP (or any attachment referenced in the RFP) and relevant Commercial Software documentation; (b) supply technical bulletins and updated user guides; (c) supply the State with updates, improvements, enhancements, and modifications to the Commercial Software and documentation and, if available, the commentary and the source code; (d) correct or replace the Commercial Software and/or remedy any material programming error that is attributable to the Contractor or the third-party licensee; (e) maintain or cause the third-party licensor to maintain the Commercial Software and documentation to reflect changes in the subject matter the Commercial Software deals with; (f) maintain or obtain a commitment from the third-party licensor to maintain the Commercial Software so that it will properly operate in conjunction with changes in the operating environment in which it is designed to operate.

For purposes of the warranties and the delivery requirements in this Contract, software documentation means well written, readily understood, clear, and concise instructions for the software's users as well as a system administrator. The software documentation will provide the users of the software with meaningful instructions on how to take full advantage of all of the capabilities designed for end users. It also means installation and system administration documentation for a system administrator to allow proper control, configuration, and management of the software. Source code means the uncompiled operating instructions for the entire System. But the Contractor will not be obligated to provide source code for Commercial Software unless it is readily available from the licensor. The source code will be provided in the language in which it was written and will include commentary that will allow a competent programmer proficient in the source language to readily interpret the source code and understand the purpose of all routines and subroutines contained within the source code.

Equipment Warranty. If any electrical equipment, mechanical device, computer hardware, telecommunications hardware, or other type of physical machinery ("Equipment") will be a part of any Deliverable, the following warranties apply. The Contractor warrants that the Equipment fully complies with all government environmental and safety standards applicable to the Equipment. The Contractor also warrants for 1 year from the acceptance date of the Equipment that the Equipment will perform substantially in accordance with specifications described in the RFP, the user manuals, technical materials, and related writings published by the manufacturer for the Equipment. The foregoing warranties will not apply to Equipment that is modified or damaged after title passes to the State.

The Contractor will notify the State in writing immediately upon the discovery of any breach of the warranties given above.

The Contractor's will do the following if any Equipment does not meet the above warranties:

- (a) Cause the Equipment to perform as required, or, if that is not commercially practicable, then;
- (b) Grant the State an a refund equal to the amount the State paid for the Equipment or, if such has not been individually priced, the manufacturer's suggested retail price for the Equipment.

Except where the Contractor's breach of a warranty makes it not possible for the State to do so, the State will return the affected Equipment to the Contractor in the case of a refund under the previous paragraph.

General Exclusion of Warranties. THE CONTRACTOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, OTHER THAN THOSE EXPRESS WARRANTIES CONTAINED IN THIS CONTRACT. THE CONTRACTOR ALSO MAKES NO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE EXCEPT AS FOLLOWS: IF THE CONTRACTOR HAS BEEN ENGAGED UNDER THE SCOPE OF WORK IN THE RFP TO DESIGN SOMETHING TO MEET A PARTICULAR NEED FOR THE STATE, THEN THE CONTRACTOR DOES WARRANT THAT THE CONTRACTOR'S WORK WILL MEET THE STATED PURPOSE FOR THAT WORK.

Indemnity for Property Damage and Bodily Injury. The Contractor will indemnify the State for all liability and expense resulting from bodily injury to any person (including injury resulting in death) and damage to property arising out of the performance of this Contract, providing such bodily injury or property damage is due to the fault of the Contractor, its employees, agents, or subcontractors.

Responsibility. The Contractor will be responsible for any liability, claims, losses, and damages arising out of the performance of this Contract providing such liability, claim, loss, or damage is due to the fault or negligence of the Contractor, its employees, agents or subcontractors.

Limitation of Liability. The parties agree as follows:

- 1) The limitation in paragraph 3, does not apply to liability arising from third party claims or to sections in this document where the section expressly provides a right to particular damages such as indemnity.
- 2) Neither party is liable for any indirect, incidental or consequential loss or damage of any kind, 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.
- 3) The Contractor further agrees that the Contractor shall remain liable for all direct damages due to the Contractor's fault or negligence up to two (2) times the cost of the products/ services.

PART FIVE: ACCEPTANCE AND MAINTENANCE

Standards of Performance and Acceptance. If the RFP so indicates, there will be a period for performance testing of the 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 for 30 consecutive calendar days. The performance criteria in the RFP 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. Acceptance of the Project depends on a successful completion of the performance period defined in this section and the RFP. 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 all outstanding problems have been demonstrably corrected by the Contractor, the second performance period will not start, and the Project (or part thereof) will not be accepted. 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 will have the right to request 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 for each part of the Project that will be independently tested and accepted. But, unless the RFP expressly provides 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 98.5%, unless otherwise specified in the RFP. 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 is defined as 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 is defined as 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, 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.

Alternative form of Acceptance. If this Contract does not involve software or Equipment as a Deliverable, then the preceding section will not apply and there will be no formal acceptance procedure unless the RFP expressly provides otherwise. If the RFP does not provide otherwise, the acceptance procedure will be an informal review by the Project Representative to ensure that each Deliverable and the Project as a whole comply with the requirements of this Contract. The Project Representative will have up to 30 calendar days to do this. No formal letter of acceptance will be issued, and passage of the 30 calendar days will imply acceptance, though the State will issue a notice of noncompliance if a Deliverable or the Project as a whole does not meet the requirements of this Contract. If the Project Representative issues a letter of noncompliance, then the Contractor will have 30 calendar days to correct the problems listed in the noncompliance letter. If the Contractor fails to do so, the Contractor will be in default without a cure period. If the Project Representative has issued a noncompliance letter, the Deliverables or the Project as a whole will not be accepted until the Project Representative issues a letter of acceptance indicating that each problem noted in the noncompliance letter has been cured. If the problems have been fixed during the 30 day period, the Project Representative will issue the acceptance letter within 15 calendar days.

If the Project fails to meet the standard of performance after 90 calendar days from the start of the 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 will have the right to request correction or replacement of the relevant portion of the Project.

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.

Software Maintenance. If this Contract involves software as a Deliverable, then, during the warranty period, the Contractor will correct any material programming errors that are attributable to the Contractor within a reasonable period of time. But the State must notify the Contractor, either orally or in writing, of a problem with the software and provide sufficient information for the Contractor to identify the problem.

The Contractor's response to a programming error will depend upon the severity of the problem. For programming errors that slow the processing of data by a small degree, render minor and non-critical functions of the System inoperable or unstable, or require users or administrators to employ work-arounds to fully use the software, Contractor will respond to the request for resolution within 4 business hours. And the Contractor must begin working on a proper solution for the problem within 1 business day, dedicating the resources of at least 1 qualified programmer full-time to fixing the problem. For any defects with more significant consequences, including those that render key functions of the system inoperable or significantly slow processing of data, the Contractor will respond within 2 business hours of notice.

Additionally, the Contractor must begin working on a proper solution for the problem immediately after responding and, if requested, provide on-site assistance and dedicate all available resources to resolving the problem.

For software classified as Commercial Software in the Ownership of the Work section and for which the State has not signed a separate license agreement, the Contractor will acquire the right to maintenance for 1 year. That maintenance will be the third-party licensor's standard maintenance program. But, at a minimum, that maintenance program must include all new releases, updates, patches, and fixes to the software. It will also include a commitment to keep the software current with the operating environment in which it is designed to function (and, if applicable, the subject matter covered by the software) and to correct material defects in the software in a timely fashion. Additionally, the Contractor will obtain a commitment from the licensor to make maintenance available for the product for at least 4 years after the first year of maintenance. The Contractor will also obtain a commitment from the licensor to limit increases in the annual fee for maintenance to no more than 10% annually. If the licensor is unable to provide maintenance during that 5 year period, then the licensor must be committed to doing 1 of the following 2 things: (a) give the State a *pro rata* refund of the license fee based on a 5-year useful life; or (b) release the source code for the software to the State for use by the State solely for the purpose of maintaining the copy(ies) of the software for which the State has a proper license. For purposes of receiving the source code, the State agrees to treat it as confidential and to be obligated to the requirements under the Confidentiality section of this Contract with respect to the source code. That is, with respect to the source code that the State gets under this section, the State will do all the things that the Confidentiality section requires the Contractor to do in handling the State's Confidential Information.

Equipment Maintenance. If this Contract involves Equipment as a Deliverable, then, on delivery and for 12 months after acceptance, the Contractor will provide Equipment maintenance to keep the Equipment in or restore the Equipment to good working order. This maintenance will include preventative and remedial maintenance, installation of safety changes, and installation of engineering changes based upon the specific needs of the individual item of Equipment. This maintenance will include the repair, replacement, or exchange deemed necessary to keep the Equipment to good working order. For purposes of this Contract, Equipment restored to good working condition means Equipment that performs in accordance with the manufacturer's published specifications and the RFP.

The Contractor will exert its best efforts to perform all fault isolation and problem determination attributed to the Equipment covered under this Contract.

The following services are outside the scope of this Contract:

- a. Maintenance to bring the Equipment into compliance with any law, rule, or regulation if such law, rule, or regulation was not in effect on the acceptance date.
- b. Repair and replacement work or increase in maintenance time as a result of damage or loss resulting from casualty or the State's misuse of the Equipment, damage resulting from improper packing or failure to follow prescribed shipping instructions (if such is done by the State), failure of electrical power, air conditioning or humidity control, use of supplies not approved by the original manufacturer of the Equipment as described or included in the Contractor's Proposal, or causes other than ordinary use of the Equipment.
- c. Furnishing platens, supplies, or accessories, making specification changes, or adding or removing approved accessories, attachments, or other devices.
- d. Maintenance or any increase in maintenance time resulting from any maintenance or inappropriate connection to other equipment (not done by the Contractor) that results in damage to the Equipment.
- e. Activities required to restore the Equipment to good operating condition if the problem has resulted from someone other than Contractor's authorized service personnel repairing, modifying, or performing any maintenance service on the Equipment.

Equipment Maintenance Standards. This section applies if Equipment will be a Deliverable under this Contract.

Remedial Equipment maintenance by the Contractor will be completed within 8 business hours after notification by the State that maintenance is required. In the case of preventative maintenance, the Contractor will perform such in accordance with the manufacturer's published schedule and specifications. If maintenance is not completed or substitute equipment provided within 8 hours after notification by the State, the Contractor will be in default.

All maintenance will also meet any standards contained in the RFP. Failure of the Contractor to meet or maintain these requirements will provide the State with the same rights and remedies specified elsewhere in the RFP for default, except that the Contractor will only have 8 hours to remedy a default.

The Contractor will provide adequate staff to provide the maintenance required by this Contract.

Equipment Maintenance Continuity. This section applies if Equipment will be a Deliverable under this Contract.

If the Contractor is unable to provide maintenance services to meet the State's ongoing performance requirements and if, in the State's sole opinion, the Contractor is unlikely to resume providing warranty services that meets the State's ongoing performance requirement, the Contractor will be in default. The State then will be entitled to the remedies in the default section of this Contract. But the State will also be entitled to the following items from the Contractor: (a) all information necessary for the State to perform the maintenance, including logic diagrams, maintenance manuals and system and unit schematics, as modified by the Contractor; and (b) a listing of suppliers capable of supplying necessary spare parts.

Any information in items (a) and (b) above that is rightfully identified by the Contractor as proprietary information will be maintained in confidence by the State except where disclosure to a third party is necessary for the State to continue the maintenance. But any third party to whom disclosure is made will agree to hold such proprietary information in confidence and to make no further disclosure of it. Further, the State agrees that any such proprietary information will be used solely to perform the Contractor's maintenance obligations hereunder and will be returned to the Contractor upon completion of the such use.

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

Maintenance will be available 9 working hours per weekday, between 8:00 a.m. and 5:00 p.m. Eastern Standard 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 Fee 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 will keep the Project in good operating condition during the warranty period and any annual maintenance period during which the State contracts for continued maintenance, and 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 will identify all key people who will provide 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 the subject matter and supersedes any previous statements or 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. No change to any provision of this Contract will be effective unless it is in writing and signed by both parties. 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. 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 will 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.

PART SEVEN: LAW & COURTS

Compliance with Law. The Contractor agrees to comply with all applicable Federal, state, and local laws in the conduct of the Work.

Drug-Free Workplace. The Contractor will comply with all applicable state and Federal laws regarding keeping a drug-free workplace. The Contractor will make a good faith effort to ensure that all the Contractor employees, 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. No Personnel of the Contractor may voluntarily acquire any personal interest that conflicts with their responsibilities under this Contract. Additionally, the Contractor will 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 will disclose to the State knowledge of any such person who acquires an incompatible or conflicting personal interest related to this Contract. And the Contractor will take steps to ensure that such a person does not participate in any action affecting the work under this Contract. But this will not apply when the State has determined, in the light of the personal interest disclosed, that person's participation in any such action would not be contrary to the public interest.

Ohio Ethics and Elections Law. The Contractor certifies that it is currently in compliance and will continue to adhere to the requirements of the Ohio ethics law, O.R.C. §102.04. The Contractor affirms that, as applicable to the Contractor, no party listed in Division (I) or (J) of Section 3517.13 of the Ohio Revised Code or spouse of such party has made, as an individual, within the 2 previous calendar years, one or more contributions totaling in excess of \$1,000.00 to the Governor or to his campaign committees.

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.

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.

ATTACHMENT FOUR: CONTRACT PERFORMANCE

The offeror must provide the following information for this section for the past seven years. Please indicate yes or no in each column.

Yes/No	<i>Description</i>
	Whether the offeror has had a contract terminated for default or cause. If so, the offeror must submit full details, including the other party's name, address, and telephone number.
	Whether the offeror has been assessed any penalties in excess of ten thousand dollars (\$10,000), including liquidated damages, under any of its existing or past contracts with any organization (including any governmental entity). If so, the offeror must provide complete details, including the name of the other organization, the reason for the penalty, and the penalty amount for each incident.
	Whether 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.
	Whether trading in the stock of the company has ever been suspended with the date(s) and explanation(s).
	Whether the offeror, any officer of the offeror, or any owner of a twenty percent (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.
	Whether the offeror, any officer of the offeror, or any owner with a twenty percent (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 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 evaluation committee, such an answer and a review of the background details may result in a rejection of the offeror's Proposal. The committee will make this decision based on its determination of the seriousness of the matter, the matter's possible impact on the offeror's performance on the Project, and the best interests of the State.

ATTACHMENT FIVE: CONTRACT

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

(CONTRACTOR)

THIS CONTRACT, which results from RFP#0A04017, entitled "Ohio Career Information System Database & Software" is between the State of Ohio, through the Department of Administrative Services, Information Technology Governance Division, on behalf of the Department of Education (the "State") and _____ (the "Contractor").

If this RFP results in a contract award, the contract will consist of this RFP including all attachments, written amendments to this RFP, the contractor's proposal, and written, authorized amendments to the contractor's proposal. It will also include any materials incorporated by reference in the above documents and any change orders issued under the contract. The form of the contract is this one page attachment to the RFP, which incorporates by reference all the documents identified above. The general terms and conditions for the contract are contained in another attachment to the 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 RFP, as amended;
2. The documents and materials incorporated by reference in the RFP;
3. The contractor's proposal, as amended, clarified, and accepted by the state; and
4. The documents and materials incorporated by reference in the contractor's proposal.

Notwithstanding the order listed above, change orders and 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.

This Contract has an effective date of the later of _____, 20____, or the occurrence of all conditions precedent specified in the General Terms and Conditions.

IN WITNESS WHEREOF, the parties have executed this Contract as of the dates below.

CONTRACTOR

STATE OF OHIO
DEPARTMENT OF ADMINISTRATIVE SERVICES

By:

By: Gregory S. Jackson

Title:

Title: Director and State Chief Information Officer

Date

Date

ATTACHMENT SIX: COST SUMMARY

The Contractor will be paid the fiscal year cost in four (4) equal, quarterly payments, according to the schedule below. Failure to produce the deliverables will result in breach, and hold back of the associated quarterly payment until brought back into compliance:

Fiscal Year	Annual Unlimited License Fee (*)		Primary File Merge & Update (September)		Secondary File Merge & Update (Jan – Feb)		Cost
1.FY2005	\$	+	\$	+	\$	=	\$
2.FY2006	\$	+	\$	+	\$	=	\$
3.FY2007	\$	+	\$	+	\$	=	\$
4.FY2008	\$	+	\$	+	\$	=	\$
5.FY2009	\$	+	\$	+	\$	=	\$
6.FY2010	\$	+	\$	+	\$	=	\$

TOTAL NTEFP (1 + 2 + 3 + 4 + 5 + 6) = \$ _____

Optional Customer Service Costs (See Attachment One, Section H.1.c-e)

Professional and Technical Support Hourly Rate \$ _____

Training Workshops, Travel, and Other Special Circumstances Hourly Rate \$ _____

Ohio File Data Collection, Programming, and Editing Hourly Rate \$ _____

(*) Annual Unlimited License Fee – Fee includes multi-user license for unlimited use for the State for software, any updates, distribution, and system support including end user support and providing software requests as needed.

ATTACHMENT SEVEN: OFFEROR PROFILE

The Offeror must list references that show experience similar in size, scope and nature to the requirements of this RFP. All fields must be retained and completed:

Client Organization:		Contact:	
Address:		Phone Number:	
Project Name:		Project Beginning Date Month/Year:	Project Ending Date Month/Year:
Experience:			
Client Organization:		Contact:	
Address:		Phone Number:	
Project Name:		Project Beginning Date Month/Year:	Project Ending Date Month/Year:
Experience:			
Client Organization:		Contact:	
Address:		Phone Number:	
Project Name:		Project Beginning Date Month/Year:	Project Ending Date Month/Year:
Experience:			

- Recreate Electronically as Needed -

SUPPLEMENTAL INFORMATION HEADER

The following pages contain supplemental information for this competitive document. The supplemental information is contained between this header and a trailer page. If you receive the trailer page, all supplemental information has been received.

If you do not receive the trailer page of this supplement, use the inquiry process described in the document to notify the Procurement Representative.

Note: portions of the supplemental information provided may or may not contain page numbers. The total number of pages indicated on the cover page does not include the pages contained in this supplement.

Supplement 1

W-9 Form

Request for Taxpayer Identification Number and Certification

**Give form to the
 requester. Do NOT
 send to the IRS.**

Please print or type

Name (If joint names, list first and circle the name of the person or entity whose number you enter in Part I below. **See instructions on page 2 if your name has changed.**)

Business name (Sole proprietors see instructions on page 2.)

Please check appropriate box: Individual/Sole proprietor Corporation Partnership Other ▶

Address (number, street, and apt. or suite no.)

Requester's name and address (optional)

City, state, and ZIP code

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). For sole proprietors, see the instructions on page 2. For other entities, it is your employer identification number (EIN). If you do not have a number, see **How To Get a TIN** below.

Social security number								
			+			+		

OR

Employer identification number								
			+					

Note: If the account is in more than one name, see the chart on page 2 for guidelines on whose number to enter.

List account number(s) here (optional)

Part II For Payees Exempt From Backup Withholding (See Part II instructions on page 2)

Part III Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), **and**
- I am not subject to backup withholding because: **(a)** I am exempt from backup withholding, or **(b)** I have not been notified by the Internal Revenue Service that I am subject to backup withholding as a result of a failure to report all interest or dividends, or **(c)** the IRS has notified me that I am no longer subject to backup withholding.

Certification Instructions.—You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because of underreporting interest or dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, the acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (Also see **Part III instructions** on page 2.)

Sign Here

Signature ▶

Date ▶

Section references are to the Internal Revenue Code.

Purpose of Form.—A person who is required to file an information return with the IRS must get your correct TIN to report income paid to you, real estate transactions, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA. Use Form W-9 to give your correct TIN to the requester (the person requesting your TIN) and, when applicable, (1) to certify the TIN you are giving is correct (or you are waiting for a number to be issued), (2) to certify you are not subject to backup withholding, or (3) to claim exemption from backup withholding if you are an exempt payee. Giving your correct TIN and making the appropriate certifications will prevent certain payments from being subject to backup withholding.

Note: If a requester gives you a form other than a W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

What Is Backup Withholding?—Persons making certain payments to you must withhold and pay to the IRS 31% of such

payments under certain conditions. This is called "backup withholding." Payments that could be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

If you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return, your payments will not be subject to backup withholding. Payments you receive will be subject to backup withholding if:

- You do not furnish your TIN to the requester, or
- The IRS tells the requester that you furnished an incorrect TIN, or
- The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
- You do not certify to the requester that you are not subject to backup withholding under 3 above (for reportable

interest and dividend accounts opened after 1983 only), or

- You do not certify your TIN. See the Part III instructions for exceptions.

Certain payees and payments are exempt from backup withholding and information reporting. See the Part II instructions and the separate **Instructions for the Requester of Form W-9**.

How To Get a TIN.—If you do not have a TIN, apply for one immediately. To apply, get **Form SS-5**, Application for a Social Security Number Card (for individuals), from your local office of the Social Security Administration, or **Form SS-4**, Application for Employer Identification Number (for businesses and all other entities), from your local IRS office.

If you do not have a TIN, write "Applied For" in the space for the TIN in Part I, sign and date the form, and give it to the requester. Generally, you will then have 60 days to get a TIN and give it to the requester. If the requester does not receive your TIN within 60 days, backup withholding, if applicable, will begin and continue until you furnish your TIN.

SUPPLEMENTAL INFORMATION TRAILER

This page is the last page of supplemental information for this competitive document. If you received this trailer page, all supplemental information has been received.

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