



California  
DEPARTMENT OF TECHNOLOGY



# **INVITATION FOR BID Notice to Prospective Bidders**

## **INFRASTRUCTURE MATERIALS IFB 19-0011333**

**02/21/2020**

## MASTER TABLE OF CONTENTS

### SECTION I - INTRODUCTION AND OVERVIEW OF REQUIREMENTS

1.	PURPOSE OF THIS INVITATION FOR BID .....	1
2.	SCOPE OF THE IFB AND BIDDER ADMONISHMENT .....	1
3.	AVAILABILITY .....	1
4.	DEPARTMENT OFFICIAL.....	1
5.	KEY ACTION DATES.....	2
6.	BIDDER'S CONFERENCE.....	2
7.	INTENT TO BID .....	2
8.	CONFIDENTIALITY STATEMENT .....	3
9.	AMERICANS WITH DISABILITIES ACT (ADA) .....	3
	ATTACHMENT I-A LETTER OF INTENT TO BID .....	4
	ATTACHMENT I-B CONFIDENTIALITY STATEMENT .....	5
	ATTACHMENT I-C BID SUBMISSION CHECKLIST .....	6

### SECTION II - RULES GOVERNING COMPETITION

1.	IDENTIFICATION AND CLASSIFICATION OF IFB REQUIREMENTS .....	1
2.	BIDDING REQUIREMENTS AND CONDITIONS .....	1
3.	BIDDING STEPS .....	5
4.	FINAL BID PHASE .....	7
5.	REJECTION OF BIDS .....	10
6.	EVALUATION AND SELECTION PROCESS.....	10
7.	AWARD OF CONTRACT .....	12
8.	DEBRIEFING .....	12
9.	CONTRACTUAL INFORMATION .....	13
10.	OTHER INFORMATION .....	13
11.	DISPOSITION OF PROPOSALS AND BIDS .....	14
12.	CONTACTS FOR INFORMATION .....	14
13.	PLASTIC TRASH BAG CERTIFICATION VIOLATIONS .....	14
14.	AIR OR WATER POLLUTION VIOLATIONS .....	14
15.	UNFAIR PRACTICES ACT AND OTHER LAWS .....	15

### SECTION III – CURRENT SERVICES

1.	CURRENT SERVICES .....	1
----	------------------------	---

### SECTION IV – PROPOSED SERVICES

1.	PROPOSED SERVICES.....	1
----	------------------------	---

### SECTION V - ADMINISTRATIVE REQUIREMENTS

1.	INTRODUCTION.....	1
2.	BIDDER RESPONSIBILITY .....	1
3.	BID COVER LETTER .....	1
4.	PAYEE DATA RECORD (STD 204) .....	2
5.	CERTIFICATION WITH THE SECRETARY OF STATE.....	2
6.	CERTIFICATION OF USE TAX COLLECTION FOR SELLER'S PERMIT .....	2
7.	DISABLED VETERANS BUSINESS ENTERPRISE (DVBE) PARTICIPATION .....	2
8.	DISABLED VETERANS BUSINESS ENTERPRISE (DVBE) INCENTIVE.....	3
9.	SMALL BUSINESS PREFERENCE.....	3
10.	TARGET AREA CONTRACT PREFERENCE ACT (TACPA) .....	4
11.	COMMERCIALLY USED FUNCTION .....	4
12.	PRE-EMPLOYMENT CRIMINAL BACKGROUND INVESTIGATION POLICY .....	4
13.	IRAN CONTRACTING ACT .....	5
14.	CALIFORNIA CIVIL RIGHTS LAW CERTIFICATION .....	5

15. BIDDER DECLARATION FORM .....	6
16. FEDERAL TAX ADMINISTRATION REQUIREMENTS .....	6
ATTACHMENT V-A PAYEE DATA RECORD .....	7
ATTACHMENT V-B CERTIFICATE OF USE TAX COLLECTION FOR SELLER'S PERMIT .....	8
ATTACHMENT V-C PRE-EMPLOYMENT CRIMINAL BACKGROUND CHECKS FOR CONTRACTORS .....	9
ATTACHMENT V-D BIDDER DECLARATION FORM .....	13
ATTACHMENT V-E IRAN CONTRACTING ACT .....	14
ATTACHMENT V-F COMMERCIALLY USEFUL FUNCTION CERTIFICATION .....	15
ATTACHEMENT V-G CALIFORNIA CIVIL RIGHTS LAW CERTIFICATION .....	16
 <b>SECTION VI –TECHNICAL REQUIREMENTS</b>	
1. INTRODUCTION.....	1
2. MANDATORY QUALIFICATIONS .....	1
3. CUSTOMER REFERENCES .....	1
ATTACHMENT VI-A BIDDER AGREEMENT TO ALL REQUIREMENTS.....	3
ATTACHMENT VI-B1 CUSTOMER REFERENCE #1 .....	4
ATTACHMENT VI-B2 CUSTOMER REFERENCE #2 .....	6
ATTACHMENT VI-B3 CUSTOMER REFERENCE #3 .....	8
 <b>SECTION VII - COST</b>	
1. INTRODUCTION .....	1
2. COST WORKSHEETS .....	1
3. COST DEFINITIONS .....	1
4. COST WORKSHEET INSTRUCTIONS .....	1
5. BUDGET DETAILS AND PAYMENT PROVISIONS.....	1
 <b>SECTION VIII - BID FORMAT</b>	
1. INTRODUCTION.....	1
2. FINAL BID FORMAT AND CONTENT.....	1
3. FORMAT DETAIL.....	2
 <b>SECTION IX - EVALUATION</b>	
1. INTRODUCTION.....	1
2. RECEIPT .....	1
3. EVALUATION OF FINAL BIDS .....	1
4. SCORING METHODOLOGY.....	2
 <b>APPENDIX A – CONTRACT AND ATTACHMENTS</b>	
1. GENERAL IFORMATION.....	1
2. PREPARATION OF CONTRACT.....	1
3. STANDARD AGREEMENT .....	2
EXHIBIT A: STATEMENT OF WORK .....	4
EXHIBIT A-1: MATERIALS ORDER FORM .....	11
EXHIBIT B: BUDGET DETAIL AND PAYMENT PROVISIONS .....	12
EXHIBIT B-1: COST WORKSHEET .....	13
EXHIBIT C: GENERAL PROVISIONS – INFORMATION TECHNOLOGY (GSPD-401IT) .....	14
EXHIBIT D: SPECIAL TERMS & CONDITIONS TO SAFEGUARD FEDERAL TAX INFORMATION ...	15
EXHIBIT E: SECURITY AND DATA PROTECTION.....	21

## **I. INTRODUCTION AND OVERVIEW OF REQUIREMENTS**

### **1. PURPOSE OF THIS INVITATION FOR BID**

The purpose of this Invitation for Bid (IFB) is to solicit vendors to provide the California Department of Technology (CDT) with infrastructure materials to support all layer one infrastructure (i.e. facilities, Windows servers, Unix, and mainframe) aspects of data, voice, and video cabling described herein. This section contains the detailed procedural requirements pertaining to the services as described in the following sections of this IFB.

Responses to this IFB will be evaluated, in accordance with Section IX – Evaluation.

### **2. SCOPE OF THE IFB AND BIDDER ADMONISHMENT**

This IFB is being conducted under the policies developed by the California Department of Technology and procedures developed by the Department of General Services as provided under Public Contract Code Section 10340 et seq. This IFB contains the instructions governing the requirements for a firm fixed quotation to be submitted by interested bidders. The format that bid information is to be submitted and the material to be included therein follows. This IFB also addresses the requirements that bidders must meet to be eligible for consideration, as well as addressing bidders' responsibilities before and after installation.

**IF A BIDDER EXPECTS TO BE AFFORDED THE BENEFITS OF THE STEPS INCLUDED IN THIS IFB, THE BIDDER MUST TAKE THE RESPONSIBILITY TO:**

- **CAREFULLY READ THE ENTIRE IFB;**
- **IF CLARIFICATION IS NECESSARY, ASK APPROPRIATE QUESTIONS IN A TIMELY MANNER;**
- **SUBMIT ALL REQUIRED RESPONSES BY THE REQUIRED DATES AND TIMES;**
- **MAKE SURE THAT ALL PROCEDURES AND REQUIREMENTS OF THE IFB ARE ACCURATELY FOLLOWED AND APPROPRIATELY ADDRESSED; AND**
- **CAREFULLY REREAD THE ENTIRE IFB BEFORE SUBMITTING A BID.**

### **3. AVAILABILITY**

Bidder must be available during the time frame of this contract.

### **4. DEPARTMENT OFFICIAL**

The Department Official and the mailing address to send bids, questions or copies of protests is:

Name: Nhu Vo  
Department: California Department of Technology  
Branch: Acquisition & IT Program Management Branch  
Address: P.O. Box 1810, Rancho Cordova, CA 95741 MS: Y-18  
Phone: (916) 431-4699  
Email: [nhu.vo@state.ca.gov](mailto:nhu.vo@state.ca.gov)

## 5. **KEY ACTION DATES**

Listed below are the important actions and dates and times by which the actions must be taken or completed. All times listed are for Pacific Time (PT).

EVENT	DATE	TIME
Release of IFB	02/21/2020	
Bidder's Conference	02/26/2020	10:00 AM
Last Day to Submit Questions and Request for Changes	02/27/2020	5:00 PM
Response to Questions	03/02/2020	
Last Day to Submit Intent to Bid Letter and Confidentiality Statement	03/03/2020	5:00 PM
Last Day to Protest Requirements	03/03/2020	5:00 PM
Submission of Final Bid Responses**	03/06/2020	10:00 AM
Evaluations**	03/06/2020 – 03/10/2020	
Notification of Intent to Award**	03/10/2020	
Last Day to Protest Selection**	03/16/2020	2:00 PM
Proposed Contract Execution Date**	03/27/2020	

\*\*All dates after Submission of Bid Responses are tentative and are subject to change without notice.

## 6. **BIDDER'S CONFERENCE**

Bidder's Conference will be held at the Department of Technology located at 10860 Gold Center Drive, Rancho Cordova, CA 95670 for the purpose of discussing and reviewing this IFB.

The California Department of Technology is a secure facility, requiring pre-authorization and a picture ID to gain access. All respondents planning to attend this conference must contact Nhu Vo at [Nhu.Vo@state.ca.gov](mailto:Nhu.Vo@state.ca.gov) via email no later than one (1) day prior to the scheduled date and time of the Bidder's Conference. The Respondent's name, name of the represented company, and contact number will be required.

On the day of the Bidder's Conference, please arrive at least 15 minutes prior to the scheduled start time to allow sufficient time for processing through Security located on the 2<sup>nd</sup> Floor. As well, please print and bring a copy of the entire IFB package to the Bidder's Conference. Refer to the Key Action Dates Table in this Section of this IFB for Bidder's Conference date and time.

The Bidder's Conference will start with signing of Attachment I-B, Confidentiality Statement.

## 7. **INTENT TO BID**

Bidders that want to participate in the IFB must submit a notification of intention to bid on this procurement in accordance with Attachment I-A, Letter of Intent to Bid to receive additional information. Only those Bidders acknowledging interest in this IFB will continue to receive additional correspondence throughout this procurement. The letter must identify the contact person(s) for the solicitation process, plus include an email address and a phone and fax number. **The State will notify only one (1) contact person per Bidder.**

It shall be the Bidder's responsibility to immediately notify the Department Official identified in Paragraph 4 of this Section, in writing, regarding any changes to the Bidder's contact information. The State shall not be responsible for bid correspondence not received by the Bidder if the Bidder fails to notify the State, in writing, about any change pertaining to the designated contact person. This letter is to also identify the Bidder's intention related to contract language.

## **8. CONFIDENTIALITY STATEMENT**

To preserve the integrity of the security and confidentiality measures integrated into the State's automated information systems, each Bidder is required to sign Attachment 1-B, Confidentiality Statement, and submit it to the Department Official identified in Paragraph 4 of this Section of this IFB along with the signed Letter of Intent to Bid, by the date specified in the Key Action Dates.

## **9. AMERICANS WITH DISABILITIES ACT (ADA)**

To comply with the nondiscrimination requirements of ADA, it is the policy of the State to make every effort to ensure that its programs, activities and services are available to all persons, including persons with disabilities.

For persons with a disability needing a reasonable modification to participate in this procurement process, or for persons having questions regarding reasonable modifications of the procurement process, you may contact the Department Official identified in Paragraph 4 of this Section. You may also contact the State at the numbers listed below.

**IMPORTANT:** TO ENSURE THAT WE CAN MEET YOUR NEED, IT IS BEST THAT WE RECEIVE YOUR REQUEST FOR REASONABLE MODIFICATION AT LEAST 10 WORKING DAYS BEFORE THE SCHEDULED EVENT (i.e., MEETING, CONFERENCE, WORKSHOP, etc.) OR DEADLINE DUE-DATE FOR PROCUREMENT DOCUMENTS.

The procurement division TTY telephone numbers are:

Sacramento Office: (916) 376-1891

The California Relay Service Telephone Numbers are:

Voice: 1-800-735-2922 or 1-888-877-5379

TTY: 1-800-735-2929 or 1-888-877-5378

Speech to Speech: 1-800-854-7784

ATTACHMENT I-A, LETTER OF INTENT TO BID

California Department of Technology  
Administration Division, Acquisition & IT Program Management Branch  
Attn: Nhu Vo  
10860 Gold Center Drive, Suite 200  
Rancho Cordova, CA 95670

Reference: IFB 19-0011333, Infrastructure Materials

This is to notify you that it is our present intent to [submit/not submit] information in response to the above referenced IFB. The individual to whom all information regarding this IFB shall be transmitted is:

<b>Name:</b>			
<b>Address:</b>			
<b>City, State, and ZIP Code:</b>			
<b>Telephone:</b>		<b>FAX:</b>	
<b>E-Mail:</b>			

We: (select one)

- \_\_\_\_\_ Intend to submit a bid and have no problem with the IFB requirements.
- \_\_\_\_\_ Intend to submit a bid, but have one or more problems with the IFB requirements for reasons stated in this response.
- \_\_\_\_\_ Do not intend to submit a bid, for reasons stated in this response, and have no problem with the IFB requirements.
- \_\_\_\_\_ Do not intend to submit a bid because of one or more problems with the IFB requirements for reasons stated in this response.

*Comment(s)/Explanation(s)*

We are enclosing, as requested, the signed Confidentiality Statement (**Attachment I-B**) and we concur with the proposed contract language as presented in the IFB.

Sincerely,

\_\_\_\_\_  
Name (Signature)

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Email

\_\_\_\_\_  
Company

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
FAX

#### ATTACHMENT I-B, CONFIDENTIALITY STATEMENT

As an authorized representative and/or corporate officer of the company named below, I agree that all persons employed by this company or subcontracted by this company will adhere to the following policy:

All information belonging to the State or its affiliated agencies is considered sensitive and/or confidential and cannot be disclosed to any person or entity that is not directly approved to participate in the work required to execute this Contract.

I certify that I will keep all Project information, including information concerning the planning, processes, development or procedures of the Project, confidential and secure. I will not copy, give or otherwise disclose such information to any other person unless the California Department of Technology has on file a confidentiality agreement signed by the other persons, and the disclosure is authorized and necessary to the Project. I understand that the information to be kept confidential includes, but is not limited to, specifications, administrative requirements, and terms and conditions, and concepts and discussions as well as writing or electronic materials. I further understand that if I leave this project before it ends, I must still keep all project information confidential. I agree to follow any instructions provided by the Project relating to the Confidentiality Project information.

I fully understand that any unauthorized disclosure I make may be a basis for civil or criminal penalties and/or disciplinary action (for State employees). I agree to advise the contract manager immediately in the event of an unauthorized disclosure, inappropriate access, or loss of data.

All materials provided for this Project, except where explicitly stated will be promptly returned or destroyed, as instructed by an authorized Department of Technology representative. If the materials are destroyed and not returned, a letter attesting to their complete destruction, which documents the destruction procedures, must be sent to the contract monitor at the Department of Technology before payment can be made for services rendered. In addition, all copies or derivations, including any working or archival backups of the information, will be physically and/or electronically destroyed within five (5) calendar days immediately following either the end of the contract period or the final payment, as determined by the Department of Technology.

All personnel assigned to this Project shall be provided a confidentiality and non-disclosure statement and will be expected to sign and return it to the representative listed below before beginning work on this project.

\_\_\_\_\_  
Signature of representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed name of representative

\_\_\_\_\_  
Typed title of representative

\_\_\_\_\_  
Typed name of company



ATTACHMENT I-C BID SUBMISSION CHECKLIST

- Does your bid (submitted documentation) follow the format specified in Section VI (Bid Format) in the IFB?
- Are the following documents in your bid and in the order specified below?
  - ☐ Cover letter with original signature included. (Refer to Section V).
  - ☐ Letter of Intent to Bid (Submit per the Key Action Dates)..... ATTACHMENT I-A
  - ☐ Confidentiality Statement (Submit per the Key Action Dates) ..... ATTACHMENT I-B
  - ☐ Payee Data Record (STD 204)..... ATTACHMENT V-A
  - ☐ Certificate of Use Tax Collection for Seller's Permit..... ATTACHMENT V-B
  - ☐ Certificate with the Secretary of State
  - ☐ Pre-Employment Criminal Background Checks (if applicable) ..... ATTACHMENT V -C
  - ☐ Bidder Declaration (GSPD-05-105) ..... ATTACHMENT V -D
  - ☐ Iran Certification (if applicable) .....ATTACHMENT V -E
  - ☐ Small Business (SB) Preference (if applicable)
  - ☐ Commercially Useful Function Certification (if applicable) ..... ATTACHMENT V -F
  - ☐ California Civil Rights Laws Certification ..... ATTACHMENT V-G
  - ☐ Target Area Agreement Preference Act (TACPA) (if applicable)
  - ☐ Bidder Agreement to Technical Requirements.....ATTACHMENT VI-A
  - ☐ Customer References .....ATTACHMENTS VI-B-1, B-2, AND B-3
  - ☐ Detail Cost Worksheets ..... APPENDIX-A EXHIBIT B-1
  - ☐ Have the calculations for the above costs been checked for accuracy?

**BIDDERS:**

**THE STATE MAKES NO WARRANTY THAT THE CHECKLIST IS A FULL AND COMPREHENSIVE LISTING OF EVERY REQUIREMENT SPECIFIED IN THE IFB. CHECKING OFF THE ITEMS ON THE CHECKLIST DOES NOT ESTABLISH YOUR FIRM'S INTENT NOR DOES IT CONSTITUTE RESPONSIVENESS TO THE REQUIREMENT(S). THE CHECKLIST IS ONLY A TOOL TO ASSIST PARTICIPATING BIDDERS IN COMPILING THEIR BID RESPONSE. THE BIDDERS ARE ENCOURAGED TO CAREFULLY READ THE ENTIRE IFB. THE NEED TO VERIFY ALL DOCUMENTATION AND RESPONSES PRIOR TO THE SUBMISSION OF BIDS CANNOT BE OVER EMPHASIZED.**

## **II. RULES GOVERNING COMPETITION**

### **1. IDENTIFICATION AND CLASSIFICATION OF IFB/RFP REQUIREMENTS**

#### **A. Requirements**

The State has established certain requirements with respect to bids to be submitted by prospective contractors. The use of "shall," "must," or "will" (except to indicate simple futurity) in the IFB/RFP indicates a requirement or condition which is mandatory. A deviation from a requirement is material if the deficient response is not in substantial accord with the IFB/RFP requirements, provides an advantage to one bidder over other bidders, or has a potentially significant effect on the delivery, quantity or quality of items bid, amount paid to the supplier, or on the cost to the State. Material deviations cannot be waived. A deviation, if not material, may be waived by the State.

#### **B. Desirable Items**

The words "should" or "may" in the IFB/RFP indicate desirable attributes or conditions, but are non-mandatory in nature. Deviation from, or omission of, such a desirable feature, even if material, will not in itself cause rejection of the bid.

### **2. BIDDING REQUIREMENTS AND CONDITIONS**

#### **A. General**

This IFB, the evaluation of responses, and the award of any resultant contract shall be made in conformance with current competitive bidding procedures as they relate to the procurement of goods and services by public bodies in the State of California. A bidder's Final Bid is an irrevocable offer for 90 days<sup>1</sup> following the scheduled date for Submission of Final Proposals specified in Section 1 Key Action Dates of the solicitation document. A bidder may extend the offer in the event of a delay of contract award.

#### **B. IFB/RFP Documents**

This IFB/RFP includes, in addition to an explanation of the State's needs which must be met, instructions which prescribe the format and content of bids to be submitted and the model(s) of the contract(s) to be executed between the State and the successful bidder(s). If a bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in this IFB, the bidder shall immediately notify the Procurement Official identified in Section I of such error in writing and request clarification or modification of the document.

Modifications will be made by addenda issued pursuant to Paragraph 2-G, Addenda, below. Such clarifications shall be given by written notice to all parties who have identified themselves as bidders to the Procurement Official identified in Section I, without divulging the source of the request for same. Insofar as practicable, the State will give such notices to other interested parties, but the State shall not be responsible therefore.

<sup>1</sup> This period of time may be changed to accommodate processing time for Special Project Reports, Section 11 budget approvals, and other procurement delays.

If the IFB contains an error known to the bidder, or an error that reasonably should have been known, the bidder shall bid at its own risk. If the bidder fails to notify the State of the error prior to the date fixed for submission of bids, and is awarded the contract, the bidder shall not be entitled to additional compensation or time by reason of the error or its later correction.

C. Examination of the Work

The bidder should carefully examine the entire IFB and any addenda thereto, and all related materials and data referenced in the IFB or otherwise available to the bidder, and should become fully aware of the nature and location of the work, the quantities of the work, and the conditions to be encountered in performing the work. Specific conditions to be examined may be listed in the IFB section on ADMINISTRATIVE REQUIREMENTS and/or the section on TECHNICAL REQUIREMENTS.

D. Questions Regarding the IFB

Bidders requiring clarification of the intent or content of this IFB or on procedural matters regarding the competitive bid process may request clarification by submitting questions, in an email or envelope clearly marked "Questions Relating to IFB 16-2076552" to the Procurement Official listed in Section I Key Action Dates. To ensure a response, questions must be received in writing by the scheduled date(s) given in Section I Key Action Dates. Question and answer sets will be made available to all bidders without identifying the submitters. At the sole discretion of the State, questions may be paraphrased by the State for clarity.

A bidder who desires clarification or further information on the content of the IFB, but whose questions relate to the proprietary aspect of that bidder's proposal and which, if disclosed to other bidders, would expose that bidder's proposal, may submit such questions in the same manner as above, but also marked "CONFIDENTIAL," and not later than the scheduled date specified in Section I, Key Action Dates, to ensure a response. The bidder must explain why any questions are sensitive in nature. If the State concurs that the disclosure of the question or answer would expose the proprietary nature of the proposal, the question will be answered and both the question and answer will be kept in confidence. If the State does not concur with the proprietary aspect of the question, the question will not be answered in this manner and the bidder will be so notified.

If the bidder believes that one or more of the IFB requirements is onerous, unfair, or imposes unnecessary constraints to the bidder in proposing less costly or alternate solutions, the bidder may request a change to the IFB by submitting, in writing, the recommended change(s) and the facts substantiating this belief and reasons for making the recommended change. Such request must be submitted to the Procurement Official by the date specified in Section I, Key Action Dates, for submitting a request for change. **Request for changes and State's response will be published as a Question and Answer set. Oral responses shall not be binding on the State.**

E. Bidders' Conference

A Bidders' Conference may be held, during which suppliers will be afforded the opportunity to meet with State personnel and discuss the content of the IFB and the procurement process. Suppliers are encouraged to attend the Bidders' Conference. The time, date and place of such conference, if held, is specified in Section I, Key Action Dates. The State may also accept oral questions during the conference and will make a reasonable attempt to provide answers prior to the conclusion of the conference. If questions asked at the conference cannot be adequately answered during the discussion, bidders will be asked to submit the question in writing to the Procurement Official. Answers to the questions will be published in a Question and Answer set. Oral answers shall not be binding on the State.

F. Supplier's Intention to Submit a Bid

Suppliers who want to participate in the bidding process are asked to state their intention by the date specified in Section I, KEY ACTION DATES, with respect to submission of bids. The State is also interested as to a supplier's reasons for not submitting a bid; as, for example, requirements that cannot be met or unusual terms and conditions which arbitrarily raise costs.

G. Addenda

The State may modify the IFB prior to the date fixed for Contract Award by issuance of an addendum to all bidders who are participating in the bidding process at the time the addendum is issued, unless the addendum changes are such as to offer the opportunity for nonparticipating bidders or suppliers to become participating,. Addenda will be numbered consecutively. If any supplier determines that an addendum unnecessarily restricts its ability to bid, the supplier is allowed one (1) State working day to submit a protest to the addendum according to the instructions contained in Section I Protests of this section H. Bonds

The State reserves the right to require a faithful performance bond or other security document as specified in the IFB/RFP from the supplier in an amount not to exceed the amount of the contract.

H. Discounts

In connection with any discount offered, except when provision is made for a testing period preceding acceptance by the State, time will be computed from date of delivery of the supplies or equipment as specified, or from date correct invoices are received in the office specified by the State if the latter date is later than the date of delivery. When provision is made for a testing period preceding Acceptance by the State, date of delivery shall mean the date the supplies or equipment are accepted by the State during the specified testing period. Payment is deemed to be made, for the purpose of earning the discount, on the date of mailing the State warrant or check.

Cash discounts offered by bidders for the prompt payment of invoices will not be considered in evaluating offers for award purposes; however, all offered discounts will be taken if the payment is made within the discount period, even though not considered in the evaluation of offers.

I. Joint Bids

A joint bid/venture (two or more bidders quoting jointly on one bid) may be submitted and each participating bidder must sign the joint bid. If the contract is awarded to joint bidders, it shall be one indivisible contract. Each joint contractor will be jointly and severally responsible for the performance of the entire contract, and the joint bidders must designate, in writing, one individual having authority to represent them in all matters relating to the contract. The State assumes no responsibility or obligation for the division of orders or purchases among joint contractors.

J. Exclusion for Conflict of Interest

No consultant shall be paid out of State funds for developing recommendations on the acquisition of information technology (IT) products or services or assisting in the preparation of a feasibility study, if that consultant is to be a source of such acquisition or could otherwise directly and/or materially benefit from State adoption of such recommendations or the course of action recommended in the feasibility study. Further, no consultant shall be paid out of State funds for developing recommendations on the disposal of State surplus IT products, if that consultant would directly and/or materially benefit from State adoption of such recommendations.

K. Seller's Permit

This IFB is subject to all requirements set forth in Sections 6452, 6487, 7101 and 18510 of the Revenue and Taxation Code, and Section 10295 of the Public Contract Code, requiring suppliers to provide a copy of their retailer's seller's permit or certification of registration, and, if applicable, the permit or certification of all participating affiliates issued by the State of California's Board of Equalization. Unless otherwise specified in this IFB, a copy of the retailer's seller's permit or certification of registration, and, if applicable, the permit or certification of all participating affiliates must be submitted within five (5) State business days of the State's request. Failure of the supplier to comply by supplying the required documentation will cause the supplier's bid to be considered nonresponsive and the bid rejected.

L. Disclosure of Financial Interests

Proposals in response to State procurements for assistance in preparation of feasibility studies or the development of recommendations for the acquisition of IT products and services must disclose any financial interests (i.e., service contract, Original Equipment Manufacturer (OEM) agreements, remarketing agreements, etc.) that may foreseeably allow the individual or organization submitting the proposal to materially benefit from the State's adoption of a course of action recommended in the feasibility study or the acquisition recommendations. If, in the State's judgment, the financial interest will jeopardize the objectivity of the recommendations, the State may reject the proposal.

M. Unfair Practices Act and Other Laws

Bidder warrants that its bid complies with the Unfair Practices Act (Business and Professions Code Section 17000 et seq.) and all applicable State and Federal laws and regulations.

### 3. **BIDDING STEPS**

#### A. **General**

The procurement process to be used in this solicitation document is composed of at least one phase of bid development. **REFER TO SECTION I OF THIS SOLICITATION DOCUMENT TO DETERMINE WHICH PHASES AND STEPS ARE INCLUDED IN THIS IFB/RFP. REFERENCES IN THIS SECTION II TO STEPS NOT INCLUDED IN SECTION I ARE NOT APPLICABLE TO THIS IFB/RFP.** There is an optional phase, the DETAILED BID PHASE, which may include multiple submissions prior to the FINAL PHASE, described below. All processes result in a FINAL PHASE that may include a Draft Bid and revisions, and will always include a Final Bid. Each of these steps is described below:

The DETAILED BID PHASE consists of a Conceptual Proposal and/or a Detailed Technical Proposal, and may also include revisions of either or both. Additional steps may be included in the DETAILED BID PHASE. Confidential Discussions with each bidder may follow the review of each submission. In this case an agenda will be prepared by the state indicating which areas are of concern in the submission that could result in the bidder's proposal being rejected. **The State will not provide any warranty that all defects have been detected and that such notification will not preclude rejection of the Final Bid if such defects are later found.**

The Final Bid is a mandatory step for all bidders; all other steps are optional unless otherwise stated in Section I of this solicitation. However, all bidders are strongly encouraged to follow the scheduled steps of this solicitation document in order to submit a compliant Final Bid. **Costs submitted in any submission other than the Final Bid may preclude the bidder from continuing in the process.**

#### B. **Detailed Bid Phase**

The Detailed Bid Phase is an iterative, conversational mode of proposal development. It requires the State, working together in confidence with each bidder, to assess and discuss the viability and effectiveness of the bidder's proposed methods of meeting the State's needs as reflected in the IFB. It is a departure from the rigid "either accept or reject" philosophy of traditional competitive bidding, yet it is highly competitive in nature. It provides the flexibility needed for the bidder to test a solution prior to formal submittal of the Final Bid, and it facilitates the correction of defects before they become fatal to the bid. The Detailed Bid Phase may include the submission of a Conceptual Proposal and/or a Detailed Technical Proposal by the bidder, and Confidential Discussions with individual bidder's regarding their proposal(s) each of these steps is described below:

Optional Steps for the Detailed Bid Phase:

The Conceptual Proposal step may be included for the purpose of allowing each bidder to provide a general concept of a proposal with just enough detail to enable the evaluators to determine if the bidder is on the right track toward meeting the functional requirements as stated in the IFB; and if not, where the bidder must change a concept. This step invites the bidder to be as innovative as the IFB requirements allow in eliminating unnecessary constraints.

C. Detailed Technical Proposal

The Detailed Technical Proposal may be included for the purpose of allowing each bidder to provide a detailed technical description of its proposal to determine at an early stage whether the proposal is totally responsive to all the requirements of the IFB/RFP, and if not, which elements are not responsive and what changes would be necessary and acceptable. The State will not provide any warranty that all defects have been detected and that such notification will not preclude rejection of the Final Bid if such defects are later found.

D. Evaluation of Proposals and Discussion Agenda

Upon receipt of the Conceptual and Detailed Technical Proposals, the evaluation team will review each proposal in accordance with the evaluation methodology outlined in the IFB Section II paragraph 6, on EVALUATION AND SELECTION PROCESS for the purpose of identifying areas in which the proposal is nonresponsive to a requirement, is otherwise defective, or in which additional clarification is required in order that the State may fully understand the ramifications of an action proposed by the bidder. As a result of this evaluation, the evaluation team will prepare an agenda of items to be discussed with the bidder, and will normally transmit the agenda to the bidder at least two working days before the scheduled meeting. The agenda may also include, in addition to the identification of discovered defects, a discussion of the bidder's proposed supplier support, implementation plans, validation plans, demonstration plans and proposed contracts, as appropriate.

E. Confidential Discussion with Each Bidder

In accordance with the discussion agenda, the evaluation team will meet with each bidder for the purpose of discussing the Conceptual Proposal or Detailed Technical Proposal (as the case may be) in detail. The bidder may bring to the discussion those persons who may be required to answer questions or commit to changes. As the first order of business, the bidder may be asked to give a short proposal overview presentation. To the maximum extent practical, the bidder will address the major concerns of the evaluation team, as expressed in the Discussion Agenda, and should be prepared to answer any questions that may arise as a result of the presentation. The participants will then proceed to discuss each of the agenda items.

The State will not make counter proposals to a bidder's proposed solution to the IFB/RFP requirements. The State will only identify its concerns, ask for clarification, and express its reservations if a particular requirement of the IFB/RFP is not, in the opinion of the State, appropriately satisfied. The primary purpose of this discussion is to ensure that the bidder's Final Bid will be responsive.

Note: In lieu of, or in addition to these Confidential Discussions, Confidential Discussions may be included in the Final Phase. Confidential Discussions will be identified in Section I, KEY ACTION DATES.

F. Rejection of Bidder's Proposal

If, after full discussion with a bidder, the State is of the opinion that the bidder's proposal (Conceptual Proposal or Detailed Technical Proposal, as the case may be) cannot be restructured or changed in a reasonable time to satisfy the needs of the State, and that

further discussion would not likely result in an acceptable proposal in a reasonable time, the bidder will be given written notice that the proposal has been rejected and that a Final Bid submitted along such lines would be nonresponsive.

G. Submission of Amended Proposal

If, at the conclusion of the Confidential Discussion, the State determines that required and agreed-to changes can only be fully confirmed through the submission of an amended proposal (Conceptual Proposal or Detailed Technical Proposal, as the case may be), the State may require the submission of an amended proposal consisting only of those pages which were in doubt or a complete resubmittal. Similarly, if the bidder wishes confirmation that the changes the bidder intends to make, are acceptable to the State, the bidder may request and receive permission, if the time permits, to submit an amended proposal within a reasonable time after the conclusion of the Confidential Discussion. In either event, the State will advise the bidder as to the acceptability of the amended proposal, or may schedule another discussion period, if in the State's opinion, such a discussion is desirable.

4. FINAL BID PHASE

The purpose of the Final Bid Phase is to obtain bids that are responsive in every respect. This phase may include a Draft Bid and will always include a Final Bid, as described below:

A. Draft Bid

The purpose of the Draft Bid is to provide the State with an "almost final" bid in order to identify any faulty administrative and technical aspects of the bid which, if not corrected, could cause the Final Bid to be rejected for ministerial reasons.

The Draft Bid should correspond to submittals and agreements of the Compliance Phase, if required, and must be complete in every respect as required by the this Section II paragraph 4-G COMPLETION OF PROPOSALS AND BIDS, except cost. **The inclusion of cost information in the Draft Bid may be a basis for rejecting of the bid and notification to the bidder that further participation in the procurement is prohibited.**

**Review of the Draft Bid by the State may include Confidential Discussions with individual bidders and will provide feedback to the bidder prior to submittal of the Final Bid. If no such discussion step is included in Section I, KEY ACTION DATES then the review of the draft bid does not include any assessment of the bid's responsiveness to the technical requirements of the IFB/RFP.** Regardless of the inclusion of a confidential discussion, the State will notify the bidder of any defects it has detected in the Draft Bid, or of the fact that it did not detect any such defects. Such notification is intended to minimize the risk that the Final Bid will be deemed defective; however, **the State will not provide any warranty that all defects have been detected and that such notification will not preclude rejection of the Final Bid if such defects are later found.**

If the State finds it necessary, the State may call for revised Draft Bid submittals, or portions thereof. The bidder will be notified of defects discovered in these submittals as well. Again **the State will not provide any warranty that all defects have been**



**detected and that such notification will not preclude rejection of the Final Bid if such defects are later found.**

B. Final Bid

The Final Bid must be complete, including all cost information, required signatures, contract language changes agreed to in writing and corrections to those defects noted by the State in its review of the Draft Bid. If required in the IFB/RFP section II, paragraph 4-G, COMPLETION OF PROPOSALS AND BIDS, cost data (as identified in the above referenced section) must be submitted under separate, sealed cover. **Changes that appear in the Final Bid, other than correction of defects, increase the risk that the Final Bid may be found defective.**

C. Confidentiality

Bidders should be aware that marking a document "confidential", "proprietary," or "trade secret" in a final bid may exclude it from consideration for award and will not keep that document from being released after notice of Intent to Award as part of the Public Record Act, unless a court of competent jurisdiction has ordered the State not to release the document.

D. Submission of Proposals and Bids

The instructions contained herein apply to the Final Bid. They also apply to the Conceptual Proposal, Detailed Technical Proposal, and Draft Bid, except as noted.

E. Preparation

Proposals and bids are to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this IFB/RFP. Expensive bindings, colored displays, promotional materials, etc., are not necessary or desired. Emphasis should be concentrated on conformance to the IFB/RFP instructions, responsiveness to the IFB/RFP requirements, and on completeness and clarity of content.

As stated above, the State's evaluation of Conceptual and Detailed Technical Proposals is preliminary, and the review of Draft Bids is cursory. Therefore, bidders are cautioned to not rely on the State, during these evaluations and reviews, to discover and report to the bidders all defects and errors in the submitted documents. Before submitting each document, the bidder should carefully proof it for errors and adherence to the IFB/RFP requirements.

F. Bidder's Cost

Costs for developing proposals and bids are the responsibility entirely of the bidder and shall not be chargeable to the State.

G. Completion of Proposals and Bids

Proposals and bids must be complete in all respects as required by the IFB/RFP section on PROPOSAL AND BID FORMAT. A Final Bid shall be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. A Final Bid must be rejected if any such defect or irregularity constitutes a material deviation from the IFB/RFP requirements. The Final Bid must contain all costs required by the IFB/RFP sections on COST and PROPOSAL AND BID FORMAT, setting forth a unit price and total price for each unit price item, and a total price for each lump sum price item in the schedule, all in clearly legible figures. If required in the IFB/RFP section on PROPOSAL AND BID FORMAT, cost data (as identified in the above referenced section) must be submitted under separate, sealed cover. Draft Bids must contain all information required in the Final Bid **except cost**.

#### H. False or Misleading Statements

Bids which contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the bidder, may be rejected. If, in the opinion of the State, such information was intended to mislead the State in its evaluation of the bid, and the attribute, condition, or capability is a requirement of this IFB, it will be the basis for rejection of the bid.

#### I. Signature of Bid

A cover letter (which shall be considered an integral part of the Final Bid) and Standard Agreement Form 213 or a Bid Form shall be signed by an individual who is authorized to bind the bidding firm contractually. The signature block must indicate the title or position that the individual holds in the firm. **An unsigned Final Bid shall be rejected.**

The Draft Bid must also contain the cover letter and Form 213, if required, or Bid Form, similarly prepared, including the title of the person who will sign, but need not contain the signature. The Conceptual Proposal and Detailed Technical Proposal need not contain the cover letter and Form 213, or Bid Form.

#### J. Delivery of Proposals and Bids

Mail or deliver proposals and bids to the Procurement Official listed in Section I. If mailed, it is suggested that you use certified or registered mail with return receipt requested as delivery of documents is at the bidder's own risk of untimely delivery, lost mail, etc.

Proposals and bids must be received in the number of copies stated in the IFB/RFP section on PROPOSAL AND BID FORMAT and not later than the dates and times specified in Section I and in the individual schedules provided the bidders. One copy must be clearly marked "Master Copy." All copies of proposals and bids must be under sealed cover which is to be plainly marked "CONCEPTUAL PROPOSAL," "DETAILED TECHNICAL PROPOSAL," "DRAFT BID," or "FINAL BID" for "IFB/RFP \_\_\_\_ - \_\_\_\_" (use IFB/RFP identification number from the IFB/RFP title page). Also, the sealed cover (envelope) of all submittals, except the Final Bid, should be clearly marked "CONFIDENTIAL," and shall state the scheduled date and time for submission. Bidders should be aware that marking the Final Bid content "confidential" or "proprietary" may exclude it from consideration for award. (Do not confuse the marking of the box "CONFIDENTIAL" with the designation of bid content/materials as "confidential" or "proprietary"). **Final Bids not received by the date and time specified in Section I, KEY ACTION DATES, will be rejected.** **If required in the IFB/RFP section PROPOSAL AND BID FORMAT, all cost data (as identified in the above referenced section) must be submitted under separate, sealed cover and clearly marked "COST DATA." If cost data is required to be submitted separately sealed, and is not submitted in this manner, the bid will be rejected.** Proposals and bids submitted under improperly marked covers may be rejected. If discrepancies are found between two or more copies of the proposal or bid, the proposal or bid may be rejected. However, if not so rejected, the Master Copy will provide the basis for resolving such discrepancies. If one copy of the Final Bid is not clearly marked "Master Copy," the State may reject the bid; however, the State may at its sole option select, immediately after bid opening, one copy to be used as the Master Copy.

K. Withdrawal and Resubmission/Modification of Proposals and Bids

A bidder may withdraw its Conceptual Proposal, Detailed Technical Proposal or Draft Bid at any time by written notification. A bidder may withdraw its Final Bid at any time prior to the bid submission date and time specified in Section I by submitting a written notification of withdrawal signed by the bidder authorized in accordance with Paragraph I, Signature of Bid. The bidder may thereafter submit a new or modified bid prior to such bid submission date and time. Modification offered in any other manner, oral or written, will not be considered. Other than as allowed by law, Final Bids cannot be changed or withdrawn after the date and time designated for receipt, except as provided in Paragraph 4.J, DELIVERY OF PROPOSALS AND BIDS.

5. **REJECTION OF BIDS**

The State may reject any or all bids and may waive any immaterial deviation or defect in a bid. The State's waiver of any immaterial deviation or defect shall in no way modify the IFB/RFP documents or excuse the bidder from full compliance with the IFB/RFP specifications if awarded the contract.

6. **EVALUATION AND SELECTION PROCESS**

A. General

Proposals and bids will be evaluated according to the procedures contained in the IFB/RFP section on EVALUATION. Special instructions and procedures apply to Conceptual Proposals, Detailed Technical Proposals, and Draft Bids.

B. Evaluation Questions

During the evaluation and selection process, the State may desire the presence of a bidder's representative for answering specific questions, orally and/or in writing. During the evaluation of Final Bids, the State may ask the bidder to clarify their submitted information but will not allow the bidder to change their bid.

C. Demonstration

This procurement may require a demonstration of the bidder's response to specific requirements (including benchmark requirements) before final selection in order to verify the claims made in the bid, corroborate the evaluation of the bid, and confirm that the hardware and software are actually in operation; in which case prior notice will be given. The bidder must make all arrangements for demonstration facilities at no cost to the State. The location of the demonstration will be determined by the bidder; however, its performance within California is preferred and will be attended at the State's expense. Demonstration outside California will be attended only if approved by the State and the bidder agrees to reimburse the State for travel and per diem expenses. The State reserves the right to determine whether or not a demonstration has been successfully passed, based on the evaluation criteria published in the IFB/RFP.

D. Errors in the Final Bid

An error in the Final Bid may cause the rejection of that bid; however, the State may at its sole option retain the bid and make certain corrections.

In determining if a correction will be made, the State will consider the conformance of the bid to the format and content required by the IFB/RFP, and any unusual complexity of the format and content required by the IFB/RFP.

- (1) If the bidder's intent is clearly established based on review of the complete Final Bid submittal, the State may at its sole option correct an error based on that established intent.
- (2) The State may at its sole option correct obvious clerical errors.
- (3) The State may at its sole option correct discrepancy and arithmetic errors on the basis that if intent is not clearly established by the complete bid submittal the Master Copy shall have priority over additional copies, the bid narrative shall have priority over the contract, the contract shall have priority over the cost sheets, and within each of these, the lowest level of detail will prevail. If necessary, the extensions and summary will be recomputed accordingly, even if the lowest level of detail is obviously misstated. The total price of unit-price items will be the product of the unit price and the quantity of the item. If the unit price is ambiguous, unintelligible, uncertain for any cause, or is omitted, it shall be the amount obtained by dividing the total price by the quantity of the item.
- (4) The State may at its sole option correct errors of omission, and in the following four situations, the State will take the indicated actions if the bidder's intent is not clearly established by the complete bid submittal.
  - (a) If an item is described in the narrative and omitted from the contract and cost data provided in the bid for evaluation purposes, it will be interpreted to mean that the item will be provided by the bidder at no cost.
  - (b) If a minor item is not mentioned at all in the Final Bid and is essential to satisfactory performance, the bid will be interpreted to mean that the item will be provided at no cost.
  - (c) If a major item is not mentioned at all in the Final Bid, the bid will be interpreted to mean that the bidder does not intend to supply that item.
  - (d) If a major item is omitted, and the omission is not discovered until after contract award, the bidder shall be required to supply that item at no cost.

The determination of whether an item is minor or major is the responsibility of the State.

- (5) If a bidder does not follow the instructions for computing costs not related to the contract (e.g., State personnel costs), the State may reject the bid, or at its sole option, recompute such costs based on instructions contained in the IFB/RFP.

If the re-computations or interpretations, as applied in accordance with this section, subparagraph d, result in significant changes in the amount of money to be paid to the bidder (if awarded the contract) or in a requirement of the bidder to supply a major item at no cost, the bidder will be given the opportunity to promptly establish the grounds legally justifying relief from its bid.

IT IS ABSOLUTELY ESSENTIAL THAT BIDDERS CAREFULLY REVIEW THE COST ELEMENTS IN THEIR FINAL BID, SINCE THEY WILL NOT HAVE THE OPTION TO CORRECT ERRORS AFTER THE TIME FOR SUBMITTAL.

- (6) In the event an ambiguity or discrepancy between the general requirements described in the section Proposed System and the specific technical requirements set forth in the Technical Requirements) is detected after the opening of bids, the section on Technical Requirements, and the bidder's response thereto, shall have priority over the section on Proposed System, and the bidder's response thereto. Refer to Paragraph 2-B regarding immediate notification to State contact when ambiguities, discrepancies, omissions, etcetera are discovered.
- (7) At the State's sole discretion it may declare the Final Bid to be a Draft Bid in the event that the State determines that Final Bids from all bidders contain material deviations. Bidders may not protest the State's determination that all bids have material deviations. If all bids are declared noncompliant, the State may issue an addendum to the IFB/RFP. Should this occur, Confidential Discussions will be held with bidders who submitted a non-compliant bid. Bidders will be notified of the due date for the submission of a new Final Bid to the State. This submission must conform to the requirements of the original IFB/RFP as amended by any subsequent addenda. The new Final Bids will be evaluated as required by the section on Evaluation.

## **7. AWARD OF CONTRACT**

Award of contract, if made, will be in accordance with the IFB/RFP section on EVALUATION to a responsible bidder whose Final Bid complies with all the requirements of the IFB/RFP documents and any addenda thereto, except for such immaterial defects as may be waived by the State.

The State reserves the right to determine the successful bidder(s) either on the basis of individual items or on the basis of all items included in its IFB/RFP, unless otherwise expressly provided in the State's IFB/RFP. Unless the bidder specifies otherwise in its bid, the State may accept any item or group of items of any bid. The State reserves the right to modify or cancel in whole or in part its IFB/RFP.

Written notification of the State's intent to award will be made to all bidders submitting a Final Bid. If a bidder, having submitted a Final Bid, can show that its bid, instead of the bid selected by the State, should be selected for contract award according to the rules of Paragraph 10.A., PROTEST, the bidder will be allowed one (1) State working day to submit a protest to the Intent to Award, according to the instructions contained in Paragraph 10.A., PROTESTS.

## **8. DEBRIEFING**

A debriefing may be held after contract award at the request of any bidder for the purpose of receiving specific information concerning the evaluation. The discussion will be based primarily on the technical and cost evaluations of the bidder's Final Bid. A debriefing is not the forum to challenge the IFB/RFP specifications or requirements.

## **9. CONTRACTUAL INFORMATION**

The State has model contract forms to be used by State agencies when contracting for information technology (IT) goods and services. The model contract(s) appropriate for the specific requirements of this IFB/RFP are included in this IFB/RFP.

## **10. OTHER INFORMATION**

### **Protests**

Before a protest is submitted regarding any issue other than selection of the "successful bidder," the bidder must make full and timely use of the procedures described in this Section II to resolve any outstanding issue(s) between the bidder and the State. The procurement procedure is designed to give the bidder and the State adequate opportunity to submit questions and discuss the requirements, proposals and counter proposals before the Final Bid is due. The protest procedure is made available in the event that a bidder cannot reach a fair agreement with the State after exhausting these procedures. There two types of protests: requirements (initial) protests and award protests. A protest shall be submitted according to the procedure below. Protests regarding any issue other than selection of the "successful bidder" are requirements protests and will be heard and resolved by the Deputy Director of the Department of General Services, Procurement Division, whose decision will be final.

An award protest is where a bidder has submitted a bid which it believes to be totally responsive to the requirements of the IFB/RFP and to be the bid that should have been selected according to the evaluation procedure in the Section on EVALUATION and the bidder believes the State has incorrectly selected another bidder for award. For this situation, the bidder may submit a protest of the selection as described below. Protests regarding selection of the "successful bidder" will be heard and resolved by the Government Claims Board, whose decision will be final.

All protests must be made in writing, signed by an individual authorized under Paragraph C-5-e, Signature of Bid, and contain a statement of the reason(s) for protest; citing the law, rule, regulation or procedures on which the protest is based. The protester must provide facts and evidence to support the claim. Protests must be mailed or delivered to:

**Street Address:**

Deputy Director  
Procurement Division  
707 Third Street, 2<sup>nd</sup> Floor  
West Sacramento, CA 95605

**Mailing Address:**

Deputy Director  
Procurement Division  
P.O. Box 989052  
Sacramento, CA 95798-9052

All protests to the IFB/RFP requirements or procedures must be received by the Deputy Director of the Procurement Division as promptly as possible, but not later than the respective time and date in the Key Action Dates in Section I for such protests. Protests concerning the evaluation, recommendation, or other aspects of the selection process must be received by the Deputy Director of the Procurement Division as promptly as possible, but not later than the respective time and date specified in Section I for such protests or the respective date of the Notification of Intent to Award, whichever is later. Certified or registered mail should be used unless delivered in person, in which case the protester should obtain a receipt of delivery.

#### **11. DISPOSITION OF PROPOSALS AND BIDS**

All materials submitted in response to this IFB/RFP will become the property of the State of California and will be returned only at the State's option and at the bidder's expense. At a minimum, the Master Copy of the Final Bid shall be retained for official files and will become a public record after the Notification of Intent to Award as specified in Section I, KEY ACTION DATES. However, materials the State considers confidential information (such as confidential financial information submitted to show bidder responsibility) will be returned upon request of the bidder.

#### **12. CONTACTS FOR INFORMATION**

Bidders may contact the Procurement Official listed in Section I.

Oral communications of department officers and employees concerning this IFB/RFP shall not be binding on the State and shall in no way excuse the bidder of any obligations set forth in this IFB/RFP.

#### **13. PLASTIC TRASH BAG CERTIFICATION VIOLATIONS**

Public Resources Code Section 42290 et seq. prohibits the State from contracting with any supplier, manufacturer, or wholesaler, and any of its divisions, subsidiaries, or successors that have been determined to be noncompliant to the recycled content plastic trash bag certification requirements. This includes award of a State contract or subcontract or renewal, extension, or modification of an existing contract or subcontract. Prior to award the State shall ascertain if the intended awardee or proposed subcontractor is a business identified on the current California Integrated Waste Management Board noncompliant list(s). In the event of any doubt of the status or identity of the business in violation, the State will notify the Board of the proposed award and afford the Board the opportunity to advise the State. No award will be made when either the bidder or a subcontractor has been identified either by published list or by advice from the Board, to be in violation of certification requirements.

#### **14. AIR OR WATER POLLUTION VIOLATIONS**

Unless the contract is less than \$25,000 or with a non-competitively bid contractor, Government Code Section 4477 prohibits the State from contracting with a person, including a corporation or other business association, who has been determined to be in violation of any state or federal air or water pollution control laws.

Prior to an award, the State shall ascertain if the intended awardee is a person included in notices from the Boards. In the event of any doubt of the intended awardee's identity or

status as a person who is in violation of any state or federal air or water pollution law, the State will notify the appropriate Board of the proposed award and afford the Board the opportunity to advise the Department that the intended awardee is such a person.

No award will be made to a person who is identified either by the published notices or by advice, as a person in violation of state or federal air or water pollution control laws.

**15. UNFAIR PRACTICES ACT AND OTHER LAWS**

Bidder warrants that its bid complies with the Unfair Practices Act (Business and Professions Code Section 17000 et seq.) and all applicable State and Federal laws and regulations.



### **III. CURRENT SERVICES**

The California Department of Technology (CDT), Office of Technology Services (OTECH) provides information technology services to state, county, federal, and local government agencies. CDT also supports the statewide network and hosts multiple mainframe systems and mid-range server platforms

The current CDT Data Center requires new infrastructure materials to support all layer one infrastructure aspects of Information and Communications Technology (ICT) cabling and the basic power and cabinet infrastructure for the CDT Computer Rooms.

#### **IV. PROPOSED SERVICES**

The California Department of Technology (CDT), Office of Technology Services (OTECH) is requesting to procure new infrastructure materials for the Data Center. CDT would like pricing options for the list of materials referenced in Exhibit B-1 Cost Worksheet and the ability to purchase off that list via Materials Order (Exhibit A-1) on an as-needed basis.

The CDT makes no guarantees to purchase the full amount of the Contract.

## **V. ADMINISTRATIVE REQUIREMENTS**

### **1. INTRODUCTION**

In addition to meeting the technical requirements of this IFB; listed in Section VI, Technical Requirements, Bidders must adhere to all the administrative requirements of this IFB to be responsive. These include:

- The rules in Section II: Rules Governing Competition;
- The schedule and other requirements specified in Section I: Introduction and Overview of Requirements;
- The format specified in Section VIII: Bid Format;
- The completion of cost sheets specified in the Section VII: Cost; and
- The administrative requirements of this Section.

### **2. BIDDER RESPONSIBILITY**

Prior to award of the contract, the State must be assured that the bidder selected has all of the resources to successfully perform under the contract. This includes, but is not limited to, personnel in the numbers and with the skills required, equipment of appropriate type and in sufficient quantity, financial resources sufficient to complete performance under the contract, and experience in similar endeavors. If, during the evaluation process, the State is unable to assure itself of the bidder's ability to perform under the contract, if awarded, the State has the option of requesting from the bidder any information that the State deems necessary to determine the bidder's responsibility. If such information is required, the bidder will be so notified and will be permitted approximately five working days to submit the information requested. Types of financial responsibility information include annual reports and currently audited balance sheets for the firm that is bidding.

### **3. BID COVER LETTER**

The Bidder must include a cover letter signed by an individual who is authorized to bind the Bidder contractually. The cover letter must state that the individual is so authorized and must identify the title or position that the individual holds in the Bidder's firm. An unsigned cover letter may cause the Final Bid to be rejected.

The Cover Letter must contain the following information:

- Signature of an individual authorized to bind the firm contractually, identifies the signer's title and stipulates the signature authority;
- Statement that the bid response is the Contractor's binding offer, good for 90 calendar days from Final Bid due date, as noted in Section I.5 Key Action Dates;

- Statement indicating that the Bidder has available staff with the appropriate skills to complete performance under the Contract for all services and provide all deliverables as described in this IFB; and,
- Statement accepting full Prime Contractor responsibility for coordinating, controlling, and delivering all aspects of the Contract and any Subcontractors on their team.
- Statement indicating that the bidder agrees to the terms and conditions of this IFB and accepting responsibility as the Prime Contractor if awarded the Agreement resulting from this IFB.

#### **4. PAYEE DATA RECORD (STD 204)**

The Bidder must sign Attachment V-A, Payee Data Record, STD. 204, and submit with their Final Bid.

This form is located at the following website:

<https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std204.pdf>

#### **5. CERTIFICATION WITH THE SECRETARY OF STATE**

If required by law, the Prime Contractor must provide certification through the California Secretary of State (SOS) to do business in the State of California. If the Bidder does not currently have this certification, the firm must be certified before a Contract award can be made, and must provide information in the Final Bid to support the status of its application to be certified to do business in the State of California.

Domestic and foreign Corporations, Limited Liability Companies (LLCs), Limited Liability Partnerships (LLPs) and Limited Partnerships (LPs) must be registered with the California SOS to be awarded the Contract. The SOS Certificate of Status must be included with the bid. The required document(s) may be obtained through the SOS, Certification and Records Unit at (916) 657-5448 or through the following website: <https://businesssearch.sos.ca.gov/>.

#### **6. CERTIFICATION OF USE TAX COLLECTION FOR SELLER'S PERMIT**

The Bidders are subject to all requirements set forth in Sections 6452, 6487, 7101 and 18510 of the Revenue and Taxation Code, and Section 10295 of the Public Contract Code, requiring suppliers to provide a copy of their retailer's seller's permit or certification of registration, and, if applicable, the permit or certification of all participating affiliates issued by the State of California's Board of Equalization. Unless otherwise specified in this IFB, a copy of the retailer's seller's permit or certification of registration, and, if applicable, the permit or certification of all participating affiliates must be submitted with the Bidder's Final Bid. Failure of the Bidder to comply by supplying the required documentation will cause the Bidder's Bid to be considered non-responsive and the Bid rejected. See Attachment V-B, Certificate of Use Tax Collection for Seller's Permit.

#### **7. DISABLED VETERANS BUSINESS ENTERPRISE (DVBE) PARTICIPATION PROGRAM REQUIREMENTS**

Bidders who have been certified by California as a DVBE must also submit a completed form(s) STD. 843. All disabled veteran owners and disabled veteran managers of the

DVBE(s) must sign the form(s). The completed form should be included with the bid response. Refer to the following website link to obtain the appropriate form:

[Disabled Veteran Business Enterprise Declaration Form DGS PD 843](#)

## 8. **DISABLED VETERANS BUSINESS ENTERPRISE (DVBE) INCENTIVE**

DVBE incentives will be applied pursuant to CCR, Title 2, §§ 1896.99.100 and 1896.99.120. The incentive will be applied during the evaluation process, and will only be applied to responsive bids from responsible Bidders providing at least three percent (3%) DVBE participation, as identified on the Bidder Declaration GSPD-05-105 and confirmed by the State. The incentive amount is based on a scale under which Bidders obtaining higher levels of participation qualify for greater incentive amounts, according to Table 5.1, below. The minimum incentive amount for this IFB is three percent (3%), with a maximum incentive amount of five percent (5%).

Table 5.1 – DVBE Incentive Point Scale	
Confirmed DVBE participation of:	DVBE Incentive:
5% or more	5%
4% up to 4.99%	4%
3% up to 3.99%	3%
Less than 3%	0%

If a Bidder is claiming the DVBE incentive, they must complete and submit a Bidder Declaration GSPD-05-105, Attachment V-D.

## 9. **SMALL BUSINESS PREFERENCE**

Sections 14835, *et seq.* of the Government Code requires that a five percent (5%) preference be given to Bidders who qualify as a small business or Bidders who qualify as a non-small business claiming at least twenty-five percent (25%) California certified small business Subcontractor participation. The rules and regulations of this law, including the definition of a small business, or qualifying non-small business, are in California Code of Regulations, Title 2, Sections 1896, *et seq.* Small business nonprofit veteran service agency (SB/NVSA) prime Bidders that are California small business certified and meet the requirements under Military and Veterans Code sections 999.50, *et seq.* are eligible for the five percent (5%) small business preference.

If a Bidder is claiming the Small Business Preference, they must complete and submit a Bidder Declaration GSPD-05-105, Attachment V-D with the Final Bid. **If the bidder has no sub-contractors, complete the form with “Not Applicable” and the Bidder’s signature.**

Certification applications and required support documents must be submitted to the Office of Small Business and DVBE Services (OSDS) no later than 5:00 p.m. on the bid due date; and the OSDS must be able to approve the application as submitted. Bidders may contact the OSDS for any information or questions concerning certification.

**10. TARGET AREA CONTRACT PREFERENCE ACT (TACPA)**

Preference will be granted to the California-based Bidders in accordance with Government Code section 4530 whenever agreements for goods and services are in excess of \$100,000 and the Bidder meets certain requirements, as defined in the California Code of Regulations (Title 2, section 1896.30), regarding labor needed to produce the goods or provide the services being procured. Bidders desiring to claim Target Area Contract Preference Act (TACPA) shall complete the TACPA Preference Request form (Std. Form 830) for Goods and Services, and submit it with the Final Bid. Refer to the following website link to obtain the appropriate form: <https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std830.pdf>

**11. COMMERCIALLY USEFUL FUNCTION (CUF)**

Bidders and Subcontractors identified in the bid response to fulfill the requirements for one or more of the socio-economic programs (e.g., DVBE, small business) must perform a commercially useful function (CUF) in the resulting contract. CUF is defined pursuant to Military and Veterans Code section 999(b)(5)(B) and Government Code section 14837(d)(4)(A) for the DVBE and small business programs, respectively.

Bidders must complete and submit as part of the bid response, Attachment V-F, Commercially Useful Function Certification.

Bidder(s) may be required to submit additional written clarifying information regarding CUF. Failure to submit the requested written information as specified may be grounds for bid rejection.

**12. PRE-EMPLOYMENT CRIMINAL BACKGROUND CHECK POLICY (if applicable)**

The California Department of Technology recognizes the need for hiring practices that will ensure the greatest degree of security for data center operations and the data maintained within the Department (Policy Number 2021). Under the authority of Government Code 11546.6, a criminal background check utilizing California Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) records must be conducted on all prospective contractor, subcontractor, volunteer, or vendor whose duties include, or would include, working on data center, telecommunications, or network operations, engineering, or security with access to confidential or sensitive information and data on the network or computing infrastructure. All fingerprints shall be taken digitally using Live Scan technology and transmitted electronically to the DOJ.

Upon award, the Contractor must have each and every employee (including any subcontracted employees) engaged in the resulting contract to get a criminal background check utilizing California DOJ and FBI records. See Attachment V-C, Pre-Employment Criminal Background Check Policy, for further instructions. Failure to comply with the criminal background check policy will result in disqualification or contract termination.

The State reserves the right to request substitution of employees who fail the criminal background check. Contractor must provide a substitute of equal or better qualifications for the same rate as proposed in Cost Worksheet.

### **13. IRAN CONTRACTING ACT**

The Iran Contracting Act of 2010, establish restrictions against contracting with vendors that provide specified levels of goods or services or other investment activities, as defined, in the energy sector of Iran. Agencies receiving bids or proposals, or entering or renewing contracts valued at \$1 million or more must obtain a certification from the vendor certifying they are not on the list and are not a financial institution extending credit to an ineligible vendor on the list. Bidders must complete and sign Attachment V-E, Iran Contracting Act and submit with their bid response.

### **14. CALIFORNIA CIVIL RIGHTS LAW CERTIFICATION**

Effective January 1, 2017, the Unruh Civil Rights Act and the Fair Employment and Housing Act (also referred to as the Acts; see Public Contract Code section 2010) establishes restrictions against contracting with vendors that have policies or practices that violate the Acts.

Pursuant to Public Contract Code (PCC) 2010, a person that submits a bid or proposal or proposes to renew a contract with, a state agency in the amount of \$100,000 or more shall certify, under penalty of perjury, at the time the bid or proposal is submitted or the contract is renewed, all of the following:

- That they are in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code).
- That they are in compliance with the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).
- Supplier discrimination policies:
  - (1) That any policy that they have against any sovereign nation or peoples recognized by the government of the United States, including, but not limited to, the nation and people of Israel, is not used to discriminate in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).
  - (2) Any policy adopted by a person or actions taken thereunder that are reasonably necessary to comply with federal or state sanctions or laws affecting sovereign nations or their nationals shall not be construed as unlawful discrimination in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).

Bidders must complete and sign Attachment V-G, California Civil Rights Laws Certification and submit with their bid response. Bidders must also agree to re-certify if the option to extend or an amendment to add time or funding to the contract is utilized.

## **15. BIDDER DECLARATION FORM**

All bidders must complete Attachment V-D, [Bidder Declaration Form \(GSPD-05-105\)](http://www.documents.dgs.ca.gov/dgs/fmc/gsp/gspd05-105.pdf) (<http://www.documents.dgs.ca.gov/dgs/fmc/gsp/gspd05-105.pdf>) and include it with the bid. When completing the declaration, the Bidder must identify all subcontractors proposed for participation in the Agreement. The Bidder awarded the Agreement is contractually obligated to use the subcontractors for the corresponding work identified.

If the Bidder is claiming the Small Business Preference and/or DVBE Incentive, they must complete all sections of Attachment 5, Bidder Declaration GSPD-05-105, as applicable, and sign and submit the form with the Final Bid.

**If the Bidder has no subcontractors, complete and sign the form with “Not Applicable”.**

## **16. FEDERAL TAX ADMINISTRATION REQUIREMENTS**

The Department of Technology must notify the United States Internal Revenue Service (IRS) prior to executing, or amending, any agreement to disclose, or provide access to, federal tax information (FTI) to a Contractor or Sub-Contractor, at least 45 calendar days prior to the disclosure of FTI, to ensure appropriate contractual language is included and that Contractors are held to safeguarding requirements. This procedure conforms to IRS Publication 1075, 45-DAY NOTIFICATION REQUIREMENTS.



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**ATTACHMENT V-A**  
**PAYEE DATA RECORD (STD. 204)**

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Refer to the following website link to obtain the appropriate form.

<http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std204.pdf>

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**ATTACHMENT V-B**  
**CERTIFICATE OF USE TAX COLLECTION FOR SELLER'S PERMIT**

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Complete this form to describe the Bidder and any affiliate of the Bidder (person or entity that is controlled by, or is under common control of, the Bidder through stock ownership or other affiliation) that makes sales for delivery into California.

In the event that the Bidder or any such affiliate has registered for but has not yet been issued a Seller's Permit by the California State Board of Equalization:

- 1) Enter N/A in the "Seller's permit Number" Column, and
- 2) Attach to this form a copy of the Certificate of Registration issued by the State Board of Equalization.

BUSINESS ENTITY NAME	SELLER'S PERMIT NUMBER

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**ATTACHMENT V-C**  
**PRE-EMPLOYMENT CRIMINAL BACKGROUND CHECKS FOR CONTRACTORS**  
**(if applicable)**

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To prepare for your Criminal Background Check please follow the instructions listed below:

1. Upon Award of the contract, the Acquisition Specialist will email the Contractor to obtain the list of name(s) of employee(s) to be fingerprinted.
2. The Acquisition Specialist will email the Contract Number, Contractor name, Name of individual(s) who will be fingerprinted and term dates of contract to Human Resources (HR) staff.
3. HR staff will be responsible for providing all the necessary form(s) and information to the Contractor employee(s) in order to complete the fingerprint process.
4. Once the Contractor staff(s) has been cleared, HR staff will notify the Acquisition Specialist and then the Acquisition Specialist will notify the Contractor that services can begin.
5. If the individual does not clear, the Contractor must provide a substitute of equal or better qualifications for the same rate as proposed in Cost Worksheet to go through the fingerprint process. HR staff will provide a response to the Contractor staff member that the requirements have not been met and will provide them with the record response received based on their fingerprint submission.

Note:

Confidentiality is strictly enforced. HR will not provide any details pertaining to background results to the Acquisition Specialist or Contractor, pursuant to DOJ requirements:

***“Applicant agencies must not divulge or share criminal record history information, including responses that no criminal record history exists unless expressly authorized. Information received must be kept in a secure and confidential file with access restricted to a designated Records Custodian and/or person responsible for confirming the character and fitness of an applicant. Release of information to unauthorized individuals can result in civil fines and criminal penalties under California Penal Code sections 11142 and 11143. Applicant agencies must destroy criminal history record information once the organization’s business need is fulfilled.”***

6. It is the responsibility of the Contractor to notify the Acquisition Specialist when one of the previously fingerprinted staff no longer works on any project for the Department so all information received by the DOJ is destroyed.

## Background Checks FAQs (from Department of Technology)

### General - Frequently Asked Questions from applicants:

	QUESTIONS	ANSWERS
1.	Who is required to go through background/fingerprinting? Clarification: Contractors, does it include sales/executive staff involved with the contract or just technical staff that have access to electronic information?	Technical Staff that have electronic access to confidential or sensitive information. Any Person having access to any area identified on the ORG chart with BC.
2.	Contractor submits Live Scan form to HR: what happens next?	HR will notify Acquisition Specialist whether clearance is met or to provide another individual to be fingerprinted. HR will notify the Vendor Employee if clearance is not met and will provide them with their Criminal Offender Record Information (CORI) copy of their record from the Department of Justice.
3.	Who gets notified of pass/fail? If the contractor fails, who is responsible for notifying the vendor and Acquisition Specialist?	HR gets notified 1 <sup>st</sup> of results from DOJ, then HR will provide pass or fail only, to the Acquisition Specialist.
4.	How does HR know which contractor belongs to which contract since the form does not identify vendor, contract#, Acquisition Specialist & etc.?	The portion of the Live Scan Form titled: Your Number / OCA Number will be our identifying number for tracking purposes = Contractor Name / Contract Number.
5.	How should Procurement document that contractors passed background checks? It is a requirement for the solicitation, but how do we prove each contractor/subcontractor passed?	File the e-mail from HR that the clearances have been met in the contract file.
6.	What if contractor/subcontractor is out of state or a non-US Citizen?	Fingerprint Cards can be sent to the Vendor to be completed at their local Sheriff's Department. Lori D'Agostini can handle this portion.
7.	How long does this process take?	The DOJ has 10 to 30 days to respond. Occasionally there is a delay with the FBI. HR will treat these Fingerprint Requests as Priority Consideration.
8.	Is Rancho Cordova Police Department/Sheriff Department the only location to send contractors to for Live Scan? What if contractors are unable to get to Rancho Cordova?	There are 3 sites in the Sacramento area where the Live Scan fees are paid for by Department of Technology. Other Public Live Scan Sites can also be used, but will be at the <b>CONTRACTOR'S EXPENSE</b> and not paid by the Department of Technology. The Attorney General's website provides a list of Public Live Scan Sites located: <a href="http://ag.ca.gov/fingerprints/publications/contact.php">http://ag.ca.gov/fingerprints/publications/contact.php</a>

## Background Checks FAQs (from Department of Justice)

### General - Frequently Asked Questions from applicants:

**1. May I request copies of records concerning any individual pursuant to the California Public Records Act (Government Code section 6250)?**

Criminal History Records are not subject to disclosure under the Public Records Act. In California, state and local summary criminal history information is confidential and access is strictly regulated by statute. Penal Code section 11105 expressly authorizes the DOJ to disclose state summary criminal history information to law enforcement agencies for law enforcement purposes only, to certain employers or regulatory agencies, or to the person who is the subject of the record.

Individuals have the right to request a copy of their own criminal history record from the DOJ to review for accuracy and completeness. For more information, please click on the Request Your Own Criminal Record tab on the left side of the Attorney General's webpage <http://ag.ca.gov/fingerprints/index.php>

**2. Can I obtain a copy of my Superior Court Record?**

The DOJ does not maintain or provide certified copies of California Local and/or Superior Court Records and as such, does not provide these source documents. To obtain a transcript, you will need to contact the court with jurisdiction over your particular case(s) for certified documents.

**3. How long will an offense I committed stay on my record?**

The DOJ is required by law to record summary arrest, detention, disposition, and personal identification information when submitted by a law enforcement agency or court of this state. The record retention policy of the Department is to maintain criminal history information until the subject reaches 100 years of age.

**4. What if I have the appropriate documentation to modify or remove information on my record?**

Arrest and court disposition information can only be modified or deleted by court order or at the direction of the arresting agency/district attorney having jurisdiction over the criminal matter.

Once you have obtained a court order, to process an update of your criminal history record, you must first obtain a copy of your criminal history record. For more information, please click on the Request Your Own Criminal Record tab on the Attorney Generals website: <http://ag.ca.gov/fingerprints/index.php>

**5. What if I submitted fingerprints and have not received a response?**

Please allow a minimum of thirty days before making a status inquiry. Applicants should check first with the applicant agency that requested the background review since the DOJ sends results directly to the applicant agency. Poor quality fingerprints, records that contain criminal information, erroneous information submitted on the fingerprint transaction, and individuals born before 1920 who have submitted manual fingerprints in the past may delay the reporting of results.

Since the DOJ normally responds to the applicant agency, please check with the agency first. If a requesting agency does not have results yet and digital Live Scan fingerprints were submitted, you can use the automated telephone system to check on your submission. You will need the following information: (1) your date of birth; and (2) the 10-digit Automated Transaction Identifier (ATI) number that appears at the bottom of the Department of Justice form requesting Live Scan fingerprint background checks. The ATI number always appears in the following sequence: 1 LETTER; 3 NUMBERS; 3 LETTERS and 3 NUMBERS.

**6. Can my request be expedited for an additional charge?**

No. Unfortunately, the DOJ does not offer an expedited process.

**7. I obtained an expungement pursuant to Penal Code section 1203.4 for an offense, why is it still on my record?**

Section 1203.4 does not obliterate the fact that a defendant has been “finally adjudged guilty of a crime.” It merely frees the convicted felon from certain “penalties and disabilities” of a criminal or like nature.

**8. My employer is asking for a copy of my criminal history record? May I give it to them?**

No. California Penal Code section 11142 prohibits you from giving a copy of your criminal record to an unauthorized third party. In addition, California Penal Code section 11125 prohibits an individual or agency from requiring you to provide him/her or the agency with a copy of your criminal record or proof that a record does or does not exist. Violation of either of these sections is a misdemeanor offense.

**9. What if the information on my record is incorrect?**

If you think the information contained within your criminal history record is incorrect, you may submit a formal challenge to the DOJ only after you have received a copy of your record from the Department pursuant to California Penal Code sections 11120 - 11127. For more information, please click on the Request Your Own Criminal Record tab on the left side of the Attorney General's webpage <http://ag.ca.gov/fingerprints/index.php>

Bureau of Criminal Identification and Information (BCII) form 8706, “Claim of Inaccuracy or Incompleteness” will be mailed to you along with your record. Submit form 8706 and any supporting documentation to the Department of Justice at the address provided on the form. The challenge will be reviewed and a written response will be provided along with an amended copy of your criminal history record, if appropriate.

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## **ATTACHMENT V-D BIDDER DECLARATION**

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All Contractors must complete the Bidder Declaration GSPD-05-105 and include it with the bid response.

[Bidder Declaration Form \(GSPD-05-105\)](#)

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**ATTACHMENT V-E IRAN CONTRACTING ACT**  
**(Public Contract Code sections 2202-2208)**

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Prior to bidding on, submitting a proposal or executing a contract or renewal for a State of California contract for goods or services of \$1,000,000 or more, a vendor must either: a) certify it is **not** on the current list of persons engaged in investment activities in Iran created by the California Department of General Services ("DGS") pursuant to Public Contract Code section 2203(b) and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS; or b) demonstrate it has been exempted from the certification requirement for that solicitation or contract pursuant to Public Contract Code section 2203(c) or (d).

To comply with this requirement, please insert your vendor or financial institution name and Federal ID Number (if available) and complete **one** of the options below. Please note: California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts. (Public Contract Code section 2205.)

**OPTION #1 - CERTIFICATION**

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below is **not** on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person/vendor, for 45 days or more, if that other person/vendor will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.

<i>Vendor Name/Financial Institution (Printed)</i>		<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in</i>	

**OPTION #2 – EXEMPTION**

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services.

If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below, and attach documentation demonstrating the exemption approval.

<i>Vendor Name/Financial Institution (Printed)</i>		<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		<i>Date Executed</i>



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**ATTACHMENT V-F**  
**COMMERCIALLY USEFUL FUNCTION CERTIFICATION**

---

Date: \_\_\_\_\_

Name of Bidder: \_\_\_\_\_

A business that is performing a commercially useful function is one that does all of the following:

- 1) Is responsible for the execution of a distinct element of the work of the Contract.
- 2) Carries out its obligation by actually performing, managing or supervising the work involved.
- 3) Performs work that is normal for its business, services and function.
- 4) Is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment.
- 5) Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

The Bidder must provide a written statement below detailing the role, services and/or goods the Subcontractor(s) will provide to meet the Commercially Useful Function requirement.

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**ATTACHMENT V-G**  
**CALIFORNIA CIVIL RIGHTS LAWS CERTIFICATION**

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Pursuant to Public Contract Code section 2010, if a bidder or proposer executes or renews a contract over \$100,000 on or after January 1, 2017, the bidder or proposer hereby certifies compliance with the following:

1. CALIFORNIA CIVIL RIGHTS LAWS: For contracts over \$100,000 executed or renewed after January 1, 2017, the contractor certifies compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code); and
2. EMPLOYER DISCRIMINATORY POLICIES: For contracts over \$100,000 executed or renewed after January 1, 2017, if a Contractor has an internal policy against a sovereign nation or peoples recognized by the United States government, the Contractor certifies that such policies are not used in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the Fair Employment and Housing Act (Section 12960 of the Government Code).

**CERTIFICATION**

<p>I, the official named below, certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p> <p><i>Proposer/Bidder Firm Name (Printed)</i></p>  		<p><i>Federal ID Number</i></p>  
<p><i>By (Authorized Signature)</i></p>  		
<p><i>Printed Name and Title of Person Signing</i></p>  		
<p><i>Date Executed</i></p>  	<p><i>Executed in the County and State of</i></p>  	

## **VI. TECHNICAL REQUIREMENTS**

### **1. INTRODUCTION**

This section contains the mandatory qualification requirements pertaining to proposed services. In addition, this section addresses the Infrastructure Materials as required for IFB 19-0011333.

The State has determined that it is best to define its own needs, desired operating objectives, and desired operating environment. The State will not tailor these needs to fit some solution a Bidder may have available; rather, the Bidder shall propose to meet the State's needs as defined in this IFB.

Bidders must meet and adhere to all of the requirements included in this Section of this IFB.

### **2. MANDATORY QUALIFICATIONS**

#### **A. Experience**

The Bidder must possess at least three (3) years' experience selling similar products as described within this IFB to the State of California.

The Bidder must have prior experience with contracts of this size and complexity.

The Bidder must be able to provide the products and services as described within Appendix A, Exhibit A-Statement of Work.

### **3. CUSTOMER REFERENCES**

The purpose of the Customer References requirement is to provide the State with the ability to verify claims made in the bid by the Bidder, and to ensure that the Bidder has a proven track record at providing the desired services in a satisfactory manner.

The Bidder must provide satisfactory references from three (3) paying customers, external to the Bidder's organization, who received the goods and services requested by this IFB. All customer references listed must have received goods and/or services, similar in size and scope (dollar value and types of products/services) to those requested by this IFB, within the last five (5) years. Each reference must include a contact name, phone number and e-mail address (See Section VI, Attachments VI-B1, VI-B2, and VI-B3). CDT may be used as a reference.

For the purposes of this IFB, similar means no less than 50% of the dollar value and types of products/services to those requested by this IFB.

The State may perform Reference Checks following the bid submittal due date listed in Section I.5, Key Action Dates. The State will make three (3) attempts to reach each reference during the time frame allotted for Reference Checks. If no response is received from the contact person during this time, the reference will be considered unverified and bidder will be deemed non-responsive to the requirement. Bidders, when choosing references, shall ensure that their reference is aware of the Reference Check Dates.

A satisfactory reference is complete, signed with all six (6) customer rated questions rated as satisfactory or better.

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**ATTACHMENT VI-A**  
**BIDDER AGREEMENT TO ALL REQUIREMENTS OF IFB 19-0011333,**  
**EXHIBIT A, STATEMENT OF WORK**

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This IFB Bidder Requirements form must be signed by an authorized representative that can bind the company contractually. The Bidder agrees, if awarded this contract, to meet all requirements, Terms and Conditions within this IFB are hereby acknowledged and accepted.

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Signature:**\_\_\_\_\_

**Company Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

ATTACHMENT VI-B1  
Page 1 of 2

**CUSTOMER REFERENCE #1**

BIDDER'S NAME: \_\_\_\_\_

This customer reference must have received the goods and/or services similar to those requested by this IFB installed and operating, within the last five (5) years.

Contact Name and Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Phone Number: (\_\_\_\_) \_\_\_\_\_

Contact Email: \_\_\_\_\_

Dates of Service: From \_\_\_\_\_ through \_\_\_\_\_

Total Agreement Amount \$ \_\_\_\_\_

**Note to the Bidder:** Do not complete any sections of this form below this point. **Send to the Customer Reference to complete the remainder of this form.** Return this form, as completed by the Customer Reference, with your bid.

**Note to Customer Reference:** The Bidder named above is giving you this Customer Reference form to verify your overall satisfaction of its performance. This information will be used to evaluate the Bidder mentioned above. Please complete the questions on this form to the best of your ability. The State Evaluation Team may verify customer references between the hours of 8:00am and 5:00pm PDT. If you are not available during this time, please notify the bidder that you are not available during this time and return this Customer Reference uncompleted.

Thank you for your assistance.

Please describe the good and services provided by the Bidder named above.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reference Signature \_\_\_\_\_

ATTACHMENT VI-B1

Page 2 of 2

Customer Satisfaction Rating

On a scale from one (1) to three (3), with one (1) being Dissatisfied, two (2) being Satisfied, Three (3) being Very Satisfied, please rate the Bidder's overall performance in completing the agreement requirements, as listed below. Please indicate only one (1) number when rating the Bidder's performance. Boxes starting on the left are considered as the number (1) rated position.

1. How do you rate their pricing?

☐ ☐ ☐

2. How do you rate their service delivery and performance?

☐ ☐ ☐

3. How do you rate their responsiveness and effectiveness of their ongoing support?

☐ ☐ ☐

4. How do you rate their overall agreement compliance?

☐ ☐ ☐

5. How do you rate the responsiveness of the Bidder's personnel to your requests?

☐ ☐ ☐

6. How do you rate your overall experience with the Bidder?

☐ ☐ ☐

Reference Signature \_\_\_\_\_

ATTACHMENT VI-B2

Page 1 of 2

**CUSTOMER REFERENCE #2**

This customer reference must have received the goods and services similar to those requested by this IFB installed and operating, within the last five (5) years.

Contact Name and Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Phone Number: (\_\_\_\_) \_\_\_\_\_

Contact Email: \_\_\_\_\_

Dates of Service: From \_\_\_\_\_ through \_\_\_\_\_

Total Agreement Amount \$ \_\_\_\_\_

**Note to the Bidder:** Do not complete any sections of this form below this point. **Send to the Customer Reference to complete the remainder of this form.** Return this form, as completed by the Customer Reference, with your bid.

**Note to Customer Reference:** The Bidder named above is giving you this Customer Reference form to verify your overall satisfaction of its performance. This information will be used to evaluate the Bidder mentioned above. Please complete the questions on this form to the best of your ability. The State Evaluation Team may verify customer references between the hours of 8:00am and 5:00pm PST. If you are not available during this time, please notify the bidder that you are not available during this time and return this Customer Reference uncompleted.

Thank you for your assistance.

Please describe the services provided by the Bidder named above

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reference Signature \_\_\_\_\_



ATTACHMENT VI-B2

Page 2 of 2

Customer Satisfaction Rating

On a scale from one (1) to three (3), with one (1) being Dissatisfied, two (2) being Satisfied, Three (3) being Very Satisfied, please rate the Bidder's overall performance in completing the agreement requirements, as listed below. Please indicate only one (1) number when rating the Bidder's performance. Boxes starting on the left are considered as the number (1) rated position.

1. How do you rate their pricing?

    ☐    ☐    ☐

2. How do you rate their service delivery and performance?

    ☐    ☐    ☐

3. How do you rate their responsiveness and effectiveness of their ongoing support?

    ☐    ☐    ☐

4. How do you rate their overall agreement compliance?

    ☐    ☐    ☐

5. How do you rate the responsiveness of the Bidder's personnel to your requests?

    ☐    ☐    ☐

6. How do you rate your overall experience with the Bidder?

    ☐    ☐    ☐

Reference Signature \_\_\_\_\_

ATTACHMENT VI-B3  
Page 1 of 2

**CUSTOMER REFERENCE #3**

BIDDER'S NAME: \_\_\_\_\_

This customer reference must have received the goods and services similar to those requested by this IFB installed and operating, within the last five (5) years.

Contact Name and Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Phone Number: (\_\_\_\_) \_\_\_\_\_

Contact Email: \_\_\_\_\_

Dates of Service: From \_\_\_\_\_ through \_\_\_\_\_

Total Agreement Amount \$ \_\_\_\_\_

**Note to the Bidder:** Do not complete any sections of this form below this point. **Send to the Customer Reference to complete the remainder of this form.** Return this form, as completed by the Customer Reference, with your bid.

**Note to Customer Reference:** The Bidder named above is giving you this Customer Reference form to verify your overall satisfaction of its performance. This information will be used to evaluate the Bidder mentioned above. Please complete the questions on this form to the best of your ability. The State Evaluation Team may verify customer references between the hours of 8:00am and 5:00pm PST. If you are not available during this time, please notify the bidder that you are not available during this time and return this Customer Reference uncompleted.

Thank you for your assistance.

Please describe the services provided by the Bidder named above.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reference Signature \_\_\_\_\_

ATTACHMENT VI-B3

Page 2 of 2

Customer Satisfaction Rating

On a scale from one (1) to three (3), with one (1) being Dissatisfied, two (2) being Satisfied, Three (3) being Very Satisfied, please rate the Bidder's overall performance in completing the agreement requirements, as listed below. Please indicate only one (1) number when rating the Bidder's performance. Boxes starting on the left are considered as the number (1) rated position.

1. How do you rate their pricing?

☐ ☐ ☐

2. How do you rate their service delivery and performance?

☐ ☐ ☐

3. How do you rate their responsiveness and effectiveness of their ongoing support?

☐ ☐ ☐

4. How do you rate their overall agreement compliance?

☐ ☐ ☐

5. How do you rate the responsiveness of the Bidder's personnel to your requests?

☐ ☐ ☐

6. How do you rate your overall experience with the Bidder?

☐ ☐ ☐

Reference Signature \_\_\_\_\_

## VII. COSTS

### 1. INTRODUCTION

Cost is part of the evaluation criterion. Contract award will be based on total lowest evaluated cost, including preference programs.

**The Bidder must assume all expenses for travel and per diem, and cannot bill the California Department of Technology outside of the cost proposed herein.**

### 2. COST WORKSHEET

All bidders must provide pricing for each line item as indicated in the cost worksheet in Appendix A, Exhibit B-1. If no pricing is submitted, it will be considered as offered at no cost.

### 3. COST DEFINITIONS

#### A. One-Time Costs

- (1) One-time costs are those costs paid by the State for services necessary for the acquisition of the proposed services.

### 4. COST WORKSHEET INSTRUCTIONS

All bidders must reference IFB 19-0011333 Infrastructure Materials and provide a proposed Grand Total in Appendix A, Exhibit B-1 Cost Worksheet.

### 5. BUDGET DETAILS AND PAYMENT PROVISIONS

#### A. Payment/Invoicing:

- a. Payment of goods and services will be made upfront upon receipt of a correct invoice, after delivery by the contractor and acceptance by the State. **Invoices shall include the California Department of Technology Agreement/Agency Order Number, product name/description, part/item numbers (as applicable) and cost.**

- b. Submit your invoice using only **one** of the following options:

- 1) Send via U.S. mail in **TRIPLICATE** to:

California Department of Technology  
Administration Division – Accounting Office  
P. O. Box 1810  
Rancho Cordova, CA 95741

**OR**

- 2) Submit electronically at: [APIInvoices@state.ca.gov](mailto:APIInvoices@state.ca.gov)

B. Payment Schedule:

Payment(s) will be made in accordance with the California Prompt Payment Act, within the time specified in Government Code Chapter 4.5 commencing with Section 927.

C. Budget Contingency Clause:

- a. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Contract does not appropriate sufficient funds for the program, this Contract shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to the Contractor or to furnish any other considerations under this Contract and Contractor shall not be obligated to perform any provisions of this Contract.
- b. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Contract with no liability occurring to the State, or offer a contract amendment to the Contractor to reflect the reduced amount.

## VIII. BID FORMAT

### 1. INTRODUCTION

These instructions prescribe the mandatory bid format and the approach for the development and presentation of bid data. Format instructions must be adhered to, all requirements and questions in the IFB must be responded to, and all requested data must be supplied. **It is important that all bids be submitted in appropriate sealed envelopes and clearly marked or they will be rejected.**

### 2. FINAL BID FORMAT AND CONTENT

Bidders must submit one (1) Master, three (3) copies and one (1) electronic copy (on a CD/DVD ROM or flash drive) of the bid. All documents in the original bid requiring a signature must bear an original signature (not stamped or electronic) or a person authorized to bind the bidding firm contractually. Emailed or faxed bids will not be accepted.

All bids must be submitted under **sealed** cover and sent to California Department of Technology by dates and times shown in Section I, Key Action Dates. The sealed cover must be plainly marked with the IFB number and title, must show your firm name and address, and must be marked with "DO NOT OPEN", as shown in the following example:

**California Department of Technology  
MAIL STOP Y-18  
P.O. BOX 1810  
Rancho Cordova, CA 95741**

**"DO NOT OPEN"  
IFB 19-0011333  
Infrastructure Materials**

Mail or deliver bids to the following address:

<b>Parcel Post (FedEx, UPS) or Hand Delivery</b>	<b>U. S. Postal Service</b>
California Department of Technology Attn: Nhu Vo 10860 Gold Center Drive, Suite 200 – Security Desk Rancho Cordova, CA 95670	California Department of Technology Attn: Nhu Vo Mail Stop Y18 P.O. Box 1810 Rancho Cordova, CA 95741

The bid must be organized so that the responses can be easily found. The Bid may include any appropriate attachments and exhibits necessary to illustrate responsiveness. These attachments and exhibits must be clearly labeled and cross-referenced to the appropriate description of the requirement in the IFB.

It is the responsibility of the bidder to ensure that the bid is received by the Department Official at the location specified above by the date and time specified in Section I, Key Action Dates.

The withdrawal of any bid must be made in writing prior to the final bid submission date and time and must be signed by an authorized official of the bidder's firm. **A VERBAL REQUEST TO WITHDRAW A BID WILL NOT BE ACCEPTED. BIDDERS SUBMITTING CONDITIONAL BIDS WILL BE DISQUALIFIED.**

Bids must adhere to the following format standards:

- A. Must be typed;
- B. Microsoft Office Suite (2003 or later) software (Word, Excel, Project, PowerPoint) (PDF copies on CDs are acceptable)
- C. 8.5 x 11 inch paper, preferable double-sided, and bound in three-ring binders with removable pages;
- D. Each set to indicate "Master" or "Copy", number in set, Bidder name and "IFB 19-0011333";
- E. Full Table of Contents;
- F. Sequentially numbered pages (either continuous or by major sections is permitted);
- G. Sequentially labeled attachments and exhibits (tables, graphs and graphics)
- H. Cost information; and
- I. Complete bid delivered under sealed cover.

The following must be shown in the header or footer on each page of the bid:

IFB 19-0011333  
Name of Bidder  
Section Number  
Page Number  
Attachment and Exhibit Numbers (if applicable)

### 3. **FORMAT DETAIL**

#### A. Response to Requirements

The Bidder's response to the IFB must be in the order and format indicated below. Each page must be numbered in a manner of the Bidder's own choosing to make easy reference possible. The organization should be as follows:

##### 1) Section 1 – General (Cover Letter)

This section should contain a signed cover letter and executive summary of the Bidder's bid including conclusions and recommendations. It may include general overview of the services offered. This section should contain a signed cover letter in accordance with Section V Administrative Requirements.

##### 2) Section 2 – Table of Contents

This part of the Bid must contain a Table of Contents. Major parts of the Bid, including forms, attachments and exhibits, must be identified by set and page number.

B. Completed Contract

The Bidder's Final Bid submittal must include a completed signed copy of the STD. 213 IT, along with all Exhibits.

C. Cost

The cost data must contain all completed cost tables, in Appendix A, Exhibit B-1 Cost Worksheet, as required in the IFB.



## IX. EVALUATION

### 1. INTRODUCTION

This section describes the process the State will follow to evaluate bids submitted by the Bidders in response to this IFB. The evaluation process consists of a thorough review of each bid to validate the inclusion of mandatory components. Bids that do not comply with the mandatory components stipulated in the IFB may be deemed non-responsive and excluded from further consideration by the State.

### 2. RECEIPT

Each bid will be dated and time marked as it is received and verified that all responses are submitted under an appropriate cover, sealed and properly identified. Bids will remain sealed until the designated time for opening.

### 3. EVALUATION OF FINAL BIDS

#### A. Bid Opening and Validation Check

All bids received by the date and time specified in Section I Key Action Dates, will be publicly opened and acknowledged as having been received at that time. The bids will be checked for the presence of proper identification and the required information in conformance with the bid submittal requirements of this IFB. Absence of required information may deem the bids non-responsive and may be cause for rejection. **Unsealed bids will be rejected.**

#### B. Validation against Requirements

The State will check each bid in detail to determine its compliance to the IFB requirements. If a bid fails to meet an IFB requirement, the State will determine if the deviation is material, as defined in Section II, Rules Governing Competition. A material deviation will be cause for rejection of the bid. An immaterial deviation will be examined to determine if the deviation will be accepted. If accepted, the bid will be processed as if no deviation had occurred.

#### C. Cost Analysis

The required cost worksheets will be checked for mathematical accuracy. Errors and inconsistencies and adjustments will be dealt with according to procedures contained in Section II.6.D, Errors in the Final Bid. Only those cost adjustments will be made for which a procedure is described in this IFB.

#### D. Selection

Final selection will be made on the basis of lowest responsive responsible bidder. Responsiveness is comprised of meeting the Administrative and Technical Requirements, and conforming to the rules of Section II, Rules Governing Competition. The State reserves the right at any time to reject any or all bids.

E. Evaluation Criteria

A material deviation on a mandatory requirement will result in disqualification of the bid.

F. Bid Rejection

A Final Bid may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities, of any kind, in accordance with Section II, 4 Final Bid Phase, G Deviation from terms and conditions previously approved for this IFB may be cause for rejection of your Bid. BIDDERS SUBMITTING CONDITIONAL BIDS MAY BE DISQUALIFIED.

**4. SCORING METHODOLOGY**

The responsive bids will be evaluated and scored according to the following criteria:

A. Pass/Fail Administrative Requirements

Administrative Requirements identified are the minimum necessary to satisfy the requirements of the IFB.

B. Pass/Fail Mandatory Qualifications Requirements

Mandatory qualifications are minimum necessary to satisfy the requirements of the IFB.

C. Cost

Contract award will be based on total lowest evaluated cost, including preference programs. Preference Programs will be applied as follows:

Cost adjustments for preference claims (TACPA and Small Business) will be performed during cost assessment.

- How to Calculate Small Business Preference:

1) Compute 5% of the lowest large business;

2) Subtract that amount from the small business bid. If the 5% deduction from the certified small business bidder's bid is equal to or less than the lowest responsive and responsible large business bid, the purchase shall be awarded to the small business.

This does NOT alter the small business bidder's bid amount for award.

Per Government Code, Section 14835, et seq., Bidders who qualify as a small business will be given a 5 percent preference for contract evaluation purposes only. The 5 percent preference is calculated on the lowest cost.

If after applying the small business preference a small business has the highest score, no further preferences would be applied as the small business cannot be displaced from the highest score position by application of any other preference. The rules and regulations of this

law, including the definition of a small business for the delivery of goods and services are contained in the California Code of Regulations, Title 2, Section 1896, et seq. and can be viewed online at <https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/Notice-of-Rulemaking-Regulations-for-SB-DVBE>.

## **APPENDIX A. CONTRACT AND ATTACHMENTS**

### **1. GENERAL INFORMATION**

The instructions herein are provided to explain how the State Contract is structured. Because no negotiations or alterations of the Contract are permitted, it is imperative that the Bidder follow these instructions carefully in order to be fully responsive, from a contractual aspect, to the IFB. **BIDDERS SUBMITTING FINAL BIDS WHICH ARE CONDITIONAL SHALL BE DISQUALIFIED.**

Your Final Proposal submittal must include a completed copy of the State Contract. The completed STD. 213 IT, with all Exhibits. Refer to Section VIII: Bid Format.

### **2. PREPARATION OF CONTRACT**

Detach the State Standard Agreement and all Exhibits, from the IFB. This document will be returned to the Department of Technology as the final Contract language. **BIDDERS MUST NOT ALTER OR RETYPE THE STANDARD AGREEMENT OR ANY OF THE EXHIBITS.**

Complete information in any portion of the contract which has a blank ( ). The Master copy of the Agreement must bear an original signature of the individual authorized to bind the firm, as specified in Section II. **DO NOT FILL IN SECTIONS 2 AND 3 OF THE STD. 213 IT RELATING TO THE CONTRACT TERM OR THE AMOUNT OF THE CONTRACT.**

**COST DATA MUST NOT BE ENTERED ON THE STATE STANDARD AGREEMENT. COST DATA MUST BE SUBMITTED ON EXHIBIT B-1 ONLY.**

Make a copy of the contract and retain for your files. This copy will be used during subsequent communications with the State relative to the contract.

**STANDARD AGREEMENT**

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER

XX-XXXXX

PURCHASING AUTHORITY NUMBER (If Applicable)

CDT-7502

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

California Department of Technology

CONTRACTOR NAME

BIDDER'S NAME

2. The term of this Agreement is:

START DATE

TO BE ENTERED AT CONTRACT AWARD

THROUGH END DATE

TO BE ENTERED AT CONTRACT AWARD

3. The maximum amount of this Agreement is:

\$ DO NOT ENTER COST DATA

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

EXHIBITS	TITLE	PAGES
Exhibit A	Statement of Work	X page(s) +
Exhibit A-1	Materials Order Form	X page(s) +
Exhibit B	Budget Details and Payment Provisions	X page(s) +
Exhibit B-1	Cost Worksheet	X page(s) +
Exhibit C	General Provisions – Information Technology (GSPD-401IT), rev. 9/15/14	X page(s) +
Exhibit D	Special Terms & Conditions to Safeguard Federal Tax Information	X page(s) +
Exhibit E	Security and Data Protection	X page(s) +
Exhibit F	IFB 19-0011333 (incorporated by reference)	X page(s) +
Exhibit G	Contractor's Response to IFB# 19-0011333 (incorporated by reference)	X page(s) +

Items shown with an asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

**CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

BIDDER'S NAME

CONTRACTOR BUSINESS ADDRESS

BIDDER'S ADDRESS

CITY

STATE

ZIP

PRINTED NAME OF PERSON SIGNING

NAME AND TITLE OF AUTHORIZED PERSON TO LEGALLY BIND BIDDER

TITLE

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

**STANDARD AGREEMENT**

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER

XX-XXXXX

PURCHASING AUTHORITY NUMBER (If Applicable)

CDT-7502

**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME

California Department of Technology

CONTRACTING AGENCY ADDRESS

P.O. Box 1810

CITY

Rancho Cordova

STATE

CA

ZIP

95741

PRINTED NAME OF PERSON SIGNING

Darryl Yee

TITLE

Procurement Manager

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

## **EXHIBIT A STATEMENT OF WORK**

### **1. Contract Description:**

Bidder (hereinafter referred to as the “Contractor”) agrees to provide the California Department of Technology, (hereinafter referred to as the “State,” or “CDT”), with the goods and/or services listed within IFB 19-0011333.

The CDT, Office of Technology Services (OTECH) provides information technology services to state, federal, and local government agencies. CDT OTECH supports the statewide network and hosts multiple mainframe systems as well as mid-range server platforms.

This Contract is for materials to support all layer one infrastructure aspects of data, voice, and video cabling (i.e. facilities, Windows server, Unix, mainframe, etc.). The Contractor must provide pricing for the materials listed in Exhibit B-1, Cost Worksheet. There is no obligation on the part of CDT to utilize the entire Contract amount. Note: Quantities are based on estimated annual usage

### **2. Term:**

The period of performance for the Contract shall be one year from **April 1, 2020** through **March 31, 2021**, with the option to extend for two (2) additional twelve (12) months terms.

The Contractor shall not be authorized to deliver or commence the performance of services as described in this SOW until written approval has been obtained from the CDT via Exhibit A-1, Materials Order Form. Any delivery or performance of service that is commenced prior to the signing of the Contract shall be considered voluntary on the part of the Contractor and non- compensable.

### **3. Amendments:**

Consistent with the terms and conditions of the original solicitation, and upon mutual consent, the California Department of Technology and the Contractor may execute amendments to this Contract. No amendment or variation of the terms of this Contract shall be valid unless made in writing, and agreed upon by both parties and approved, as required. No verbal understanding or agreement not incorporated into the Contract is binding on any of the parties.

### **4. Materials Orders:**

The CDT shall order products via a Materials Order Form (Exhibit A-1). For each order, a Materials Order will be prepared in accordance with the sample attached, and it will be incorporated as part of the Contract.

Each Materials Order Form shall consist of the following:

- a. A Materials Order (MO) Number;
- b. A detailed description of the materials to be provided;
- c. Delivery Location;
- d. Estimated Delivery Date;
- e. Delivery Company Name;
- f. List of Materials with quantities, item numbers, part numbers, cost, tax, and grand total.
- g. Contact information for both the Contractor and CDT

Within 24 hours of receipt of the Materials Order Form, the Contractor will provide confirmation of the order in writing via email to the CDT Technical Contact identified below. Prior to shipping materials, the Materials Order Form must be signed by the Contractor and by the CDT Technical Contact (or designated representative). Please note that partial payments for any Material Orders are prohibited. Payments for each completed Materials Order will be in accordance with Exhibit B, Payment and invoicing.

A Materials Order shall in no way constitute a contract independent of the original Contract. The Materials Order shall not be used to amend the Contract nor supersede any of the provisions set forth by the Contract.

#### **5. Delivery Sites:**

The Contract must deliver the materials requested to the following CDT sites (unless otherwise specified in the Materials Order Form):

California Department of Technology  
Warehouse (Primary)  
10173 Croydon Way, Suite 4  
Sacramento, CA 95827

or

California Department of Technology  
Facility (Secondary)  
3101 Gold Camp Drive  
Rancho Cordova, CA 95670

\*The CDT reserves the right to modify the delivery site to other CDT sites as needed.

#### **6. Notices:**

All notices required by or relating to this Contract shall be in writing and shall be sent to the parties of this Contract at their address as set below unless changed from time to time, in which event each party shall notify the other in writing, and all such notices shall be deemed duly given if deposited, postage prepaid, in the United States mail and directed to the following addresses:

The Technical Contact/Contract Administrators during the term of this contract will be:



State:	California	Department	of	Contractor:
Name:	Carl Boomgaarden			Name:
Phone:	(916) 228-6056			Phone:
e-mail:	<a href="mailto:carl.boomgaarden@state.ca.gov">carl.boomgaarden@state.ca.gov</a>			e-mail:

Direct all contract inquiries to:

State:	California	Department	of	Contractor:
Unit:	Technology			Name:
	Acquisition & IT Program			Address:
Name:	Nhu Vo			Phone:
Address	P.O. Box 1810 MS Y-18			e-mail:
:	Rancho Cordova, CA 95741			
Phone:	(916) 431-4699			
e-mail:	<a href="mailto:nhu.vo@state.ca.gov">nhu.vo@state.ca.gov</a>			

**7. Equipment/Good(s):**

Infrastructure materials to support the CDT Data Center layer one infrastructure aspects of data, voice, and video cabling. Please refer to Exhibit B-1, Cost Worksheet for product list.

**8. Meetings:**

Upon CDT's request, the Contractor shall present product demonstration meetings to be held at any one of the CDT facilities in the greater Sacramento, California area.

**9. Acceptance Criteria:**

It shall be in the State's sole determination as to whether a materials order identified in this Contract or in a Materials Order Form, Exhibit A-1 has been successfully completed and acceptable to the State. Acceptance criteria shall consist of the following:

- a. The approval process is outlined in Section 12, Performance;
- b. A signed Materials Order Form, Exhibit A-1 is required per the Statement of Work (SOW);
- c. The Contractor shall meet all delivery times, as agreed to in the Contract or in Materials Order Form.

**10. Availability of Refreshed Technology:**

Contractor shall supplement the material offerings to be supplied in the normal course of business during the Contract term, to keep pace with and utilize technological advancements. The Contractor shall also provide replacement materials for obsolete or

in the method of delivering network and data center-related products (and the pricing thereof).

Contractor also acknowledges that the network/data center environment is critical to the State's business success, that the State's needs and requirements with regard to the network/data center environment may evolve and change over time, and that the need for enhanced or modified functionality may arise from time to time. During the Contract term, Contractor shall meet and confer with the CDT to discuss any reasonable and appropriate replacement of equipment items needed or that might be considered to keep pace with and take advantage of the latest technological advancements and improvements in Contractor's materials. Contractor agrees to make such materials available to the State at the same rate or less when such materials substitute, and/or replace the items listed in Exhibit B-1 Cost Worksheet, Materials must be equivalent or greater than what is listed on Exhibit B-1 and must be the same rate or less.

Contractor may not deliver any items without an approved Materials Order Form (Exhibit A-1) signed by CDT.

#### **11. Contractor Responsibilities:**

- a. The Contract will designate a primary contact person to whom all communications may be addressed and who has the authority to act on all aspects of the services.
- b. The Contractor shall deliver the materials to any of the premises of the CDT facilities located within the greater Sacramento area during regular State business hours and at all other times as required to successfully provide the services described in this SOW.
- c. The Contract shall be able to receive orders from CDT at least Monday through Friday from 8:00 am to 5:00 pm Pacific Time.
- d. The Contractor shall coordinate all material order shipments with CDT for the shortest delivery time (typically available within 10 business days). Delivery of items requiring special manufacturing shall be delivered within 6 (six) weeks.
- e. Freight/shipping for all parts must be included in the cost of the parts. Freight cannot be charged separately.
- f. The Contractor shall provide shipper name to CDT prior to delivery.
- g. The Contractor shall provide an estimated delivery date for material orders placed.
- h. The Contractor will adhere to the CDT policies and procedures, guidelines and templates including access and security requirements.

#### **12. CDT Responsibilities:**

The CDT will:

- a. Designate a point of contact(s) to whom all Contractor communication may be addressed.

- b. Provide access to loading dock and operational areas, as required, to complete the materials delivery
- c. Provide timely review and approval of invoices provided by the Contractor

### **13. Performance:**

The CDT will be the sole judge of the acceptability of all work performed and all materials delivered by the Contractor as a result of this SOW. Should the work performed or the products delivered by the Contractor fail to meet the CDT conditions, requirements, specifications, guidelines, or other applicable standards, the following resolution process will be employed, except as superseded by other binding processes:

- a. The CDT will notify the Contractor in writing within five (5) State business days after completion of each phase of service of any acceptance problems by identifying the specific inadequacies and/or failures in the services performed and/or the products produced by the Contractor. The costs related to rework of unacceptable work products **shall not** be billed to the CDT.
- b. The Contractor will, within five (5) State business days after initial problem notification, respond to the CDT by submitting a detailed explanation describing precisely how the identified services and/or products actually adhere to and satisfy all applicable requirements, and/or a proposed corrective action plan to address the specific inadequacies and/or failures in the identified services and/or products. Failure by the Contractor to respond to the CDT's initial problem notification within the required time limits may result in immediate termination of the Contract. In the event of such termination, the CDT shall pay all amounts due the Contractor for all work accepted prior to termination.
- c. The CDT will, within five (5) State business days after receipt of the Contractor's detailed explanation and/or proposed corrective action plan, notify the Contractor in writing whether it accepts or rejects the explanation and/or plan. If the CDT rejects the explanation and/or plan, the Contractor will submit a revised corrective action plan within three (3) State business days of notification of rejection. Failure by the Contractor to respond to the CDT's notification of rejection by submitting a revised corrective action plan within the required time limits may result in immediate termination of the Contract. In the event of such termination, the CDT shall pay all amounts due the Contractor for all work accepted prior to termination.
- d. The CDT will, within three (3) State business days of receipt of the revised corrective action plan, notify the Contractor in writing whether it accepts or rejects the revised corrective action plan proposed by the Contractor. Rejection of the revised corrective action plan will result in immediate termination of the Contract. In the event of such termination, the CDT shall pay all amounts due the Contractor for all work accepted prior to termination.

### **14. Cancellation:**

The CDT may exercise its option to terminate the Contract at any time with 30 calendar days' prior written notice. In the event of such termination, the CDT shall pay all

amounts due the Contractor for all materials accepted prior to termination.

**15. Other Contract Considerations :**

- a. The Contractor will act as prime contractor under this Contract. The Contractor shall also identify its subcontractor affiliation, as applicable.
- b. The CDT reserves the right to approve all subcontractors prior to the performance of any work by the subcontractor.
- c. Nothing contained in this Contract shall create any conceptual relationship between the State and any subcontractors, and no subcontract shall relieve the Contractor of its responsibilities and obligations hereunder. The Contractor is fully responsible to the CDT for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them.
- d. If a subcontractor is a California Certified Small Business (SB) and/or Disabled Veteran Business Enterprise (DVBE), then those amounts paid to certified subcontractors shall be identified on the Contractor's invoice(s).
- e. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any monies to any subcontractor.
- f. Military and Veteran Code (MVC) 999.5(d), Government Code (GC) 14841, and California Code of Regulations (CCR) 1896.78(e) requires all Prime Contractor's that had a DVBE firm perform any element of work for a contract to report DVBE information.

Prime Contractors are required to maintain records supporting the information that all payments to DVBE subcontractor(s) were made. The Prime DVBE Subcontracting form can be found at the following link: [https://www.documents.dgs.ca.gov/dgs/fmc/gs/pd/pd\\_810P.pdf](https://www.documents.dgs.ca.gov/dgs/fmc/gs/pd/pd_810P.pdf) and the instructions can be found at the following link: <https://www.dgs.ca.gov/-/media/Divisions/PD/OSDS/Certification/DVBE/Departments-DVBE-Subcontracting-Report-Instructions.doc?la=en&hash=A7FBD69247CD1A617B199AD2BE50B4C542EE0CE3> . Completed forms are to be e-mailed to: [primeDVBE@state.ca.gov](mailto:primeDVBE@state.ca.gov).

**16. Security and Data Protection Requirements:**

The CDT must ensure contracts with state and non-state entities include provisions which protect and minimize risk to the state when engaging in the development, use, or maintenance of information systems, products, solutions, or services. In order to comply with the State Administrative Manual (SAM) Section 5305.8, Contractor must comply with Exhibit E, Security and Data Protection.

**17. Federal Tax Administration Requirements:**

Subject to the Internal Revenue Service (IRS), federal tax information (FTI) requirements, if an unfavorable response is received by the IRS, this contract will be terminated immediately, per General Provisions – Information Technology (GSDP-401), clause 23, Termination for Default.

**EXHIBIT A-1  
MATERIALS ORDER FORM**

The Materials Order below will be the authorization process for the State and Contractor to execute all activities. No materials shall be ordered until the State and Contractor have agreed and signed the Materials Order Form.

Materials Order Number: MO#xxx

Summary: \_\_\_\_\_

Delivery Location: \_\_\_\_\_

Tax Rate: \_\_\_\_\_

Schedule: \_\_\_\_\_ Estimated Delivery Date: \_\_\_\_\_

Delivery Company Name: \_\_\_\_\_

List of Materials (attach separate page if necessary) Total Materials Cost (\*include material cost, sales tax and freight, and shipping fees if applicable)

Item #	Qty.	Commodity/ Product Code	Description	Unit Price*	Extended Price

\*Unit Price must not exceed the original amount bid and evaluated.

SALES TAX: \$ \_\_\_\_\_  
TOTAL ESTIMATED MATERIALS ORDER COST: \$ \_\_\_\_\_

This request will be completed in accordance with this Materials Order and the provisions of California Department of Technology Contract/Purchase # XX-XXXX

**Acceptance required:** Yes X No \_\_\_\_\_

**Contractor:**

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**State: CDT/OTech**

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**EXHIBIT B**  
**BUDGET DETAILS AND PAYMENT PROVISIONS**

**1. Payment/Invoicing:**

Payment of goods and services will be made upon receipt of a correct invoice, after delivery by the Contractor and acceptance by the State. **Invoices shall include the California Department of Technology Contract/Agency Purchase Order Number, product name/description, part/item numbers (as applicable) and cost.**

Payment of services will be made upon receipt of a correct invoice, after delivery by the Contractor and acceptance by the State. Vendor shall invoice periodic (monthly, quarterly, annually, etc.) hardware maintenance services in arrears of the period for which the services are to be performed. **Invoices shall include the California Department of Technology Contract/Agency Purchase Order Number, product name/description, part/item numbers (as applicable) and cost.**

Submit your invoice using only **one** of the following options:

Send via U.S. mail in **TRIPLICATE** to:

California Department of Technology  
Administration Division – Accounting Office  
P. O. Box 1810  
Rancho Cordova, CA 95741

**OR**

Submit electronically at: [APIInvoices@state.ca.gov](mailto:APIInvoices@state.ca.gov)

**2. Payment Schedule:**

Payment(s) will be made in accordance with the California Prompt Payment Act, within the time specified in Government Code Chapter 4.5 commencing with Section 927.

**3. Budget Act:**

It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Contract does not appropriate sufficient funds for the program, this Contract shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to the Contractor or to furnish any other considerations under this Contract and Contractor shall not be obligated to perform any provisions of this Contract.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Contract with no liability occurring to the State, or offer a contract amendment to the Contractor to reflect the reduced amount.

**EXHIBIT B-1  
COST WORKSHEET**

Place holder for Cost Worksheet in PDF



**EXHIBIT C**  
**GENERAL PROVISIONS- INFORMATION TECHNOLOGY**

The following provisions may be downloaded at the indicated web page:

General Provisions – Information Technology (GSPD-401IT), Revision 9/05/14:  
[http://www.documents.dgs.ca.gov/pd/poliproc/GSPD401IT14\\_0905.pdf](http://www.documents.dgs.ca.gov/pd/poliproc/GSPD401IT14_0905.pdf)

## **EXHIBIT D SPECIAL TERMS AND CONDITIONS TO SAFEGUARD FEDERAL TAX INFORMATION**

Federal statute, regulations and guidelines require that all contracts for services relating to the processing, storage, transmission, or reproduction of federal tax returns or return information, the programming, maintenance, repair, or testing of equipment or other property, or the providing of other services, for tax administration purposes include the provisions contained in this exhibit. (See 26 U.S.C. §6103(n); 26 C.F.R. §301.6103(n)-1(a)(2) and (d); Internal Revenue Service (IRS) Publication 1075, Tax Information Security Guidelines for Federal, State and Local Agencies (Rev. 8-2010), Section 5.5 and Exhibit 7.)

The contractor agrees to comply with 26 U.S.C. §6103(n); 26 C.F.R. §301.6103(n)-1; IRS Publication 1075 (Rev. 8-2010); and all applicable conditions and restrictions as may be prescribed by the IRS by regulation, published rules or procedures, or written communication to the contractor. (See 26 C.F.R. §301.6103(n)-1(d); IRS Publication 1075 (Rev. 8-2010).)

### **I. PERFORMANCE**

In performance of this contract, the contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

- (1) All work will be done under the supervision of the contractor or the contractor's employees.
- (2) Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Disclosure to anyone other than an officer or employee of the contractor will be prohibited.
- (3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
- (4) The contractor certifies that the data processed during the performance of this contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
- (5) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to

the agency or his or her designee. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the agency or his or her designee with a statement containing the date of destruction, description of material destroyed, and the method used.

- (6) All computer systems receiving, processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.
- (7) No work involving Federal tax information furnished under this contract will be subcontracted without prior written approval of the IRS.
- (8) The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.
- (9) The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

### **II. CRIMINAL/CIVIL SANCTIONS**

- (1) Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- (2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution.

Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431.

- (3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
- (4) Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors should be advised of the provisions of IRC Sections 7431, 7213, and 7213A (see Exhibit 6, *IRC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Return Information* and Exhibit 5, *IRC Sec. 7213 Unauthorized Disclosure of Information*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor should sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.<sup>1</sup>

### III. INSPECTION

The IRS and the Agency shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this

contract. On the basis of such inspection, specific measures may be required in cases where the contractor is found to be noncompliant with contract safeguards.

\*\*\*\*\*  
\*\*\*\*\*

### REFERENCES

#### 26 U.S.C. §6103(n)

Pursuant to regulations prescribed by the Secretary, returns and return information may be disclosed to any person, including any person described in section 7513 (a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, the programming, maintenance, repair, testing, and procurement of equipment, and the providing of other services, for purposes of tax administration.

#### 26 C.F.R. §301.6103(n)-1 Disclosure of returns and return information in connection with procurement of property and services for tax administration purposes.

- (a) *General rule.* Pursuant to the provisions of section 6103(n) of the Internal Revenue Code and subject to the requirements of paragraphs (b), (c), and (d) of this section, officers or employees of the Treasury Department, a State tax agency, the Social Security Administration, or the Department of Justice, are authorized to disclose returns and return information (as defined in section 6103(b)) to any person (including, in the case of the Treasury Department, any person described in section 7513(a)), or to an officer or employee of such person, to the extent necessary in connection with contractual procurement of:

- (1) Equipment or other property, or
- (2) Services relating to the processing, storage, transmission, or reproduction of such returns or return information, the programming, maintenance, repair, or testing of equipment or other property, or the providing of other services, for purposes of tax administration (as defined in section 6103(b)(4)).

No person, or officer or employee of such person, to whom a return or return information is disclosed by an officer or employee of the Treasury Department, the State tax agency, the Social Security Administration, or the Department of Justice, under the authority of this paragraph shall in turn disclose such return or return information for any purpose other than as described in this paragraph, and no such further disclosure for any such described purpose shall be made by such person, officer, or employee to anyone, other than another officer or employee of such person whose duties or responsibilities require such disclosure for a

<sup>1</sup> A 30 minute disclosure awareness training video produced by the IRS can be found at

<http://www.irsvideos.gov/Governments/Safeguards/DisclosureAwarenessTrainingPub4711>

purpose described in this paragraph, without written approval by the Internal Revenue Service.

- (b) *Limitations.* For purposes of paragraph (a) of this section, disclosure of returns or return information in connection with contractual procurement of property or services described in such paragraph will be treated as necessary only if such procurement or the performance of such services cannot otherwise be reasonably, properly, or economically carried out or performed without such disclosure.

Thus, for example, disclosures of returns or return information to employees of a contractor for purposes of programming, maintaining, repairing, or testing computer equipment used by the Internal Revenue Service or a State tax agency should be made only if such services cannot be reasonably, properly, or economically performed by use of information or other data in a form which does not identify a particular taxpayer. If, however, disclosure of returns or return information is in fact necessary in order for such employees to reasonably, properly, or economically perform the computer related services, such disclosures should be restricted to returns or return information selected or appearing at random. Further, for purposes of paragraph (a), disclosure of returns or return information in connection with the contractual procurement of property or services described in such paragraph should be made only to the extent necessary to reasonably, properly, or economically conduct such procurement activity. Thus, for example, if an activity described in paragraph (a) can be reasonably, properly, and economically conducted by disclosure of only parts or portions of a return or if deletion of taxpayer identity information (as defined in section 6103(b)(6) of the Code) reflected on a return would not seriously impair the ability of the contractor or his officers or employees to conduct the activity, then only such parts or portions of the return, or only the return with taxpayer identity information deleted, should be disclosed.

- (c) *Notification requirements.* Persons to whom returns or return information is or may be disclosed as authorized by paragraph (a) of this section shall provide written notice to their officers or employees—

- (1) That returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized by paragraph (a) of this section;
- (2) That further inspection of any returns or return information for a purpose or to an extent unauthorized by paragraph (a) of this section constitutes a misdemeanor, punishable upon conviction by a fine of as much as \$1,000, or imprisonment for as long as 1 year, or both, together with costs of prosecution;
- (3) That further disclosure of any returns or return information for a purpose or to an extent unauthorized by paragraph (a) of this section constitutes a felony, punishable

upon conviction by a fine of as much as \$5,000, or imprisonment for as long as 5 years, or both, together with the costs of prosecution;

- (4) That any such unauthorized further inspection or disclosure of returns or return information may also result in an award of civil damages against any person who is not an officer or employee of the United States in an amount not less than \$1,000 for each act of unauthorized inspection or disclosure or the sum of actual damages sustained by the plaintiff as a result of such unauthorized disclosure or inspection as well as an award of costs and reasonable attorneys fees; and

- (5) If such person is an officer or employee of the United States, a conviction for an offense referenced in paragraph (c)(2) or (c)(3) of this section shall result in dismissal from office or discharge from employment.

- (d) *Safeguards.* Any person to whom a return or return information is disclosed as authorized by paragraph (a) of this section shall comply with all applicable conditions and requirements which may be prescribed by the Internal Revenue Service for the purposes of protecting the confidentiality of returns and return information and preventing disclosures of returns or return information in a manner unauthorized by paragraph (a). The terms of any contract between the Treasury Department, a State tax agency, the Social Security Administration, or the Department of Justice, and a person pursuant to which a return or return information is or may be disclosed for a purpose described in paragraph (a) shall provide, or shall be amended to provide, that such person, and officers and employees of the person, shall comply with all such applicable conditions and restrictions as may be prescribed by the Service by regulation, published rules or procedures, or written communication to such person. If the Service determines that any person, or an officer or employee of any such person, to whom returns or return information has been disclosed as provided in paragraph (a) has failed to, or does not, satisfy such prescribed conditions or requirements, the Service may take such actions as are deemed necessary to ensure that such conditions or requirements are or will be satisfied, including—

- (1) Suspension or termination of any duty or obligation arising under a contract with the Treasury Department referred to in this paragraph or suspension of disclosures by the Treasury Department otherwise authorized by paragraph (a) of this section, or
- (2) Suspension of further disclosures of returns or return information by the Service to the State tax agency, or to the Department of Justice, until the Service determines that such conditions and requirements have been or will be satisfied.

- (e) *Definitions.* For purposes of this section—

- (1) The term *Treasury Department* includes the Internal Revenue Service and the Office of the Chief Counsel for the Internal Revenue Service;
- (2) The term *State tax agency* means an agency, body, or commission described in section 6103(d) of the Code; and
- (3) The term *Department of Justice* includes offices of the United States Attorneys.

**IRS Publication 1075 (Rev. 8-2010) Section 5.5 Control over Processing**

Processing of FTI, in an electronic media format, including removable media, microfilms, photo impressions, or other formats (including tape reformatting or reproduction or conversion to punch cards, digital images or hard copy printout) will be performed pursuant to one of the following procedures:

**5.5.1 Agency Owned and Operated Facility**

Processing under this method will take place in a manner that will protect the confidentiality of the information on the electronic media. All safeguards outlined in this publication also must be followed and will be subject to IRS safeguard reviews.

**5.5.2 Contractor or Agency Shared Facility – Consolidated Data Centers**

Recipients of FTI are allowed to use a shared facility but only in a manner that does not allow access to FTI by employees, agents, representatives or contractors of other agencies using the shared facility.

**Note:** For purposes of applying sections 6103(l), (m) and (n), the term “agent” includes contractors. Access restrictions pursuant to the IRC authority by which the FTI is received continue to apply. For example, since human services agencies administering benefit eligibility programs may not allow contractor access to any FTI received, their data within the consolidated data center may not be accessed by any contractor of the data center.

The requirements in Exhibit 7, Contract Language for General Services, must be included in the contract in accordance with IRC Section 6103(n).

The contractor or agency-shared computer facility is also subject to IRS safeguard reviews.

**Note:** The above rules also apply to releasing electronic media to a private contractor or other agency office even if the purpose is merely to erase the old media for reuse.

Agencies utilizing consolidated data centers must implement appropriate controls to ensure the protection of FTI, including a service level agreement (SLA) between the

agency authorized to receive FTI and the consolidated data center. The SLA should cover the following:

The consolidated data center is considered to be a “contractor” of the agency receiving FTI. The agency receiving FTI – whether it is a state revenue, workforce, child support enforcement or human services agency – is responsible for ensuring the protection of all FTI received. However, as the “contractor” for the agency receiving FTI, the consolidated data center shares responsibility for safeguarding FTI as well.

Provide written notification to the consolidated data center management that they are bound by the provisions of Publication 1075, relative to protecting all federal tax information within their possession or control. The SLA should also include details concerning the consolidated data center’s responsibilities during a safeguard review and support required to resolve identified findings.

The agency will conduct an internal inspection of the consolidated data center every eighteen months (see section 6.3). Multiple agencies sharing a consolidated data center may partner together to conduct a single, comprehensive internal inspection. However, care should be taken to ensure agency representatives do not gain unauthorized access to other agency’s FTI during the internal inspection.

The employees from the consolidated data center with access to FTI, including system administrators and programmers, must receive disclosure awareness training prior to access to FTI and annually thereafter and sign a confidentiality statement. This provision also extends to any contractors hired by the consolidated data center that has access to FTI.

The specific data breach incident reporting procedures for all consolidated data center employees and contractors. The required disclosure awareness training must include a review of these procedures.

The Exhibit 7 language must be included in the contract between the recipient agency and the consolidated data center, including all contracts involving contractors hired by the consolidated data center.

Identify responsibilities for coordination of the 45-day notification of the use of contractors or sub-contractors with access to FTI.

**Note:** Generally, consolidated data centers are either operated by a separate state agency (example: Department of Information Services) or by a private contractor. If an agency is considering transitioning to either a state owned or

private vendor consolidated data center, the Office of Safeguards strongly suggests the agency submit a request for discussions with Safeguards as early as possible in the decision-making or implementation planning process. The purpose of these discussions is to ensure the agency remains in compliance with safeguarding requirements during the transition to the consolidated data center.

## **26 U.S.C. §7213. Unauthorized disclosure of information**

### **(a) Returns and return information**

#### **(1) Federal employees and other persons**

It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former officer or employee, willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.

#### **(2) State and other employees**

It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (i)(3)(B)(i) or (7)(A)(ii), (l)(6), (7), (8), (9), (10), (12), (15), (16), (19), or (20) or (m)(2), (4), (5), (6), or (7) of section 6103.

Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

#### **(3) Other persons**

It shall be unlawful for any person to whom any return or return information (as defined in section 6103(b)) is disclosed in a manner unauthorized by this title thereafter willfully to print or publish in any manner not provided by law any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

#### **(4) Solicitation**

It shall be unlawful for any person willfully to offer any item of material value in exchange for any return or return information (as defined in section 6103(b)) and to receive as a result of such solicitation any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

#### **(5) Shareholders**

It shall be unlawful for any person to whom a return or return information (as defined in section 6103(b)) is disclosed pursuant to the provisions of section 6103(e)(1)(D)(iii) willfully to disclose such return or return information in any

manner not provided by law. Any violation of this paragraph shall be a felony punishable by a fine in any amount not to exceed \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

**(b) Disclosure of operations of manufacturer or producer** Any officer or employee of the United States who divulges or makes known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution; and the offender shall be dismissed from office or discharged from employment.

#### **(c) Disclosures by certain delegates of Secretary**

All provisions of law relating to the disclosure of information, and all provisions of law relating to penalties for unauthorized disclosure of information, which are applicable in respect of any function under this title when performed by an officer or employee of the Treasury Department are likewise applicable in respect of such function when performed by any person who is a "delegate" within the meaning of section 7701(a)(12)(B).

#### **(d) Disclosure of software**

Any person who willfully divulges or makes known software (as defined in section 7612(d)(1)) to any person in violation of section 7612 shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

#### **(e) Cross references**

#### **(1) Penalties for disclosure of information by preparers of returns**

For penalty for disclosure or use of information by preparers of returns, see section 7216.

#### **(2) Penalties for disclosure of confidential information**

For penalties for disclosure of confidential information by any officer or employee of the United States or any department or agency thereof, see 18 U.S.C. 1905.

## **26 U.S.C. §7213A. Unauthorized inspection of returns or return information**

### **(a) Prohibitions**

#### **(1) Federal employees and other persons** It shall be unlawful for—

**(A)** any officer or employee of the United States, or

**(B)** any person described in subsection (l)(18) or (n) of section 6103 or an officer or employee of any such person, willfully to inspect, except as authorized in this title, any return or return information.

#### **(2) State and other employees**

It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such

person or another person under a provision of section 6103 referred to in section 7213 (a)(2) or under section 6104 (c).

**(b) Penalty**

**(1) In general**

Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding \$1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

**(2) Federal officers or employees**

An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

**(c) Definitions**

For purposes of this section, the terms "inspect", "return", and "return information" have the respective meanings given such terms by section 6103 (b).

**26 U.S.C. §7431. Civil damages for unauthorized inspection or disclosure of returns and return information**

**(a) In general**

**(1)** Inspection or disclosure by employee of United States  
If any officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

**(2)** Inspection or disclosure by a person who is not an employee of United States

If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

**(b) Exceptions**

No liability shall arise under this section with respect to any inspection or disclosure -

**(1)** which results from a good faith, but erroneous, interpretation of section 6103, or

**(2)** which is requested by the taxpayer.

**(c) Damages**

In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of -

**(1)** the greater of -

**(A)** \$1,000 for each act of unauthorized inspection or disclosure of a return or return information with respect to which such defendant is found liable, or

**(B)** the sum of -

**(i)** the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure, plus

**(ii)** in the case of a willful inspection or disclosure or an inspection or disclosure which is the result of gross negligence, punitive damages, plus

**(2)** the costs of the action, plus

**(3)** in the case of a plaintiff which is described in section 7430(c)(4)(A)(ii), reasonable attorneys fees, except that if the defendant is the United States, reasonable attorneys fees may be awarded only if the plaintiff is the prevailing party (as determined under section 7430(c)(4)).

**(d) Period for bringing action**

Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized inspection or disclosure.

**(e) Notification of unlawful inspection and disclosure**

If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of -

**(1)** paragraph (1) or (2) of section 7213(a),

**(2)** section 7213A(a), or

**(3)** subparagraph (B) of section 1030(a)(2) of title 18, United States Code, the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.

**(f) Definitions**

For purposes of this section, the terms "inspect", "inspection", "return", and "return information" have the respective meanings given such terms by section 6103(b).

**(g) Extension to information obtained under section 3406**

For purposes of this section -

**(1)** any information obtained under section 3406 (including information with respect to any payee certification failure under subsection (d) thereof) shall be treated as return information, and

**(2)** any inspection or use of such information other than for purposes of meeting any requirement under section 3406 or (subject to the safeguards set forth in section 6103) for purposes permitted under section 6103 shall be treated as a violation of section 6103. For purposes of subsection (b), the reference to section 6103 shall be treated as including a reference to section 3406.

**(h) Special rule for information obtained under section 6103(k)(9)**

For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e)

## EXHIBIT E SECURITY AND DATA PROTECTION

Contractor shall certify to the State compliance with applicable industry standards and guidelines, including but not limited to relevant security provisions of the California State Administrative Manual (SAM), California Statewide Information Management Manual (SIMM), The National Institute of Standards and Technology (NIST) 800-53 v4 and Federal Information Processing Standard (FIPS) Publication 199 which protect and minimize risk to the State. At a minimum, provision shall cover the following:

1. The Contractor assumes responsibility of the confidentiality, integrity and availability of the data under its control. The Contractor shall implement and maintain all appropriate administrative, physical, technical, and procedural safeguards at all times during the term of the Agreement to secure such data from data breach or loss, protect the data and information assets from breaches, introduction of viruses, disabling of devices, malware and other forms of malicious or inadvertent acts that can disrupt the State's access to its data or affects the integrity of that data.
2. Confidential, sensitive or personal information shall be encrypted in accordance with SAM 5350.1 and SIMM 5305-A.
3. The Contractor shall comply with statewide policies and laws regarding the use and protection of information assets and data. Unauthorized use of data by Contractor or third parties is prohibited.
4. Signed Security and Confidentiality Statement for all personnel assigned during the term of the Agreement.
5. Apply security patches and upgrades, and keep virus protection software up-to-date on all information asset on which data may be stored, processed, or transmitted.
6. The Contractor shall notify the State data owner immediately if a security incident involving the information asset occurs.
7. The State data owner shall have the right to participate in the investigation of a security incident involving its data or conduct its own independent investigation. The Contractor shall allow the State reasonable access to security logs, latency statistics, and other related security data that affects this Agreement and the State's data, at no cost to the State.
8. The Contractor shall be responsible for all costs incurred by the State due to security incident resulting from the Contractor's failure to perform or negligent acts of its personnel, and resulting in an unauthorized disclosure, release, access, review, destruction; loss, theft or misuse of an information asset. If the contractor experiences a loss or breach of data, the contractor shall immediately report the loss or breach to the State. If the State data owner determines that notice to the individuals whose data has been lost or breached is appropriate, the contractor will bear any and all costs associated with the notice or any mitigation selected by the data owner. These costs include, but are not limited to, staff time, material costs, postage, media announcements, and other identifiable costs associated with the breach or loss of data.
9. The Contractor shall immediately notify and work cooperatively with the State data owner to respond timely and correctly to public records act requests.
10. The Contractor will dispose of records of State data as instructed by the State during the term of this agreement. No data shall be copied, modified, destroyed or deleted by the Contractor other than for normal operation or maintenance during the Agreement period without prior written notice to and written approval by the State.
11. Remote access to data from outside the territorial United States, including remote access to data by authorized support staff in identified support centers, is prohibited unless approved in advance by the State.
12. The physical location of Contractor's data center where the Data is stored shall be within the territorial United States.