



REQUEST FOR PROPOSAL

RFP ISSUE DATE:**August 7, 2009****TITLE:****SJSU Electronic Content
Management System Project
Management****RFP NUMBER:****RFP-WR00039181-MP****PURCHASING OFFICE CONTACT:**

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IMPORTANT: The Proposal and CD-R is to be submitted in a sealed envelope. Indicate company name, RFP No., and date and time proposal is due on the front of the envelope or package (sample of label provided in Section 7.5 herein).

Sealed Proposals will be received until 11:00 A.M. on August 27, 2009 as indicated by the time stamp at the reception desk in Room 500.

Proposals not received by this date and time will not be considered. Vendors must allow one additional business day for proposal package delivery from the University Mailroom to the Purchasing Office. However, failure by the University Mail Room or Receiving (for third-party carriers) to deliver by the date and time shall not extend the time required for submission. Items not delivered to the reception desk by the time indicated will be returned unopened. Proposals may also be hand-delivered by vendor in a sealed envelope to the Purchasing Office at the location indicated below.

***Submittal of proposal by fax is not acceptable.**

Physical Location:

Purchasing Department
Clark Hall, Rm 500
One Washington Square
San Jose, CA 95192

Mail Delivery:

Michael Peth
SJSU Purchasing Department
One Washington Square
San Jose, CA 95192-0047

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SECTION 1

SCHEDULE FOR RFP*

Release of Request for Proposal	Friday, August 7, 2009
Last Day For Questions (note questions must be emailed and a composite question and answers document will be posted on bids on line)	August 21, 2009
Answers to questions will be sent by	August 24, 2009
Deadline for Receipt of Proposals	11:00 A.M. on August 27, 2009
Notification to finalist(s) by fax	September 3, 2009
Presentations from Finalists <i>(Presentations will be scheduled by blind drawing for time on this day)</i>	September 8, 2009
Notice of Intent to Award	September 10, 2009
Anticipated Contract Award Date	No Later than September 22, 2009

**** Schedule may be modified by posting addendums on the SJSU Bids Online System. It is the prospective vendor's responsibility to monitor the Bids Online System for updates.***

SECTION 2

PURPOSE OF REQUEST FOR PROPOSAL AND GENERAL PROVISIONS

2.1 INTRODUCTION

The Office of the Chief Information Officer at San José State University (SJSU) invites prospective contractors to submit responses to its request for proposal (RFP) for project management services for implementing an electronic content management system (ECMS).

San José State University is a diverse, comprehensive public university, located in Silicon Valley and a member of the California State University System. San José State University, founded in 1857, is the oldest of the 23 CSU campuses. To carry out its mission of teaching, research, and service to the community, SJSU needs to administer a variety of administrative functions. To perform these administrative functions, the campus relies on a number of information systems, the primary one being the PeopleSoft product, which supports finance, student, admissions, financial aid, human resources, and payroll functions. PeopleSoft is the primary system to which the electronic content management solution must integrate.

The electronic content management system was purchased from ImageSource Corporation in May 2009 for two divisions of the University after a lengthy and in-depth analysis. Upon further review by the Office of the Chief Information Officer it was determined that optimal return on investment and enhanced customer service to the campus community would best be achieved by a campus wide implementation and oversight of the initial two divisions implementing two different business processes (one unique to the division and the other common across the University).

2.1.1 PROJECT MANAGEMENT GOALS AND OBJECTIVES

The ECMS project is a collaborative effort within SJSU Administration and Finance (AF) and Enrollment Services (ES/Student Affairs) Divisions, to deliver content enabled “requisition to purchase order process” and transcript processing solution. It is the key to the success of implementing these enhanced services that the selected vendor understands the relationship between all of the parties involved in making the ECMS a success. The selected vendor will work collaboratively with AF and ES division project teams, the affected program areas, and Administration Systems (AS) to fully identify, understand and document all issues and risks that may impact the ability to successfully support the ECMS implementation.

The Project Team consists of SJSU Administration and Finance/Student Affairs Enrollment Services, Administrative Systems staff and a content management solution provider ImageSource. This team is responsible for designing and implementing all aspects of the Program and Project to implement ECMS, including the end to end Business Process method, processes, and governance and transition management activities required to support the ECMS implementation.

The ECMS project seeks Program and Project management consulting assistance to develop and implement an overall Program to include project management to implement the new application ECMS, business processes and proposed governance processes for evaluating, approving, and prioritizing both new initiatives and maintenance of new ECMS applications. These resources will work with SJSU ECMS team members

2.2 DEFINITIONS

2.2.1 “University”: San Jose State University and all of the Departments, auxiliary units (e.g. Spartan shops, Foundation, etc.) and SJSU managed functions off-campus (Moss Landing Marine Laboratories, Master Library Sciences at Fullerton State, etc.).

2.2.2 “Vendor”, “Bidder”, “Proposer”: An individual, partnership, or corporation from whom the University is soliciting a proposal.

2.2.3 “Contractor”: The individual, partnership, or corporation whose bid is accepted and who is awarded a contract.

2.2.4 “Contract”, “Agreement”: The legal document the University issues to bind the Contractor to provide the product and/or service described in the Request for Proposal.

2.2.5 “Request for Proposal (or RFP)”: A competitive negotiation process to procure the best value for the University.

2.3 PROPOSALS

All Proposals and contracts awarded as a result of this RFP are subject to the University’s terms and conditions as stated in this RFP. The submission of any other terms and conditions by a Vendor may be grounds for rejection of the Vendor’s proposal.

2.4 COMPETITIVE NEGOTIATION

The RFP process provides all interested Vendors with an equal opportunity to offer their services. The process of competitive negotiation being used in this case should not be confused with the different process of competitive sealed bidding. The latter process is usually used where the goods or services being procured can be precisely described and the financial proposal is generally the determinative factor. The University has the flexibility to negotiate with a vendor to arrive at a mutually agreeable relationship. The University is not required to accept any proposal if in its judgment the University’s interests are better served by declining to do so.

Contractors are cautioned that this is a Request for Proposal, not a request to contract, and the University reserves the right to reject any or all offers when such rejection is deemed to be in the best interest of the University.

2.5 INTENT

The University intends to implement a totally working SYSTEM under the terms of the negotiated contract, and not just the hardware, software, installation, documentation, and maintenance components thereof. As such, it intends to hold the CONTRACTOR responsible for a fully working, i.e. completed result, rather than for provision of components to that result. Vendor must provide the overall oversight of project management, program management, risk management, and change management to create a totally working SYSTEM.

2.6 SCHEDULE

The dates specified on the Schedule (Section 1) of this RFP are subject to change by the University. Changes will be given to vendors via addendum posted on the Bids Online System. It is the responsibility of the vendor to monitor the Bids Online System for changes and addendums.

2.7 GENERAL INFORMATION ON SELECTION PROCESS

Following is a general description of the process by which a Contractor will be selected to provide required services:

- Request for Proposals (RFP) are posted on the University's Bids On-line System and a notification and advertisement is posted on the Department of General Services (DGS) website Bid Sync for notification and use by prospective Contractors. (Note that potential contractors must register on the San Jose State University Bids Online system in order to download the RFP. The University uses no other method to provide the RFP to interested parties).
- Proposals will be received from each Contractor in a sealed package containing (1) one-original and (7) seven paper copies and one standard CD-R CD (mini, business card, or other non-standard size CD's will not be accepted) containing the RFP response in both Microsoft Word 2003 and Adobe Acrobat PDF format. Both documents are not to be password protected. The CD-R must be labeled using indelible ink on its non-data surface with RFP Title, Number, and Vendor's Name.
- The original Proposal must be signed and dated by an official authorized to contractually bind the vendor.
- The Proposal must be received no later than the date and time and at the location specified on the cover sheet of the RFP.
- After all Proposals have been evaluated and the prospective Contractors or finalists have made presentations, the University may negotiate with any Contractor who, in its judgment, may serve its interests. The University reserves the right to terminate negotiation with any Contractor at any time.
- Award shall be made after a Notice of Intent to Award is sent to finalists. A subsequent final contract shall be prepared by the University and signed by the Contractor and the University.
- This RFP, any supplement, and the answers provided and the associated response and documents will constitute an addendum to the resulting contract.

2.8 COST OF PROPOSAL PREPARATION

Any costs incurred by the Contractor in preparing or submitting Proposals are the Contractor's sole responsibility; the University will not reimburse any Contractor for any costs incurred.

2.9 ELABORATE PROPOSALS

Elaborate Proposals in the form of brochures or other presentations beyond that necessary to present a complete and effective proposal are not desired (unless specifically requested).

2.10 ORAL EXPLANATIONS

Any questions, interpretations, or clarifications about this RFP and any addendum must be requested in writing via email by the deadline indicated in Section 1 (Schedule for RFP). All written questions will be answered in writing and conveyed to all proposers. Oral explanations or instructions will not bind the University. Nor will telephone or other means of communication be accepted. See cover page of RFP for contact information. Questions should be directed to Michael Peth at the email address shown on the front page of this RFP by that due date specified in Section 1.

2.11 CONFIDENTIAL INFORMATION

Bidder must notify the University in advance of any proprietary or confidential materials contained in the proposal and provide justification for not making such material public. The University shall have sole discretion, which can not be appealed, to disclose or not disclose such material.

2.12 RIGHT TO SUBMITTED MATERIALS

All responses, inquiries, or correspondence relating to or in reference to this RFP, and all other reports, charts, displays, schedules, exhibits, and other documentation submitted by the Proposers will become the property of San Jose State University when received.

2.13 COMPETITIVE OFFER

Under penalty of perjury, the signer of any Proposal submitted in response to this RFP certifies that its Proposal has not been arrived at collusively nor otherwise in violation of Federal or California antitrust laws. In submitting the Proposal, the Vendor agrees not to discuss or otherwise reveal its technical or cost information to any other sources, government or private, until after the award of the contract. Vendors not in compliance with this provision shall be disqualified.

2.14 CONTRACTORS REPRESENTATIVE

Vendor will provide the name, address, and telephone number of the person(s) with the authority to bind the company and answer questions or provide clarification concerning the proposal.

2.15 PROPOSAL ACCEPTANCE PERIOD

This Proposal shall be binding upon the Vendor for 120 calendar days following the RFP opening date. If the Proposer is in contract negotiations with the University said 120 day deadline shall not be enforceable and the proposal shall be valid until a contract is signed or the University declares that an agreement can not be reached. Any Proposal on which the vendor shortens the acceptance period may be rejected.

2.16 GOVERNING LAW

The validity, interpretation, and performance of any Agreement or Contract, which is forthcoming from this RFP, shall be controlled by and construed under the laws of the State of California.

2.17 DISPUTE/PROTEST

Disputes must be received in writing (fax or email is not acceptable) by San Jose State University Purchasing Office within five (5) business days of receipt of Intent to Award. The day the Intent is issued shall count as one of the five (5) business days. If the University Purchase Office or the Contact individual is not available due to California State University mandated furlough days such day(s) shall still be included in the five (5) business days. The San Jose State University holiday schedule for calendar year 2009 as issued by the Office of the President of the University shall define the definition of a non-business day. The University's decision on protest is final and can not be appealed.

2.18 WITHDRAWAL OF PROPOSALS

A proposal may be withdrawn after its submission by written or facsimile request signed by the proposer or authorized representative, prior to the time and date specified for proposal submission. Proposals may be withdrawn and resubmitted in the same manner if done prior to the submission deadline. Withdrawal or modification offered in any other manner will not be considered.

2.19 DVBE REQUIREMENTS

State law requires that state agencies make efforts to achieve a goal of (3) three percent participation for Disabled Veteran Business Enterprises (DVBE) in state contracts.

READ EXHIBIT F TO THIS DOCUMENT CAREFULLY. FAILURE TO COMPLY WITH THE DVBE REQUIREMENT MAY CAUSE YOUR BID TO BE DEEMED NON-RESPONSIVE AND YOUR FIRM INELIGIBLE FOR AWARD OF THIS CONTRACT. DVBE ADVERTISEMENT IS WAIVED DUE TO CRITICAL SCHEDULE DEADLINE.

2.20 QUESTIONS AND ANSWERS

All questions related to this RFP must be submitted in writing, via email, prior to due date as specified in Section 1 (Schedule for RFP), to the contact specified herein on RFP Cover Letter. Verbal (including phone) or faxed questions will not be accepted.

SECTION 3

Scope of Work

Vendor Requirements

3.1 Current University Project Environment

The following delineates the current University project environment. As the project continues the current state of the project is subject to change prior to the award of the contract.

3.2 Initial Departments and Software Involved in the ECMS

San Jose State University has contracted with ImageSource Incorporated to develop the initial stages of an electronic content management system (ECMS) for the University. The system is to provide full content management, workflow, security, archiving, and both direct and indirect integration with the University's PeopleSoft Common Management System (Financials and Human Capital Management).

The University in order to support two systems that are being replaced due to lack of support and critical needs has elected to initially implement the business processes "Requisition to Purchase Order" in Administration and Finance and "Transcript" in Enrollment Services. Note that the "Requisition to Purchase Order" is not the full "Procure to Pay" process. The vendor will be using a typical waterfall project methodology for each area with common overlap for the initial base "system" installs in the University Computing and Telecommunications department.

It is the intent to implement the "Requisition to Purchase Order" process across the campus in stages.

The following software has been acquired through ImageSource for the implementation of the ECMS:

Software Products Production & Test/Development
Oracle IPM Production Licenses
Kofax Capture Production License
Kofax Capture Volume
Ilinx Enterprise Bundle
Abby Reader
Liquid Office Development
Liquid Office Enterprise

3.2.1 RFP Deliverables Overview

San Jose State University (SJSU) Electronic Content Management Systems (ECMS) project is to provide the creation of an overall sustainable Program Management program with the ImageSource content management implementation as the core project that includes, best practices as outlined in the Project Management Body of Knowledge® (PMBOK) , an implementation of the project using a waterfall methodology such as D3 and Software as a Service (SaaS) for service provisioning to departments, and documentation of end to end Business Processes using a tool such as BPMN V2alpha (preferred) and creation of a Governance framework for future rollouts and expansions. The Project was initiated in response to the needs by multiple Divisions, to improve the in place document management

system. New technology platforms will be implemented, new business processes will be created, and existing processes are expected to change.

3.2.2 Project Program Management Deliverables

At a minimum the Contractor shall with input from the project teams and vendor:

- Review Project Charter and Vendor Provided Project Plan
 - Review Project approach
 - Identify Stakeholders roles and responsibilities
 - Identify Key Milestone Dates, Risk Alignment
 - Develop Project Timeline
 - Develop Governance and Reporting
- Develop Conceptual Technology & Process Design
 - Identify and recommend integration method with other Divisions
 - Validate process flow to technology impacts
 - Analyze, identify and recommend tag design
 - Identify and recommend Help Desk/Support integration
- Provide Budget management and overall cost analysis for deployment
 - Develop and report cost benefit analysis
- Develop Metrics Measurement and Reporting Requirements
 - Establish metrics baseline
 - Analyze system(s) tools
- Incorporate Business process and impacts
- Establish a framework for On-Going Section 508 accessibility compliance for both hardware and software.
- Establish a Change Management approach and metrics to inform the campus community about the ECMS system and project and develop appropriate means of communication and training within the Change Management framework.
- Steering Committee, Executive Reporting
 - o Assist with reporting development and final documentation
 - o Provide Weekly Status Updates and Budget reporting
 - o Bi-Weekly Steering and Executive status updates and briefing

The vendor shall also develop working relationships with internal and external business partners.

3.2.3 Project Management Deliverables

At a minimum the Contractor shall with input from the project teams and vendor:

- Monitor creation of Project Planning Documents.
- Monitor creation of Business Area Requirements Documents.
- Monitor creation of Process flow diagrams.
- Monitor the documenting new processes, procedures, and policies.
- Monitor creation of Data Requirements Documents (for electronic file transfer from purchase requisition and enrollment services), as needed.
- Obtain approval from AF/ES Steering Committee on policies and procedures.
- Create and present Formal Review and Assessment Document detailing opportunities for the Contractor Management Performance project.
- Monitor creation of Technical writing for system interface between all external sources ensuring compliance with Federal Regulations.

- Business process re-engineering.
- Utilize SaaS oriented solutions to meet deliverables for providing extended ECMS services to the University Community including further roll-out of the initial “Requisition to Purchase Order” process.
- System/software specifications.
- Transition needs regarding system/software capability.
- Technical expertise related to the compatibility of SJSU architecture and that of contracted solution.
- Conduct assessments, as measured against best practices, of:
 - Project deliverables as identified in the project plan.
 - Project schedule for completeness, estimates to complete, and ability of the project to meet scheduled dates.

Support Activities will include:

- Prepare monthly ad-hoc reports.
- Analyze project management plans and processes, including issues management, schedule management, deliverables management, scope management, and communication management.
- Assist in the identification of internal and external stakeholders.
- Prepare presentation materials and talking points.
- Attend meetings and present project overview and status as needed.
- Maintain electronic project records and project risks & issues log.
- Conduct regularly scheduled project team meetings with project team members regarding project activities.
- Monitor and regularly provide project status updates to project sponsor and appropriate project team members.
- Assess performance to determine if any corrective or preventative actions are required.
- Interface with other projects operating in the Administration and Finance, Student Administration, and Academic Technology to ensure synchronization and communication of potentially overlapping activities or resources.
- Provide assessment of technological opportunities in support of future strategies for IT performance management.
- Track and report actual or final deliverables and due dates using a variety of Project Management metrics including but not limited to: Budget at Completion (BAC), Actual Cost (AC), Earned Value (EV), Planned Value (PV), Cost Variance (CV = EV-AC), Cost Performance Index (CPI = EV/AV), Schedule Variance (SV = EV-PV), Schedule Performance Index (SPI = EV/PV), Estimate To Completion ((ETC = EAC – AC), Estimate At Completion (EAC= BAC/CPI), Variance At Completion (VAC = BAC-EAC), Quantified Status (CPI+SPI)/2
- Immediately report to project sponsor or designated representative critical changes or impacts to project schedule deliverables and due dates.
- Work collaboratively with other SJSU Divisions and the solution provider.
- Lead weekly project meetings.
- Facilitate meetings with internal and external partners to resolve issues as well as implement process improvements.
- Identify and recommend business process changes or software changes.
- Provide bi-weekly status report of activities completed, activities planned, issues, and hours used and available.

3.2.4 Sustainable Leadership and Content Management Governance

At a minimum the Contractor shall Provide Leadership and Governance expertise to develop proposed governance structure documentation and implementation plan for the ECMS that will establish the governance process for evaluating, approving, and prioritizing both new ECMS initiatives and maintenance of the new application. The vendor shall:

- Conduct analysis on as-is system governance and enterprise governance
- Identify decision making authority and roles and responsibilities of the members
- Conduct impact analysis on how new structure impacts other committees or structures
- Identify criteria for priority setting and decision making
- Develop flowchart for the governance process
- Develop operating procedures (e.g. meeting frequency, tracking for issues/action items, develop communication structure/protocol
- Communicate to necessary stakeholders and receive approval on proposed structure
- Develop and deliver implementation plan consisting of communication plan, identified owners and staff and their associated roles and responsibilities, training plan for the owners and staff
- Communicate to necessary stakeholders and receive approval on implementation plan
- Provide guidance to the owners during the implementation and monitor the implementation plan

3.3 Required Qualifications

The vendor shall propose an individual or individual and support team with the following qualifications:

3.3.1 Required Qualifications Program Management

- Minimum of 10 years experience in management of \$10M+ programs to include waterfall project life cycle such as the D3 process and methodology
- A minimum of Five (5) years of contract monitoring expertise as it relates to third-party contracted implementation support in large to medium sized environments.
- Must have at least five (5) completed oversight projects that specifically included verification and validation of deliverables, risk management, change management and report development
- Must have experience in the development of business, technical, and administrative requirements
- Must have experience in the development and administration of traceability matrices
- Must have experience in providing independent oversight on information technology projects for institutions of higher education.
- Must have experience in developing, implementing, and using “Healthchecks” or similar PMO office activities and devices to realistically assess current project status.
- Must have a proven track record in assisting organizations in bringing large projects in on schedule and within budget and scope
- Must have demonstrated a proven methodology for providing services
- Must possess a Project Management Professional (PMP) with Agile Framework or equivalent experience involving iterative cross-functional team development.
- Must have understanding of information technology fundamentals, architecture, and the system development life cycle
- Must be able to analyze data and situations, identify and solve problems, reason logically, draw valid conclusions, and develop effective solutions

- Must have the ability to establish and maintain cooperative working relationships and to use inter-disciplinary teams effectively in conducting the project
- Must communicate effectively both verbally and in writing with a variety of audience types using different mechanisms including informal updates, formal presentations, business case documents, and other analytical and technical documents
- Develop/update project management schedule of tasks, deliverables, and timeframes based on critical impacts.

3.3.2 Required Qualifications Project Management

- Must have project management or project management support experience in initiating, planning, executing, controlling, and/or closing projects within the last five years.
- Must have experience in information technology fundamentals, including web services, virtualization, workflow and content management services
- Must be able to analyze data and situations, identify and solve problems, reason logically, draw valid conclusions, and develop effective solutions.
- Must be able to apply creative thinking in the design methods for processing data.
- Must be able to establish and maintain cooperative working relationships with others.
- Must communicate effectively both verbally and in writing with a variety of audience types using different mechanisms including informal updates, formal presentations, business case documents, and other analytical and technical documents.
- Proven abilities in problem management and process analysis including monitoring risk, creating risk assessments, risk ownership matrices, mitigation plans and contingency plans for each risk.
- Ability to create, manage and enhance customer relationships.
- Must be able to work on-site at SJSU.
- Highly desirable skills: Experience or knowledge of Government and/or Educational operations and practices at the State and Local level.

3.3.3 Required Qualifications - Leadership and Governance

Skills Requirements include performing analytic oversight and governance activities to control and manage the areas of product release, quality assurance, information security, and configuration management for changes to and development of software products in the SJSU production environment.

- Key personnel must have
 - o Minimum two (2) years experience with concepts and policies for managing information technology (IT) infrastructure, development and operations (ITIL) or similar policy libraries or processes.
 - o Minimum five (5) Years experience with Matrix processes and functions
 - o Must possess a minimum of five (5) years experience in project work, monitoring and controlling product baselines and the processes supporting release, testing, and security of software applications including change and version control; at least three (3) years of said experience must have been at a high level both technically and in measure of responsibility
- Must have experience building and managing project plans
- Must have strong experience in the analysis, design, development, installation, implementation, procurement, and/or technical support duties within specified data processing systems, multifunction office automation systems, microcomputer systems, and/or teleprocessing networks

- Must be able to analyze data and situations; identify and solve problems; reason logically and draw valid conclusions; develop effective solutions; apply creative thinking in the design of methods for processing data
- Must be able to establish and maintain cooperative working relationships with others
- Must communicate effectively both verbally and in writing with a variety of audience types using different mechanisms including informal updates, formal presentations, business case documents, and other analytical and technical documents

SECTION 4

GENERAL VENDOR REQUIREMENTS AND QUALIFICATIONS

4.1 VENDOR INFORMATION

Qualified vendors are encouraged to submit a Proposal for providing services described. All Contractors must answer the following questions and submit the following information. If the vendor plans to subcontract any of the work described in the specifications, the vendor must respond to all questions for each proposed subcontractor. If a vendor plans a joint venture with another company, the vendor shall specify accordingly and respond to all questions for each company involved in the joint venture.

- A. Contractor shall have been in business for a minimum of (3) three consecutive years under the same ownership.
- B. Proposals shall be prepared simply and succinctly providing a straightforward, concise description of the vendor's abilities to satisfy the requirements. Emphasis shall be on completeness and clarity of content.
- C. Proposal to include the following:
- D. Name, address, telephone, and fax number of the company.
- E. Proposers shall clearly identify a single point of contact authorized to make all decisions for the proposer. Please provide direct contact information for this individual, and have an authorized representative of the proposing firm sign and date the transmittal letter. Proposers shall state that the proposed costs, work tasks and products shall remain in effect for a period of 120 days from the time of submission.
- F. Identify all individuals to be used in providing services under your proposal. Indicate their length of service with your company. List their experience and qualifications specifically as these factors relate to the responsibilities each will be fulfilling on this project.
- G. Provide a brief executive summary containing a description of your project oversight approach and highlighting any key items, issues or concerns raised in your proposal.
- H. Proposer must show evidence of financial responsibility to enter into this relationship and to fiscally sustain this project by providing relevant documentation. Example: Annual Report with Financial Statement for the most recent fiscal year or financial references from one or more banks for evaluation purposes. If a public company you must provide your last two SEC 10Ks and any 10Qs since the most recent 10K.
- I. Provide three references including at least two from institutions of higher learning.
- J. Disclosure of any information to the extent possible of any proposed takeover; both for the takeovers of this company by another company, or any takeovers of other service providers by this company.
- K. Discuss your company's experience with projects of similar magnitude.

- L. List the number and types of institutions of higher learning (above K-12) that have contracted for your system.
- M. List any institutions of higher learning (above K-12) that have elected to stop, postpone, or have replaced your system by another vendor.
- N. List any customer/client that has instituted legal action against your firm and why.
- O. Discuss your company's experience and ability to provide adequate support and consultation to project team members, steering committee, and the executive sponsors.
- P. Discuss any regional or national organizational awards for excellence or creativity in past project implementations that you provided oversight services.
- Q. Discuss your previous experience in project management that insures that the resulting project to the best of its ability meets the Accessibility requirements of Section 508 of the Federal Code.

SECTION 5

BID SHEET

The bid price given is to be a Time and Material not to exceed per hour proposal inclusive of all collateral materials, phone and IT costs, and travel costs to the University and associated services necessary to support the program and project management activities as described in this Request for Proposal. The estimated oversight period of the ECMS project is from September 23, 2009 through April 30, 2010.

Please note that the University considers travel time a natural part of doing business and will not reimburse for travel time.

Proposers should provide a detailed cost estimate including the following:

- ❖ Total project hourly cost as a firm not to exceed fee, including all indirect/direct reimbursable costs

* The University will determine which approach and services previously described (if any) that provides the best value for the University.

TOTAL PRICE PER HOUR: \$_____

Any Optional Costs for specific tool licensing: _____

Company Name (Print)

Authorized Signature and Date

Name and Title of Representative (Print)

(Area Code) Telephone Number

(Area Code) Fax Number (Required)

Address

City

State

Zip

SECTION 6

EVALUATION OF PROPOSAL

6.1 Technical Evaluation

All proposals shall be reviewed to verify that the vendor has met the minimum requirements. Proposals that have not followed the rules, do not meet minimum requirements, or take unacceptable exceptions will be eliminated from further consideration.

Proposals will be reviewed by an evaluation committee comprised of the University officials. Points will be assigned by the committee according to the schedule below and point totals will be used to derive an overall ranking of the proposals. Vendors who submit top-ranking proposals will be finalists and invited to make a presentation to the evaluation committee. Upon completion of the finalist presentations the top-ranked vendor will be contacted to enter into contract negotiations, at which time the proposals from other vendors will be held in abeyance until successful contract negotiations have been completed.

The current criteria for evaluation of proposals will be as follows.

6.1.1 Bidder Qualifications/Experience 200 points

This category will consider the qualifications of the firm's experience, the number of years in the industry, and the success of the firm as evidenced in our reference checks. Also, within the context of the project, responsiveness to and understanding of University requirements and goals.

6.1.2 Company and Project Team Qualifications/Approach 300 points

This category will consider the experience and qualifications of the program/project manager and other personnel assigned to this project, including knowledge of/experience with higher education enrollment services and academic program projects/processes (e.g., admissions, financial aid, registration, advising, records.) Also to be evaluated is Project strategy and approach, including creativity, delivery schedule, choice of technologies/solutions, etc. and Section 508 knowledge and compliance on projects.

6.1.3 Ability to meet the General & Detailed Requirements 500 points

This category will consider the quality of the proposed solution from both a technical and business requirements need. Each General, and Detailed (Program Management, Project Management, and Leadership/Governance) Requirements section has a maximum number of points. The total for that section will be calculated as a percentage against the total requirements points possible. The percentage will then be applied to the available evaluation 500 points.

6.1.4 Proposal 200 points

This category will consider the quality of the proposal submitted by the bidder. Maximum points will be awarded for clear, concise, complete and compelling proposals, which demonstrate how collateral materials contribute to the success of a University's goal.

6.1.5 Cost

400 points

Maximum points will be awarded for lowest bid. Other proposals points will be determined by dividing the lowest proposal price by each additional proposal price and multiplying by the maximum points:

Lowest Bid (divided by) other proposed Bid = % x 100 = points awarded

6.2 Finalist Presentations

During the presentation the top three finalists will be expected to give a complete overview of services and deliverables described in this RFP. A history of the vendor and its unique qualifications should be addressed as well.

Vendors who are finalists will be notified as promptly as possible. Each interview will consist of a presentation and questioning; and each finalist will be evaluated according to equal criteria. Notice of confirmation of the interview date/time will be given by telephone or in writing.

6.3 Award Or Rejection

All qualified Proposals will be evaluated and an award may be made, to the Contractor whose Proposal is deemed to be in the best interest of the University. Any award made is subject to a signed Contract. If a Contract between the Contractor and the University cannot be negotiated and consummated in a timely fashion to the University's satisfaction, the award may be withdrawn.

The University reserves the right to withdraw the award at any time for any reason during the Contract negotiation process. Any changes to the Contract must be mutually agreed by the Contractor and the University in writing. In the event the successful Contractor does not execute the Contract as required, the award of the Contract may then be offered to another Contractor or the University may decide to solicit new Proposals.

SECTION 7

PROPOSAL INSTRUCTIONS AND FORMAT

7.1 Introduction

To be considered responsive to this RFP, the bidder shall submit Proposals in the format identified in this section. All requirements and questions in the RFP shall be addressed and all requested data shall be supplied. The University reserves the right to request additional information to ensure the bidder's competence, number of qualified employees, business organization and financial resources are adequate to perform to Contract requirements.

7.1.1 Project Overview

Provide a brief overview of the project as you perceive it. What are the project objectives? What are the desired outcomes and how does your firm propose to achieve those outcomes? What are the critical success factors on a project of this scope and how does your firm plan to insure success?

7.1.2 Project Approach

Describe your proposed process and approach on this project. Specify any particular methodologies utilized and their direct application and value to the project.

Detail your program/project management plan, including any specific management tools and approaches you will use on the project. Specify how you plan to involve and work closely with SJSU staff.

7.1.3 Project Work Plan

Address each of the items described in the Scope of Work above. Detail your firm's approach to each of the tasks and requirements as describe above, including but not limited to the following:

- Detail project deliverables, including at least three approaches for monitoring the project.
- Specify any and all proposed technologies\methodologies with justifications and benefits for each.
- Identify and describe your project oversight methodology.
- Identify project stages/phases for all three main areas to be delivered (Program, Project, and Leadership/Governance).
- Identify all key milestones as they relate to the delivery of your services not to the final project plan for the initial implementation of the ECMS.
- Detail quality control procedures in place.
- Detail Change Management procedures.
- Develop a proposed services schedule excluding the Project Oversight.
- Separately discuss other value added approaches, ideas, recommendations, etc. Please identify these separately, and identify in the cost proposal (Section 5) any additional/optional costs that may be associated with additional items such as specific tool licensing fees, etc.

7.1.4 Cost Requirements

The bid price given is to be a Time and Material not to exceed per hour proposal inclusive of all collateral materials, phone and IT costs, and travel costs to the University and associated services necessary to support the program and project management activities as described in this Request for Proposal.

Proposer must include the costs for licensing any proposed software tools that the University would need to achieve the desired deliverables stated in the Request for Proposal.

7.1.5 Project Schedule

Provide a preliminary project schedule with major milestones and deliverables for all deliverables not related to the actual ECMS implementation project plan.

7.2 Number of Copies

The bidder shall provide one original and seven copies of the **sealed** Proposal. The original Proposal must be clearly marked "Master Copy". The CD-R as previously defined must be included in the **sealed** package.

Vendors submitting copies fewer in number of than required will be eliminated.

7.3 Delivery Of Proposal

Address or deliver proposal to:

TO MAIL:

Purchasing Department
San Jose State University
One Washington Square
San Jose, CA 95192-0047

TO HAND DELIVER DIRECTLY:

Purchasing – Michael Peth
San Jose State University
Clark Hall, Room 500
San Jose, CA 95192

7.4 RFP DUE DATE AND TIME

Proposals must be received in Procurement Services no later than:

11:00 A.M. on Thursday, August 27, 2009

Late proposals will not be accepted and will be returned to the vendor unopened.

7.5 LABELING

Proposals shall be labeled as follows:

Vendor Name: _____

RFP # RFP-WR00039181-MP

Proposal Due Date: August 27, 2009 at 11:00 A.M.

7.6 Preparation

Proposals are to be prepared in such a way to provide a straightforward, concise delineation of capabilities. Proposal format shall adhere to the following for organization and content. Proposal must be divided into the individual sections listed below, indexed, and tabbed.

Tab #1, Cover Letter:

The cover letter shall include a brief statement of your intent to perform the services, and your qualifications for selection. Unsigned proposals will be rejected. Proposers shall clearly identify a single point of contact authorized to make all decisions for the proposer. Please provide direct contact information for this individual, and have an authorized representative of the proposing firm sign and date the transmittal letter.

Highlight your qualifications including information about at least four previous projects that entailed work similar to that included in this RFP. A summary of the firm's experience and number of years in the industry.

Proposers shall state that the proposed costs, work tasks and products shall remain in effect for a period of 120 days from the time of submission.

In addition, the bidder's cover letter shall expressly state that, should the bidders' proposal be accepted, the bidder agrees to enter into an agreement under the terms and conditions as prescribed in Exhibit A and A-1.

Tab #2, Personnel:

This section is to contain the resumes for the principals who will perform the services. See Section 4.1(F) of the RFP for criteria

Tab #3, Technical Requirements:

This section shall address the Scope of Work criteria. This section of the proposal should contain a complete statement of the proposed work plan (as described in Section 7) Provide a brief executive summary containing a description of your project oversight approach and highlighting any key items, issues or concerns raised in your proposal.

Inclusion of the General Technical Requirements and Supplemental Business Requirements answers in the format provided.

Tab #4, References:

This section is to contain the reference information required, including:

- A list of clients
- Three project-related references similar in size and scope to this RFP including contact name and phone number/s and/or email address
- Please provide your company ownership information

Tab #5, Cost Sheet and Statement of Compliance:

Proposers are to complete Section 5. The bid sheet is to be signed by an authorized officer of the firm who has the legal authority to bind the firm to contracts.

Drug-Free Workplace Certification (Exhibit C) must be completed by the bidder and included here.

Nondiscrimination Compliance Statement (Exhibit D) must be completed by the bidder and included here.

Small Business Preference and Certification Request (Exhibit E) must be completed by the bidder and included here.

DVBE Participation Request (Exhibit F) must **be completed by the vendor** and included here.

State of California Payee Data Record Form 204 (Exhibit G) must be completed by the vendor and included here.

Request For Proposal Exhibit Contents

Click on hyperlink to download Exhibits C-G.

- Exhibit A:** CSU Solicitation Provisions and Bidder Certifications
CSU Insurance Provisions
- Exhibit B:** CSU General Provisions for IT Acquisitions
- Exhibit B-1:** General provisions for commodity and service acquisitions
- Exhibit C:** Drug-Free Workplace Certification
<http://www.calstate.edu/CSP/crl/forms/CRL005.pdf>
- Exhibit D:** Non-discrimination Compliance Statement
<http://www.calstate.edu/CSP/crl/forms/CRL039.pdf>
- Exhibit E:** Small Business Preference and Certification Request
http://www.calstate.edu/CPDC/Suam/Appendices/Small_Bus_Preference.doc
- Exhibit F:** DVBE: DISABLED VETEREN BUSINESS ENTERPRISE
(Advertisement requirement only is waived)
- Exhibit G:** State of California Payee Data Record Form 204
<http://www.calstate.edu/CSP/crl/forms/CRL040.pdf>

Exhibit A

CSU SOLICITATION PROVISIONS AND BIDDER CERTIFICATIONS

INSTRUCTIONS

These provisions (**Exhibit A**) apply to all solicitations for goods and services issued by the University. It is the bidder's responsibility to be familiar with these provisions and to provide bids and proposals that adhere to these provisions.

The University has also provided General Provisions (**Exhibit B & B-1**) that shall apply to the eventual purchase or agreement, which is a result of this solicitation. All the provisions provided in these two Exhibits are in compliance with the CSU Policy Manual for Contracting and Procurement which is available at the following website: <http://www.calstate.edu/CSP/crl/policy/policy04-20-04.doc>

I. SOLICITATION PROVISIONS

1. Definitions:

- (a) The Trustees of the California State University are referred to as "CSU" or "University."
- (b) The terms "bid" and "proposal" are synonymous and means an offer made in response to a solicitation to perform a contract for work and labor or to supply goods at a specified price, whether or not it is considered a "seal bid" or results in award of a contract to a single or sole source.
- (c) "Bidder" or "Proposer" is used interchangeably and each shall apply to the business entity which submits a bid/proposal or is awarded a contract.

2. Preparation of Bids and Proposals:

- (a) Proposer shall carefully review all documents referenced and made a part of this solicitation to ensure that all information required to properly respond to the solicitation has been received or made available and all requirements are priced in the proposal. Failure to examine any document, drawing, specification, or instruction will be at the proposer's sole risk.
- (b) All bids submitted, including electronic bids, must indicate unit prices for each separate line item quoted in addition to showing the totals. In case of discrepancy between the unit price and the extension set forth for the item, the unit price shall prevail; however, if the amount set forth as a unit price is ambiguous, unintelligible, or uncertain for any cause, or is omitted, the amount set forth in the "Extension" column shall be divided by the quantity for the item and the price thus obtained shall be the unit price. In case of discrepancy between the totals shown on the bid form and the actual sum of the item totals, the actual sum of all item totals shall prevail.
- (c) Brand names: Any reference to brand names and numbers in the bid solicitation is intended to be descriptive, but not restrictive, unless otherwise specified. Bids on equivalent items meeting the indicated standards of quality will be considered, unless otherwise specified, providing the bid clearly describes the article offered and how it differs from the reference brands.

Unless the bidder specifies otherwise in the bid, it is understood that the bidder is offering a referenced brand item as specified in the bid solicitation. The CSU reserves the right to determine whether a substitute offer is equivalent to and meets the standards of quality indicated by the brand name references; the CSU may require a bidder offering a substitute to supply additional descriptive material and a sample.

- (d) Time of delivery (whether a commodity or a service) is a part of the bid and must be strictly observed. Time, if stated as a number of days, shall mean calendar days.

- (e) Bids shall be completed in all respects as required by this solicitation. A bid may be rejected if conditional or incomplete, or if it contains any alterations or other irregularities of any kind, and will be rejected if any such defect or irregularity could have materially changed the quality of the bid. Bids which contain false or misleading statements, or

which provide references which do not support an attribute or condition claimed by the Bidder, may be rejected. If, in the opinion of the evaluation committee, such information was intended to erroneously and fallaciously mislead the CSU in its

evaluation of the bid, and the attribute, condition, or capability is a requirement of this solicitation, the bid will be rejected. Statements made by a bidder shall also be without ambiguity, and with adequate elaboration, where necessary, for clear understanding.

The CSU reserves the right to request additional information which in the CSU's opinion is necessary to assure that the proposer's competence, experience, number of qualified employees, business organization and financial resources are adequate to perform according to contract.

3. Submission of Bids:

(a) Whenever the CSU so designates, bids must be signed and sealed, with the bid number, bidder's name and address, and closing date, on the outside of the envelope.

(b) Bids or partial bids, and modifications or corrections thereof received after the closing time specified may not be considered.

(c) The bidder is solely responsible for ensuring that the bid is delivered to the CSU prior to the date and time specified and in accordance with the solicitation requirements. The CSU shall not be responsible for any delays in mail delivery, including delay occasioned by the internal CSU mailing system, or transmission errors or delivery errors.

4. Cancellation: This solicitation does not obligate CSU to enter into an agreement. CSU reserves the right to cancel this solicitation at any time, should the project be canceled, CSU loses the required funding or it is deemed in the best interest of CSU. No obligation either expressed or implied, exists on the part of CSU to make an award or to pay any cost incurred in the preparation or submission of a bid.

5. Bidder's Cost: Costs for developing bids are entirely the responsibility of the bidder and shall not be chargeable to the CSU.

6. Revisions in Bid Solicitation: In the event a bidder believes that the CSU's bid solicitation is unfairly restrictive or has substantive errors or omissions in it, the matter must be promptly brought to the attention of the CSU's procurement office, either by telephone, telegraph, letter, or visit, immediately upon receipt of the bid solicitation, in order that the matter may be fully considered and appropriate action taken by the CSU prior to the closing time set for bids.

7. Removal of Names from Bidders' List: The CSU may remove the name of any vendor or contractor from its lists of potential bidders whenever the CSU has received no recent responses to its bid solicitations from that vendor or contractor.

8. Award of Contracts:

(a) Contracts will be made or entered into with (1) the lowest responsible bidder meeting specifications, (2) the bidder with the highest score attained at the end of a competitive evaluation process, or (3) as otherwise specified in the bid solicitation. The CSU reserves the right to determine the results of the prescribed evaluation process and the awardee.

(b) Where more than one item is specified in the bid solicitation, the CSU reserves the right to determine the low bidder either on the basis of individual items or on the basis of all items included in the bid solicitation.

(b) Unless the bidder specifies otherwise in the submitted bid, the CSU may accept any portion or group of items or services offered in the bid, or accept none of them at all.

(c) The CSU reserves the right to reject any or all bids and to waive informalities and minor irregularities in bids received.

(d) A CSU purchase order mailed or otherwise furnished to the successful bidder within the time for acceptance specified in the bid solicitation results in a binding agreement without further action by either party. The binding agreement shall be interpreted, construed, and given effect in all respects according to the laws of the State of California.

9. Bid Evaluation Preferences: In evaluating bids, the CSU will give preferences in accordance with the law for suppliers who are a California certified Small Business. If the bidder claims preferences under the Enterprise Zone Act (EZA), Target Area Contract Preference Act (TACPA) and Local Agency Military Base Recovery Area Act (LAMBRA), the

bidder must complete and return the appropriate forms incorporated in the solicitation. Preferences may also be given for bidders using recycle products in accordance with Public Contract Code Sections 10408 and 12150 et seq. Where multiple preferences are claimed, the CSU will verify eligibility for the preference(s) and evaluate and apply preference(s) in accordance with law and established procedures.

10. Financing of Acquisition: Bidder shall include within the contents of its bid or proposal the best financing alternatives it has to offer the CSU whenever the solicitation document expresses the CSU's desire to consider financing (including third-party possibilities) as an option.

11. Patent, Copyright, and Trade Secret Indemnity: A contractor may be required to furnish a bond to the CSU against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.

12. Protests:

(a) Prior to Bid Opening - Potential bidders are afforded the opportunity to take exception to or "protest" the specifications and/or requirements of the bid solicitation. Such protests must be conveyed in writing to the CSU and also be resolved in writing by the CSU each within the timeframes specified, prior to the scheduled bid submittal deadline. However, any protests of specifications or requirements received after the deadline identified in the bid solicitation shall be considered untimely and shall be rejected. The CSU's decision on a protest is final.

(b) Prior to Contract award - If, prior to award of a contract, a protest is received in writing within the timeframe specified within the bid solicitation and filed on the grounds that the intended award is not in conformance with the specifications or requirements of the bid solicitation, the contract shall not be awarded until the protest has been withdrawn or a decision has been reached by the CSU. The CSU shall review the merits and timeliness of the protest and submit a decision in writing or otherwise furnish to the bidder the decision in such a manner as to ensure receipt. The CSU's decision on a protest is final.

13. Accommodations for the Disabled: It is the policy of the CSU to make every effort to ensure that its programs, activities and services are available to all persons, including persons with disabilities. Persons with a disability needing a reasonable modification to participate in the procurement process, or persons having questions regarding reasonable modifications for the procurement process may contact the buyer listed elsewhere in this solicitation.

14. Confidentiality: Final bids are public upon bid opening; however the contents of all proposals, drafts bids, correspondence, agenda, memoranda, working papers, or any other medium which discloses any aspect of a bidder's proposal shall be held in the strictest confidence until Notice of Intent to Award.

The content of all working papers and discussions relating to the bidder's proposal shall be held confidential indefinitely unless the public interest is best served by an item's disclosure because of its direct pertinence to a decision, agreement or an evaluation of the bid.

II. BIDDER CERTIFICATIONS

By submitting a bid, the Bidder certifies to the following:

1. Americans With Disabilities Act (ADA): Contractor assures the CSU that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

2. Unfair Practices Act: Contractor warrants that its bid complies with the Unfair Practices Act (Business and Professions Code Section 17000 et seq.).

3. Violation of Air or Water Pollution Laws: Unless the contract is less than \$25,000.00 or with a sole-source provider, Government Code Section 4477 prohibits the State from contracting with a person, including a corporation or other business association, who has been determined to be in violation of any State or federal air or water pollution control law. By a proposal the Contractor warrants that the Contractor has not been found to be in violation of any order

or resolution not subject to review promulgated by the State Air Resources Board or an air pollution district, or is subject to a cease and desist order not subject to review issued pursuant to Section 13310 of the Water Code for violation of waste discharge requirements or discharge prohibitions, or is finally determined to be in violation of provisions of federal laws relating to air or water pollution.

By submitting a bid, the Bidder certifies that it has not been identified either by published notices or by Board notification as a person in violation of State or federal air or water pollution control laws.

4. Compliance with NRLB Orders: In submitting a bid or signing a contract the Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, Public Contract Code Section 10296.

5. Assignment of Antitrust Actions: The bidder's attention is directed to the following provisions of Government Code Sections 4552, 4553, and 4554, which shall be applicable to the bidder:

In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the procurement body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2, [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the procurement body pursuant to the bid. Such assignment shall be made and become effective at the time the procurement body tenders final payment to the bidder (Government Code Section 4552).

If an awarding body or public procurement body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery (Government Code Section 4553).

Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action (Government Code Section 4554).

6. Noncollusion Affidavit: By submitting a bid, Bidder hereby certifies that the bid is not made in the interest of, or on behalf of, any undisclosed party; that the bid is genuine and not collusive, false, or sham; that the Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham bid, and has not directly or indirectly agreed with any Bidder or anyone else to put in a false or sham bid, or to refrain from bidding; that the Bidder has not in any manner, directly or indirectly, sought to fix any overhead, profit or cost element of the bid, of

that of any other Bidder, or to secure any advantage against the public body awarding the contract or anyone interested in the proposed contract.

7. Safeguards for confidential information: By submitting a bid, Bidder acknowledges Federal privacy laws such as Gramm-Leach-Bliley Act (Title 15, United States Code, Sections 6801(b) and 6805(b)(2)) applicable to financial transactions and Family Educational Rights and Privacy Act (Title 20, United States Code, Section 1232g) applicable to student records and information from student records. In the event that such information is required for the performance of the work specified, the Bidder hereby certifies that it has the appropriate safeguards in place as required by Title 16 Code of Federal Regulation Chapter 1 Section 314 et seq.

8. Covenant Against Gratuities: The Contractor shall warrant that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the CSU with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the CSU shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the CSU in procuring on the open market any items which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the CSU provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

9. Public Contracts Code Restrictions For CSU Employees: CSU employees and immediate past employees must comply with restrictions regarding contracting with the CSU. Bidder needs to be aware of the following provisions regarding current or former CSU employees. In submitting a bid, bidder certifies that the bidder is eligible to contract with the CSU pursuant to the Public Contracts Code (PCC) sections list below:

Current CSU Employees (PCC Section 10831):

- a) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any CSU department through or by a CSU contract unless the employment, activity or enterprise is within the course and scope of the officer's or employee's regular CSU employment.
- b) No officer or employee shall contract on his or her own behalf as an independent contractor with any CSU department to provide goods or services.
- c) This prohibition does not apply to officers or employees of the CSU with teaching or research responsibilities.

Former CSU Employees (PCC Section 10832):

- a) For the two-year period from the date he or she left CSU employment, no former CSU officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any CSU department.
- b) For the twelve-month period from the date he or she left state employment, no former CSU officer or employee may enter into a contract with any CSU department if he or she was employed by that CSU department in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving CSU service.

10. In submitting a bid for electronic devices, as defined by the Electronic Waste Recycling Act of 2003, Part 3 Division 30 Chapter 8.5 of the Public Resource Code, the Bidder certifies that it, and its agents, subsidiaries, partners, joint venturers, and subcontractors for the procurement, have complied with the Electronic Waste Recycling Act of 2003 and any regulations adopted pursuant to the Act, or have demonstrated to the CSU that the Electronic Waste Recycling Act of 2003 is inapplicable to all lines of business engaged in by the bidder, its agents, subsidiaries, partners, joint venturers, or subcontractors. In addition the Bidder agrees to cooperate fully in providing reasonable access to its records and documents that evidence compliance with the Electronic Waste Recycling Act of 2003.

INSURANCE PROVISIONS & BONDS

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

1.1 MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001).
2. Insurance Services Office Form CG 0009 11 88 Owners and Contractors Protective Liability Coverage Form – Coverage for Operations of Designated Contractor
3. Insurance Services Office Form Number CA 0001 covering Automobile Liability, code 1 (any auto).
4. Workers' Compensation insurance as required by the State of California. Also Employers Liability Insurance.

1.2 MINIMUM LIMITS OF INSURANCE

Contractor shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other from with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and Property damage.
3. Employers Liability: \$1,000,000 per accident for bodily injury or disease.
4. E&O \$1,000,000 per occurrence.

1.3 DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and are subject to approval by the Campus Risk Manager. At the option of the Campus, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State of California, the Trustees of the California State University, the University (San Jose State University), their officers, employees, representatives and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the Campus guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

1.4 OTHER INSURANCE PROVISIONS

The general liability and automobile liability policies are to contain, or be endorsed to contain the following provisions:

1. The State of California, the Trustees of the California State University, the University, their officers, employees, representatives and volunteers are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the contractor; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General Liability coverage can be provided in the form of an endorsement of the Contractors insurance or as a separate owner's policy (CG 20 10 11 85).
2. For any claims related to this project, the Contractors insurance coverage shall be primary insurance as respects the State of California, the Trustees of the California State University, the University, their officers, employees, representative and volunteers. Any insurance or self-insurance maintained by the University, Campus, its officers, officials, employees, or volunteers shall be excess of the Contractors insurance and shall not contribute with it.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Campus' Risk Manager.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

1.5 ACCEPTABILITY OF INSURERS

Insurance shall be placed with insurers admitted to conduct insurance in the State of California and possessing a current A.M. Best's rating of no less than **A: VII**.

1.6 VERIFICATION OF COVERAGE

Contractor shall furnish the Campus with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements shall be on forms provided by the Campus or on other than the Campus' forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by the Campus before work commences. The Campus reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

1.7 CANCELLATION OR REDUCTION OF COVERAGE

Should the Contractor's insurance coverages be cancelled or significantly reduced, the Campus may require Contractor to stop all contracted work (at Contractors' own expense and penalty) until coverages are replaced to the satisfaction of the Campus Risk Manager.

End of this section

Exhibit B
CSU GENERAL PROVISIONS
FOR
INFORMATION TECHNOLOGY ACQUISITIONS

This document was developed to be used in contracts for the acquisition of goods and/or services for electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video and data communications, requisite system controls, simulations, electronic commerce, and all related interactions between people and machines.

For guidance on classification of contracts see CSU Policy Manual for Contracting & Procurement Section 202.

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1. Commencement of Work

Work shall not commence under the Contract until a fully executed Contract has been received by the Contractor and the Contractor has been given approval to proceed. Any work performed by the Contractor prior to the date of approval shall be considered as having been performed at the Contractor's own risk and as a volunteer.

2. Invoices

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

Invoices shall be submitted, in arrears, to the address stipulated in the Contract. The Contract number and Contractor's Identification number are to be included on the invoice. Final invoice shall be marked as such.

The Contractor shall submit invoices to the CSU for payment of goods and services rendered. Unless otherwise specified, the CSU shall pay properly submitted invoices not more than 45 days after (i) the acceptance of goods by the CSU; or (ii) receipt of an undisputed invoice, whichever is later. Late payment penalties shall not apply to this Contract.

The consideration to be paid Contractor, as described within the Contract, shall be in full compensation for all of Contractor's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

3. Appropriation of Funds

- (a) If the term of the Contract extends into fiscal years subsequent to that in which it is approved such continuation of the Contract is subject to the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not appropriated, Contractor agrees to take back any commodities furnished under the Contract, terminate any services supplied to the CSU under the Contract, and relieve the CSU of any further obligation therefore.
- (b) CSU agrees that if provision (a) above is involved, commodities shall be returned to the Contractor in substantially the same condition in which they were delivered, subject to normal wear and tear. CSU further agrees to pay for packing, crating, transportation to Contractor's nearest facility and for reimbursement to Contractor for expenses incurred for its assistance in such packing and crating.

4. Cancellation

CSU reserves the right to cancel this Contract at any time upon thirty (30) days written notice to the Contractor.

5. Independent Status

The Contractor, and the agents and employees of Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State of California. While Contractor may (or may not) be required under the terms of this Contract to carry Worker's Compensation Insurance, Contractor is not entitled to unemployment or workers' compensation benefits from the CSU.

6. Conflict of Interest

- (a) Should the Contractor provide services for preparation or development of recommendations for the actions which are required, suggested or otherwise deemed appropriate, and which include the provision, acquisition or delivery of products or service; then the Contractor must provide full disclosure of any financial interest including but not limited to service Agreements, OEM, and/or remarketing Agreement that may foreseeable allow the Contractor to materially benefit from the adoption of such recommendations.
- (b) The CSU requires a Statement of Economic Interests (Form 700) to be filed by any Consultant (or Contractor) who is involved in the making, or participation in the making, of decisions which may foreseeably have a material effect on any CSU financial interest [reference G.C. 82019].

The CSU reserves the right to prohibit participation by the Contractor in bidding to or providing services, goods or supplies or any other related action which is required, suggested or otherwise deemed appropriate in the end product of this Contract.

7. Governing Law

To the extent not inconsistent with applicable federal law, this Contract shall be construed in accordance with and governed by the laws of the State of California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.

8. Assignments

Without written consent of the CSU, the Contract is not assignable by Contractor either in whole or in part.

9. Time

Time is of the essence of the Contract.

10. Contract Alterations & Integration

No alteration or variation of the terms of the Contract shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or Contract not incorporated here in shall be binding on any of the parties hereto.

11. General Indemnity

The Contractor agrees to indemnify, defend and save harmless the CSU, its officers, agents and employees from any and all claims and losses accruing or resulting to any other person, firm or corporation furnishing or supplying work, service, materials or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation which may be injured or damaged by the Contractor in the performance of this Contract.

12. Use of Data

The Contractor shall not utilize any information, not a matter of public record, which is received by reason of this Contract, for pecuniary gain not contemplated by the terms of this Contract, regardless of whether the Contractor is or is not under contract at the time such gain is realized. The report, survey, or other product developed by the Contractor pursuant to this Contract is the property of the CSU, and shall not be used in any manner by the Contractor unless authorized by the CSU.

13. Termination for Default

The CSU may terminate the Contract and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, the CSU may proceed with the

work in any manner deemed proper by the CSU. The cost to the CSU shall be deducted from any sum due the Contractor under the Contract, and the balance, if any, shall be paid the Contractor upon demand.

14. Personnel

The Contractor shall make every effort consistent with sound business practices to honor the specific requests of the CSU with regard to assignment of its employees; however, the Contractor reserves the sole right to determine the assignment of its employees. If a Contractor employee is unable to perform due to illness, resignation, or other factors beyond the Contractor's control, the Contractor shall make every reasonable effort to provide suitable substitute personnel.

15. Nondiscrimination

- (a) During the performance of this Contract, Contractor and its subcontractors shall not deny the Contract's benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age (over 40) or sex. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
- (b) Contractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.), the regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.), and the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code Sections 11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article.
- (c) Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the Trustees upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours notice, to such of its books, records, accounts, other sources of information, and its facilities as said Department or Trustees shall require to ascertain compliance with this clause.
- (d) The provisions of Executive Order 11246, as amended (Equal Employment Opportunity/Affirmative Action), Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212 or VEVRAA), and Section 503 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793), and the implementing regulations found at 41 CFR 60-1&2, 41 CFR 60-250, and 41 CFR 60-741, respectively, are hereby incorporated by reference.
- (e) Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- (f) Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract. (Gov. Code Section 12990, 11135 et seq.; Title 2, California Code of Regs., Section 8107).

16. Drug-Free Workplace Certification

By accepting a contract or purchase order, the Contractor certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code, Section 8355 et. seq.) and will provide a drug-free workplace by doing all of that which Section 8355 et seq. require.

17. Severability

The Contractor and the CSU agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the

Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision. Should the offending provision go to the heart of the Contract, the Contract shall be terminated in a manner commensurate with the interests of both parties, to the maximum extent reasonable.

18. Dispute

Any dispute arising under the terms of this Contract which is not resolved within a reasonable period of time by authorized representatives of the Contractor and the CSU shall be brought to the attention of the Chief Executive Officer (or designated representative) of the Contractor and the Chief Business Officer (or designee) of The CSU for joint resolution. At the request of either party, The CSU shall provide a forum for discussion of the disputed item(s), at which time the Vice Chancellor, Business and Finance (or designated representative) of The CSU shall be available to assist in the resolution by providing advice to both parties regarding The CSU contracting policies and procedures. If resolution of the dispute through these means is pursued without success, either party may seek resolution employing whatever remedies exist in law or equity beyond this Contract.

Despite an unresolved dispute, the Contractor shall continue without delay to perform its responsibilities under this Contract. The Contractor shall keep accurate records of its services in order to adequately document the extent of its services under this Contract.

19. Privacy of Personal Information

Contractor acknowledges the privacy rights of individuals to their personal information that are expressed in the State's Information Practices Act (California Civil Code Section 1798 et seq.) and in California Constitution Article 1, Section 1. Contractor shall not release personal information contained in CSU records without full compliance with applicable state and federal privacy laws. Contractor further, acknowledges Federal privacy laws such as Gramm-Leach-Bliley Act (Title 15, United States Code, Sections 6801(b) and 6805(b)(2)) applicable to financial transactions and Family Educational Rights and Privacy Act (Title 20, United States Code, Section 1232g) applicable to student records and information from student records. Contractor shall maintain the privacy of protected personal information.

20. Waiver of Rights

Any action or inaction by the CSU or the failure of the CSU on any occasion to enforce any right or provision of the Contract shall not be construed to be a waiver by the CSU of its rights hereunder and shall not prevent the CSU from enforcing such provision or right on any future occasion. The rights and remedies of the CSU provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law.

21. Endorsement

Nothing contained in this Contract shall be construed as conferring on any party hereto, any right to use the other parties name as an endorsement of product/service or to advertise, promote or otherwise market any product or service without the prior written consent of the other parties. Furthermore nothing in this Contract shall be construed as endorsement of any commercial product or service by the CSU, its officers or employees.

22. Patent, Copyright, and Trade Secret Indemnity

- a) Contractor will indemnify, defend, and save harmless the CSU, its officers, agents, and employees, from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any Intellectual Property Right, domestic or foreign, by any product or service provided hereunder. With respect to claims arising from computer Hardware or Software manufactured by a third party and sold by Contractor as a reseller, Contractor will pass through to the CSU, in

addition to the foregoing provision, such indemnity rights as it receives from such third party ("Third Party Obligation") and will cooperate in enforcing them; provided that if the third party manufacturer fails to honor the Third Party Obligation, Contractor will provide the CSU with indemnity protection.

- i) The CSU will notify Contractor of such claim in writing and tender the defense thereof within a reasonable time; and
- ii) CSU will have control of the defense of any action on such claim and all negotiations for its settlement or compromise, including (1) when substantial principles of government or public law are involved, when litigation might create precedent affecting future CSU operations or liability, or when involvement of the CSU is otherwise mandated by law; (2) the CSU will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (3) the CSU will reasonably cooperate in the defense and in any related settlement negotiations.
- b) Contractor may be required to furnish a bond to the CSU against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.
- c) Should the Deliverables or Software, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a Intellectual Property Right, whether domestic or foreign, the CSU shall permit the Contractor at its option and expense either to procure for the CSU the right to continue using the Deliverables or Software, or to replace or modify the same so that they become non-infringing provided they comply with Contract bid and performance requirements and/or expectations. If none of these options can reasonably be taken, or if the use of such Deliverables or Software by the CSU shall be prevented by injunction, the Contractor agrees to take back such Deliverables or Software and make every reasonable effort to assist the CSU in procuring substitute Deliverables or Software at Contractor's cost and expense. If, in the sole opinion of the CSU, the return of such infringing Deliverables or Software makes the retention of other Deliverables or Software acquired from the Contractor under this Contract impracticable, the CSU shall then have the option of terminating such Contracts, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such Deliverables or Software and refund any sums the CSU has paid Contractor less any reasonable amount for use or damage.
- e) Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Contract for the acquisition, operation or maintenance of computer Software in violation of copyright laws.

23. Compliance with NLRB Orders

Contractor declares under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, Public Contract Code Section 10296.

24. Examination and Audit

For contracts in excess of \$10,000, the Contractor shall be subject to the examination and audit of (a) the Office of the University Auditor, and (b) the State Auditor, for a period of three (3) years after final payment under the contract in accordance with Government Code Section 8546.7 and with Education Code Section 89045(c & d), respectively. The examination and audit shall be confined to those matters connected with the performance of the contract, including, but not limited to, the costs of administering the Contract.

25. DVBE and Small Business Participation

The State of California supports statewide participation goals of 3% for disabled business enterprises, (DVBE Program) and requires agencies to provide a 5% preference when awarding contracts to small businesses. Only small businesses certified by the Office of Small and Minority Businesses (OSMB) are eligible to receive the preference. The CSU encourages all contractors to use the services of DVBE and OSMB-certified small business enterprises whenever possible, and to report their use to the CSU.

26. Citizenship and Public Benefits

If Contractor is a natural person, Contractor certifies in accepting this Contract that s/he is a citizen or national of the United States or otherwise qualified to receive public benefits under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 110 STAT.2105, 2268-69).

27. Americans With Disabilities Act (ADA)

Contractor warrants that it complies with California and federal disabilities laws and regulations.

Contractor hereby warrants that the products or services to be provided under this contract comply with the accessibility requirements of section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. Contractor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services. Vendor further agrees to indemnify and hold harmless the CSU using the vendor's products or services from any claims arising out of its failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a breach and be grounds for termination of this Contract.

28. Child Support Compliance Act

For any contract in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code Section 7110, that:

- (a) The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- (b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

29. Document Referencing

All correspondence, invoices, bills of lading, shipping memos, packages, etc., must show the Contract number. If factory shipment, the factory must be advised to comply. Invoices not properly identified with the contract number and contractor identification number may be returned to contractor and may cause delay in payment.

30. Taxes, Fees, Expenses, and Extras

- (a) Articles sold to the CSU are exempt from certain Federal Excise Taxes. The CSU will furnish an exemption certificate on request.
- (b) Unless specified otherwise, prices quoted shall include all required taxes.
- (c) No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the CSU unless expressly included and itemized in the bid.

Unless otherwise indicated on the Purchase Order or Contract, on "FOB Shipping Point" transactions vendor shall arrange for lowest cost transportation, prepay, add freight to invoice, and furnish

supporting freight bills over \$50.

Shipments that are California intrastate in nature and where freight is to be borne by the CSU shall be tendered to carriers with written instructions that rates and charges may not exceed the lowest lawful rates on file with the California Public Utilities Commission.

On "FOB Shipping Point" transactions, should any shipments under this Purchase Order or Contract be received by the CSU in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers by wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper, such as inadequate packing or loading or some inherent defect in the equipment and/or material, vendor on request of the CSU shall at vendor's own expense assist the CSU in establishing carrier liability by supplying evidence that the equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.

31. Forced, Convict, Indentured and Child Labor

By accepting a contract or purchase order, the Contractor certifies that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the State pursuant to this Contract have been laundered or produced in whole or in part by sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, or abusive forms of child labor or exploitation of children in sweatshop labor.

Contractor shall cooperate fully in providing reasonable access to the Contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the CSU, the Department of Industrial Relations, or the Department of Justice determine the Contractor's compliance with the requirements above. (Public Contract Code Section 6108)

32. Covenant Against Gratuities

The Contractor shall warrant that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the CSU with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the CSU shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the CSU in procuring on the open market any items which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the CSU provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

33. Rights and Remedies of CSU for Default

- (a) In the event any Deliverables furnished or services provided by the Contractor in the performance of this Contract should fail to conform to the requirements herein, or to the sample submitted by the Contractor, the CSU may reject the same, and it shall thereupon become the duty of the Contractor to reclaim and remove the same forthwith or to correct the performance of services, without expense to the CSU, and immediately to replace all such rejected items with others conforming to such specifications or samples; provided that should the Contractor fail, neglect, or refuse to do so, the CSU shall thereupon have the right to purchase in the open market, in lieu thereof, a corresponding quantity of any such items and to deduct from any moneys due or that may thereafter become due to the Contractor the difference between the price named in the Contract and the actual cost thereof to the CSU.
- (b) In the event the Contractor shall fail to make prompt delivery as specified of any item, the same conditions as to the right of the CSU to purchase in the open market and to reimbursement set forth above shall apply, except for force majeure. Except for defaults of subcontractors, neither party shall be responsible for delays or failures in performance

resulting from acts beyond the control of the offending party. Such acts (known as “force majeure”) shall include but shall not be limited to fire, strike, freight embargo or acts of God and of the Government. If a delay or failure in performance by the Contractor arises out of a default of its subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for damages of such delay or failure, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.

- (c) In the event of the termination of the Contract, either in whole or in part, by reason of the default or breach thereof by the Contractor, any loss or damage sustained by the CSU in procuring any items which the Contractor therein agreed to supply shall be borne and paid for by the Contractor.
- (d) The rights and remedies of the CSU provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

34. Contractor's Power and Authority

The Contractor warrants that it has full power and authority to grant the rights herein granted and will hold the CSU hereunder harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, Contractor avers that it will not enter into any arrangement with any third party which might abridge any rights of the CSU under this Contract.

35. Recycled Content Certification

Contractor agrees to certify in writing, under penalty of perjury, the minimum, if not the exact, percentage of recycled content material, as defined in Sections 12161 and 12200 of the Public Contract Code, in materials, goods, or supplies used in the performance of this Contract.

36. Entire Contract

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.

37. Safety and Accident Prevention

In performing work under this Contract on CSU premises, Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. Contractor shall take any additional precautions as the CSU may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Contract in accordance with default provisions hereof.

38. Work for Hire/Assignment

Contractor agrees that any work and all Deliverables prepared for CSU, to the extent to which it is protected by laws in any country, shall be deemed a work made for hire, such that all right, title and interest in the work and Deliverables reside with the CSU. To the extent any work or Deliverable is deemed not to be work made for hire, Contractor agrees to assign and hereby assigns all right title and interest, including, but not limited, to copyright, patent, trademark, and trade secret, to such work and Deliverables, and all extensions and renewals thereof, to CSU. Contractor will mark such work and Deliverables with CSU's copyright, proprietary rights, or other applicable notices as directed by CSU. Contractor further agrees to provide all assistance reasonably requested by CSU in the establishment, preservation and enforcement of its rights in such work and Deliverables, without any additional compensation to Contractor. Contractor agrees to and hereby does waive all moral rights relating to the work and Deliverables, including without limitation any and all rights of identification of authorship and any and all rights of approval, restriction or limitation on use or subsequent modifications.

39. Follow-On Contracts

- a) If the Contractor or its affiliates provides Consulting and Direction (as defined below), the Contractor and its affiliates:
 - (i) will not be awarded a subsequent Contract to supply the service or system, or any significant component thereof, that is used for or in connection with any subject of such Consulting and Direction; and
 - (ii) will not act as consultant to any person or entity that does receive a Contract described in sub-section (i). This prohibition will continue for one (1) year after termination of this Contract or completion of the Consulting and Direction, whichever comes later.
- b) "Consulting and Direction" means services for which the Contractor received compensation from the CSU and includes:
 - (i) development of or assistance in the development of work statements, specifications, solicitations, or feasibility studies;
 - (ii) development or design of test requirements;
 - (iii) evaluation of test data;
 - (iv) direction of or evaluation of another Contractor;
 - (v) provision of formal recommendations regarding the acquisition of products or services; or
 - (vi) provisions of formal recommendations regarding any of the above. For purposes of this Section, "affiliates" are employees, directors, partners, joint venture participants, parent corporations, subsidiaries, or any other entity controlled by, controlling, or under common control with the Contractor. Control exists when an entity owns or directs more than fifty percent (50%) of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority.
- c) Except as prohibited by law, the restrictions of this Section will not apply:
 - (i) to follow-on advice given by vendors of commercial off-the-shelf products, including Software and Hardware, on the operation, integration, repair, or maintenance of such products after sale; or
 - (ii) where the CSU has entered into a Contract for Software or services and the scope of work at the time of Contract execution expressly calls for future recommendations among the Contractor's own products.
- d) The restrictions set forth in this Section are in addition to conflict of interest restrictions imposed on public Contractors by California law ("Conflict Laws"). In the event of any inconsistency, such Conflict Laws override the provisions of this Section, even if enacted after execution of this Contract.

40. Expatriate Corporations

By accepting a contract or purchase order, the Contractor declares under penalty of perjury under the laws of the State of California that the Contractor is eligible to contract with the CSU pursuant to The California Taxpayer and Shareholder Protection Act of 2003, Public Contract Code Section 10286 et. Seq.

41. Insurance Requirements

Contractor shall furnish to the CSU prior to the commencement of work an underwriter's endorsement with a certificate of insurance stating that there is General Liability insurance presently in effect for the contractor with a combined single limit of not less than \$1,000,000 per occurrence, and \$2,000,000 aggregate; and that vehicle insurance (where applicable) is in effect with a minimum coverage of \$1,000,000 per occurrence.

- (a) The certificate of insurance shall provide:
 - (i) That the insurer will not cancel the insured's coverage without thirty (30) days prior notice to the CSU;

- (ii) That the State of California, the Trustees of the California State University, the CSU, and the employees, officers, and agents of each of them, are included as additional insureds, but only insofar as the operations under this contract are concerned;
 - (iii) That the State, the Trustees, and the CSU, and the employees, officers, and agents of each of them will not be responsible for any premiums or assessments on the policy.
- (b) Contractor agrees that the bodily injury liability insurance herein provided shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, contractor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided herein for not less than the remainder of the term of the contract, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the CSU, and the contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event contractor fails to keep in effect at all times insurance coverage as herein provided, the CSU may in addition to any other remedies it may have, terminate this contract upon the occurrence of such event.
- (c) Workers' Compensation insurance coverage as required by the State of California.

End Of Section

Exhibit B-1

GENERAL PROVISIONS FOR COMMODITY AND SERVICE ACQUISITIONS

Contractor agrees to these General Provisions as well as the other provisions contained in the Contract. In these General Provisions, the Trustees of the California State University are referred to as "CSU" or "University." The terms "bid" and "proposal" are synonymous, as are the terms "Contract" and "agreement." The terms "Bidder", "Proposer", and "Contractor" are also used interchangeably and each shall apply to the business entity which submits a bid/proposal or is awarded a contract.

1. Preparation of Bids and Proposals:

- (a) It shall be bidder's responsibility to examine any drawings, specifications, and instructions.
- (b) All prices and notations must be word-processed, printed in ink, or typewritten.
- (c) All bids submitted, including electronic bids, must indicate unit prices for each separate line item quoted in addition to showing the totals. In case of discrepancy between the unit price and the extension set forth for the item, the unit price shall prevail; however, if the amount set forth as a unit price is ambiguous, unintelligible, or uncertain for any cause, or is omitted, the amount set forth in the "Extension" column shall be divided by the quantity for the item and the price thus obtained shall be the unit price. In case of discrepancy between the totals shown on the bid form and the actual sum of the item totals, the actual sum of all item totals shall prevail.
- (d) Brand names: Any reference to brand names and numbers in the bid solicitation is intended to be descriptive, but not restrictive, unless otherwise specified. Bids on equivalent items meeting the indicated standards of quality will be considered, unless otherwise specified, providing the bid clearly describes the article offered and how it differs from the reference brands. Unless the bidder specifies otherwise in the bid, it is understood that the bidder is offering a referenced brand item as specified in the bid solicitation. The University reserves the right to determine whether a substitute offer is equivalent to and meets the standards of quality indicated by the brand name references; the University may require a bidder offering a substitute to supply additional descriptive material and a sample.
- (e) Time of delivery (whether a commodity or a service) is a part of the bid and must be strictly observed. Time, if stated as a number of days, shall mean calendar days.

2. Submission of Bids:

- (a) Whenever the University so designates, bids must be signed and sealed, with the bid number, bidder's name and address, and closing date, on the outside of the envelope.
- (b) Bids or partial bids, and modifications or corrections thereof received after the closing time specified may not be considered.

3. Revisions in Bid Solicitation: In the event a bidder believes that the University's bid solicitation is unfairly restrictive or has substantive errors or omissions in it, the matter must be promptly brought to the attention of the University's procurement office, either by telephone, telegraph, letter, or visit, immediately upon receipt of the bid solicitation, in order that the matter may be fully considered and appropriate action taken by the University prior to the closing time set for bids.

4. Removal of Names from Bidders' List: The University may remove the name of any vendor or contractor from its lists of potential bidders whenever the University has received no recent responses to its bid solicitations from that vendor or contractor.

5. Award of Contracts or Purchase Orders:

- (a) Contracts will be made or entered into with (1) the lowest responsible bidder meeting specifications, (2) the bidder with the highest score attained at the end of a competitive evaluation process, or (3) as otherwise specified in the bid solicitation. The University reserves the right to determine the results of the prescribed evaluation process and the awardee.
- (b) Purchase orders will be made or entered into with the lowest responsible bidder meeting specifications, except as otherwise specified in the bid solicitation. Where more than one item is specified in the bid solicitation, the University reserves the right to determine the low bidder either on the basis of individual items or on the basis of all items included in the bid solicitation.
- (b) Unless the bidder specifies otherwise in the submitted bid, the University may accept any portion or group of items or services offered in the bid, or accept none of them at all.
- (c) The University reserves the right to reject any or all bids and to waive informalities and minor irregularities in bids received.
- (d) A University purchase order mailed or otherwise furnished to the successful bidder within the time for acceptance specified in the bid solicitation results in a binding agreement without further action by either party. The binding agreement shall be interpreted, construed, and given effect in all respects according to the laws of the State of California.

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

The Contractor shall submit invoices to the University for payment of goods and services rendered. Payment shall not be due until the latter of: (a) the date of acceptance of goods or performance of services; or (b) receipt of an accurate invoice. Unless otherwise specified, payment will be made in accordance with Government Code Sections 927 et seq., as applicable.

7. Document Referencing: All correspondence, invoices, bills of lading, shipping memos, packages, etc., must show the Contract number. If factory shipment, the factory must be advised to comply.

8. Taxes, Fees, Expenses, and Extras:

- (a) Articles sold to the University are exempt from certain Federal Excise Taxes. The University will furnish an exemption certificate on request.
- (b) Unless specified otherwise, prices quoted shall include all required taxes.
- (c) No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the University unless expressly included and itemized in the bid.

Unless otherwise indicated on the Purchase Order or Contract, on "FOB Shipping Point" transactions vendor shall arrange for lowest cost transportation, prepay, add freight to invoice, and furnish supporting freight bills over \$50.

Shipments that are California intrastate in nature and where freight is to be borne by the University shall be tendered to carriers with written instructions that rates and charges may not exceed the lowest lawful rates on file with the California Public Utilities Commission.

On "FOB Shipping Point" transactions, should any shipments under this Purchase Order or Contract be received by the University in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers by wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper, such as inadequate packing or loading or some inherent defect in the equipment and/or material, vendor on request of the University shall at vendor's own expense assist the University in establishing carrier liability by supplying evidence that the equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.

9. Governing Law: All contracts and purchase orders shall be construed in accordance with, and their performance governed by, the laws of the State of California. Further, Contractor shall comply with any State or federal law applicable to Contractor's performance under this Contract. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.
10. Assignments: Without written consent of the CSU, the Contract is not assignable by Contractor either in whole or in part.
11. Independent Status: The Contractor, and the agents and employees of Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State of California. While Contractor may (or may not) be required under the terms of this Contract to carry Worker's Compensation Insurance, Contractor is not entitled to unemployment or workers' compensation benefits from the CSU.
12. Conflict of Interest:
 - (a) The Contractor shall not utilize any information, not a matter of public record, which is received by reason of this Contract, for pecuniary gain not contemplated by the terms of this Contract, regardless of whether the Contractor is or is not under Contract with the CSU at the time such gain is realized. Any report, survey, or product developed by the Contractor pursuant to this Contract is the property of the CSU, and shall not be used in any manner by the Contractor unless authorized by the CSU. Breach of this provision will make the Contract voidable at the Trustees' option, and the Contractor shall be liable for any other damages incurred by the CSU as the result of such breach (Education Code, Section 89006).
 - (b) The CSU requires a Statement of Economic Interests (Form 700) to be filed by any Consultant (or Contractor) who is involved in the making, or participation in the making, of decisions which may foreseeably have a material effect on any CSU financial interest [reference G.C. 82019].
13. Time: Time is of the essence of the Contract.
14. Contract Alterations & Integration: No alteration or variation of the terms of the Contract shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
15. Commencement of Work: Work shall not commence under the Contract until a fully executed agreement has been received by the Contractor and the Contractor has been given approval to proceed. Any work performed by the Contractor prior to the date of approval shall be considered as having been performed at the Contractor's own risk and as a volunteer.
16. Non-Performance by Contractor: The CSU may terminate the Contract and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, the CSU may proceed with the work in any manner deemed proper by the CSU. The cost to the CSU shall be deducted from any sum due the Contractor under the Contract, and the balance, if any, shall be paid the Contractor upon demand.

17. General Indemnity: The Contractor agrees to indemnify, defend and save harmless the University, its officers, agents and employees from any and all claims and losses accruing or resulting to any other person, firm or corporation furnishing or supplying work, service, materials or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation which may be injured or damaged by the Contractor in the performance of this Contract.
18. Appropriation of Funds:
- (a) If the term of the Contract extends into fiscal years subsequent to that in which it is approved such continuation of the Contract is subject to the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not appropriated, Contractor agrees to take back any commodities furnished under the Contract, terminate any services supplied to the University under the Contract, and relieve the University of any further obligation therefore.
 - (b) University agrees that if provision (a) above is involved, commodities shall be returned to the Contractor in substantially the same condition in which they were delivered, subject to normal wear and tear. University further agrees to pay for packing, crating, transportation to Contractor's nearest facility and for reimbursement to Contractor for expenses incurred for its assistance in such packing and crating.
19. Unfair Practices Act: Bidders shall comply and bids shall be in accordance with the Unfair Practices Act (Business and Professions Code Section 17000 et seq.).
20. Nondiscrimination:
- A. During the performance of this Contract, Contractor and its subcontractors shall not deny the Contract's benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age (over 40) or sex. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
 - B. Contractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.), the regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.), and the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code Sections 11135-11139.5).
 - C. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the Trustees upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours notice, to such of its books, records, accounts, other sources of information, and its facilities as said Department or Trustees shall require to ascertain compliance with this clause.
 - D. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
 - E. Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the agreement.
21. Violation of Air or Water Pollution Laws: Unless the Contract is less than \$10,000.00 or with a sole-source provider, Government Code Section 4477 prohibits the State from contracting with a person, including a corporation or other business association, who has been determined to be in violation of any State or federal air or water pollution control law. If such determination is final, Government Code Section 4481 requires the State Water Resource Control Board and the Air Resources Board to notify State agencies of such persons.
- Prior to an award, the University shall determine whether the intended awardee is a person included in notices from the Boards by reference to notices. No award will be made to a person who is identified either by the published notices or by Board notification as a person in violation of State or federal air or water pollution control laws.

22. Compliance with NLRB Orders: In submitting a bid or signing a contract the Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, Public Contract Code Section 10296.
23. Examination and Audit: For contracts in excess of \$10,000, the Contractor shall be subject to the examination and audit of (a) the Office of the University Auditor, and (b) the State Auditor, for a period of three (3) years after final payment under the contract in accordance with Government Code Section 8546.7 and with Education Code Section 89045(c & d), respectively. The examination and audit shall be confined to those matters connected with the performance of the contract, including, but not limited to, the costs of administering the Contract.
24. Drug-Free Workplace Certification: By accepting a contract or purchase order, the Contractor certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code, Section 8355 et. seq.) and will provide a drug-free workplace by doing all of that which Section 8355 et seq. require.
25. Forced, Convict and Indentured Labor: Contractor agrees that no foreign-made equipment, materials, or supplies furnished to the State pursuant to this Contract have been produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction. (Public Contract Code Section 6108).
26. Contractor Compensation: The consideration to be paid Contractor, as described within the Contract, shall be in full compensation for all of Contractor's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.
27. DVBE and Small Business Participation: The State of California supports statewide participation goals of 3% for disabled business enterprises, (DVBE Program) and requires agencies to provide a 5% preference when awarding contracts to small businesses. Only small businesses certified by the Office of Small and Minority Businesses (OSMB) are eligible to receive the preference. The University encourages all contractors to use the services of DVBE and OSMB-certified small business enterprises whenever possible, and to report their use to the University.
28. Citizenship and Public Benefits: If Contractor is a natural person, Contractor certifies in accepting this Contract that s/he is a citizen or national of the United States or otherwise qualified to receive public benefits under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 110 STAT.2105, 2268-69).
29. Financing of Acquisition: Bidder shall include within the contents of its bid proposal the best financing alternatives it has to offer the University whenever the bid solicitation expresses the University's desire to consider financing (including third-party possibilities) as an option.
30. Patent, Copyright, and Trade Secret Indemnity: A contractor may be required to furnish a bond to the University against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement. In addition:
- (a) The Contractor, at its own expense, shall defend any action brought against the University to the extent that such action is based upon a claim that the product supplied by the Contractor or the operation of such product infringes a United States patent or copyright or violates a trade secret. The Contractor shall pay those costs and damages finally awarded against the University in any such action. Such defense and payment shall be conditioned on the following:
 - (1) That the Contractor shall be notified within a reasonable time in writing by the University of any notice of such claim; and,
 - (2) That the Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when principles of government or public law are involved, the University have the option to participate in such action at its own expense.

- (b) Should the product, or the operation thereof, become, or in the Contractor's opinion is likely to become, the subject of a claim of infringement of a United States patent or copyright or a trade secret, the University shall permit the Contractor at its option and expense either to procure for the University the right to continue using the product, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such product by the University shall be prevented by injunction, the Contractor agrees to take back such product and make every reasonable effort to assist the University in procuring a substitute product. If, in the sole opinion of the University, the return of such infringing product makes the retention of other products acquired from the Contractor under this contract impractical, the University shall then have the option of terminating the contract, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such product and refund any sums the University has paid Contractor less any reasonable amount for use or damage.
- (c) The Contractor shall have no liability to the University under any provision of this paragraph with respect to any claim of patent, copyright or trade secret infringement which is based upon the combination or utilization of the product furnished hereunder with commodities or devices not made nor furnished by the Contractor.

31. Covenant Against Gratuities: The Contractor shall warrant that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the University with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the University shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the University in procuring on the open market any items which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the University provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

32. Rights and Remedies of University for Default:

- (a) In the event any item furnished by the Contractor in the performance of this Contract should fail to conform to the specifications therefore, or to the sample submitted by the Contractor with the bid, the University may reject the same, and it shall thereupon become the duty of the Contractor to reclaim and remove the same forthwith, without expense to the University, and immediately to replace all such rejected items with others conforming to such specifications or samples; provided that should the Contractor fail, neglect, or refuse to do so, the University shall thereupon have the right to purchase in the open market, in lieu thereof, a corresponding quantity of any such items and to deduct from any moneys due or that may thereafter become due to the Contractor the difference between the price named in the Contract and the actual cost thereof to the University.
- (b) In the event the Contractor shall fail to make prompt delivery as specified of any item, the same conditions as to the right of the University to purchase in the open market and to reimbursement set forth above shall apply, except for force majeure. Except for defaults of subcontractors, neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts (known as "force majeure") shall include but shall not be limited to fire, strike, freight embargo or acts of God and of the Government. If a delay or failure in performance by the Contractor arises out of a default of its subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for damages of such delay or failure, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.
- (c) In the event of the cancellation of the Contract, either in whole or in part, by reason of the default or breach thereof by the Contractor, any loss or damage sustained by the University in procuring any items which the Contractor therein agreed to supply shall be borne and paid for by the Contractor.
- (d) The rights and remedies of the University provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

33. Assignment of Antitrust Actions: The bidder's attention is directed to the following provisions of Government Code Sections 4552, 4553, and 4554, which shall be applicable to the bidder:

In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the procurement body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2, [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the procurement body pursuant to the bid. Such assignment shall be made and become effective at the time the procurement body tenders final payment to the bidder (Government Code Section 4552).

If an awarding body or public procurement body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery (Government Code Section 4553).

Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action (Government Code Section 4554).

34. Noncollusion Affidavit: By signing the bid, Bidder hereby certifies that the bid is not made in the interest of, or on behalf of, any undisclosed party; that the bid is genuine and not collusive, false, or sham; that the Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham bid, and has not directly or indirectly agreed with any Bidder or anyone else to put in a false or sham bid, or to refrain from bidding; that the Bidder has not in any manner, directly or indirectly, sought to fix any overhead, profit or cost element of the bid, of that of any other Bidder, or to secure any advantage against the public body awarding the contract or anyone interested in the proposed contract.
35. Conflict With Existing Law: The Contractor and the University agree that if any provision of the Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision. Should the offending provision go to the heart of the Contract, the Contract shall be terminated in a manner commensurate with the interests of both parties, to the maximum extent reasonable.
36. Contractor's Warranty: The Contractor warrants that it has full power and authority to grant the rights herein granted and will hold the University hereunder harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, Contractor avers that it will not enter into any arrangement with any third party which might abridge any rights of the University under this Contract.
37. Protests and Disputes: Potential bidders are afforded the opportunity to take exception to or "protest" the specifications and/or requirements of the bid solicitation. Such protests must be conveyed in writing to the University and also be resolved in writing by the University each within the timeframes specified, prior to the scheduled bid submittal deadline. However, any protests of specifications or requirements received after the deadline identified in the bid solicitation shall be considered untimely and shall be rejected. The University's decision on a protest is final.

If, prior to award of a contract, a protest is received in writing within the timeframe specified within the bid solicitation and filed on the grounds that the intended award is not in conformance with the specifications or requirements of the bid solicitation, the contract shall not be awarded until the protest has been withdrawn or a decision has been reached by the University. The University shall review the merits and timeliness of the protest and submit a decision in writing or otherwise furnish to the bidder the decision in such a manner as to ensure receipt. The University's decision on a protest is final.

- 38 Americans With Disabilities Act (ADA) – General Provisions: Contractor assures the University that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)
- 39 Bid Evaluation Preferences: In evaluating bids, the University will give preferences in accordance with the law for suppliers who are a California certified Small Business. If the bidder claims preferences under the Enterprise Zone Act (EZA), Target Area Contract Preference Act (TACPA) and Local Agency Military Base Recovery Area Act (LAMBRA), the bidder must complete and return the appropriate forms incorporated in the solicitation. Preferences may also be given for bidders using recycle products in accordance with Public Contract Code Sections 10408 and 12150 et seq. Where multiple preferences are claimed, the University will verify eligibility for the preference(s) and evaluate and apply preference(s) in accordance with law and established procedures.
- 40 Child Support Compliance Act: For any contract in excess of \$100,000, the contractor acknowledges in accordance with PUBLIC CONTRACT CODE Section 7110, that:
- (a) The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
 - (b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- 41 Recycling: Contractor hereby certifies under penalty of perjury that a percentage (0% to 100%) of the materials, goods, supplies offered, or products used in the performance of this contract meet or exceed the minimum percentage of recycled material as defined in Sections 12161 and 12205 of the PUBLIC CONTRACT CODE.

End of this Section

Download Exhibit C.

Exhibit C:

Drug-Free Workplace Certification

<http://www.calstate.edu/CSP/crl/forms/CRL005.pdf>

Download Exhibit D.

Exhibit D:

Non-discrimination Compliance Statement

<http://www.calstate.edu/CSP/crl/forms/CRL039.pdf>

Download Exhibit E.

Exhibit :

Small Business Preference and Certification Request

http://www.calstate.edu/CPDC/Suam/Appendices/Small_Bus_Preference.doc

End of Section

I. STATEMENT OF DVBE PARTICIPATION GOAL REQUIREMENT

State law requires that state agencies make efforts to achieve a goal of three (3) percent participation for disabled veteran business enterprises (DVBE) in state contracts.

Read this document carefully. Failure to comply with the DVBE requirement may cause your bid to be deemed non-responsive and your firm ineligible for award of this contract.

II. DEFINITIONS

The following definitions have general applicability throughout this document.

- A. **Trustees** as used herein, means the Board of Trustees of the California State University and includes any division or campus thereof which has been delegated the authority to enter into contracts on behalf of the Trustees, and any person acting under authority of such delegation.
- B. **Bidder** as used herein, means any person or entity making an offer or proposal, competitively or non competitively, for the purpose of securing the awarding or letting of a contract by the Trustees.
- C. **Disabled Veteran** as used herein, means a veteran of the military, naval or air services of the United States with at least a 10 percent service-connected disability who is a resident of the State of California.
- D. **Disabled Veteran Business Enterprise (DVBE)** as used herein, means a business concern certified by the Office of Small Business Services and Certification Resources as meeting all of the following:
 - 1. The business is at least 51 percent owned by one or more disabled veterans or, in the case of a publicly owned business, at least 51 percent of its stock is owned by one or more disabled veterans; a subsidiary which is wholly owned by a parent corporation, but only if at least 51 percent of the voting stock of the parent corporation is owned by one or more disabled veterans; or a joint venture in which at least 51 percent of the joint venture's management and control and earnings are held by one or more disabled veterans.
 - 2. One or more disabled veterans manage and control the daily business operations. The disabled veterans who exercise management and control are not required to be the same disabled veterans as the owners of the business concern.
 - 3. A sole proprietorship, corporation, or partnership with its home office located in the United States, which is not a branch or subsidiary of a foreign corporation, foreign firm or other foreign-based business.

III. SATISFACTION OF THE DVBE PARTICIPATION GOAL REQUIREMENT

A. Goal Attainment and/or "Good Faith Effort"

In order to satisfy and be responsive to this requirement, the bidder must either meet the DVBE Participation Goal or document a "Good Faith Effort" to meet that goal as follows:

- 1. **DVBE Participation Goal Attainment:** The three (3) percent Disabled Veteran Business Enterprise (DVBE) Participation Goal is attained when:
 - (a) The bidder is not a DVBE and is committed to use DVBEs for not less than three (3) percent of the contract dollar amount; or
 - (b) The bidder is a DVBE and committed to performing not less than three (3) percent of the contract dollar amount with its own forces or in combination with those of other DVBEs.

2. Good Faith Effort: A “Good Faith Effort” to meet the DVBE goal is achieved by doing **all** of the following five items **prior** to the final bid due date. Each of these items must be satisfied for each contract bid. The bidder shall:
 - (a) Contact the Trustees, *campus designated*, DVBE Coordinator for this bid to identify potential DVBEs. This telephone call will initiate the provision of information to the bidder;
 - (b) Contact other state and federal government agencies and local DVBE organizations to identify potential DVBEs for this contract;
 - (c) Advertise in trade paper and papers focusing on DVBEs. Advertisement must have appeared in publications at least ten (10) calendar days prior to the bid due date, unless time limits imposed by the Trustees do not permit that advertising;
 - (d) Send solicitation to potential DVBE subcontractors and suppliers for this contract with sufficient lead time to fully entertain and consider responding bids. Sufficient lead time is at least ten (10) calendar days prior to the bid due date, unless time limits imposed by the Trustees do not permit that lead time; and
 - (e) Consider responding DVBEs for participation in this contract.

B. Approved Utilization Plan

1. General: In satisfaction of the DVBE participation goal requirement, State law permits bidders bidding on contracts for materials, supplies, or equipment, including electronic data processing (“EDP”) goods and services to submit a DVBE Utilization Plan that has been approved, prior to the final bid due date, by the State Department of General Services Procurement Division.

AN APPROVED UTILIZATION PLAN MAY NOT BE USED TO SATISFY THE DVBE PARTICIPATION GOAL REQUIREMENT FOR ANY PUBLIC WORKS CONTRACT.

2. Utilization Plan Criteria and Approval

- (a) Criteria: At a minimum, the Utilization Plan must include all of the following information:
 - (1) A statement of the vendor’s disabled veteran business enterprise utilization plan, including the primary objectives of the utilization plan.
 - (2) An explanation showing sufficient business reasons why the vendor did not meet disabled veteran business enterprise participation goals set forth in the vendor’s disabled veteran business utilization plan submitted to, and approved by, the Department of General Services in the previous year, if applicable. Further, if vendor did not meet the disabled veteran business participation goals in the previous year, the vendor shall also identify remedial steps it will take to meet the goals in the current utilization plan.
 - (3) A statement of the vendor’s disabled veteran business utilization goals for the succeeding year. At a minimum these utilization goals shall be equal to the statewide participation goals set forth in subdivision (c) of Section 10115 of the Public Contract Code.
 - (4) Estimated total dollars to be subcontracted by the vendor for sales within the United States for the succeeding year.
 - (5) Estimated total dollars to be subcontracted by the vendor for sales within the State of California for the succeeding year.
 - (6) Total dollars, as expressed as a percentage of the amount estimated pursuant to paragraph (5) intended to be subcontracted with disabled veteran-owned business enterprises.

- (7) A representative listing of the products and services that the vendor anticipates subcontracting, including an identification of the types of subcontracting planned for disabled veteran business enterprises.
 - (8) The name of the individual employed by the vendor who will administer the vendor's utilization plan, including a description of the duties of the individual.
 - (9) A description of the efforts that the vendor will undertake to ensure that disabled veteran business enterprises will have an equitable opportunity to compete for contracts.
 - (10) A listing of the records and reports that the vendor will maintain to demonstrate the practices and procedures that have been adopted to comply with the requirements and goals of the utilization plan.
 - (11) Affirmation that the vendor met the statewide disabled veteran business enterprise utilization goals for the previous year, if applicable.
- (b) Approval: A business utilization plan shall be considered approved by the Department of General Services as of the date submitted to the Department of General Services so long as the plan meets the minimum criteria set forth in paragraphs (1) to (11), inclusive, in Subsection (a) above.

IV. DVBE PARTICIPATION GOAL DOCUMENTATION REQUIREMENTS

- A. **General:** The bidder must document its effort to either meet the DVBE participation goal requirement or make a good faith effort to meet it. Bidders who propose goal attainment are encouraged to submit documentation for making a "Good Faith Effort" also. This will ensure against the possibility that the Trustees will not agree that goal attainment has, in fact, been met.

The bidder's efforts to meet the contract DVBE Participation Goal and/or make a "Good Faith Effort" to meet the goal must be sincere and the documentation must be sufficient to reasonably demonstrate that sincerity to the Trustees. Final determination of DVBE Participation Goal attainment or a "Good Faith Effort" by the bidder shall be at the Trustees' sole discretion.

- B. **Required Documentation:** The DVBE documentation forms that must be completed are as follows and instructions for completing the required forms correctly are included to assist the bidder.

1. **DVBE Transmittal Form:** Bidders must fill out and attach the DVBE Transmittal Form as a cover sheet to the required documents and submit it and the additional required documentation within the timeframe specified in the bid solicitation, or if not specified therein, within a timeframe otherwise designated by the Trustees. All requested DVBE documentation must be completed on the forms provided and submitted with the DVBE Transmittal Form.
2. **DVBE SCHEDULE A:** Bidders are to complete **only** the Transmittal Form and Schedule A when bidder is a DVBE and committed to performing three (3) percent or more of the contract dollar amount with its own forces.
3. **DVBE SCHEDULE B:** Bidders are to complete **only** the Transmittal Form and Schedule B when bidder does not qualify as a DVBE, but is committed to use DVBE subcontractor(s) for three (3) percent or more of the contract dollar amount.
4. **DVBE SCHEDULE C:** Bidders are to complete **only** the Transmittal Form and Schedule C when bidder does not qualify as a DVBE, but has a DVBE Utilization Plan that has been approved, prior to the final bid due date, by the State Department of General Services Procurement Department.
5. **DVBE SCHEDULE D:** Bidders are to complete **only** the Transmittal Form and Schedule D when bidder does not qualify as a DVBE, but has made a "Good Faith Effort" to hire DVBE subcontractor(s) for three (3) percent or more of the contract dollar amount.

- C. **Timeframe for Submitting Documentation:** The DVBE participation documentation must be submitted within the timeframe specified in the bid solicitation, or if not specified therein, within a timeframe otherwise designated by the

Trustees. Failure to submit full and accurate documentation within the specified or designated timeframe will result in your firm being deemed non-responsive, and thus ineligible for award of the contract.

V. USE OF PROPOSED DVBE

If awarded the contract, the successful bidder must use the DVBE subcontractors and/or suppliers proposed in its bid proposal unless it has requested substitution and has received approval of the Trustees in compliance with the Subletting and Subcontracting Fair Practices Act.

Failure to adhere to at least the DVBE participation proposed by the successful bidder may be cause for contract termination and recovery of damages under the rights and remedies due the Trustees under the default section of the contract.

VI. ADDITIONAL DVBE INFORMATION SOURCES:

For more information regarding DVBE certification, copies of directories or for general DVBE information, contact:

1. State Department of General Services
Office of Small Business Services and Certification Resources
1531 I Street, 2nd Floor
Sacramento, California 95814-2016
(916) 322-5060
2. DVBE information via the Internet at
<http://www.osmb.dgs.ca.gov/>

VII. CONTRACT AUDITS

Contractor agrees that the Trustees or its delegate will have the right to obtain, review, and copy all records pertaining to performance of the contract, including but not limited to reports of payments made to subcontractors during the term of a contract. Contractor agrees to provide the Trustees or its delegate with any relevant information requested and shall permit the Trustees or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. Contractor further agrees to maintain such records for a period of three (3) years after final payment under this contract.

DVBE TRANSMITTAL FORM

This DVBE Transmittal Form is to be used as a cover sheet for the required DVBE documentation that must be submitted within the time frame specified in the bid solicitation. Bidder is to complete Transmittal Form plus only one Schedule Form (either A, B, C or D).

CAMPUS:	BID DATE:
	PROJECT NUMBER:
NAME OF CONTRACTOR SUBMITTING BID:	

DVBE STATUS: Check *only one* of the following:

- ☐ **My company qualifies as a DVBE.** This means the bidder is a DVBE and committed to performing not less than three (3) percent of the contract dollar amount with its own forces or in combination with those of other DVBEs. The following required documentation is attached:
- DVBE Schedule A
 - Copy of Bidder's DVBE Certification from the Office of Small Business Services and Certification Resources
- ☐ **My company does *not* qualify as a DVBE, but one or more of our subcontractors *does* qualify as a DVBE.** This means that the bidder is not a DVBE, but is committed to use DVBEs for not less than three (3) percent of the contract dollar amount. The following required documentation is attached:
- DVBE Schedule B
 - Copy of DVBE Certification from the Office of Small Business Services and Certification Resources from each subcontractor.
- ☐ **My company does *not* qualify as a DVBE, but we have a *DVBE Utilization Plan*.** State law permits bidders bidding on contracts for materials, supplies or equipment to submit a DVBE Utilization Plan that has been approved, prior to the final bid due date, by the State Department of General Services Procurement Division. The following required documentation is attached:
- DVBE Schedule C
 - Copy of Approved Utilization Plan
- ☐ **My company does *not* qualify as a DVBE, but we have made a *Good Faith Effort* to hire subcontractors that *do* qualify as DVBEs.** This means that *all* five steps outlined under *Good Faith Effort* have been performed *prior* to the final bid due date. The following required documentation is attached:
- DVBE Schedule D
 - Copies of letters, email messages, etc. as proof of contacts made in Chart 1.
 - Copies of advertisements reported in Chart 2.

- Copies of bidder's solicitation letters to DVBE contractors as proof of contacts made in Chart 3.
- Copies of responses received from DVBE contractors.

DVBE SCHEDULE A

This DVBE Form, Schedule A, is to be used when bidder is a DVBE and committed to performing three (3) percent or more of the contract dollar amount with its own forces.

COMPANY NAME:	OSMB DVBE:
NATURE OF WORK:	CLAIMED DVBE VALUE \$:

I declare under penalty of perjury, under the laws of the State of California, that the information herein is true and correct to the best of my knowledge. In making this certification, I am aware of Section 12650 et seq. of the Government Code providing for the imposition of treble damages for making false claims against the State, Section 10115.10 of the Public Contract Code making it a crime to intentionally make an untrue statement in this certificate, and the provisions of Section 999.9 of the Military and Veterans Code.

SIGNATURE OF AUTHORIZED AGENT:	TITLE:	DATE:
PRINTED NAME:	FIRM NAME:	TELEPHONE:

DVBE SCHEDULE B

This DVBE Form, Schedule B, is to be used when bidder does not qualify as a DVBE, but is committed to use DVBE subcontractor(s) for three (3) percent or more of the contract dollar amount.

SUBCONTRACTOR COMPANY NAME:	TIER:
NATURE OF WORK:	CLAIMED DVBE VALUE \$:
CONTRACTING WITH:	PERCENTAGE OF CONTRACT (%):
PRINTED TITLE OF PERSON SIGNING:	OSMB DVBE:

SUBCONTRACTOR COMPANY NAME:	TIER:
NATURE OF WORK:	CLAIMED DVBE VALUE \$:
CONTRACTING WITH:	PERCENTAGE OF CONTRACT (%):
PRINTED TITLE OF PERSON SIGNING:	OSMB DVBE:

SUBCONTRACTOR COMPANY NAME:	TIER:
NATURE OF WORK:	CLAIMED DVBE VALUE \$:
CONTRACTING WITH:	PERCENTAGE OF CONTRACT (%):
PRINTED TITLE OF PERSON SIGNING:	OSMB DVBE:

SUBCONTRACTOR COMPANY NAME:	TIER:
NATURE OF WORK:	CLAIMED DVBE VALUE \$:
CONTRACTING WITH:	PERCENTAGE OF CONTRACT (%):
PRINTED TITLE OF PERSON SIGNING:	OSMB DVBE:

I declare under penalty of perjury, under the laws of the State of California, that the information herein is true and correct to the best of my knowledge. In making this certification, I am aware of Section 12650 et seq. of the Government Code providing for the imposition of treble damages for making false claims against the State, Section 10115.10 of the Public Contract Code making it a crime to intentionally make an untrue statement in this certificate, and the provisions of Section 999.9 of the Military and Veterans Code.

SIGNATURE OF AUTHORIZED AGENT:	TITLE:	DATE:
PRINTED NAME:	FIRM NAME:	TELEPHONE:

DVBE SCHEDULE C

This DVBE Form, Schedule C, is to be used when bidder does not qualify as a DVBE, but has a DVBE Utilization Plan that has been approved, prior to the final bid due date, by the State Department of General Services Procurement Division.

Important Note: We recommend that bidders download the DVBE Resource Packet at <http://www.pd.dgs.ca.gov/smbus/default.htm>. Scroll down the page and, under the heading *DVBE Participation Program*, click on the *DVBE Resource Packet* hyperlink. This document explains, in detail, how to write a DVBE Utilization Plan.

COMPANY NAME:	Attach Bidder DVBE Utilization Plan to this certification.
NATURE OF WORK:	

*I declare under penalty of perjury, under the laws of the State of California, that the information herein is true and correct to the best of my knowledge. In making this certification, I am aware of Section 12650 *et seq.* of the Government Code providing for the imposition of treble damages for making false claims against the State, Section 10115.10 of the Public Contract Code making it a crime to intentionally make an untrue statement in this certificate, and the provisions of Section 999.9 of the Military and Veterans Code.*

SIGNATURE OF AUTHORIZED AGENT:	TITLE:	DATE:
PRINTED NAME:	FIRM NAME:	TELEPHONE:

DVBE SCHEDULE D

This DVBE Form, Schedule D, is to be used when bidder does not qualify as a DVBE, but has made a Good Faith Effort to hire DVBE subcontractor(s) for three (3) percent or more of the contract dollar amount.

Important Note: We recommend that bidders download the *DVBE Resource Packet* at <http://www.pd.dgs.ca.gov/smbus/default.htm>. Scroll down the page and, under the heading *DVBE Participation Program*, click on the *DVBE Resource Packet* hyperlink. This document explains, in detail, how to perform a DVBE Good Faith Effort. Detailed instructions can also be found in the *SJSU Vendor Guide* at <http://www.sjsu.edu/pass/vendor>. **NOTE THAT A GOOD FAITH EFFORT SHOWS INTENT BUT DOES NOT FACTOR INTO THE AWARD OF THE ACQUISITION.**

Chart 1: List below the contacts made with the CSU, other state **and** federal agencies **and** Disabled Veteran Business Enterprise (DVBE) organizations in an effort to identify potential DVBEs for participation in this contract. Include dates, times, contact names and phone numbers

CHART 1			
AGENCY TYPE:	DATE/TIME/ METHOD:	AGENCY/ORGANIZATION NAME:	CONTACT/PHONE#:
CALIFORNIA STATE UNIVERSITY			
STATE AGENCIES			
FEDERAL AGENCIES			
LOCAL AGENCIES /ORGANIZATIONS			

Chart 2: Vendors are to list trade papers *and* other publications focusing on DVBEs in which the bidder advertised for participation in this contract. Include the date of advertisement and attach copies of such advertisements. Bidder must attach a sample of the solicitation sent to DVBE firms. If phone contact was made, document conversation: date, time, contact person, and business opportunities discussed.

CHART 2	
NAME OF TRADE/FOCUS PUBLICATIONS:	DATES OF ADVERTISEMENT:

Chart 3: List potential DVBEs that the bidder solicited for participation in this contract along with the dates the solicitations were sent. Contractor/Bidder to attach a sample of the solicitation sent to DVBE firms. If phone contact was made, please describe the services or products for which you solicited participation.

CHART 3			
DVBE FIRM:	DATE OF MAILING:	DATE OF TELEPHONE CONTACT:	RESULTS SELECTED OR REASON FOR NON-SELECTION

Chart 4: Identification of (1) all DVBEs who submitted bids or quotations, (2) nature of work, supplies or services offered which are not accepted, (3) dollar amounts of the DVBEs bids not accepted, (4) subcontractors and/or suppliers who will be used instead of the DVBEs, (5) the reason for the bidder not accepting the DVBE's bid, and (6) dollar amounts of these subcontractors and/or suppliers' bids. Use additional sheets if necessary.

CHART 4

NAME OF DVBE (1):	NATURE OF SUPPLIES/SERVICES OFFERED (2):	DVBE BID AMOUNT (3):
SUBCONTRACTOR USED INSTEAD OF DVBE (4):	REASON BIDDER NOT ACCEPTING DVBE'S BID (5):	SUBCONTRACTOR BID AMOUNT (6):

NAME OF DVBE (1):	NATURE OF SUPPLIES/SERVICES OFFERED (2):	DVBE BID AMOUNT (3):
SUBCONTRACTOR USED INSTEAD OF DVBE (4):	REASON BIDDER NOT ACCEPTING DVBE'S BID (5):	SUBCONTRACTOR BID AMOUNT (6):

NAME OF DVBE (1):	NATURE OF SUPPLIES/SERVICES OFFERED (2):	DVBE BID AMOUNT (3):
SUBCONTRACTOR USED INSTEAD OF DVBE (4):	REASON BIDDER NOT ACCEPTING DVBE'S BID (5):	SUBCONTRACTOR BID AMOUNT (6):

I declare under penalty of perjury, under the laws of the State of California, that the information herein is true and correct to the best of my knowledge. In making this certification, I am aware of Section 12650 et seq. of the Government Code providing for the imposition of treble damages for making false claims against the State, Section 10115.10 of the Public Contract Code making it a crime to intentionally make an untrue statement in this certificate, and the provisions of Section 999.9 of the Military and Veterans Code.

SIGNATURE OF AUTHORIZED AGENT:	TITLE:	DATE:
PRINTED NAME:	FIRM NAME:	TELEPHONE:

DVBE FORM INSTRUCTIONS

Important: Bidder is to complete Transmittal Form plus only one Schedule Form (either A, B, C or D).

TRANSMITTAL FORM

Campus: **Enter San José State University.**

Bid Date: **Enter date bid submitted.**

Project Name: **Enter project name specified on cover page of solicitation.**

Project Number: **Enter Bid/RFP Number specified on cover page of solicitation.**

Name of Contractor Submitting Bid: **Enter bidder's first and last name.**

DVBE Status: **Check the box that best describes bidder's DVBE status.**

SCHEDULE A

Company Name: **List the name of the bidder's company.**

OSMB DVBE: **Enter bidder's certification number from the Office of Small Business Services and Certification Resources. Attach copy of certificate.**

Nature of Work: **Identify the proposed work or service to be provided by the listed company.**

Claimed DVBE Value: **The total dollar amount of the value claimed by a disabled veteran business enterprise.**

Signature of Authorized Agent: **Signature of bidder authorized to submit firm bid on behalf of bidder's company.**

Title: **Job title of bidder.**

Date: **Date bid submitted.**

Printed Name: **First and last name of bidder.**

Firm Name: **Full name of bidder's company.**

Telephone: **Telephone number of bidder.**

SCHEDULE B

Subcontractor Company Name: **List the name of the company proposed for DVBE participation. If the prime contractor is a DVBE, its name must also be listed to receive participation credit.**

Tier: **The contracting tier should be indicated with the following level designations:**

0 = Prime contractor;

1 = First tier subcontractor/supplier;

2 = Second tier subcontractor/supplier of first tier subcontractor/ supplier;

3 = Third tier subcontractor/supplier of second tier subcontractor/ supplier; etc.

Nature of Work: **Identify the proposed work or service to be provided by the listed company.**

Claimed DVBE Value: **The total dollar amount of the value claimed by a disabled veteran business enterprise.**

Contracting With: **List the name of the department or company with which the company listed is contracting. Most often this is the bidder's company.**

Percentage of Contract: **Compute the percentage (%) the claimed DVBE value is of the total contract dollar amount.**

Printed Title of Person Signing: **Job title of bidder.**

OSMB DVBE: **Enter certification number from the Office of Small Business Services and Certification Resources for each subcontractor. Attach copy of certificate from each subcontractor.**

Signature of Authorized Agent: **Signature of bidder authorized to submit firm bid on behalf of bidder's company.**

Title: **Job title of bidder.**

Date: **Date bid submitted.**

Printed Name: **First and last name of bidder.**

Firm Name: **Full name of bidder's company.**

Telephone: **Telephone number of bidder.**

SCHEDULE C

Company Name: **List the name of the bidder's company.**

Nature of Work: **Identify the proposed work or service to be provided by the listed company.**

Signature of Authorized Agent: **Signature of bidder authorized to submit firm bid on behalf of bidder's company.**

Title: **Job title of bidder.**

Date: **Date bid submitted.**

Printed Name: **First and last name of bidder.**

Firm Name: **Full name of bidder's company.**

Telephone: **Telephone number of bidder.**

SCHEDULE D

More detailed instructions on how to conduct the DVBE Good Faith Effort can be found in the DVBE Resource Packet available at www.pd.dgs.ca.gov/smbus.

Chart 1: Date/Time: **Enter date and time contact was made. Also include method of contact; i.e. mail, email, phone, fax, etc.**

Chart 1: Agency/Organization Name: **Enter name of agency or organization contacted.**

Chart 1: Contact/Phone: **Enter full name of person contacted and their phone number.**

Chart 2: Name of Trade/Focus Publications: **List names of publications where advertisements were placed.**

Chart 2: Dates of Advertisement: **List dates the advertisements were published.**
Chart 3: DVBE Firm: **List names of potential DVBE subcontractor companies.**
Chart 3: Date of Mailing: **List date(s) invitation to bid sent to potential DVBE subcontractor.**
Chart 3: Date of Telephone Contact: **List date(s) potential DVBE subcontractor contacted by telephone.**
Chart 3: Results Selected or Reason for Non-Selection: **Describe whether or not potential DVBE subcontractor's bid was accepted or rejected and the reasons why. Bidder must contact potential DVBE at least 3 times on 3 separate days before a "no response" will be accepted.**
Chart 4: Name of DVBE: **Names of all DVBE companies that submitted bids.**
Chart 4: Nature of Supplies/Services Offered: **Describe type of work, supplies or services offered which are not accepted.**
Chart 4: DVBE Bid Amount: **The dollar amounts of the DVBEs bids not accepted.**
Chart 4: Subcontractor Used instead of DVBE: **Names of subcontractors and/or suppliers who will be used instead of the DVBEs.**
Chart 4: Reason Bidder Not Accepting DVBE's Bid: **Describe reason for the bidder not accepting the DVBE's bid.**
Chart 4: Subcontractor Bid Amount: **The dollar amounts of these subcontractors and/or suppliers' bids.**
Signature of Authorized Agent: **Signature of bidder authorized to submit firm bid on behalf of bidder's company.**
Title: **Job title of bidder.**
Date: **Date bid submitted.**
Printed Name: **First and last name of bidder.**
Firm Name: **Full name of bidder's company.**
Telephone: **Telephone number of bidder.**

End of Section

Exhibit G
State of California Payee Data Record Form 204

Download Exhibit G. This form must be completed in its entirety and signed by an authorized individual. NOTE: A Federal W-9 can not be provided in lieu of the required Form 204.

State of California Payee Data Record Form 204
<http://www.calstate.edu/CSP/crl/forms/CRL040.pdf>