



State of Idaho

CHANGE ORDER - 04
PLEASE DO NOT DUPLICATE THIS ORDER.

Change Order Summary		Supplier
Purchase Order Number:	SBPO1388	Andrea Keno Dell Marketing L.P. ONE DELL WAY Round Rock, TX 78682 Phone: 425-281-5708
Account Number:	AC-1	Fax:
Revision Number:	04	Email: Andrea_Keno@dell.com
Change Order Date:	July 27, 2018	
Service Start Date:	August 1, 2018	
Service End Date:	September 30, 2018	
Payment Method:	Invoice	
Payment Terms:	No Payment Terms specified	
Currency	USD	
FOB Instruction:	Destination	
Attachment(s):	<u>ChangeLog.htm</u> :Purchase Order Change	

Contract Number:

Bill To Address	Ship To Address
DOP - Various State Agencies State of Idaho Various Locations See Below for Details on Specific Locations Various, Idaho 83702	DOP - Various State Agencies State of Idaho Various Locations See Below for Details on Specific Locations Various, Idaho 83702
Phone: 208-327-7465	Phone: 208-327-7465
Fax: 208-327-7320	Fax: 208-327-7320
Email: purchasing@adm.idaho.gov	Email: purchasing@adm.idaho.gov
Mail Stop: DOP - Various Locations	Mail Stop: DOP - Various Locations

Instructions

SBPO1388, Software Value Added Reseller for various State of Idaho Agencies, Institutions, and departments and eligible political subdivisions or public agencies as defined by Idaho Code, Section 67-2327 (the "Contract") is amended effective July 27, 2018. All of the terms and conditions contained in the Contract shall remain in full force and effect, except as expressly modified herein.

SBPO1388 is amended as follows:

The Contract is amended per the attached Amendment with the heading "Amendment Number Four (4) to Statewide Contract for Software Value Added Reseller, Contract Number SBPO1388" (document with the document file name "SBPO1388 AM 4.pdf").

(The Pricing Sheet has also been updated, and the amendment includes a contract extension for the period of August 1, 2018 through September 30, 2018.)

NO OTHER CHANGES NOTED.

Contract History:

Initial contract term, 2/1/13 – 7/31/15. Estimated total amount: \$9,999,999.00.

Renewal 01, 8/1/15 – 7/31/18. Estimated annual amount: \$13,500,000.00.

Amendment 2. Estimated value: \$0.00.

Amendment 3. Estimated value: \$0.00.

Amendment 4 (includes Extension, 8/1/18 – 9/30/18). Estimated value: \$400,000.00.

Total estimated contract value: \$23,899,999.00.

		Items			
Supplier Part Number	Quantity	Back Order	Unit	Unit Price	Total
92000	1.00	0	LO	400,000.00	\$400,000.00

Item Description

#1

Contract extension period: August 1, 2018 through September 30, 2018.



Delivery Date:

January 07, 2017

Shipping Method:

Delivery

Shipping Instructions:


Ship FOB:

Attachment(s)

Special Instructions:

Sub-Total (USD)	\$400,000.00
Estimated Tax (USD)	\$0.00
TOTAL: (USD)	\$400,000.00

Note: If there is a  next to an item's unit price, that indicates that the price has been discounted.

Signature : 

Signed By : Jason R. Urquhart

Amendment No. Four (4)
to
Statewide Contract for Software Value Added Reseller,
Contract Number SBPO1388

Parties: State of Idaho the "State"
By and Through the Division of Purchasing "DOP"

and

Dell Marketing, L.P. the "Contractor"

Recitals:

A. Whereas the State has on-going needs for multiple software products, and found that its needs could be met via Software Value Added Reseller contracts.

B. The Parties entered into a Contract for Provision of Software Value Added Reseller, contract number SBPO1388 (the "Contract"), effective February 1, 2012.

B. Whereas, due to the length of time that it will take to change Microsoft Large Account Resellers, the State desires to extend the term of the Contract through September 30, 2018, specifically for Microsoft products only.

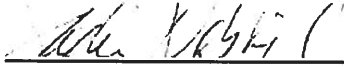
Based on the above recitals, and good and valuable consideration, the receipt of which is hereby acknowledged, the Contract is amended as follows:

1. The Contract is extended for the period of August 1, 2018 through September 30, 2018.
2. Effective August 1, 2018, all publishers and corresponding products with the exception of Microsoft are deleted from the Contract. This is reflected in the attached three (3) tab document with the heading "Exhibit A – Dell Cost Proposal – (Last modified on June 15, 2018)".
3. Effective August 1, 2018, section B.3, Administrative Fee, is deleted from the Contract.
4. Effective August 1, 2018, section 5, Administrative Fee (of the State of Idaho Standard Contract Terms and Conditions that are part of the Contract, is deleted from the Contract.

5. Except as expressly modified in this Amendment, all other terms and conditions of the Contract remain in full force and effect.
6. This Amendment is effective as of the last date signed below. In no event will this Amendment be effective until executed by DOP.

Contractor

State of Idaho, Division of Purchasing



Sadie Robbins
Contracts Manager



Jason R. Urquhart, CPPO, CPPB
Purchasing Officer

Date: 7/17/18

Date: 7/27/18

IDAHO

State of Idaho

CHANGE ORDER - 03

PLEASE DO NOT DUPLICATE THIS ORDER.

Change Order Summary

Purchase Order Number: SBPO1388

Account Number: AC-1

Revision Number: 03

Change Order Date: January 10, 2017

Service Start Date: August 1, 2015

Service End Date: July 31, 2018

Payment Method: Invoice

Payment Terms: No Payment Terms specified

Currency: USD

FOB Instruction: Destination

Attachment(s): [ChangeLog.htm](#) :Purchase Order Change

Supplier

Andrea Keno
 DELL INC.
 ONE DELL WAY
 Round Rock, TX 78682
Phone: 425-281-5708

Fax:

Email: Andrea_Keno@dell.com

Buyer Contact

Jason Urquhart
 Tel:208-332-1608
 Fax: 208-327-7320
 jason.urquhart@adm.idaho.gov

Contract Number:

Bill To Address

DOP - Various State Agencies
 State of Idaho
 Various Locations
 See Below for Details
 on Specific Locations
 Various, Idaho 83702

Phone: 208-327-7465

Fax: 208-327-7320

Email: purchasing@adm.idaho.gov

Mail Stop: DOP - Various Locations

Ship To Address

DOP - Various State Agencies
 State of Idaho
 Various Locations
 See Below for Details
 on Specific Locations
 Various, Idaho 83702

Phone: 208-327-7465

Fax: 208-327-7320

Email: purchasing@adm.idaho.gov

Mail Stop: DOP - Various Locations

Instructions

SBPO1388, Software Value Added Reseller for various State of Idaho Agencies, Institutions, and departments and eligible political subdivisions or public agencies as defined by Idaho Code, Section 67-2327 (the "Contract") is amended effective January 6, 2017. All of the terms and conditions contained in the Contract shall remain in full force and effect, except as expressly modified herein.

SBPO1388 is amended as follows:

The Contract is amended per the attached Amendment with the heading "Amendment Number Three (3) to Statewide Contract for Software Value Added Reseller Contract Number SBPO1388 " (document with the document file name "SBPO1388 AM 3.pdf").

(The Pricing Sheet has also been updated.)

NO OTHER CHANGES NOTED.

Contract History:

Initial contract term, 2/1/13 – 7/31/15. Estimated total amount: \$9,999,999.00.

Renewal 01, 8/1/15 – 7/31/18. Estimated annual amount: \$13,500,000.00.

Amendment 2. Estimated value: \$0.00.

Amendment 3. Estimated value: \$0.00.

Total estimated contract value: \$23,499,999.00.

Items					
Supplier Part Number	Quantity	Back Order	Unit	Unit Price	Total
92000	3.00	0	ANN	4,500,000.00	\$13,500,000.00

Item Description

#1

Contract renewal period: August 1, 2015 through July 31, 2018.

☞

Delivery Date:

January 7, 2017

Shipping Method:

Delivery

Shipping Instructions:

Ship FOB:

Attachment(s)

Special Instructions:

Sub-Total (USD) \$13,500,000.00

Estimated Tax (USD) \$0.00

TOTAL: (USD) \$13,500,000.00

Note: If there is a  next to an item's unit price, that indicates that the price has been discounted.

Signature :



Signed By : Jason R. Urquhart

Amendment No. Three (3)
to
Statewide Contract for Software Value Added Reseller,
Contract Number SBPO1388

Parties: State of Idaho the "State"
By and Through the Division of Purchasing "DOP"

and

Dell, Inc. the "Contractor"

Recitals:

- A. Whereas the State has on-going needs for multiple software products, and found that its needs could be met via Software Value Added Reseller contracts.
- B. The Parties entered into a Contract for Provision of Software Value Added Reseller, contract number SBPO1388 (the "Contract"), effective February 1, 2012.
- B. Whereas the State desires to add the publisher Commvault to the Contract.

Based on the above recitals, and good and valuable consideration, the receipt of which is hereby acknowledged, the Contract is amended as follows:

1. In accordance with section 4.3.1, the following publisher is added to Exhibit A -- Dell Cost Proposal, Category 3 Other Publishers -- Cost Proposal, along with corresponding pricing as identified in the document with the heading "Exhibit A - Dell Cost Proposal -- (Last modified December 20, 2016)":
 - a. Commvault
2. In accordance with section 4.3.1, the following publisher is deleted from Exhibit A -- Dell Cost Proposal, Category 3 Other Publishers -- Cost Proposal:
 - a. Nuance
3. The current cost proposal (Exhibit A) is hereby deleted and replaced by the attached cost proposal. See the document with the heading "Exhibit A - Dell Cost Proposal -- (Last modified December 20, 2016)".
4. Except as expressly modified in this Amendment, all other terms and conditions of the Contract remain in full force and effect.

5. This Amendment is effective as of the last date signed below. In no event will this Amendment be effective until executed by DOP.

Contractor



Sadie Robbins
Contracts Manager

Date: 12/21/16

State of Idaho, Division of Purchasing



Jason R. Urquhart, CPPO, CPPB
Purchasing Officer

Date: 1/6/17



State of Idaho

CHANGE ORDER - 02

PLEASE DO NOT DUPLICATE THIS ORDER.

Change Order Summary

Purchase Order Number: SBPO1388

Account Number: AC-1

Revision Number: 02

Change Order Date: December 2, 2015

Service Start Date: August 1, 2015

Service End Date: July 31, 2018

Payment Method: Invoice

Payment Terms: No Payment Terms specified

Currency: USD

FOB Instruction: Destination

Attachment(s): [ChangeLog.htm](#) :Purchase Order Change

Supplier

Andrea Keno
 DELL INC.
 ONE DELL WAY
 Round Rock, TX 78682
Phone: 425-281-5708

Fax:

Email: Andrea_Keno@dell.com

Buyer Contact

Jason Urquhart
 Tel:208-332-1608
 Fax: 208-327-7320
 jason.urquhart@adm.idaho.gov

Contract Number:

Bill To Address

DOP - Various State Agencies
 State of Idaho
 Various Locations
 See Below for Details
 on Specific Locations
 Various, Idaho 83702

Phone: 208-327-7465

Fax: 208-327-7320

Email: purchasing@adm.idaho.gov

Mail Stop: DOP - Various Locations

Ship To Address

DOP - Various State Agencies
 State of Idaho
 Various Locations
 See Below for Details
 on Specific Locations
 Various, Idaho 83702

Phone: 208-327-7465

Fax: 208-327-7320

Email: purchasing@adm.idaho.gov

Mail Stop: DOP - Various Locations

Instructions

SBPO1388, Software Value Added Reseller for various State of Idaho Agencies, Institutions, and departments and eligible political subdivisions or public agencies as defined by Idaho Code, Section 67-2327 (the "Contract") is amended effective November 24, 2015. All of the terms and conditions contained in the Contract shall remain in full force and effect, except as expressly modified herein.

SBPO1388 is amended as follows:

The Contract is amended per the attached Amendment with the heading "Amendment Number Two (2) to Contract Number SBPO1388 Statewide Contract for Software Value Added Reseller" (document with the document file name "SBPO1388 AM 2.pdf").

(The Pricing Sheet has also been updated.)

NO OTHER CHANGES NOTED.

Contract History:
 Initial contract term, 2/1/13 - 7/31/15. Estimated total amount: \$9,999,999.00.
 Renewal 01, 8/1/15 - 7/31/18. Estimated annual amount: \$13,500,000.00.
 Amendment 2. Estimated value: \$0.00.
 Total estimated contract value: \$23,499,999.00.

Items					
Supplier Part Number	Quantity	Back Order	Unit	Unit Price	Total
92000	3	0	ANN	\$4,500,000.00	\$13,500,000.00

Item Description #1
 Contract renewal period: August 1, 2015 through July 31, 2018.

Delivery Date: November 26, 2015
Shipping Method: Delivery
Shipping Instructions:
Ship FOB:
Attachment(s)
Special Instructions:

Sub-Total (USD) \$13,500,000.00
Estimated Tax (USD) \$0.00
TOTAL: (USD) \$13,500,000.00

Note: If there is a  next to an item's unit price, that indicates that the price has been discounted.

Signature : 
Signed By : Jason R. Urquhart

Amendment No. Two (2)
to
Statewide Contract for Software Value Added Reseller,
Contract Number SBPO1388

Parties: State of Idaho the "State"
By and Through the Division of Purchasing "DOP"

and

Dell, Inc. the "Contractor"

Recitals:

A. The Parties entered into a Contract for Provision of Software Value Added Reseller, contract number SBPO1388 (the "Contract"), effective February 1, 2012.

B. The State has found a need to modify language pertaining to the limitation of cloud-based products, to change the pricing of Category 1 from actual dollar figures to only mark-up percentages, and to require that the Contractor provide monthly updates of Category 1 pricing to the State.

Based on the above recitals, and good and valuable consideration, the receipt of which is hereby acknowledged, the Contract is amended as follows:

1. The second paragraph of contract SBPO1388 subsection 4.1, Software Category 1 – Microsoft Enterprise Software Advisor, is changed to read as follows:

"Regarding Microsoft software offerings where the software's primary function is to offer Platform as a Service, Infrastructure as a Service, or Software as a Service, only Software as a Service, specifically Office 365, will be part of any resulting contract(s). The State, however, retains its right to add or remove Microsoft software offerings should the State determine it to be in its best interest."

2. The first paragraph of contract SBPO1388 subsection 5.2, Software Category 1_Microsoft Enterprise and Select, is changed to read as follows:

"Regarding Microsoft software offerings where the software's primary function is to offer Platform as a Service, Infrastructure as a Service, or Software as a Service, only Software as a Service, specifically, only Office 365 will be part of any resulting contract(s). The State, however, retains its right to add or remove Microsoft software offerings should the State determine it to be in its best interest."

3. Contract SBPO1388 subsection 5.2.1 is changed to read as follows:

"Currently the State of Idaho is receiving level "D" pricing for all its Microsoft application, system, and server pools, as well as level "D" pricing for all its enterprise licensing. The Contractor shall provide level "D" pricing for the duration of the Contract, as noted in Exhibit A (attached)."

4. Contract SBPO1388 subsection 5.2.5 is changed to read as follows:

"5.2.5 The Contractor shall provide monthly updates showing current Microsoft channel product prices for Microsoft Select Plus products that can be purchased under the Contract. The updates shall be provided via email to a minimum of two (2) state of Idaho contacts that the State will identify to the Contractor. Additionally, the pricing updates shall differentiate pricing that factors Educational discounts.

For a three (3) year period following the end of the contract, the state reserves the right to request from the Contractor access to and/or a copy of the Microsoft channel pricing for pricing verification. Failure to provide the requested price list within three (3) business days following the state's request may result in contract termination.

All costs associated with the specifications of this RFP must be detailed and included in your Mandatory Cost Proposal. Note that all labor associated costs must include all fully burdened labor and associated travel expenses including, but not limited to, per diem, airfare and/or mileage, lodging, and administrative costs."

5. Contract SBPO1388 subsection 5.2.7 is hereby deleted from the contract.

Except as expressly modified in this Amendment, all other terms and conditions of the Contract remain in full force and effect.


This Amendment is effective as of the last date signed below. In no event will this Amendment be effective until executed by DOP.

Contractor


Amanda Hudson
Contracts Manager

Date: 11/23/15

State of Idaho, Division of Purchasing


Jason R. Urquhart, CPPO, CPPB
Purchasing Officer

Date: 11/24/15



State of Idaho

CHANGE ORDER - 01

PLEASE DO NOT DUPLICATE THIS ORDER.

Change Order Summary

Purchase Order Number: SBPO1388

Account Number: AC-1

Revision Number: 01

Change Order Date: July 31, 2015

Service Start Date: August 1, 2015

Service End Date: July 31, 2018

Payment Method: Invoice

Payment Terms: No Payment Terms specified

Currency: USD

FOB Instruction: Destination

Attachment(s): [ChangeLog.htm](#) :Purchase Order Change

Supplier

Andrea Keno
 DELL INC.
 ONE DELL WAY
 Round Rock, TX 78682
Phone: 425-281-5708

Fax:

Email: Andrea_Keno@dell.com

Buyer Contact

Jason Urquhart
 Tel:208-332-1608
 Fax: 208-327-7320
 jason.urquhart@adm.idaho.gov

Contract Number:

Bill To Address

DOP - Various State Agencies
 State of Idaho
 Various Locations
 See Below for Details
 on Specific Locations
 Various, Idaho 83702

Phone: 208-327-7465

Fax: 208-327-7320

Email: purchasing@adm.idaho.gov

Mail Stop: DOP - Various Locations

Ship To Address

DOP - Various State Agencies
 State of Idaho
 Various Locations
 See Below for Details
 on Specific Locations
 Various, Idaho 83702

Phone: 208-327-7465

Fax: 208-327-7320

Email: purchasing@adm.idaho.gov

Mail Stop: DOP - Various Locations

Instructions

SBPO1388, Software Value Added Reseller for various State of Idaho Agencies, Institutions, and Departments (the "Contract") is renewed for an additional period of time, as provided above. All of the terms and conditions contained in the Contract shall remain in full force and effect, except as expressly modified herein. Contractor's signed renewal letter is attached and incorporated herein by reference.

Note: The dollar amount listed in the contract renewal pricing is an estimate and cannot be guaranteed. The actual dollar amount of the Contract may be more or less depending on the orders placed by the State; or may be dependent upon the specific terms of the Contract.

Per the attached renewal letter (dated July 22, 2015, to which the Contractor agreed on July 28, 2015) the second paragraphs of Contract subsections 4.2.1 and 4.3.1 have been changed.

Contract History:
 Initial contract term, 2/1/13 - 7/31/15. Estimated total amount: \$9,999,999.00.
 Renewal 01, 8/1/15 - 7/31/18. Estimated annual amount: \$13,500,000.00.
 Total estimated contract value: \$23,499,999.00.

Items					
Supplier Part Number	Quantity	Back Order	Unit	Unit Price	Total
92000	3	0	ANN	\$4,500,000.00	\$13,500,000.00

Item Description

#1

Contract renewal period: August 1, 2015 through July 31, 2018.



Delivery Date:

July 31, 2015

Shipping Method:

Delivery

Shipping Instructions:

Ship FOB:

Attachment(s)

Special Instructions:

Sub-Total (USD)	\$13,500,000.00
Estimated Tax (USD)	\$0.00
TOTAL: (USD)	\$13,500,000.00

Note: If there is a  next to an item's unit price, that indicates that the price has been discounted.

Signature : _____

Signed By : Jason R. Urquhart



C.L. "Butch" OTTER
Governor
D. KEITH REYNOLDS
Acting Director
BILL BURNS
Administrator

State of Idaho

Department of Administration
Division of Purchasing

650 West State Street B-15 (83702)
P. O. Box 83720
Boise, ID 83720-0075
Telephone (208) 327-7465
Fax: 208-327-7320
<http://purchasing.idaho.gov>

July 22, 2015

Dell Inc.
Attn: Amanda Hudson

VIA ELECTRONIC TRANSMISSION
amanda_hudson@dell.com

RE: Renewal of Contract SBPO01388, a Statewide Contract for Software Value Added Reseller for the State of Idaho

Expiring July 31, 2015

The state of Idaho (the "State") would like to renew the above referenced contract for a period of Three (3) Years.

The contract renewal period is August 1, 2015 through July 31, 2018. The same terms, conditions and prices prevail for the contract renewal period, except as expressly modified herein.

We have previously discussed both the addition of and removal of products to and from the contract. However, we find that time is not going to permit such during the renewal process. However, as part of the renewal, the State requests the following changes to the contract:

1. The second paragraph of contract SBPO1388 subsection 4.2.1 is changed to read as follows:

"Over the life of the contract, product needs or volumes may change and publishers may be added to or deleted from the itemized publishers' lists by addendum to the contract. Contractor agrees that there are no software publishers with whom they will refuse to do business if the Software Publisher is willing to do business with them. Should the State request products to be added, Contractor will contact the IT Purchasing Officer for the State of any obstructions to adding the product."

2. The second paragraph of contract SBPO1388 subsection 4.3.1 is changed to read as follows:

"Over the life of the contract, product needs or volumes may change and publishers may be added to or deleted from the itemized publishers' lists by addendum to the contract. Contractor agrees that there are no software publishers with whom they will refuse to do business if the Software Publisher is

willing to do business with them. Should the State request products to be added, Contractor will contact the IT Purchasing Officer for the State of any obstructions to adding the product. Contractor will be required to provide proof to the IT Purchasing Officer of their authorization to resell added products prior to be authorized to resell to the State."

Please note that, after the contract is renewed, it is likely that we will request that certain items be added to and deleted from the contract.

And, as I've relayed to you previously, the state of Idaho is working on a Participating Addendum to participate in the NASPO ValuePoint (formerly WSCA) Software VAR contract, which contract, if awarded, will be active at the same time as SBPO1388.

If the terms of this renewal letter are acceptable to your company, please sign in the appropriate space below and mail, fax (208.327.7320) or e-mail (purchasing@adm.idaho.gov) to the Division of Purchasing **no later than 5 p.m. Mountain time, July 24, 2015**. If you need to update the contact information for this contract, please do so below. Please update your IPRO profile as well, if necessary, in order to continue to receive e-mail notifications through the IPRO System.

Thank you for your consideration in this matter.


Sincerely,

APPROVED: YES NO



Jason Urquhart
Idaho Division of Purchasing BY:

COMPANY: Dell Marketing, L.P.



(Signature)

Amanda E. Hudson

(Printed Name)

Date: July 28th, 2015

UPDATED CONTACT INFORMATION for SBPO1388:

Contact Name	
Title	
Address	
Phone	
Fax	
E-mail	



THIS NUMBER MUST APPEAR
ON ALL DOCUMENTS

Bill To:
State of Idaho

Send invoices to the address listed
below or as indicated in the
comments or instructions field
Boise, ID 83720-0075

State of Idaho

Statewide Blanket Purchase Order
SBPO1388

Statewide Blanket Purchase Order

DELIVER TO: State of Idaho Various Agencies
Various State Agencies
located throughout Idaho

Various, ID 83701
Mark.Little@adm.idaho.gov

Date: Tue Jan 31, 2012
F.O.B.: Destination
Terms:

VENDOR: DELL INC.
DELL
ONE DELL WAY
Round Rock, TX 78682
Attn: Software Account Executive
Vendor Nbr:
Emailed To: Andrea_Keno@dell.com
Phone: 425-281-5708
Fax:
eCommerce ID: P0000083608

Start of Service Date Wed Feb 01, 2012
End of Service Date: Fri Jul 31, 2015

Solicitation#: [RFQ09101](#)
DOC#: [PREQ19886](#)

1 Header Attachments
Dell Contract.pdf

Buyer: [GREGORY LINDSTROM](#) 208-332-1609

Item No	Description	Quantity UOM	Unit Price	Extension
000	BLANKET PURCHASE AGREEMENT (line item particulars follow)	1 lot		9999999.00
Total:				9999999.00

Blanket Comments:

Item No	Description	Quantity UOM	Unit Price	Extension
001	Software Value Added Reseller, per the attached contract document (920-00) (nt)	3 YEAR	\$3,333,333.00	\$9,999,999.00

General Comments:

.....NOTICE OF STATEWIDE CONTRACT (SBPO) AWARD

Contract for Software Value Added Reseller, as needed, for the benefit of State of Idaho Agencies, institutions, and departments and eligible political subdivisions or public agencies as defined by Idaho Code, Section 67-2327, and other authorized entities. The Division of Purchasing or the requisitioning agency will issue individual releases (delivery or purchase orders) against this Contract on an as needed basis. This Contract is to be drawn upon as requested period noted above.

Contract Title:..... Software Value Added Reseller
 Access Contract Usage Type:.....Open Contract
 Public Agency Clause:Yes
 Contract Administration:.... Gregory Lindstrom
 ---Phone Number:.....208-332-1609
 ---E-Mail:.....gregory.lindstrom@adm.idaho.gov

Contractor's Primary Contact
 ---Attn:.....Stephanie G Miller
 --Address:..... One Dell Way
 Mail Stop 8707

---City, State, Zip:.....Round Rock TX 78682
Phone Number:..... 512-723-4355
E-Mail:..... Stephanie_g_miller@dell.com

CONTRACTOR: Ship to the FOB DESTINATION point and BILL DIRECTLY to the ORDERING AGENCY. DO NOT MAIL INVOICES TO THE DIVISION OF PURCHASING. Notating the Contract Award Number on any invoices/statement will facilitate the efficient processing of payment.

QUANTITIES: The State of Idaho, Division of Purchasing can only give approximations of quantities and will not be held responsible for figures given in this document.

Payment Address & Delivery Information
Same as above

THIS CONTRACT, (including any files attached), CONSTITUTES THE STATE OF IDAHO'S ACCEPTANCE OF YOUR SIGNED BID, QUOTATION, OR OFFER (including any electronic bid submission), WHICH SUBMISSION IS INCORPORATED HEREIN BY REFERENCE AS THOUGH SET FORTH IN FULL.

In the event of any inconsistency, unless otherwise provided herein, such inconsistency shall be resolved by giving precedence in the following order:

- 1. This Statewide Blanket Purchase Order document.**
- 2. The state of Idaho's original solicitation document.**
- 3. The Contractor's signed bid, quotation, or offer.**

INVOICES MUST BE SENT TO THE IDAHO ORDERING AGENCY.

Instructions:

Freight / Handling Included in Price

Signed By: GREGORY D. LINDSTROM

AWARD OF CONTRACT

THIS AWARD OF CONTRACT ("Award") is entered as of the ___ day of January 2012 by and between the State of Idaho, Department of Administration, Division of Purchasing ("Purchasing") and Dell Marketing, LP, a Texas Limited Partnership ("Dell").

RECITALS

- A. Purchasing issued a request for proposals for a software value-added reseller & Microsoft Enterprise Software Advisor (ESA) on or about October 5, 2011 (the "RFP");
- B. Only one proposal was received in response to the RFP;
- C. After reviewing proposal submitted under the RFP, Purchasing determined that the RFP was not successful and canceled the RFP;
- D. Pursuant to IDAPA 38.05.01.084.02, Purchasing entered into negotiations with Dell to acquire the services sought under the RFP.
- E. Dell has proposed product and services costs (the "Cost Proposal").
- F. The State of Idaho and Dell desire to enter into a contract for the services of a software value-added reseller & Microsoft ESA based upon the RFP and the Cost Proposal.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated herein as if set forth in full, and the mutual promises and covenants herein contained, the parties agree as follows:

1. Except as modified in this Award, the RFP and the Cost Proposal are attached to this Award and incorporated herein as if set forth in full.
2. Paragraph B.6 LIMITATION OF LIABILITY of Appendix B to the RFP titled SPECIAL TERMS AND CONDITIONS, is stricken and replaced in its entirety with the following.

B.6 LIMITATION OF LIABILITY

Contractor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to two million dollars.

The foregoing limitation of liability shall not apply to claims arising under provisions of this Contract calling for indemnification for third party claims against the State for death, bodily injury to persons or damage to real or tangible personal property caused by Contractor's negligence or willful misconduct.

In no event will either the Contractor or the State be liable for consequential, incidental, indirect, or special damages, even if notification has been given as to the possibility of such damages, except (i) to the extent that Contractor's liability for such damages is specifically set forth in the Solicitation or (ii) to the extent that Contractor's liability for such damages arises out of the preceding paragraph.

The State's liability for damages for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, shall be limited to any applicable statutory limit on damages. Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law."

3. The following software products and associated services are stricken from the RFP and the Cost Proposal; all McAfee products and all LanDesk products. These products are currently under State contracts, however, the State reserves the right to add the products should the State choose to not renew the existing contracts.

4. This Award may be executed in counterparts and may be delivered by facsimile transmission. Each such counterpart shall constitute an original, but all such counterparts shall constitute but one agreement.

IN WITNESS WHEREOF, the parties have executed this Award effective as of the date Purchasing issues a Purchase Order in the name of Dell Marketing, LP and incorporating this Award.

**State of Idaho Department of Administration
Division of Purchasing**

Dell Marketing, LP

Signature

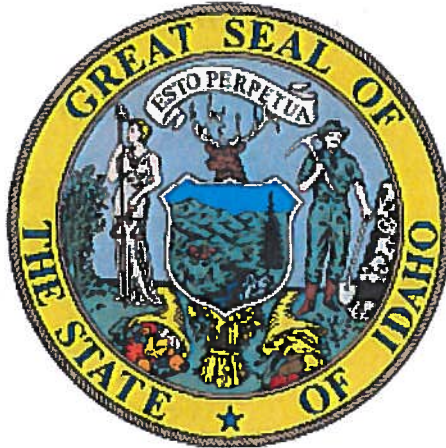
Gregory Lindström, CPPO, CPPB
Information Technology Purchasing Officer
5569 Kendall St.
P O Box 83720
Boise, ID 83720-0075

Signature

Stephanie Miller
Contract Manager
One Dell Way
Mail Stop 8707
Round Rock, Texas 78682

1/30/12
Date

1-27-2012
Date



STATE OF IDAHO

DEPARTMENT OF ADMINISTRATION

REQUEST FOR PROPOSAL

RFP02410-03

**SOFTWARE VALUE-ADDED RESELLER & MICROSOFT
ENTERPRISE SOFTWARE ADVISOR (ESA)**

1. RFP ADMINISTRATIVE INFORMATION

Tentative Procurement Schedule

RFP Title:	Software Value-Added Reseller and Microsoft ESA
RFP Project Description:	To provide to State and public agencies, hereafter referred collectively as Agency or Agencies , contracted Value-Added Reseller and Microsoft Enterprise Software Advisor services.
RFP Lead:	Gregory Lindstrom, CPPO, CPPB Information Technology Purchasing Officer Gregory.lindstrom@adm.idaho.gov
Pre-Proposal Teleconference:	October 14, 2011 @ 10:00 a.m. Mountain
Location:	Teleconference – 866-343-3911 Conference Code: 510
Deadline To Receive Questions:	October 19, 2011 (reference requirement 1.3)
RFP Closing Date:	See IPRO Header Document
RFP Opening Date:	10:00 a.m. Mountain the following work day after closing.
Initial Term of Contract and Renewals:	Initial term of the contract(s) will be for three (3) years. Thereafter and providing mutual agreement and acceptable pricing adjustments, the contract(s) may be renewed for an additional 3 year term.
Attachments:	<ul style="list-style-type: none"> ◦ Pre-Proposal Conference Registration ◦ Question Submission Template (Mandatory) ◦ Idaho Mandatory Signature Page ◦ Idaho Microsoft EA Enrollment ◦ Mandatory Cost Proposal ◦ Client Reference Questionnaire

1.1 Background

Note: This solicitation is being released via the Idaho eProcurement system (IPRO) by the Division of Purchasing (DoP) in conjunction with the State's Office of the Chief Information Officer (OCIO) on behalf of all State agencies falling under the procurement authority of DoP. Any resulting contract or contracts will carry a Public Agency Clause, and all public agencies as defined by Idaho Code § 67-2327 will be allowed to purchase products and services from the contracts. State educational institutions K-12 should also be allowed to procure from any resulting contract or contracts. Public agencies and State K-12 institutions will be responsible for all software verification and validation and costs.

The State of Idaho is soliciting proposals from Software Value-Added Resellers (VAR) who would provide distributed software and related services to the State of Idaho and other authorized agencies

including education. The State of Idaho is also seeking an authorized Microsoft Enterprise Software Advisor (ESA) to provide Microsoft "SELECT" and "ENTERPRISE" Master Licensing Agreement (MLA) product and services to the State and other authorized Agencies including education. Within the context of this solicitation, the State is asking potential VARs and ESAs to describe a business model that they will initiate to service the State of Idaho account. The State is looking for more than a software license distributor. The State is looking for a provider(s) who will take the initiative in areas of pricing, distribution, license management, and accounting processes.

▼ **The State reserves the right to award to multiple providers if it is determined to be in the best interest of the State.**

The objectives are to contract with a successful bidder or bidders who are authorized resellers of distributed Commercial Off-the-Shelf (COTS) software for identified key software publishers as well as being sellers of general distributed software ("other" publishers). In addition to selling software, and selling maintenance and support agreements for new and previously-purchased software, the reseller would provide related services to include, but not be limited to, tracking licenses (new and existing), monitoring volume levels and opportunities, training, implementation, and consulting. The evaluation of proposals received will take into consideration bidders presenting the best and most creative business models, which are also compliant with the specifications of this solicitation. **This solicitation is intended to solicit proposals for the acquisition of distributed, commercial off the shelf software. It is not intended for the purchase of custom software applications.**

There are three COTS software categories included in this solicitation.

Software Category 1 – Microsoft Enterprise Software Advisor

▼ **All potential bidders must submit a proposal for this category. Failure to submit a proposal for this category will deem the proposal as non-responsive, and no further consideration will be given.**

Bidders must be an authorized Microsoft Enterprise Software Advisor (ESA) able to provide Microsoft "SELECT" and "ENTERPRISE" Master Licensing Agreement (MLA) products and services.

During the life of the contract, the State reserves the right to remove Software Category 1 from the contract, should in the State's determination, the bidder's services for Category 1 fall below acceptable levels.

Software Category 2 – Key Publishers

▼ **All potential bidders must submit a proposal for this category. Failure to submit a proposal for this category will deem the proposal as non-responsive, and no further consideration will be given.**

This category contains software products that are the most commonly utilized by state agencies. Bidders are required to provide licensing and services for the products in this category and should have direct reseller agreements with the software publishers. Reference the attached Mandatory Cost Proposal for a listing of Key Publishers.

Software Category 3 – Other Publishers (Optional)

This category is optional. It is not a requirement that the bidder bid this category. Should a bidder propose Category 3 and the bidder be successful in receiving an award for Categories 1 and 2, the

State reserves the right to not award Category 3 to the bidder should it be in the best interest of the State.

This category contains software products utilized to a lesser extent. Reference attached Mandatory Cost Proposal for a listing of Other Publishers.

Bidders may propose other Value-Added Services. The state will determine which if any of these services will be included in the resulting contract. If proposing other value-added services, include cost information in the Mandatory Cost Proposal under the "Other Value-Added" worksheet.

1.2 Pre-Proposal Teleconference Meeting

A non-mandatory pre-proposal (teleconference only), will be held at the time as indicated in the Section 1 Tentative Procurement Schedule above. **This will be your only opportunity to ask questions of the State's Division of Purchasing and the OCIO.** All interested parties are invited to participate by an established call in number.

Interested bidders choosing to participate are asked to pre-register with the RFP Lead identified in Section 1. There is an eFile attached to this solicitation for pre-registering for the teleconference.

Please complete and email the form to the RFP Lead no later than October 12, 2011. It is requested that the subject line state "RFP02410 Pre-Proposal Conference Registration."

▼ **Due to holding a teleconference only, potential bidders are limited to two (2) phone attendees only due to limited telephone seats available.**

1.3 Submitting Questions

Questions regarding the solicitation requirements, must be submitted via email and via the form provided with this solicitation. Questions must be received no later than the date stated in 1. RFP ADMINISTRATION INFORMATION. Questions regarding the State of Idaho Standard Contract Terms and Conditions ~~or the State of Idaho Special Terms and Conditions for Customized Software and Related Services~~^(RFP02410-02), found at <http://adm.idaho.gov/purchasing/purchasingrules.html> and/or Special Terms and Conditions must also be submitted at this time. The State will not consider proposed modifications to these requirements after the date and time set for receiving questions.

Official answers to all written questions will be posted to IPRO as an amendment to this RFP.

Proposals which qualify the offer based upon the State accepting other terms and conditions not found in the RFP or which take exception to the State's terms and conditions, will be found non-responsive, and no further consideration of the proposal will be given.

2. INSTRUCTIONS FOR SUBMISSION OF PROPOSALS

2.1 A proposal will consist of two distinct parts.

- Business and Technical Scope Proposal (reference sections 3 and 4 of this solicitation);
- Mandatory Cost Proposal (reference section 5).

The Mandatory Cost Proposal must be sealed separately from the Business and Technical Scope Proposal, and the Business and Technical Scope Proposal must not contain any pricing information.

Where possible, the Business and Technical Scope Proposal and the Mandatory Cost Proposal should be shipped in a single shipping container.

2.2 It is mandatory that the proposal be submitted with a State supplied signature page (attached in IPRO). The signature page must contain an original handwritten signature executed in ink (preferably blue), and appear as the first page of your proposal. Photocopied signatures or facsimile signatures are not acceptable and will result in a finding that your proposal is non-responsive.

Any qualified bidder may submit a proposal. Per Section 67-5730, Idaho Code, all bidders are qualified unless disqualified. Those bidders presently on the General Service Administration's (GSA) "list of parties excluded from federal procurement and non-procurement programs" will be disqualified. Vendor information is available on the Internet at: <http://epls.arnet.gov>

▽ Only one (1) proposal total will be received and considered per bidder. It is mandatory that bidders propose on both Software Category 1 and Software Category 2. Bidders are not required to submit a proposal for Software Category 3.

2.2.1 The shipping container containing the proposal must be addressed to the RFP Lead and clearly marked "CONTRACT PROPOSAL – RFP02410_Software Value-Added Reseller and Microsoft ESA."

2.2.2 Each proposal must be submitted as follows.

- **One (1) original and five (5) copies of the Business and Technical Scope Proposal;**
- **One (1) original and one (1) copy of the Mandatory Cost Proposal.**

If possible, the Business and Technical Scope Proposal should be double sided.

The original of the Business and Technical Scope proposal is to be labeled "ORIGINAL" on its cover.

The original of the Mandatory Cost Proposal is to be labeled "ORIGINAL" on its cover.

2.2.3 Bidders must also submit one (1) electronic copy of all proposal materials on CD or USB device. Word or Excel format is required (the only exception is for financials or brochures). The format and content must be the same as the manually submitted proposal.

The electronic version must NOT be password protected or locked in any way.

If your proposal contains trade secret information which you have identified, also submit a redacted copy of the Business and Technical Scope Proposal with all trade secret information removed or blacked out.

2.2.4 The Business and Technical Scope Proposal must be sealed, identified “Business and Technical Scope Portion of Proposal – RFP02410 _Software Value-Added Reseller and Microsoft ESA”.

2.1.5 The Mandatory Cost Proposal must be separately sealed, identified “Cost Portion of Proposal – RFP02410 _Software Value-Added Reseller and Microsoft ESA.”

3. FORMAT AND BUSINESS SCOPE PROPOSAL

3.1 A proposal format is to be followed when submitting the Business and Technical Scope proposal. Response format begins at specification 3.3.

▼ **Ten (10) bonus points are available to encourage bidders to follow the format.** Should all proposals follow the format, the State reserves the right to waive these points.

The intent is to sequentially follow the requirements, and for those requiring a response, repeat the requirement number and provide the response. Excessive referencing to other sections of a bidder’s proposal or marketing materials, should be avoided. The State reserves the right to not award bonus points should all proposals be candidates for the bonus points. **Should bonus points be awarded, they will be added to the bidders final score after before normalization of the Business and Technical Scope evaluation scoring.** (RFP02410-03)

3.2 Evaluation Codes

The following evaluation codes are used within this document. **The State reserves the right to seek clarification on any (M), (M,E), or (E) requirement.**

3.2.1 **(M)** Mandatory Specification or Requirement - failure to comply with any mandatory specification or requirement may render bidder’s proposal non-responsive and no further consideration given to the proposal.

3.2.2 **(M,E)** Mandatory and Evaluated Specification or Requirement - failure to comply may render bidder’s proposal non-responsive. **Bidder is to provide a written response to this specification demonstrating its understanding and stating how the offered solution complies with the specification or requirement.** Points will be awarded based on predetermined criteria.

3.2.3 **(E)** Evaluated Specification or Requirement – **bidder is to provide a written response.** If not available, respond with “Not Available” or other response that identifies bidder’s ability or inability to supply the item or service. Failure to respond will result in zero (0) points awarded for the specification.

▼ (Proposal format begins here)

3.3 (M) Mandatory State Signature Page and Executive Order 2007-09

Reference 2.1 above. **The completed Mandatory State Signature Page and Executive Order 2007-09 is to appear as the first page of the Business Scope Proposal.** Attached to the State Signature Page is Executive Order 2007-09. Bidders are to complete Executive Order 2007-09 while completing the State Signature Page. An example of how to complete Executive Order 2007-09 is attached as an eFile to this solicitation in IPRO.

3.4 (M) Cover Letter

The Business Scope Proposal must include a cover letter on official letterhead of the bidder. The cover letter should include the bidder's name, mailing address, telephone number, facsimile number, e-mail address, and name of bidder's authorized proposal submission agent. The cover letter must identify the RFP Title and number, and must be signed, in ink, by an individual authorized to commit the bidder to the work proposed.

In addition, the cover letter must include the following.

▼ Please restate the requirement number when responding.

3.4.1 Identification of the bidder's corporate or other legal entity status. Bidders must include their tax identification number. The bidder must be a legal entity with the legal right to contract.

3.4.2 A statement indicating the bidder's acceptance of and willingness to comply with the requirements of the RFP and attachments, including but not limited to the State of Idaho Standard Contract Terms and Conditions (<http://adm.idaho.gov/purchasing/purchasingrules.html>), and any Special Terms and Conditions of this solicitation.

3.4.3 A statement of the bidder's compliance with affirmative action and equal employment regulations.

3.4.4 A statement that bidder has not employed any company or person other than a bona fide employee working solely for the bidder or a company regularly employed as its marketing agent, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the contractor or a company regularly employed by the contractor as its marketing agent, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award of this contract.

The bidder must affirm its understanding and agreement that for breach or violation of this term, the State has the right to annul the contract without liability or, in its discretion, to deduct from the contract price the amount of any such fee, commission, percentage, brokerage fee, gifts or contingencies.

3.4.5 A statement naming the firms and/or staff responsible for writing the proposal.

3.4.6 A statement that bidder is not currently suspended, debarred or otherwise excluded from federal or state procurement and non-procurement programs. Vendor information is available on the Internet at: <http://epls.arnet.gov>

3.4.7 **A statement affirming the proposal will be firm and binding for ninety (90) days from the proposal opening date.**

3.4.8 **A statement that, by submitting its proposal, the bidder warrants that any contract resulting from this solicitation is subject to Executive Order 2009-10; it does not knowingly hire or engage any illegal aliens or persons not authorized to work in the United States; it takes steps to verify that it does not hire or engage any illegal aliens or persons not authorized to work in the United States; and that any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and will be cause for the imposition of monetary penalties up to five percent (5%) of the contract price, per violation, and/or termination of its contract.**

Reference at [http://gov.idaho.gov/mediacenter/execorders/eo09/eo_2009_10.html]

3.4.9 **A statement that providing distributed software and related services, as well as being an authorized Microsoft Enterprise Software Advisor (ESA) to provide Microsoft “SELECT” and “ENTERPRISE” Master Licensing Agreement (MLA) products and services, is a primary business of the bidder’s company, and that the company has been providing such services to verifiable clients for no less than three (3) years prior to the close of the solicitation.**

3.4.10 **A statement that the company is verifiably financially stable, and has been for a period of no less than one (1) year prior to the closing of the solicitation.**

3.4.11 **A statement that for software sales and value added services, the bidder’s gross annual income in the previous year was equal to or greater than \$12,000,000 in product Category 1 (reference the technical portion of this solicitation) and \$5,000,000 in product Category 2.**

3.4.12 **A statement notifying the State of the Software Categories being bid upon. Reference Section 4.**

▼ (the following is to follow the Cover Letter in the Business Scope Proposal)

3.5 **(M)** Trade Secrets

The bidder is to identify here, each page of the proposal it believes contains a “trade secret” (See Paragraph 32 of the State’s Solicitation Instructions to Vendors). If the bidder has no trade secrets, bidder is to respond to 3.5 so stating.

3.6 **(M)** Table of Contents

Include a table of contents identifying the contents of each section, including page numbers of major subsections.

3.7 (left blank)

3.8 **(M)** Business Information

▼ (Please restate the requirement number when responding)

3.8.1 **(E)** Organization

3.8.1.1 **Bidders are to describe in detail the knowledge and experience the company has in**

providing services similar to those required in this solicitation.

3.8.1.2 Bidders are to provide an organizational chart specific to the account team that will be assigned to the State should a contract be let. The organizational chart is to depict illustrating lines of authority, designating the individual(s) responsible and accountable for the completion of each component or required activity in this solicitation. **The chart must contain the Account Manager that will be assigned to the State of Idaho.** Include information on where these personnel are located and hours of operation they will be available. Bidders must show where their organization falls within overall business structure of the company if they are a division of a larger company.

3.8.1.3 Bidders are to describe how they meet the following. Bidder must be capable of being in Boise for on-site meetings with 48 hour notice. At a minimum, the account team will have an individual in an account manager role, and it is desired that the account team be comprised of an account manager, an operations manager, a service manager, a billing representative, and provisioning representative. These roles can be held by one or more individuals and must have full authority within the bidder's organization to resolve sales, operations, service, billing and provisioning issues. The account manager should have experience in managing at least one government volume licensing account of similar scope, including number of customers, sales, volume product breadth and complexity for a minimum of two (2) years. At the State's request the bidder's account team will be prepared to meet to conduct a broad review of all the services and ongoing operations, provisioning performance and billing accuracy. **Bidder agrees the State may request the replacement of an account team member or members if after a 6-month period the State is unhappy with the service it is receiving. In particular, the bidder agrees to replace the Account Manager, should at any time the Account Manager be deemed by the State as providing unacceptable service.**

3.8.2 (E) References

Bidders are to provide references. References are required for both the company and the Account Manager that will be assigned to the State of Idaho should the bidder be successful in receiving an award. Bidders are responsible for ensuring that three (3) completed references are received for the company, and three (3) completed references are received for the assigned Account Manager. **At least one of the company references should be from the bidder's largest government customer** (provided bidder has government customers).

▼ References used for the Account Manager are to be from individuals working directly with the Account Manager, and preferably from other state governments. Account Manager references may not also be used for company references. The State must receive six (6) unique references: three (3) for the company; three (3) for the Account Manager.

▼ State of Idaho agency references may not be used.

Submission of references is to occur as follows.

For responding to this requirement, attached to the solicitation are the following files.

- An Excel file for submitting a reference list for both the company and the Account Manager. That file is DoP00_RFP02410_CustomerReferenceList.xls;
- A Word file reference questionnaire for the bidder's references. This file is to be forwarded to the bidders references. That file is DoP00_RFP02410_ReferenceQuestionnaire.doc.

The Process

Step 1: Bidders are to complete the attached Reference List for both the three (3) required customer references, and the three (3) required Account Manager references. All fields are to be completed. **Note the reference identifier (“Ref ID”).**

Step 2: Bidders are to email a reference questionnaire to each reference listed on their reference list. **Bidders are to complete the first section of the questionnaire.**

- Identify whether the reference is for the company or the Account Manager.
- Bidder is to provide its company’s name.
- If the reference is for the Account Manger to be assigned to the State of Idaho, bidders are to provide the Account Manager’s name so the reference will know they are evaluating a specific person. If the reference is not for the Account Manager, this field is to be left blank. **If Account Manager references are received for differing Account Managers, the bidder will receive zero (0) points for the three (3) Account Manager references. If once the contract is let, the Account Manager assigned to the State differs from the Account Manager evaluated, the State at its sole discretion, may terminate the contract.**
- Enter the reference identifier (REF ID) from off their Reference List.
- Enter client’s company name (company to whom the reference questionnaire is being sent).
- Enter name of the person who will be completing the questionnaire.
- Enter the person’s phone number.
- Enter the person’s email address.
- **At the bottom of the questionnaire, bidder is to enter it’s email address. This is the email address that the reference will return the completed questionnaire to. Additionally, bidder’s reference is to courtesy copy email the RFP Lead.**

Step 3: **Bidders are to email a copy of the reference list to the RFP Lead no later than the date set for the closing of the solicitation. It is the bidders responsibility to ensure that all references listed on the Reference List have responded to the bidder by submitting to the bidder a completed questionnaire.**

▼ In compliance with the required proposal format, bidders are to insert into their Business Scope Proposal the completed Reference List, and the completed questionnaires received from their clients, following the required response to 3.8.1. Bidders are cautioned to ensure that the Reference List agrees with the returned questionnaires, that there are three (3) unique customer references containing the required information, including the correct Reference ID, and three (3) unique Account Manager references, including the correct Reference ID.

3.8.3 Financials (E)

Bidders are to provide financial information with their proposals. Reference Appendix A.

▼ The State reserves the right to evaluate bidder’s financials using only the company’s Dun & Bradstreet Credit Score Class, or Experian ProfilePlus Credit Ranking Score. Bidders are cautioned that all the financial information required by Appendix A is mandatory regardless of the evaluation method cosen by the State.

4. TECHNICAL SCOPE

- ▼ For Section 4, the evaluation codes listed in 3.2 apply.
- ▼ In order to be responsive, bidders must propose on Software Categories 1 and 2. No consideration will be given proposals not bidding on Software Categories 1 and 2.
- ▼ For requirements with the evaluation code of **(E)**, bidders are to state the requirement number, and provide a written response detailing how the bidder will meet the requirement. As a response, bidders are not to direct the State to attachments for information, or other sections of the proposal. Responses doing so will receive zero (0) points, and at the discretion of the State, may be found non-responsive. The response will be evaluated strictly upon the bidders written response.
- ▼ Bidders are reminded that ten (10) bonus points may be awarded to those proposals following the requested format.
- ▼ **For all software categories, the State reserves the right to add or remove software products from the contract should the State determine it to be in its best interest. (RFP02410-03)**

4.1 SOFTWARE CATEGORY 1 – MICROSOFT ENTERPRISE SOFTWARE ADVISOR

- ▼ Proposing for this category is mandatory.
- ▼ Regarding Microsoft software offerings where the software’s primary function is to offer Platform as a Service, Infrastructure as a Service, or Software as a Service, only Software as a Service, specifically Office 365, will initially be part of any resulting contract(s). The State, however, retains its right to add other Microsoft software offerings should the State determine it to be in its best interest.
 - 4.1.1 **(M)** Bidders must be an authorized Microsoft Enterprise Software Advisor (ESA) able to provide Microsoft “SELECT” and “ENTERPRISE” Master Licensing Agreement (MLA) products and services. **Bidders are to submit proof of their authorization to resell Microsoft products and services.**
 - 4.1.1.2 **(RFP02410-02) (M)** The Contractor will establish a separate enrollment agreement for each agency enrolled or enrolling under the State’s “Master Agreement Number.”
 - 4.1.1.3 **(RFP02410-02) (M)** It will be the Contractor’s responsibility to work directly with the agency in signing enrollment agreements.
 - 4.1.1.4 **(RFP02410-02) (M)** All Enrollment Agreements will be issued under the State’s Master Agreement Number.
 - 4.1.1.5 **(RFP02410-02) (M)** Aggregation of all licensing within the various pools will be based on the State’s Master Agreement Number for product level counts and pricing.
 - 4.1.1.6 **(RFP02410-02) (M)** The Contractor will aggregate all of the enrollments together for Master Agreement reporting purchases.

4.1.17 (RFP02-10-02) (M,E) The Contractor will be responsible for providing to Microsoft the required Change of Vendor Form on behalf of the State and/or each enrolled agency. It is our understanding Microsoft requires 60-days to complete the process. **Describe in detail how this will be accomplished.**

4.2 SOFTWARE CATEGORY 2– KEY PUBLISHERS

▼ Proposing for this category is mandatory.

4.2.1 (M) Bidders must be an authorized reseller for all of the publishers listed in this category. **Bidders must submit proof of their authorization for all products listed in Category 2.**

Over the life of the contract, product needs or volumes may change and new publishers may be added by amendment to the itemized publishers' lists. Contractor agrees that there are no software publishers with whom they will refuse to do business if the Software Publisher is willing to do business with them. Should the State request products to be added, Contractor will contact the IT Purchasing Officer for the State of any obstructions to adding the product.

4.2.2 (M) Contractor is expected, at a minimum, to maintain their reseller certification levels held at time of award. If the reseller's certification or reseller status is withdrawn or reduced, the Contractor is required to immediately notify the State's IT Purchasing Officer, and in writing explain the change, the impact on their costs to obtain the product, or limitations on the products or services they may provide, and the reasons for the change. Failure to notify, or significant negative changes in their reseller status, will be considered grounds for contract termination.

4.2.3 (M) Proof of License. For licenses ordered under the contract by authorized purchasers, Contractor will be able to provide either: (i) certified Licensing Confirmation Certificates for all software licenses; (ii) reseller's certified license confirmation certificates in the name of such Licensee; or (iii) a written confirmation from the reseller or Publisher accepting the Eligible Participating Entity's contract or purchase order as proof of license. The form of Proof of License provided must be acceptable proof to the Publisher and in the format as requested by the purchaser. The Proof of License will be provided as an electronic file and/or a hardcopy document, as requested by the Participating Entity. Contractor will retain an electronic file of Participating Entity's Proof of Licenses and provide copies to the Participating Entity as requested.

4.2.4 (M) Volume and Enterprise License Agreements. Contractor will work directly with State authorized purchasers in establishing, signing and maintaining enrollment agreements. Contractor will aggregate all enrollments together for Master Agreement reporting purposes. Contractors will monitor and be able to report on the current levels of software ordered towards any of the State's VLA required sales levels to ensure the Participating Entity does not fall short and thereby incur Publisher penalties. Contractor will be responsible for providing license usage information to the Publishers, if such information is required by the Publishers, in a timely manner (e.g., for 'true up' assessments).

4.3 SOFTWARE CATEGORY 3 –OTHER PUBLISHERS

▼ Proposing for this category is optional and will not be evaluated.

▼ **This software category will not be awarded separate from Software Categories 1 and 2. Proposers are not required to propose on all the listed software. The State reserves the right to not include this software category in any resulting contract. The State also reserves the right to**

determine which software bid upon by the bidder for this software category, will be offered to State users. This condition will apply as well to any "Other Value-Added Services" (tab 4 of the Mandatory Cost Proposal) proposed by the bidder. (RFP02410-02)

4.3.1 (M) Should the bidder choose to submit an offer for this category, the mandatory requirements of this solicitation for reselling software and services to the State shall apply as though proposing on this category was mandatory. The reseller must be authorized to resell the software and services, proof of authorization must be provided to the State upon request, and service level performance must meet the levels specified within this solicitation.

Over the life of the contract, product needs or volumes may change and new publishers may be added by amendment to the itemized publishers' lists. Contractor agrees that there are no software publishers with whom they will refuse to do business if the Software Publisher is willing to do business with them. Should the State request products to be added, Contractor will contact the IT Purchasing Officer for the State of any obstructions to adding the product. Contractor will be required to provide proof to the IT Purchasing Officer of their authorization to resell added products prior to being authorized to resell to the State.

4.3.2 (M) Bidder will work with authorized State purchasers to provide media via any method made available by the publishers at the time of purchase, including but not limited to: original Publisher media, CD or DVD copies of master media, electronic download from the Publisher site, etc.

▼ ALL CATEGORIES

4.4 (M) Ordering Process

4.4.1 Contractor will provide electronic web accessible on-line ordering.

4.4.2 (E) **The bidder will describe in full detail their complete ordering process; include the exact ordering process, and any special forms, etc.**

4.4.3 Orders and order acknowledgements will be exchanged at a minimum electronically, and optionally by fax, or in writing. Electronic ordering will have printout capabilities.

4.5 (M) Management And Reporting

4.5.1 The Contractor will provide publishers with all required reports, including: monthly and annual certifications reports, and perform other duties as required by the publisher to ensure that the State is in compliance with the MLA contract.

4.5.2 (E) The Contractor will provide, on a statewide basis, training and education to State agencies and other authorized agencies in the usage of this contract. Training will be required at the initial contract implementation and periodically when there are significant changes made by the publishers, or if the on-line ordering process changes significantly. Contractor will make available training support over the phone at any time for agency assistance in utilizing the on-line system. **The bidder will describe in full detail their training and education support program.**

4.5.3 (E) The Contractor will have in place a product license inventory and asset management system, which will include an accurate inventory record of product licenses purchased under this contract. At a

minimum, this system will be able to provide this information by agency and location. **The bidder will describe in full detail their product and license inventory and asset management system.**

4.5.4 The Contractor will accept financial responsibility associated with the Contractor's willful misstatement or misrepresentation of the State's product inventory.

4.5.5 The Contractor will provide on-line management reports with printing and download capabilities to the State's contract manager(s) on a monthly basis. The reports will be made available within ten (10) days following the 1st of each month. Reports will be available in Excel format and in PDF. Ad-hoc reporting capabilities are required. At a minimum, the following report information is required:

4.5.5.1 Report One – will be by agency/enrollment, by product, and will list all previous contract purchased licenses at each agency/enrollment and newly acquired licenses each month. The report will include quantities and dollar amount for each transaction.

4.5.5.2 Report Two – will be by product, by agency/enrollment.

4.5.5.3 Report Three – will be by product.

4.5.5.4 Each of the above reports will be available for:

- Microsoft products only;
- all other software products order by an agency. Those products are to be combined for reporting purposes.

4.5.6 **(E)** The State requires the ability to obtain the above information on-line by entering a unique agency identifier. The agency would only have access to their agency information. The State's contract manager(s) will have access to **ALL** agency/enrollment information. **The bidder will describe in full detail their ability to provide this service.**

4.6 **(M)** Product Copying / Legal Liabilities

4.6.1 **(E)** The Contractor will guarantee valid product license to the agency at the time of agency's receipt of product from Contractor. **The bidder will describe in full detail how their program absolves the State from legal liabilities related to receipt of unlicensed copied product provided through the Contractor.**

4.6.2 **(E)** The Contractor will be responsible for educating and informing the agencies of product abuse liability and product manufacturer's auditing requirements with each enrollment. **The bidder will describe in full detail how this information will be provided.**

4.7 **(M)** Distribution And Delivery Process

4.7.1 **(E)** **The bidder will describe in full detail their distribution and delivery method.**

4.7.2 Contractor will provide on-line ordering capabilities, and phone ordering capabilities. On-line orders will automatically be sent an electronic mail confirmation. Phone orders will receive an emailed, faxed or mailed hardcopy confirmation. An agency provided purchase order number will be required for all orders. Electronic ordering will have printout capabilities. Electronic order tracking capabilities will be available.

4.7.3 A follow-up electronic email confirmation notice or hard copy faxed/mailed verification document will be sent to the ordering agency prior to cutting media or placing an order through an outside source.

4.7.4 All products covered by this contract will be delivered within ten (10) calendar days following the receipt of order, and at the prices defined in the cost section. If Contractor does not deliver the product within then (10) calendar days the State may purchase the same product from another vendor and the Contractor will reimburse the State for the difference (if any) between purchase price and the Contract cost.

4.7.5 The Contractor will remit the difference via check or credit within 30 days of State's request. (This request will be accompanied by proof of higher cost paid.)

4.7.6 Contractor will cover all costs to deliver products covered by this Contract to the ordering agency's location.

4.7.7 **(E)** For those agencies covered under a product maintenance program such as "Software Assurance" when any release of new products, upgrades, maintenance fixes, and newer versions become available during the life of the Contract, Contractor will provide notice of availability to those covered Agencies within 30 days. **The bidder will describe in full detail their program to distribute upgrades for agencies that have purchased maintenance.**

4.7.7.1 **(E)** Contractor will provide product in any media in which it is available, i.e., CD, DVD, electronic. **The bidder will describe in full detail available media and the means in which an agency will use in requesting the various forms of media.** At a minimum, the product will be supplied as follows:

- License only;
- Media only – Contractor produced or provided;
- Manufacturers CD's, or other Contractor provided CD's, or other types of media, which may be provided by a fulfillment agent (outside source) such as Microsoft Worldwide Fulfillment;
- Electronic download;
- Any combination of the above.

4.7.8 **(E)** Delivery of new product, upgrades and updates of products, and disk duplication, may be required at any time and at any location within the State. **The bidder will describe in full detail how services would be provided to remote State and public agencies.**

4.7.9 **(E)** **The bidder will describe in full detail their mechanism to fix any defective product acquired under the contract, without charge to the State.** Defective is described as flawed media, any portion of media is unusable, product/source code errors caused during media creation by Contractor or other outside source. Contractor will **request** replacement of ^(RFP02410-02) defective product within ~~ten (10)~~ **five (5)** ^(RFP02410-02) calendar days upon notification from purchasing agency that product is defective.

4.8 (M) Rollout And Product Information

4.8.1 (E) **The bidder will describe in full detail how MLA information will be distributed to State and public agencies.** At a minimum, Contractor will provide a marketing program to support the following requirements:

- Newsletters;
- Product demonstrations;
- Web Site.

4.8.2 Contractor will also assist agencies in making strategic software application decisions by providing evaluation copies, product comparisons, needs analysis, product information and application recommendations.

4.9 (M) Management of License Issuance & Confirmations

4.9.1 Each agency will be issued their own enrollment number. It is expected that Certificate of Authenticity License Confirmation forms will be issued electronically or in hardcopy and sent directly to the agency. At a minimum listed on these license confirmations are product descriptions, the number of licenses purchased per product, the agency's purchase order number, and the business unit that placed the order.

4.9.2 Microsoft and any other MLA Publisher in categories 1 and 2 will credit all licenses to a State of Idaho's Master Agreement Number and to the agency Enrollment/Agreement Number that has been assigned specifically to the State of Idaho and to the agency by Microsoft or any other MLA publisher.

4.9.3 (E) **Some software requires that license keys or serial numbers be provided to customers for software installation or download. Contractor WILL provide keys or numbers to customers within two business days of order receipt. The bidder will describe in full detail how they will meet this specification.**

4.9.4 Contractor WILL provide assistance and manage the process for Microsoft Enterprise and any other publisher licensing renewals.

4.9.5 (E) **The bidder will describe in full detail their license confirmation and distribution process.**

4.9.6 (E) **The Contractor is expected to track all purchases for each agency for reporting to the publishers as some publishers records all license purchases in their licensing site. The bidder will describe in full detail how they will meet this specification.**

4.9.7 (E) **Contractor should administer and promote the usage of Microsoft Software Assurance (SA) benefits that are included at no cost with every Software Assurance purchase. As there are administrative tasks required to activate the benefits, Contractor should take on this administrative task and communicate to end user customers about their SA benefits. The bidder will describe in full detail how they will comply with this specification.**

4.10 (M) State Of Idaho Specific Website For Electronic Ordering, Pricing And Other Information

4.10.1 **(E)** Contractor will provide a customer-specific website that has clear, accurate, and current information about the State's agreements and that enables State customers to create individual accounts, order online, track orders, report problems, and generate reports online. This requirement is not looking for a specific Web page design. It is looking for verification that the bidder is able to provide a website and **already has** a currently functioning web based ordering system. **Bidder is to offer proof of compliance by listing a url that the State can visit.**

4.10.2 Contractor's website WILL be fully tested and operational by the start date of the contract (start date will be defined in the resulting agreement, but is intended to be the beginning date of the Term of the Agreement). Reseller's website WILL be accepted as operational by designated State representatives no later than 15 working days following the start date of the agreement.

4.10.3 The Customer-specific website WILL work with all current, commonly used browsers including, but not limited to: Microsoft Internet Explorer, Firefox, Mozilla, and Safari.

4.10.4 Contractor's Web Based system WILL include at a minimum the following information:

- Online ordering capabilities;
- A Current State Discounted Price List;
- Downloadable product and price list showing State specific pricing;
- Cost of media;
- Ways of obtaining media;
- Instructions on how to place orders;
- Product search tools that are easy to use with advanced search capabilities;
- Product listings that can be easily downloaded;
- Product descriptions;
- A list of the support team contact names, their e-mail addresses, and telephone numbers.

4.10.5 **(E)** All prices on the website WILL be current and accurately reflect the contract pricing listed on the bidder's Mandatory Cost Proposal so that departments/agencies can use them to plan and place their orders. Contractor WILL update pricing within 24 hours of receiving notification of price changes from software vendor, customer, or publisher. In cases of price discrepancies, reseller will honor the lowest of either the online or current changed price.

The bidder will describe in full detail how they will comply with this specification. Include how you keep information current.

4.11 **(M)** Customer Support Services

4.11.1 **(E)** The Contractor will provide a support team that is dedicated to the State's account. **The bidder will describe in full detail their Customer Support Services.** Include support team information, the number of staff that makes up this team, their title and function. This support team at a minimum should include an account manager, and a support team for assisting agencies in ordering product, assistance and training in utilizing the online system, provide answers to product questions, etc.

4.11.2 **(E)** Contractor will provide to the state a toll-free customer support number that is available at a minimum Monday through Friday 8-5 MST. **The bidder will describe in full detail the timeframes the state can expect support or account management assistance. Include in your response the maximum wait time the state can expect for calls to be returned for those instances when messages will be left.**

4.11.3 At a minimum Customer Support Services will include:

- Ordering and pricing assistance;
- Assistance in locating media, download locations for software, and obtaining valid software license keys.

4.11.4 **(E)** The Contractor will provide an escalation process for handling problems and issues. **The bidder will describe in full detail their escalation process.**

4.11.5 **(E)** Contractor will describe in detail how they will implement a transition plan from the previous Contractor, including all process steps. Response should include how you will accept reports, order history, and asset tracking from the previous Contractor and incorporate into an on-line report for order history and asset control.

4.11.6 **(E)** Contractor will describe their roll-out implementation plan designed to fully inform Authorized Purchasers and minimize confusion and order issues.

4.12 **(M)** Audits

4.12.1 The Contractor will maintain or supervise the maintenance of all records necessary to properly account for all payments made to the Contractor for the costs authorized by this Contract. These records will be retained by the Contractor for at least three (3) years after the Contract terminates, or until all audits initiated within the three (3) years have been completed, whichever is later.

4.12.2 The Contractor agrees to allow State and Federal auditors and State agency staff access to all the records relating to this Contract, for audit, inspection, and monitoring of services. Such access will be during normal business hours or by appointment.

5. **(M)** MANDATORY COST PROPOSAL

5.1 **(E)** The vendor must use the attached Mandatory Cost Proposal eFile for proposing pricing. The eFile is attached to the solicitation in IPRO, and its file name will contain "MandatoryCostProposal." All proposed pricing is Firm/Fixed with no allowance for price modification. No other pricing information other than the Mandatory Cost Proposal will be considered or evaluated. All proposed pricing will be fully-burdened and must include (**but not limited to**), all operating and personnel expenses, such as overhead, salaries, profit, supplies, travel, and quality improvement.

▼ It is mandatory that the bidder submit costs using the Mandatory Cost Proposal. No other pricing will be considered. Failure to use the Mandatory Cost Proposal will result in the bidder's proposal being found non-responsive, and no further consideration given. Pricing will be evaluated using a cost model that offers the State the best possible value over the term of the contract.

▼ It is mandatory that proposers bid on Software Categories 1 and 2. Bidding on Software Category 3 is optional.

5.2 (M, E) (RFP02410-03) Software Category 1 _Microsoft Enterprise and Select.

▽ Regarding Microsoft software offerings where the software's primary function is to offer Platform as a Service, Infrastructure as a Service, or Software as a Service, only Software as a Service, specifically, only Office 365 will initially be part of any resulting contract(s). The State, however, retains its right to add **or remove** (RFP02410-03) Microsoft software offerings should the State determine it to be in its best interest.

5.2.1 Currently the State of Idaho is receiving level "D" pricing for all its Microsoft application, system, and server pools, as well as level "D" pricing for all its enterprise licensing.

5.2.2 Existing State of Idaho Enterprise desktop counts as of September 2011 is located in Attachment 1.

5.2.3 **For Software Category 1**, the bidder may, at its option, quote a negative mark-up to the Microsoft channel pricing, **although the State prefers positive mark-ups.** (RFP02410-01) A negative mark-up has the net effect of being a discount from the Microsoft channel pricing price list **the cost listed by the bidder on the Mandatory Cost Proposal.** (RFP02410-01)

5.2.4 During the evaluation the state reserves the right to request from the bidder access to and/or a copy of the Microsoft channel pricing for pricing verification. Failure to provide the requested price list within three (3) business days following the state's request may result in disqualification of the bidder's proposal.

5.2.5 At any time during the contract and for a three (3) year period following the end of the contract, the state reserves the right to request from the Contractor access to and/or a copy of the Microsoft channel pricing for pricing verification. Failure to provide the requested price list within three (3) business days following the state's request may result in contract termination.

Note: for preliminary channel pricing specific to the state of Idaho select and enterprise agreement prices, please contact:

Erin Berg
Microsoft Account Representative, Idaho
Eberg@microsoft.com
(425) 706-5409 (phone)

All costs associated with the specifications of this RFP must be detailed and included in your Mandatory Cost Proposal. Note that all labor associated costs must include all fully burdened labor and associated travel expenses including, but not limited to, per diem, airfare and/or mileage, lodging, and administrative costs.

5.2.6 ~~Consideration will be given to the ESA who can provide all the services outlined in Category 1 for the lowest percent (%) mark up to the Microsoft Channel Pricing.~~ (RFP02410-01) **Bidder must include a mark up percentage.** Bidder must include net state pricing information. A consistent mark up margin across the 3 product line pools application, system, and server is required. The same margin must be applicable to all 3 pools.

Example of State net pricing is as follows:

~~(1 + %) X Channel Price = State Net Price~~

~~% = ESA Margin (+ or -) for providing contract services. (RFP02410-02)~~

5.2.7 The bidder may request that its Microsoft Channel Pricing and the % Mark-up will be kept confidential. However, the cost information provided to the State (the price to the State) cannot be specified as confidential by the bidder.

5.3 Software Category 2 and 3

(M, E) (RFP02410-03) It is mandatory that bidders propose Software Category 2.

The bidding of Software Category 3 is optional.

5.4 Charges (RFP02410-03) All Software Categories

5.4.1 All costs associated with the specifications of the categories bid must be detailed in the Mandatory Cost Proposal. Bidder must list detailed cost information for each item. All labor associated costs must be fully proposed and must be fully burdened to include, but not limited to, per diem, labor, transportation, lodging, and administrative costs.

5.4.2 Any additions, deletions or changes to pricing must be done by an addendum executed by both parties. Such addendum will become part of the contract.

5.4.3 Billing must be separated by agency and billed directly to the agency. Bidder cannot require that one bill be sent to the State of Idaho as one entity.

5.4.4 All item(s) will be delivered F.O.B. destination to the specified shipping address of the State of Idaho agency submitting the order. All item(s) will be delivered within no more than thirty (30) calendar days after receipt of the purchase order. (Purchaser reserves the right to extend the delivery time).

5.4.5 The State retains its right to add or remove software offerings should the State determine it to be in its best interest. (RFP02410-03)

5.5 Resellers And Original Equipment Manufacturers

5.5.1 For bidder's who are resellers in the distribution chain, the term "Bidder's Cost" (used herein and in any pricing schedules) will be that cost in effect at the time the bidder places an order for the State inclusive of any discounts, OEM incentives, or special channel pricing.

5.5.2 For bidder's who are original equipment manufacturers, the term "Bidder's Cost" (used herein and in any pricing schedules) will be the published list price the OEM would sell to its most favored authorized resellers, inclusive of any promotional incentives, discounted pricing, or rebates in effect at the time. Regardless of the bidder's identity, the bidder's percentage mark-up will be what the bidder applies to "Bidder's Cost" to cover overhead, profit, et cetera. The bidder's percentage mark-up will remain static for the life of the contract and will apply to items contemplated in this RFP. Any changes must be requested through the Division of Purchasing and be fully justified. Such requests will only be allowed at the time of contract renewal.

6. PROPOSAL REVIEW AND EVALUATION

6.1 The objective of the State in soliciting and evaluating proposals is to ensure the selection of a firm or individual that will produce the best possible results for the funds expended.

6.2 All proposals will be reviewed first to ensure that they meet mandatory submission requirements. Proposals not meeting the mandatory submission requirements will be found non-responsive.

6.3 The Business and Technical Scope Proposal will be evaluated first as either “pass” or “fail,” based on the compliance with those requirements listed in the solicitation. All proposals that meet the requirements will continue in the evaluation process.

6.4 The top bidders with the highest raw scores after the evaluation of the Business and Technical Scope Proposal may be asked to make oral presentations to the evaluators. The selected bidders should expect to give an overview of their proposals and respond to questions from evaluators. Responses become an official part of the proposal and will be evaluated. Bidder’s costs associated with oral presentations are the responsibility of the bidder.

6.5 The Mandatory Cost Proposals will only be opened and evaluated for the top bidders ~~identified in~~ **as determined by the final, normalize scoring of the Business and Technical Scope evaluations. At a minimum, the top three (3) scoring bidders will have their Mandatory Cost Proposals opened, evaluated, and scored.** (RFP02410-02)

6.4. (RFP02410-01)

6.6 The proposals will be reviewed and evaluated by evaluators comprised of State employees.

6.7 Evaluation Criteria

All evaluation scoring will be normalized based upon the following table.

		Normalized Points
Business & Technical Proposal	Mandatory Submission Requirements	Pass/Fail
	Evaluated specifications 3.4.1 – 3.8.1.3	150 points
	3.8.2 References	200 points
	Company References	<i>(80 points)</i>
	Account Manager References	<i>(120 points)</i>
	Financials	50 points
	Technical Scope	300 points
	Total Business and Technical Scope Points	650 700 points ^{1. (RFP02410-03)}
Oral Demonstration (optional at discretion of State)		100 points
Cost		300 points
Total Possible Points:		1,100 points

¹ Does not include format bonus points (10 points). Format bonus points will be added to the bidder’s final score after normalization. **Format bonus points (if used) will be added to the aggregate score of the Business and Technical Scope evaluations prior to normalization and prior to the determination of which bidders per specification 6.5, will have their Mandatory Cost Proposals opened and scored.** (RFP02410-03)

6.8 The State reserves the right to evaluate cost using a cost model that offers the State the best possible value over the term of the contract should proposal response indicate an alternate method. As an example, based upon expected usage and cost, Category 1 may receive a higher percentage of the possible points set aside for cost evaluation (300 points).

It is the State's intent to evaluate costs as follows.

- The State will only evaluate Categories 1 and 2.
- The State will not include Educational mark-up and pricing in its evaluation.
- Category 1 will be evaluated based on the mark-ups offered for Select and Enterprise ~~by calculating an average mark-up. Lowest cost will be determined by lowest average mark-up~~ **as applied to the bidder's offered costs for the products listed. The State reserves the right to use an average cost method for determining the lowest cost bidder for Software Category 1.** ^(RFP02410-01)
- Category 2 will be evaluated based on the average of the average mark-up percent, average mark-up for 1-year maintenance and support, and average mark-up for 3-year maintenance and support. Lowest cost will be determined by lowest average mark-up across those costs.

Points will be awarded as follows.

- Lowest average mark-up % **or average cost** ^(RFP02410-01) will receive maximum total possible points assigned to the category.
- Other bids will receive points based on the following formula.
$$\frac{\text{Lowest average mark-up \% (or average cost } \supseteq \text{RFP02410-01)} \div \text{average mark-up \% (or average cost } \supseteq \text{RFP02410-01) being evaluated}}{\text{total possible points assigned to the category (weighted - if used } \supseteq \text{RFP02410-01)}}.$$

APPENDIX A (M,E)

Financial Information

Offerors are required to provide copies of their latest two years of audited financial statements (for privately held companies) or SEC form 10-K (for publicly held companies), along with a D&B Comprehensive Insight Plus credit report or Experian ProfilePlus report, and the appropriate NAICS code or SIC code (<http://www.census.gov/cgi-bin/sssd/naics/naicsrch?chart=2007>.) The State will use the RMA Annual Statement Studies, Financial Ratio Benchmarks in its evaluations of financial information.

Offerors should provide one of the three following groups of financial information.

- Two years of audited financial statements AND D&B Comprehensive Insight Plus credit report or Experian ProfilePlus report;

OR

- **For publicly held corporations only:** Two years of SEC Form 10-K AND D&B Comprehensive Insight Plus credit report or Experian ProfilePlus report;

OR

- Two years of unaudited financial statements, using the Statement of Operations (4B) or Statement of Activities (4C) AND the Balance Sheet (4A) formats as provided in Attachments to the RFP, AND a D&B Comprehensive Insight Plus credit report or Experian ProfilePlus report.

For privately held companies or non-profit organizations only: if audited financial statements are not available, the latest two years of unaudited financial statements using the Statement of Operations (Appendix 1B below) or Statement of Activities (Appendix 1C below) AND a Balance Sheet (Appendix 1A below), and a D&B Comprehensive Insight Plus credit report or Experian ProfilePlus report. Offerors submitting unaudited financial statements must include an explanation as to why audited financials are not available, and must use the financial document formats as provided in Attachments to this RFP. All unaudited financial statements submitted must include the signature on each statement of a Principal of the submitting entity ensuring the validity and accuracy of the financial information being provided.

The offeror should stamp “Trade Secret” or “Confidential” on each page of financial information (including credit reports) that it does not want released. The information will be held in confidence to the extent that law allows.

All financial statements must be for the exact organization submitting the proposal. The financial statements cannot be combined or consolidated with the information from any entity other than the company submitting the proposal. If the offeror’s name on the proposal does not match the name on the financial statements and the name on the credit report, the proposal will receive a score of zero (no points) for **all** financial ratios and the credit score.

APPENDIX 1A - BALANCE SHEET

	Year ending (most recent year)	Year ending (2nd most recent year)
Assets		
Current Assets		
Cash and Cash Equivalents ¹		
Receivables, net of allowance for doubtful accounts ²		
Inventories ³		
Prepaid Expenses ⁴		
Total Current Assets	\$ -	\$ -
Long-Term Investments⁵		
Property, Plant and Equipment, net of depreciation⁶		
Intangible Assets⁷		
Total Assets	\$ -	\$ -
Liabilities and Owners' Equity		
Current Liabilities		
Accounts Payable ⁸		
Notes Payable ⁹		
Interest Payable ¹⁰		
Income Taxes Payable ¹¹		
Accrued Salaries, Wages, Other Liabilities ¹²		
Deposits Received from Customers ¹³		
Current Portion of Long-Term Debt ¹⁴		
Total Current Liabilities	\$ -	\$ -
Long Term Debt		
Notes, Loans and Bonds Payable ¹⁵	\$ -	\$ -
Owners' Equity		
Capital Stock ¹⁶		
Additional Paid In Capital ¹⁷		
Retained Earnings ¹⁸		
Total Owners' Equity	\$ -	\$ -
Total Liabilities and Owners' Equity	\$ -	\$ -

have reviewed these financial statements and to the best of my knowledge:

- a) the reports do not contain any false, materially important statements nor do they omit a necessary material fact.
- b) the financial statements, and any other financial information furnished in the report, fairly present in all material respects the financial conditions, results of operations, and cash flows of the company in regards to the periods presented in the report.
- c) the company has designed disclosure controls and procedures to guarantee that material information in regards to the company and any subsidiaries is made known to me by others within those entities.

To be signed by Owner, President, CEO, CFO, Executive Director or other individual authorized to act on behalf of the organization.

APPENDIX 1B

STATEMENT OF OPERATIONS

	Year ending (most recent year)	Year ending (2nd most recent year)
Revenues	\$ -	\$ -
Expenses:		
Cost of products and services		
Selling, general and administrative		
Depreciation and amortization		
Total expenses	-	-
Operating income (loss)	\$ -	\$ -
Interest expense		
Interest income		
Other items, net		
Income (loss) before income taxes	\$ -	\$ -
Provision for income taxes		
Net Income (loss)	\$ -	\$ -

I have reviewed these financial statements and to the best of my knowledge:

- a) the reports do not contain any false, materially important statements nor do they omit a necessary material fact.
- b) the financial statements, and any other financial information furnished in the report, fairly present in all material respects the financial conditions, results of operations, and cash flows of the company in regards to the periods presented in the report.
- c) the company has designed disclosure controls and procedures to guarantee that material information in regards to the company and any subsidiaries is made known to me by others within those entities.

To be signed by Owner, President, CEO, CFO, Executive Director or other individual authorized to act on behalf of the organization.

Appendix 1C - Statement of Activities (for Non-Profit organization)

	Year ending (most recent year)	Year ending (2nd most recent year)
SUPPORT AND REVENUES		
Contributions	\$	\$
Fundraising		
Fed Grants		
Foundation Grants		
Contracts		
Other grants and contracts		
Interest and Dividends		
Miscellaneous Income		
Total Support and Revenue	\$	\$
EXPENSES		
Program Services		
Program 1		
Program 2		
Total Program Expenses	\$	\$
Supporting Services		
General and Administrative		
Fundraising		
Membership		
Total Supporting Expenses	\$	\$
Total Expenses	\$	\$
NET INCREASE (DECREASE) in NET ASSETS	\$	\$

(Instructions: For the most recent year, group expenses by whether they are direct program expenses (such as client services) or expenses for program support (such as Board expenses or fundraising expenses). If an expense benefits more than one category (such as rent, utilities, salaries or insurance), prorate it over all of the applicable programs by a rational basis, as shown in the following examples: 1) For rent and utilities, the percentage of the building used by each program; 2) For salaries, the cost of the time each staff member devotes to each program; 3) For insurance, the percentage each program contributes to the total assets or liabilities of the organization; also could use labor costs for this. For the 2nd most recent year, enter total costs for all categories in the column labeled "2nd most recent year".)

I have reviewed these financial statements and to the best of my knowledge:

- a) the reports do not contain any false, materially important statements nor do they omit a necessary material fact.
- b) the financial statements, and any other financial information furnished in the report, fairly present in all material respects the financial conditions, results of operations, and cash flows of the company in regards to the periods presented in the report.
- c) the company has designed disclosure controls and procedures to guarantee that material information in regards to the company and any subsidiaries is made known to me by others within those entities.

To be signed by Owner, President, CEO, CFO, Executive Director or other individual authorized to act on behalf of the organization.

APPENDIX 1D
BALANCE SHEET EXPLANATIONS

1. *Cash and Cash Equivalents*: This line item refers to cash and all items that could be quickly converted to a known amount of cash, such as: stocks, money market accounts or investments (such as certificates of deposit) that are within 3 months of their maturity date.
2. *Receivables, net of allowance for doubtful accounts*: Amounts of money due from customers or other debtors, subtracting the amount you believe you will be unable to collect.
3. *Inventories*: Value of property held for sale, or of the materials you will use to make a product that will be for sale.
4. *Prepaid Expenses*: Expenses for goods or services that you expect to use within a year, such as: prepaid insurance, rent paid in advance, prepaid advertising or prepaid postage.
5. *Long-Term Investments*: The value of any investment with a maturity date more than 12 months from the date of the balance sheet, such as: certificates of deposits with more than 12 months to maturity, bonds, or other notes.
6. *Property, Plant and Equipment, net of depreciation*: The value of durable property used in the regular operations of the business, such as: land, buildings, machinery, furniture and tools. Subtract the accumulated depreciation.
7. *Intangible Assets*: The value of any resource that lacks physical substance yet has significant value, such as patents, copyrights or franchises.
8. *Accounts Payable*: Amounts owed to a creditor for delivered goods or completed services.
9. *Notes Payable*: The total of all loans that are due within the next 12 months.
10. *Interest Payable*: All interest due on the balance sheet date.
11. *Income Taxes Payable*: Any income taxes owing as of the balance sheet date.
12. *Accrued Salaries, Wages, Other Liabilities*: Any salaries, wages, benefits and/or employment taxes earned but not paid as of the balance sheet date.
13. *Deposits Received from Customers*: Amount received from customers as deposits for merchandise that the company has not delivered as of the balance sheet date.
14. *Current Portion of Long-Term Debt*: The total of the payments due within the next 12 months on all loans, notes or other debts whose final due date is more than 12 months from the balance sheet date.
15. *Long-Term Debt: Notes, Loans and Bonds Payable*: The total value of all loans, notes, bonds and other debts whose final due date is more than 12 months from the balance sheet date. (Do not include any portion already listed under #14.)
16. *Capital Stock*: Ownership shares of a corporation authorized by its Articles of Incorporation.
17. *Additional Paid-In Capital*: Other money invested into a company by a shareholder, without getting more shares.
18. *Retained Earnings*: The part of a company's earnings that it does not distribute, but keeps for future needs.

TOTAL ASSETS MUST EQUAL TOTAL LIABILITIES AND OWNERS' EQUITY

APPENDIX B SPECIAL TERMS AND CONDITIONS

B.1 PUBLIC AGENCY CLAUSE

Contract prices shall be extended to other "Public Agencies" as defined in Section #67-2327 of the Idaho Code, which reads: "Public Agency" means any city or political subdivision of this state, including, but not limited to counties; school districts; highway districts; port authorities; instrumentalities of counties; cities or any political subdivision created under the laws of the State of Idaho. It will be the responsibility of the Public Agency to independently contract with the Contractor and comply with any other applicable provisions of Idaho Code governing public contracts.

B.2 ACCOUNT MANAGER

The Account Manager will keep all contact information current with the State Division of Purchasing, including but not limited to, direct phone number, email address, fax number, and mailing address. Should the Contractor issue to the Account Manager a mobile phone, that phone number is to be provided to the Division of Purchasing as well. Failure to keep contact information current will be viewed by the State as a breach of the contract. Additionally, failure to resolve in a timely manner, issues brought forth by the State to the Account Manager will be viewed by the State as a breach of contract.

B.3 ADMINISTRATIVE FEE (RFP02410-02)

For the life of the Agreement, the prices to be paid by ordering agencies (the price you bid) shall be inclusive of a 1.25% Administrative Fee. The additional percentage shall represent the Contract Usage Administrative Fee.

Within 30 days of the end of the prior State fiscal quarter (reference quarterly matrix below), Contractor shall remit to the Division of Purchasing, an amount equal to one and one-quarter percent (1.25%) of the Contractor's quarterly Agreement sales. The Administrative Fee shall be accompanied by the quarterly usage report, which must be in Excel, and contain the following fields:

- **State Contract Number**
- **Name of Ordering Entity**
- **Description of property sold to entity (including # of seats, nodes, licenses, etc.)**
- **Total amount for individual sale**
- **Total of sales per quarter**
- **Total of sales year to date**
- **Amount remitted to Division of Purchasing for reporting quarter**
- **Total amount remitted year to date**

The Division of Purchasing may require custom reports from time to time.

A hardcopy of the report along with Administrative Fee payment, is to be sent to:

**State of Idaho, Division of Purchasing
Attn: SBPO Report Administrator
PO Box 83720
Boise, ID 83720**

The report is to also be emailed electronically to the State's IT Purchasing Officer (the RFP Lead in Section 1).

Quarterly Matrix

1st Quarter	July 1- Sept 30
2nd Quarter	Oct 1 – Dec 31
3rd Quarter	Jan 1 – Mar 31
4th Quarter	Apr 1 – Jun 30

B.4 PATENT AND COPYRIGHT INDEMNITY (RFP02410-2)

A. Contractor shall indemnify and hold the State harmless and shall defend at its own expense any action brought against the State based upon a claim of infringement of a United States' patent, copyright, trade secret, or trademark for any media, or access to media, provided to the State for the purpose of ordering product from the Contractor. Contractor will pay all damages and costs finally awarded and attributable to such claim, but such defense and payments are conditioned on the following: (i) that Contractor shall be notified promptly in writing by the State of any notice of such claim; (ii) that Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise and State may select at its own expense advisory counsel; and (iii) that the State shall cooperate with Contractor in a reasonable way to facilitate settlement or defense of any claim or suit.

B. Should the media become, or in Contractor's opinion be likely to become, the subject of a claim of infringement of a United States' patent, the Contractor shall, at its option and expense, either procure for the State the right to continue using the media, or to replace or modify the media so that it becomes non-infringing.

B.5 PRODUCT PATENT AND COPYRIGHT INFRINGEMENT (RFP02410-02)

Contractor shall notify the State with twenty-four (24) hours of notification by a software developer or publisher, of any alleged patent or copyright infringement of product sold to the State by the Contractor.

B.6 LIMITATION OF LIABILITY (RFP02410-03)

B.6.1 Contractor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to two times the Purchase Price, or two million dollars, whichever is greater. For purposes of this sub-section "Purchase Price" will mean the aggregate Contract price; except that, with respect to a Contract under which multiple purchase orders will be issued (e.g., a statewide blanket purchase order), "Purchase Price" will mean the total price of the purchase order for the Deliverable(s) or service(s) that gave rise to the loss, such that Contractor will have a separate limitation of liability for each purchase order.

B.6.2 The foregoing limitation of liability shall not apply (i) to claims covered by any provision of this Contract calling for liquidated damages; (ii) to claims arising under provisions of this Contract calling for indemnification for third party claims against the State for death, bodily injury to persons or damage to real or tangible personal property caused by Contractor's

negligence or willful misconduct; or (iii) to-costs or attorney's fees that the State becomes entitled to recover as a prevailing party to in any action.

B.6.3 The State's liability for damages for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, shall be limited to the Purchase Price, as that term is defined above, or any applicable statutory limit on damages, whichever is less. Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law.

B.6.4 In no event will either the Contractor or the State be liable for consequential, incidental, indirect, or special damages, even if notification has been given as to the possibility of such damages, except (i) to the extent that Contractor's liability for such damages is specifically set forth in the Solicitation or (ii) to the extent that Contractor's liability for such damages arises out of sub-section (ii), or (iii) in B.6.2.

CATEGORY 1 Microsoft Mandatory Cost Proposal - Amendment 02

Submission of an offer for Category 1 is **mandatory** for both Select and Enterprise, as well as for Educational. Bidders are to refer to Section 5 of the RFP when completing this cost proposal. All costs are firm/fixed for the initial term of the contract and no cost increases shall be allowed for the initial term.

Currently the State of Idaho is receiving level "D" pricing for all its Microsoft application, system, and server pools, as well as level "D" pricing for all its enterprise licensing.

SELECT Pricing

Indicate Mark-Up Percentage

Indicate Educational Mark-Up Percentage

List in the following matrix, cost information that can be obtained under a Select Agreement for the cost of the product license bidder receives from Microsoft, one license each (English), and include the same for 1-Year Software Assurance.

Microsoft Product	License (1) Cost	1-Year SA Cost	EDUCATIONAL	
			License (1) Cost	1-Year SA Cost
Office 2010 Standard	\$0.00	\$0.00	\$0.00	\$0.00
Office 2010 Professional Plus	\$0.00	\$0.00	\$0.00	\$0.00
Microsoft Publisher 2010	\$0.00	\$0.00	\$0.00	\$0.00
Microsoft Office Project Standard 2010	\$0.00	\$0.00	\$0.00	\$0.00
Microsoft Office Project Professional 2010	\$0.00	\$0.00	\$0.00	\$0.00
Microsoft Visio Standard 2010	\$0.00	\$0.00	\$0.00	\$0.00
Microsoft Visio Premium 2010	\$0.00	\$0.00	\$0.00	\$0.00
Microsoft Project Server 2010	\$0.00	\$0.00	\$0.00	\$0.00
Windows Server 2008 R2 Standard	\$0.00	\$0.00	\$0.00	\$0.00
Windows Server 2008 R2 Enterprise	\$0.00	\$0.00	\$0.00	\$0.00
Windows 7 Professional	\$0.00	\$0.00	\$0.00	\$0.00
Exchange Server 2010 Standard	\$0.00	\$0.00	\$0.00	\$0.00
Exchange Server 2010 Enterprise	\$0.00	\$0.00	\$0.00	\$0.00
SQL Server 2008 R2 Standard 1 Processor	\$0.00	\$0.00	\$0.00	\$0.00
SQL Server 2008 R2 Enterprise 1 Processor	\$0.00	\$0.00	\$0.00	\$0.00
Exchange 2010 Standard CAL	\$0.00	\$0.00	\$0.00	\$0.00
Windows Server 2008 Standard CAL	\$0.00	\$0.00	\$0.00	\$0.00
SQL 2008 Standard CAL	\$0.00	\$0.00	\$0.00	\$0.00

SELECT Pricing (cont)

~~List in the following matrix, cost information that can be obtained under a Select Agreement for the costs of the product License + SA bidder receives from Microsoft, one license each (English), and include the same for 1-Year Software Assurance.~~ ^(V02) Enter into the following matrix, the offered costs to the State under a Select Agreement, for the cost of the product license + SA bidder receives from Microsoft, for one license each (English). Also enter the cost for a 1-Year Software Assurance.

Mark-Up Percentage

Educational Mark-Up Percentage

Microsoft Product	License (1) + SA Cost	1-Year SA Cost
CORE CAL	\$0.00	\$0.00
ENTERPRISE CAL	\$0.00	\$0.00

\$0.00
\$0.00

EDUCATIONAL	
License (1) + SA Cost	1-Year SA Cost
\$0.00	\$0.00
\$0.00	\$0.00

ENTERPRISE Pricing

		EDUCATIONAL	
Indicate ENTERPRISE Products Mark-Up Percentage (<i>Office Pro Plus, CORE CAL, ENT CAL, Win7 Prof</i>)	0.0000%	Indicate ENTERPRISE Products <u>Educational</u> Mark-Up Percentage	0.0000%
Indicate ADDITIONAL Products Mark-Up Percentage	0.0000%	Indicate ADDITIONAL Products <u>Educational</u> Mark-Up Percentage	0.0000%
Indicate ONLINE Services for Cloud Products Mark-Up Percentage	0.0000%	Indicate ONLINE Services for Cloud Products <u>Educational</u> Mark-Up Percentage	0.0000%

Enter into the following matrix, the offered costs to the State under an Enterprise Agreement, for the cost of the product license + SA bidder receives from Microsoft, for one license each (English). Also enter the cost for a 1-Year Software Assurance.

Microsoft Product	License (1) + SA Cost	1-Year SA Cost
Office 2010 Professional Plus	\$0.00	\$0.00
Microsoft Project Server 2010	\$0.00	\$0.00
Windows 7 Professional	\$0.00	\$0.00
Windows Server 2008 R2 Standard	\$0.00	\$0.00
Windows Server 2008 R2 Enterprise	\$0.00	\$0.00
Exchange Server 2010 Standard	\$0.00	\$0.00
Exchange Server 2010 Enterprise	\$0.00	\$0.00
SQL Server 2008 R2 Standard 1 Processor	\$0.00	\$0.00
SQL Server 2008 R2 Enterprise 1 Processor	\$0.00	\$0.00
CORE CAL	\$0.00	\$0.00
ENTERPRISE CAL	\$0.00	\$0.00

EDUCATIONAL ¹	
License (1) + SA Cost	1-Year SA Cost (if applicable)
\$0.00	\$0.00
\$0.00	\$0.00
\$0.00	\$0.00
\$0.00	\$0.00
\$0.00	\$0.00
\$0.00	\$0.00
\$0.00	\$0.00
\$0.00	\$0.00
\$0.00	\$0.00
\$0.00	\$0.00
\$0.00	\$0.00

¹ If sold as a subscription only and SA pricing does not apply, enter subscription cost in the "License (1) + SA Cost" field, and leave 1-Year SA Cost field empty.

Microsoft Office 365

Microsoft Online Services for Cloud Products	Monthly Subscription Cost
Microsoft Office 365 - Plan E1 <i>(IM & presence, Conferencing, Collaboration Portal, Email, Calendar, AV/AS, Personal Archive)</i>	\$0.00
Microsoft Office 365 - Plan E2 <i>(IM & presence, Conferencing, Collaboration Portal, Email, Calendar, AV/AS, Personal Archive, Office Web Apps)</i>	\$0.00
Microsoft Office 365 - Plan E3 <i>(IM & presence, Conferencing, Collaboration Portal, Email, Calendar, AV/AS, Personal Archive, Office Web Apps, Forms, Access, Excel, Visio Services, V.mail & Advanced Archive Capabilities, Office Pro Plus)</i>	\$0.00
Microsoft Office 365 - Plan E4 <i>(IM & presence, Conferencing, Collaboration Portal, Email, Calendar, AV/AS, Personal Archive, Office Web Apps, Forms, Access, Excel, Visio Services, V.mail & Advanced Archive Capabilities, Office Pro Plus, Voice)</i>	\$0.00

EDUCATIONAL	
Monthly Subscription Cost	
	\$0.00
	\$0.00
	\$0.00
	\$0.00

Publisher	Percent Mark-up	1-Year Maint./Support Percent Mark-up	3-Year Maint./Support Percent Mark-up
	0.0000%	0.0000%	0.0000%
	0.0000%	0.0000%	0.0000%

Percent Mark-up	1-Year Maint./Support Percent Mark-up	3-Year Maint./Support Percent Mark-up
0.0000%	0.0000%	0.0000%
0.0000%	0.0000%	0.0000%



RFPO2410
Amendment 02
Dated 10/25/11

This amendment is hereby incorporated into and made part of the above referenced purchasing solicitation as of the date listed.

#	Specification	Bidder Question	Answer (State use only)
1	Standard Ts & Cs 5. Administrative Fee	REQUEST FOR CLARIFICATION ON THIS REQUEST: We need confirmation or correction if this means we assess 1.25% per order for the first 3 years, then on each 1 year extension we assess 1.25% per order PLUS the flat fee per extension based on sales value since inception of contract (\$50K to \$1M=\$500, \$1M to \$8M=\$1000, \$8+=\$2000).	Reference the amended RFP documents that are being released as part of Amendment 02. A requirement has been added for Administrative Fees that clarifies the requirement.
2	Standard Ts & Cs 12. Save Harmless	MODIFICATION REQUEST: Contractor shall defend, indemnify and hold harmless the State from any and all liability, claims, damages, costs, expenses, and actions, including reasonable attorney fees, caused by or that arise from the gross negligence or willful misconduct of the Contractor, its employees, agents, or subcontractors under this Agreement that cause death or injury or damage to property or arising out of a failure to comply with any state or federal statute, law, regulation or act. Contractor shall have no indemnification liability under this section for death, injury, or damage arising solely out of the negligence or misconduct of the State.	Amendment not accepted.
3	Standard Ts & Cs 19. Risk of Loss	MODIFICATION REQUEST: Responsibility and liability for loss or damage shall remain with the Contractor as long as the Contractor designates the carrier, until delivery to the identified ship-to address , when responsibility shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations.	Amendment to the term accepted.
4	Standard Ts & Cs	CLARIFICATION REQUEST. Does this mean that	State code requires the State Controller to issue

RFPO2410
Amendment 02
Dated 10/25/11

#	Specification	Bidder Question	Answer (State use only)
	22. Payment Processing	invoices are to be paid to Contractor 20 days from date of invoice? Because payment is such an important issue, would the State accept payment terms of net 30 days from the date of invoice?	payment to the Contractor, within (10) days of the receipt of an invoice in compliance with all contractual terms. Acceptance of net 30 would not be in compliance with State code, therefore this term cannot be amended.
5	Standard Ts & Cs 24. Patents and Copyright Indemnity	MODIFICATION REQUEST. All Patent and Copyright Indemnity is specified in the Software License Agreement between purchasing agency and Publisher of the Software.	Clause 24 PATENTS AND COPYRIGHT INDEMNITY, is stricken from the STATE OF IDAHO STANDARD CONTRACT TERMS AND CONDITIONS for this procurement. However, a new special term has been added to the Amendment 02 of the base RFP document, Appendix B SPECIAL TERMS AND CONDITIONS to cover Contractor supplied software used for ordering product from the Contractor.
6	Standard Ts & Cs 33. Notices	33. NOTICES: Any notice which may be or is required to be given pursuant to the provisions of this Agreement shall be in writing and shall be hand delivered, sent by facsimile, prepaid overnight courier or United States' mail as follows. For notice to the State, the address and facsimile number are: State of Idaho Division of Purchasing 650 W State Street – Room B15 P.O. Box 83720 Boise, ID 83720-0075 208-327-7465 (phone) 208-327-7320 (fax) For notice to the Contractor, the address or facsimile are: INCLUDE SPECIFIC ADDRESS/FAX HERE. Notice shall be deemed delivered immediately upon personal service or facsimile transmission (with confirmation	The State chooses not to adopt this. The bidder may provide this information within the required cover letter within its proposal if it likes.

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#	Specification	Bidder Question	Answer (State use only)
		printout), the day after deposit for overnight courier or forty-eight (48) hours after deposit in the United States' mail. Either party may change its address or facsimile number by giving written notice of the change to the other party.	
7	Special Ts &Cs 2. Software License	Vendor requests removal of this section and inclusion of: Software is subject to the separate software license agreements accompanying the software, along with any product guides, operating manuals, or other documentation included with the software media packaging or presented to Customer during the installation or use of the Software. Customer agrees that Customer will be bound by such license agreement.	The STATE OF IDAHO SPECIAL TERMS AND CONDITIONS FOR CUSTOMIZED SOFTWARE AND RELATED SERVICES does not apply to this RFP. Reference the amended RFP documents.
8	Special Ts & Cs 3. Contractor Representations and Warranties	Vendor requests removal of this Section as this does not apply as we are only selling commercial-off-the-shelf software, and not Custom software.	The STATE OF IDAHO SPECIAL TERMS AND CONDITIONS FOR CUSTOMIZED SOFTWARE AND RELATED SERVICES does not apply to this RFP. Reference the amended RFP documents.
9	Special Ts & Cs 4. Acceptance	Vendor requests removal of this Section as this does not apply as we are only selling commercial-off-the-shelf software, and not Custom software.	The STATE OF IDAHO SPECIAL TERMS AND CONDITIONS FOR CUSTOMIZED SOFTWARE AND RELATED SERVICES does not apply to this RFP. Reference the amended RFP documents.
10	Special Ts & Cs 5. Software Warranty	Vendor requests removal of this Section as this does not apply as we are only selling commercial-off-the-shelf software, and not Custom software.	The STATE OF IDAHO SPECIAL TERMS AND CONDITIONS FOR CUSTOMIZED SOFTWARE AND RELATED SERVICES does not apply to this RFP. Reference the amended RFP documents.
11	Special Ts & Cs 6. Limitation of Liability	MODIFICATION REQUEST: CONTRACTOR WILL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SOFTWARE OR SERVICES PROVIDED	The STATE OF IDAHO SPECIAL TERMS AND CONDITIONS FOR CUSTOMIZED SOFTWARE AND RELATED SERVICES does not apply to this RFP. Reference the amended RFP documents.

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Amendment 02
Dated 10/25/11

#	Specification	Bidder Question	Answer (State use only)
		<p>HEREUNDER. NEITHER PARTY SHALL HAVE LIABILITY FOR THE FOLLOWING: (1) LOSS OF REVENUE, INCOME, PROFIT, OR SAVINGS; (2) LOST OR CORRUPTED DATA OR SOFTWARE, LOSS OF USE OF A SYSTEM OR NETWORK OR THE RECOVERY OF SUCH; (3) LOSS OF BUSINESS OPPORTUNITY; (4) BUSINESS INTERRUPTION OR DOWNTIME; OR (5) DELIVERABLES, PRODUCTS, OR THIRD-PARTY PRODUCTS NOT BEING AVAILABLE FOR USE.</p> <p>CONTRACTOR'S TOTAL LIABILITY FOR ANY AND ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (INCLUDING ANY SOFTWARE OR SERVICES PROVIDED HEREUNDER) IN ANY 12-MONTH PERIOD SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER DURING THE PRIOR 12 MONTHS OF THIS AGREEMENT FOR THE SPECIFIC SOFTWARE OR SERVICE GIVING RISE TO SUCH CLAIM(S).</p> <p>THESE LIMITATIONS, EXCLUSIONS, AND DISCLAIMERS SHALL APPLY TO ALL CLAIMS FOR DAMAGES, WHETHER BASED IN CONTRACT, WARRANTY, STRICT LIABILITY, NEGLIGENCE, TORT, OR OTHERWISE. THE PARTIES AGREE THAT THESE LIMITATION OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR CONTRACTOR'S SALE OF SOFTWARE OR SERVICES TO CUSTOMER, AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND EVEN IF A PARTY HAS BEEN ADVISED OF THE</p>	

RFPO2410
Amendment 02
Dated 10/25/11

#	Specification	Bidder Question	Answer (State use only)
		POSSIBILITY OF SUCH LIABILITIES.	
12	Special Ts & Cs 7. Ownership of Materials and Information	REMOVAL REQUEST. There is no ownership. This is a software license and all grants and use are pursuant to Publisher License Agreement.	The STATE OF IDAHO SPECIAL TERMS AND CONDITIONS FOR CUSTOMIZED SOFTWARE AND RELATED SERVICES does not apply to this RFP. Reference the amended RFP documents.
13	RFP 4.7.9 (E) The bidder will describe in full detail their mechanism to fix any defective product acquired under the contract, without charge to the State.	MODIFICATION REQUEST: Contractor will request replacement of defective media from Publisher within ten (10) calendar days upon notification from purchasing agency that media is defective.	Reference the amended RFP documents that are being released as part of Amendment 02. The modification is accepted with some State modification.

RFP02410_ATTACHMENT 1

Idaho Enterprise Licensing as of September 2011

Licensing ID	DT Count	Organization	City	End Date	Status	Parent Program
Standard Enrollment - 2875276	49	State of Idaho- Occupational Licenses	Boise	9/30/2012	Active	Enterprise 6 - 01E64416
Standard Enrollment - 3854532	225	Ada County Highway District	Garden City	5/31/2012	Active	Enterprise 6 - 01E64416
Standard Enrollment - 3944343	185	Idaho Industrial Commission	Boise	6/30/2012	Active	Enterprise 6 - 01E64416
Standard Enrollment - 4363419	150	Department of Administration State of Idaho	Boise	10/31/2011	Active	Enterprise 6 - 01E64416
Standard Enrollment - 4553228	126	EASTERN IDAHO PUBLIC HEALTH DISTRICT	Idaho Falls	6/30/2013	Active	Enterprise 6 - 01E64416
Standard Enrollment - 5038142	550	Canyon County	Caldwell	7/31/2014	Active	Enterprise 6 - 01E64416
Standard Enrollment - 5426835	85	PERSI	Boise	4/30/2014	Active	Enterprise 6 - 01E64416
Standard Enrollment - 5495378	90	Idaho Department of Finance	Boise	5/31/2013	Active	Enterprise 6 - 01E64416
Standard Enrollment - 5502044	300	City of Idaho Falls	Idaho Falls	11/30/2011	Active	Enterprise 6 - 01E64416
Standard Enrollment - 5537996	765	Idaho State Tax Commission	Boise	12/31/2013	Active	Enterprise 6 - 01E64416
Standard Enrollment - 5553480	1979	Idaho Transportation Department	Boise	12/31/2013	Active	Enterprise 6 - 01E64416
Standard Enrollment - 5705405	118	City of Rexburg	Rexburg	11/30/2012	Active	Enterprise 6 - 01E64416
Standard Enrollment - 5771405	701	Idaho Department of Labor	Boise	12/31/2013	Active	Enterprise 6 - 01E64416
Standard Enrollment - 6425009	150	Idaho Division of Veterans Services	Boise	9/30/2011	Active	Enterprise 6 - 01E64416
Standard Enrollment - 6499885	175	CITY OF MOSCOW	MOSCOW	9/30/2011	Active	Enterprise 6 - 01E64416
Standard Enrollment - 6799991	110	Idaho State Controller's Office	Boise	5/31/2014	Active	Enterprise 6 - 01E64416
Standard Enrollment - 7968465	750	Portneuf Medical Center	Pocatello	7/31/2012	Active	Enterprise 6 - 01E64416
Standard Enrollment - 8502312	25	Idaho Potato Commission	Eagle	9/30/2011	Active	Enterprise 6 - 01E64416
Standard Enrollment - 8808775	125	South Central Health District	Twin Falls	12/31/2013	Active	Enterprise 6 - 01E64416
Standard Enrollment - 8824897	348	Idaho State Insurance Fund	Boise	12/31/2013	Active	Enterprise 6 - 01E64416
Standard Enrollment - 8854793	81	City of Jerome, Idaho	Jerome	7/31/2012	Active	Enterprise 6 - 01E64416
Standard Enrollment - 8961993	90	Payette County	Payette	11/30/2011	Active	Enterprise 6 - 01E64416
Standard Enrollment - 8962439	71	Idaho Department of Commerce	Boise	12/31/2013	Active	Enterprise 6 - 01E64416
Standard Enrollment - 9213475	100	Idaho Dept of Insurance	Boise	12/31/2013	Active	Enterprise 6 - 01E64416
Standard Enrollment - 9213771	325	Madison Memorial Hospital	Rexburg	1/31/2014	Active	Enterprise 6 - 01E64416
Standard Enrollment - 9626859	140	Southeastern District Health Department	Pocatello	9/30/2013	Active	Enterprise 6 - 01E64416
Standard Enrollment - 9954670	450	Bonneville County	Idaho Falls	11/30/2013	Active	Enterprise 6 - 01E64416
TOTAL Desktops	8263					

STATE OF IDAHO STANDARD CONTRACT TERMS AND CONDITIONS

1. **DEFINITIONS:** Unless the context requires otherwise, all terms not defined below shall have the meanings defined in Idaho Code Section 67-5716 or IDAPA 38.05.01.011.
 - A. Agreement – Any State written contract, lease or purchase order including solicitation or specification documents and the accepted portions of the submission for the acquisition of Property. An Agreement shall also include any amendments mutually agreed upon by both parties.
 - B. Contractor – A vendor who has been awarded an Agreement.
 - C. Property – Goods, services, parts, supplies and equipment, both tangible and intangible, including, but not exclusively, designs, plans, programs, systems, techniques and any rights and interest in such property.
 - D. State – The State of Idaho including each agency unless the context implies other states of the United States.
2. **TERMINATION:** The State may terminate the Agreement (and/or any order issued pursuant to the Agreement) when the Contractor has been provided written notice of default or non-compliance and has failed to cure the default or non-compliance within a reasonable time, not to exceed thirty (30) calendar days. If the Agreement is terminated for default or non-compliance, the Contractor will be responsible for any costs resulting from the State's placement of a new contract and any damages incurred by the State. The State, upon termination for default or non-compliance, reserves the right to take any legal action it may deem necessary including, without limitation, offset of damages against payment due.
3. **RENEWAL OPTIONS:** Upon mutual agreement by both parties (unless otherwise modified by a special contract term, condition, or specification), this Agreement may be extended under the same terms and conditions for one (1) year intervals or the time interval equal to the original contract period.
4. **PRICES:** Prices shall not fluctuate for the period of the Agreement and any renewal or extension, unless otherwise specified by the State in the bidding documents or other terms of the Agreement. Prices include all costs associated with shipping and delivery to the F.O.B. destination address, prepaid and allowed. If installation is requested by the State or specified in the State's solicitation documents, pricing shall include all charges associated with a complete installation at the location specified.
5. **ADMINISTRATIVE FEE:**
 - A. **Application of Administrative Fee:**
 1. All Purchase Orders (PO) and Contract Purchase Orders (CPO) issued through the Idaho eProcurement System (IPRO) shall be subject to an Administrative Fee of one point two five percent (1.25%) of the value of the Agreement, unless the PO or CPO is exempted as described below. The Administrative Fee will apply to all PO and CPO Awards issued through IPRO, regardless of Contractor's mode of response submission to the solicitation (i.e. manual or electronic).
 2. Subsequent renewals, amendments or change orders to the initial PO or CPO, which result in an increased Agreement value, will constitute an incremental or additional award for which an additional Administrative Fee will apply; however, the additional Administrative Fee will be a Flat Fee, applied as follows:

<u>Original value + all amendments</u>	<u>Flat Fee</u>
\$50,000 - \$1 Million	\$ 500
\$1 Million - \$8 Million	\$ 1000
\$8 Million +	\$ 2000
 3. Regardless of the number of renewals, amendments, and/or change orders, the total aggregate Administrative Fee assessed per PO or CPO will not exceed one hundred thousand dollars (\$100,000).

STATE OF IDAHO STANDARD CONTRACT TERMS AND CONDITIONS

4. A contractor's failure to consider the Administrative Fee when preparing its solicitation response shall not constitute or be deemed a waiver by the State of any Administrative Fees owed by Contractor as a result of a PO or CPO Award issued through IPRO.

B. Administrative Fee Exemptions:

1. Notwithstanding any language to the contrary, the Administrative Fee referenced in Section 5.A, above, will not apply to contracts with an original awarded value of less than \$50,000; or to contracts issued through IPRO without a competitive solicitation, e.g. Emergency Procurements (EPA), Sole Source Procurements (SSA), Exempt Purchases (EXPO), awards issued under Delegated Purchase Authority (DPA), and orders placed against WSCA/NASPO or other cooperative contracts (PADD) that are exempt from the requirements for competitive bidding.

2. The Administrative Fee referenced in Section 5.A., above, will not apply to Blanket Purchase Orders (BPO) or Statewide Blanket Purchase Orders (SBPO); however, BPOs and SBPOs (like PADDs) may have a separate Administrative Fee applied to orders placed against the contract, as specifically described in the individual BPO or SBPO.

3. The State may also exempt a specific PO or CPO from the Administrative Fee requirement.

C. Payment of Administrative Fee: Contractor will remit the Administrative Fee applicable to a PO or CPO, as described in Section 5.A., above, to the IPRO Administrator, SicommNet, Inc., as follows:

1. **Awards with a firm delivery date:** SicommNet, Inc. will invoice Contractor for the Administrative Fee on or after the delivery date provided in the Agreement, with payment due thirty (30) days after receipt of invoice.

2. **Awards with a contract start and end date:** SicommNet, Inc. will invoice Contractor on either a quarterly, monthly or "per payment" basis; or may offer Contractor a prepayment option. Payment will be due thirty (30) days after receipt of each invoice.

D. Refund of Administrative Fee: In the event that a PO or CPO is cancelled by the State through no fault of the Contractor, or if item(s) are returned by the State through no fault, act, or omission of the Contractor after the sale of any such item(s) to the State, the State will direct SicommNet, Inc. to refund the Contractor any Administrative Fees remitted to SicommNet, Inc. Administrative Fees will not be refunded or returned when an item is rejected or returned, or declined, or the Agreement cancelled by the State due to the Contractor's failure to perform or comply with specifications or requirements of the Agreement. If, for any other reason, the Contractor is obligated to refund to the State all or a portion of the State's payment to the Contractor, or the State withholds payment because of the assessment of liquidated damages, the Administrative Fee assessed on the PO or CPO will not be refunded in whole or in part.

E. Failure to Remit Administrative Fees: If a Contractor fails to remit the Administrative Fee, as provided in Section 5.C. above, the State, at its discretion, may declare the Contractor in default; cancel the Agreement or award; assess and recover re-procurement costs from the Contractor (in addition to all outstanding Administrative Fees); seek State or Federal audits, monitoring or inspections; exclude Contractor from participating in future solicitations; and/or suspend Contractor's online account.

6. **CHANGES/MODIFICATIONS:** Changes of specifications or modification of this Agreement in any particular can be affected only upon written consent of the Division of Purchasing, but not until any proposed change or modification has been submitted in writing, signed by the party proposing the said change.

7. **CONFORMING PROPERTY:** The Property shall conform in all respects with the specifications or the State's solicitation documents. In event of nonconformity, and without limitation upon any other remedy, the State shall have no financial obligation in regard to the non-conforming goods or services.

8. **OFFICIAL, AGENT AND EMPLOYEES OF THE STATE NOT PERSONALLY LIABLE:** In no event shall any official, officer, employee or agent of the State be in any way personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this Agreement.

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- 9. CONTRACT RELATIONSHIP:** It is distinctly and particularly understood and agreed between the parties hereto that the State is in no way associated or otherwise connected with the performance of any service under this Agreement on the part of the Contractor or with the employment of labor or the incurring of expenses by the Contractor. Said Contractor is an independent contractor in the performance of each and every part of this Agreement, and solely and personally liable for all labor, taxes, insurance, required bonding and other expenses, except as specifically stated herein, and for any and all damages in connection with the operation of this Agreement, whether it may be for personal injuries or damages of any other kind. The Contractor shall exonerate, defend, indemnify and hold the State harmless from and against and assume full responsibility for payment of all federal, state and local taxes or contributions imposed or required under unemployment insurance, social security, workman's compensation and income tax laws with respect to the Contractor or Contractor's employees engaged in performance under this Agreement. The Contractor will maintain any applicable workman's compensation insurance as required by law and will provide certificate of same if requested. There will be no exceptions made to this requirement and failure to provide a certification of workman's compensation insurance may, at the State's option, result in cancellation of this Agreement or in a contract price adjustment to cover the State's cost of providing any necessary workman's compensation insurance. The contractor must provide either a certificate of workman's compensation insurance issued by a surety licensed to write workman's compensation insurance in the State of Idaho, as evidence that the contractor has in effect a current Idaho workman's compensation insurance policy, or an extraterritorial certificate approved by the Idaho Industrial Commission from a state that has a current reciprocity agreement with the Industrial Commission. The State does not assume liability as an employer.
- 10. ANTI-DISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY CLAUSE:** Acceptance of this Agreement binds the Contractor to the terms and conditions of Section 601, Title VI, Civil Rights Act of 1964, in that "No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance." In addition, "No other wise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" (Section 504 of the Rehabilitation Act of 1973). Furthermore, for contracts involving federal funds, the applicable provisions and requirements of Executive Order 11246 as amended, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, Section 701 of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA), 29 USC Sections 621, et seq., the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, U.S. Department of Interior regulations at 43 CFR Part 17, and the Americans with Disabilities Act of 1990, are also incorporated into this Agreement. The Contractor shall comply with pertinent amendments to such laws made during the term of the Agreement and with all federal and state rules and regulations implementing such laws. The Contractor must include this provision in every subcontract relating to this Agreement.
- 11. TAXES:** The State is generally exempt from payment of state sales and use taxes and from personal property tax for property purchased for its use. The State is generally exempt from payment of federal excise tax under a permanent authority from the District Director of the Internal Revenue Service (Chapter 32 Internal Revenue Code [No. 82-73-0019K]). Exemption certificates will be furnished as required upon written request by the Contractor. If the Contractor is required to pay any taxes incurred as a result of doing business with the State, it shall be solely and absolutely responsible for the payment of those taxes. If, after the effective date of this Agreement, an Idaho political subdivision assesses, or attempts to assess, personal property taxes not applicable or in existence at the time this Agreement becomes effective, the State will be responsible for such personal property taxes, after reasonable time to appeal. In no event shall the State be responsible for personal property taxes affecting items subject to this Agreement at the time it becomes effective.
- 12. SAVE HARMLESS:** Contractor shall defend, indemnify and hold harmless the State from any and all liability, claims, damages, costs, expenses, and actions, including reasonable attorney fees, caused by or that arise from the negligent or wrongful acts or omissions of the Contractor, its employees, agents, or subcontractors under this Agreement that cause death or injury or damage to property or arising out of a failure to comply with any state or federal statute, law, regulation or act. Contractor shall have no indemnification liability under this section for death, injury, or damage arising solely out of the negligence or misconduct of the State.
- 13. ORDER NUMBERS:** The Contractor shall clearly show the State's Agreement order numbers or purchase order numbers on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

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- 14. CONTRACTOR RESPONSIBILITY:** The Contractor is responsible for furnishing and delivery of all Property included in this Agreement, whether or not the Contractor is the manufacturer or producer of such Property. Further, the Contractor will be the sole point of contact on contractual matters, including payment of charges resulting from the use or purchase of Property.
- 15. SUBCONTRACTING:** Unless otherwise allowed by the State in this Agreement, the Contractor shall not, without written approval from the State, enter into any subcontract relating to the performance of this Agreement or any part thereof. Approval by the State of Contractor's request to subcontract or acceptance of or payment for subcontracted work by the State shall not in any way relieve the Contractor of any responsibility under this Agreement. The Contractor shall be and remain liable for all damages to the State caused by negligent performance or non-performance of work under the Agreement by Contractor's subcontractor or its sub-subcontractor.
- 16. COMMODITY STATUS:** It is understood and agreed that any item offered or shipped shall be new and in first class condition and that all containers shall be new and suitable for storage or shipment, unless otherwise indicated by the State in the specifications. Demonstrators, previously rented, refurbished, or reconditioned items are not considered "new" except as specifically provided in this section. "New" means items that have not been used previously and that are being actively marketed by the manufacturer or Contractor. The items may contain new or minimal amounts of recycled or recovered parts that have been reprocessed to meet the manufacturer's new product standards. The items must have the State as their first customer and the items must not have been previously sold, installed, demonstrated, or used in any manner (such as rentals, demonstrators, trial units, etc.). The new items offered must be provided with a full, unadulterated, and undiminished new item warranty against defects in workmanship and materials. The warranty is to include replacement, repair, and any labor for the period of time required by other specifications or for the standard manufacturer or vendor warranty, whichever is longer.
- 17. SHIPPING AND DELIVERY:** All orders will be shipped directly to the ordering agency at the location specified by the State, on an F.O.B. Destination freight prepaid and allowed basis with all transportation, unloading, uncrating, drayage, or other associated delivery and handling charges paid by the Contractor. "F.O.B. Destination", unless otherwise specified in the Agreement or solicitation documents, shall mean delivered to the State Agency Receiving Dock or Store Door Delivery Point. The Contractor shall deliver all orders and complete installation, if required, within the time specified in the Agreement. Time for delivery commences at the time the order is received by the Contractor.
- 18. INSTALLATION AND ACCEPTANCE:** When the purchase price does not include installation, acceptance shall occur fourteen (14) calendar days after delivery; unless the State has notified the Contractor in writing that the order does not meet the State's specification requirements or otherwise fails to pass the Contractor's established test procedures or programs. When installation is included, acceptance shall occur fourteen (14) calendar days after completion of installation; unless the State has notified the Contractor in writing that the order does not meet the State's specification requirements or otherwise fails to pass the Contractor's established test procedures or programs. If an order is for support or other services, acceptance shall occur fourteen (14) calendar days after completion, unless the State has notified the Contractor in writing that the order does not meet the State's requirements or otherwise fails to pass the Contractor's established test procedures or programs.
- 19. RISK OF LOSS:** Risk of loss and responsibility and liability for loss or damage will remain with Contractor **as long as the Contractor designates the carrier, and until delivery to the identified ship-to address** until acceptance when responsibility will pass to the **Purchasing Entity** State except as to latent defects, fraud and Contractor's warranty obligations. Such loss, injury or destruction shall not release the Contractor from any obligation under this Agreement. (RFP02410-02)
- 20. INVOICING: ALL INVOICES** are to be sent directly to the **ORDERING AGENCY ONLY**. The Agreement number and/or purchase order number is to be shown on all invoices. In no case are invoices to be sent to the Division of Purchasing.
- 21. ASSIGNMENTS:** No Agreement or order or any interest therein shall be transferred by the Contractor to whom such Agreement or order is given to any other party without the approval in writing of the Administrator, Division of Purchasing. Transfer of an Agreement without approval shall cause the annulment of the

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Agreement so transferred, at the option of the State. All rights of action, however, for any breach of such Agreement are reserved to the State. (Idaho Code Section 67-5726[1])

22. PAYMENT PROCESSING: Idaho Code Section 67-5735 reads as follows: "Within ten (10) days after the property acquired is delivered as called for by the bid specifications, the acquiring agency shall complete all processing required of that agency to permit the contractor to be reimbursed according to the terms of the bid. Within ten (10) days of receipt of the document necessary to permit reimbursement of the contractor according to the terms of the contract, the State Controller shall cause a warrant to be issued in favor of the contractor and delivered."

23. COMPLIANCE WITH LAW, LICENSING AND CERTIFICATIONS: Contractor shall comply with ALL requirements of federal, state and local laws and regulations applicable to Contractor or to the Property provided by Contractor pursuant to this Agreement. For the duration of the Agreement, the Contractor shall maintain in effect and have in its possession all licenses and certifications required by federal, state and local laws and rules.

24. PATENTS AND COPYRIGHT INDEMNITY:

- ~~A. Contractor shall indemnify and hold the State harmless and shall defend at its own expense any action brought against the State based upon a claim of infringement of a United States' patent, copyright, trade secret, or trademark for Property purchased under this Agreement. Contractor will pay all damages and costs finally awarded and attributable to such claim, but such defense and payments are conditioned on the following: (i) that Contractor shall be notified promptly in writing by the State of any notice of such claim; (ii) that Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise and State may select at its own expense advisory counsel; and (iii) that the State shall cooperate with Contractor in a reasonable way to facilitate settlement or defense of any claim or suit.~~
- ~~B. Contractor shall have no liability to the State under any provision of this clause with respect to any claim of infringement that is based upon: (i) the combination or utilization of the Property with machines or devices not provided by the Contractor other than in accordance with Contractor's previously established specifications unless such combination or utilization was disclosed in the specifications; (ii) the modification of the Property unless such modification was disclosed in the specifications; or (iii) the use of the Property not in accordance with Contractor's previously established specifications unless such use was disclosed in the specifications.~~
- ~~C. Should the Property become, or in Contractor's opinion be likely to become, the subject of a claim of infringement of a United States' patent, the Contractor shall, at its option and expense, either procure for the State the right to continue using the Property, to replace or modify the Property so that it becomes non-infringing, or to grant the State a full refund for the purchase price of the Property and accept its return. (RFP02410-02)~~

25. CONFIDENTIAL INFORMATION: Pursuant to this Agreement, Contractor may collect, or the State may disclose to Contractor, financial, personnel or other information that the State regards as proprietary or confidential ("Confidential Information"). Confidential Information shall belong solely to the State. Contractor shall use such Confidential Information only in the performance of its services under this Agreement and shall not disclose Confidential Information or any advice given by it to the State to any third party, except with the State's prior written consent or under a valid order of a court or governmental agency of competent jurisdiction and then only upon timely notice to the State. The State may require that Contractor's officers, employees, agents or subcontractors agree in writing to the obligations contained in this section. Confidential Information shall be returned to the State upon termination of this Agreement. The confidentiality obligation contained in this section shall survive termination of this Agreement. Confidential Information shall not include data or information that:

- A. Is or was in the possession of Contractor before being furnished by the State, provided that such information or other data is not known by Contractor to be subject to another confidentiality agreement with or other obligation of secrecy to the State;

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- B. Becomes generally available to the public other than as a result of disclosure by Contractor; or
- C. Becomes available to Contractor on a non-confidential basis from a source other than the State, provided that such source is not known by Contractor to be subject to a confidentiality agreement with or other obligation of secrecy to the State.
- 26. USE OF THE STATE OF IDAHO NAME:** Contractor shall not, prior to, in the course of, or after performance under this Agreement, use the State's name in any advertising or promotional media, including press releases, as a customer or client of Contractor without the prior written consent of the State.
- 27. APPROPRIATION BY LEGISLATURE REQUIRED:** The State is a government entity and this Agreement shall in no way or manner be construed so as to bind or obligate the State of Idaho beyond the term of any particular appropriation of funds by the State's Legislature as may exist from time to time. The State reserves the right to terminate this Agreement in whole or in part (or any order placed under it) if, in its sole judgment, the Legislature of the State of Idaho fails, neglects, or refuses to appropriate sufficient funds as may be required for the State to continue such payments, or requires any return or "give-back" of funds required for the State to continue payments, or if the Executive Branch mandates any cuts or holdbacks in spending. All affected future rights and liabilities of the parties hereto shall thereupon cease within ten (10) calendar days after notice to the Contractor. It is understood and agreed that the State's payments herein provided for shall be paid from Idaho State Legislative appropriations.
- 28. FORCE MAJEURE:** Neither party shall be liable or deemed to be in default for any Force Majeure delay in shipment or performance occasioned by unforeseeable causes beyond the control and without the fault or negligence of the parties, including, but not restricted to, acts of God or the public enemy, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, or unusually severe weather, provided that in all cases the Contractor shall notify the State promptly in writing of any cause for delay and the State concurs that the delay was beyond the control and without the fault or negligence of the Contractor. The period for the performance shall be extended for a period equivalent to the period of the Force Majeure delay. Matters of the Contractor's finances shall not be a Force Majeure.
- 29. GOVERNING LAW AND SEVERABILITY:** This Agreement shall be construed in accordance with and governed by the laws of the State of Idaho. Any action to enforce the provisions of this Agreement shall be brought in State district court in Ada County, Boise, Idaho. In the event any term of this Agreement is held to be invalid or unenforceable by a court, the remaining terms of this Agreement will remain in force.
- 30. ENTIRE AGREEMENT:** This Agreement is the entire agreement between the parties with respect to the subject matter hereof. Where terms and conditions specified in the Contractor's response differ from those specifically stated in this Agreement, the terms and conditions of this Agreement shall apply. In the event of any conflict between these standard terms and conditions and any special terms and conditions applicable to this acquisition, the special terms and conditions will govern. This Agreement may not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.
- 31. PRIORITY OF DOCUMENTS:** This Agreement consists of and precedence is established by the order of the following documents:
1. This Agreement;
 2. The Solicitation; and
 3. Contractor's proposal as accepted by the State.

The Solicitation and the Contractor's proposal accepted by the State are incorporated herein by this reference. The parties intend to include all items necessary for the proper completion of the scope of work. The documents set forth above are complementary and what is required by one shall be binding as if required by all. However, in the case of any conflict or inconsistency arising under the documents, a lower numbered document shall supersede a higher numbered document to the extent necessary to resolve any such conflict or inconsistency. Provided, however, that in the event an issue is addressed in one of the above mentioned

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documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur.

Where terms and conditions specified in the Contractor's proposal differ from the terms in this Solicitation, the terms and conditions of this Solicitation shall apply. Where terms and conditions specified in the Contractor's proposal supplement the terms and conditions in this solicitation, the supplemental terms and conditions shall apply only if specifically accepted by the Division of Purchasing in writing.

- 32. PUBLIC RECORDS:** Pursuant to Idaho Code Section 9-335, et seq., information or documents received from the Contractor may be open to public inspection and copying unless exempt from disclosure. The Contractor shall clearly designate individual documents as "exempt" on each page of such documents and shall indicate the basis for such exemption. The State will not accept the marking of an entire document as exempt. In addition, the State will not accept a legend or statement on one (1) page that all, or substantially all, of the document is exempt from disclosure. The Contractor shall indemnify and defend the State against all liability, claims, damages, losses, expenses, actions, attorney fees and suits whatsoever for honoring such a designation or for the Contractor's failure to designate individual documents as exempt. The Contractor's failure to designate as exempt any document or portion of a document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any such release. If the State receives a request for materials claimed exempt by the Contractor, the Contractor shall provide the legal defense for such claim.
- 33. NOTICES:** Any notice which may be or is required to be given pursuant to the provisions of this Agreement shall be in writing and shall be hand delivered, sent by facsimile, prepaid overnight courier or United States' mail as follows. For notice to the State, the address and facsimile number are:

State of Idaho
Division of Purchasing
650 W State Street – Room B15
P.O. Box 83720
Boise, ID 83720-0075
208-327-7465 (phone)
208-327-7320 (fax)

For notice to the Contractor, the address or facsimile number shall be that contained on the Contractor's bid, quotation or proposal. Notice shall be deemed delivered immediately upon personal service or facsimile transmission (with confirmation printout), the day after deposit for overnight courier or forty-eight (48) hours after deposit in the United States' mail. Either party may change its address or facsimile number by giving written notice of the change to the other party.

- 34. NON-WAIVER:** The failure of any party, at any time, to enforce a provision of this Agreement shall in no way constitute a waiver of that provision, nor in any way affect the validity of this Agreement, any part hereof, or the right of such party thereafter to enforce each and every provision hereof.
- 35. ATTORNEYS' FEES:** In the event suit is brought or an attorney is retained by any party to this Agreement to enforce the terms of this Agreement or to collect any moneys due hereunder, the prevailing party shall be entitled to recover reimbursement for reasonable attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith in addition to any other available remedies.
- 36. RESTRICTIONS ON AND WARRANTIES – ILLEGAL ALIENS:** Contractor warrants that any contract resulting from this Solicitation is subject to Executive Order 2009-10 [http://gov.idaho.gov/mediacenter/execorders/eo09/eo_2009_10.html]; it does not knowingly hire or engage any illegal aliens or persons not authorized to work in the United States; it takes steps to verify that it does not hire or engage any illegal aliens or persons not authorized to work in the United States; and that any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and shall be cause for the imposition of monetary penalties up to five percent (5%) of the contract price, per violation, and/or termination of its contract. If its contract is for the provision of services or for the sale or lease/licensing of computer software, Contractor further warrants that its contract is subject to Executive Order 2007-09 [http://gov.idaho.gov/mediacenter/execorders/eo07/eo_2007_09.html]

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and that it must notify the Division of Purchasing in advance if, during the term of its contract, it seeks to shift services or work that it represented would be done inside the United States to outside the United States. Failure to obtain the consent of the Division of Purchasing for such shift constitutes a material breach