
STATE OF ILLINOIS

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES



INVITATION FOR BIDS

IBM ESS F20 DASD Expansion

07-21295

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1. INTRODUCTION

1.1 PURPOSE: The State of Illinois Department of Central Management Services (CMS) Bureau of Communications and Computer Services (BCCS) is inviting responsible vendors to submit bids to meet the State's needs. A brief description is set forth below for your convenience, with detailed requirements found in Section 4 of the IFB, "Contract Specifications (Purchase Description)," which is included with this Invitation for Bids (IFB). If you are interested and able to meet these requirements, we would appreciate and welcome a Bid.

This IFB will set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:

- i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;
- ii) examination of such elements as appearance, finish, taste, or feel;
- iii) other examinations to determine whether it conforms with any other purchase description requirements.

Unsolicited bid samples or descriptive literature however, are submitted at the bidder's risk, may not be examined or tested, will not be deemed to vary any of the provisions of the IFB, and may not be utilized by the vendor to contest a decision or understanding with the State.

Upon completion of the IFB process, if you are the selected vendor, you will be expected to enter into a binding contract with the Agency/Buyer. The Contract for Supplies (the Contract) will follow the format and include the contractual terms as specified in the attached sample Contract For Supplies. It is intended that this Contract will be utilized in those circumstances where an IFB is required.

1.2 BACKGROUND: The State of Illinois Department of Central Management Services (CMS) serves as the central procurement authority for the State of Illinois (the State). Agencies under the Governor utilize the procurement authority of CMS as Chief Procurement Officer to contract for goods and services necessary for the operations of State government. A Chief Procurement Officer may, in turn, appoint a State Purchasing Officer (SPO) who has independent authority to contract for Supplies necessary for the operations of State government. The Agency/Buyer or CMS is ultimately responsible for entering into the contract, monitoring performance, receiving the benefits derived under the contract, and making payments under the contract.

Where required by law, the Agency/Buyers must utilize the IFB process outlined herein. Please read the IFB and Contract form and submit your Bid in accordance with the Instructions. The instructions for submitting Bids to respond to this IFB follow in Section 6 of the IFB, "Instructions for Preparing and Submitting Bids."

If you have any questions, please contact the IFB Contact identified in Section 3 of the IFB, "Key Information about this IFB."

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1.3 SUMMARY OF SPECIFICATIONS (PURCHASE DESCRIPTION):

Brief Description:

The Illinois Department of Central Management Services (CMS) intends to purchase additional IBM ESS F20 DASD Storage capacity and expand the Mainframe DASD capacity in use today at CMS to be used in support of Tier 1 Business Continuity (Disaster Recovery). Installation will be required.

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2. DEFINITIONS

Whenever used in this IFB, Contract, or amendment, including schedules and exhibits to this IFB or Contract, the following terms will have the meanings defined below.

Any objections or questions regarding the definitions should be raised with the Agency/Buyer during the IFB process.

- 2.1 Acceptance:** the point in time when the product or equipment has been fully installed and operates in compliance with the Agency/Buyer's order and the Contract, or the State otherwise indicates acceptance in writing.
- 2.2 Affiliates:** any person, firm, corporation (including, without limitation, service corporation and professional corporation), partnership (including, without limitation, general partnership, limited partnership and limited liability partnership), limited liability company, joint venture, business trust, association or other entity that now or in the future directly or indirectly controls, is controlled by, or is under common control with Vendor.
- 2.3 Agency/Buyer:** the agency, board, department or commission of State government responsible for entering into the Contract, monitoring performance, receiving the benefits derived from the Contract and making payments under the Contract.
- 2.4 Bid:** the response to an Invitation for Bids (IFB).
- 2.5 Bid Firm Time:** bids shall remain firm and unaltered after opening for the number of days shown. A Bid may be accepted, subject to successful contract negotiations, at any time during the Bid Firm Time.
- 2.6 Brand Name or Equal Specification:** a specification that uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet State requirements, and that allows the submission of equivalent products.
- 2.7 Brand Name Specification:** a specification limited to one or more items by manufacturers' names or catalogue numbers.
- 2.8 Change of Control:** any transaction or combination of transactions as a result of which (a) ownership of a vendor changes, (b) the sale or transfer of fifty percent (50%) or more of the beneficial ownership occurs or, (c) the divestiture, in whole or in part, of the business unit or division of a party that is obligated to produce the products and services occurs.
- 2.9 CMS:** the State of Illinois Department of Central Management Services and any successor organizations.
- 2.10 Code:** the Illinois Procurement Code, 30 ILCS 500/1-5 et seq. Unofficial versions of the Code and Standard Procurement Rules (44 Ill. Adm. Code 1), which are applicable to this procurement, may be viewed at <http://www.purchase.state.il.us/>.
- 2.11 Contract:** the "Contract For Supplies" included with the State's Invitation For Bids.
- 2.12 Confidential Information:** any material, data, or information disclosed by either Party to the other that, pursuant to agreement of the parties or the State's grant

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of a proper request for confidentiality, is not generally known by or disclosed to the public or to Third Parties including, without limitation: (a) all materials, know-how, processes, trade secrets, manuals, confidential reports, services rendered by State, financial, technical and operational information, and other matters relating to the operation of a Party's business; (b) all information and materials relating to Third Party vendors of State that have provided any part of State's information or communications infrastructure to State; (c) software; and (d) any other information that the Parties agree should be kept confidential. See also subsection 7.2.6 of Section 7 of this IFB, "Public Records and Requests for Confidential Treatment."

- 2.13 Filing:** where applicable, an instrument or document submitted to a regulatory body for review and approval to allow the Vendor(s) to make the Services contained therein available for consumption.
- 2.14 IFB:** the State's Invitation For Bids.
- 2.15 ILCS:** Illinois Compiled Statutes. An unofficial version of the ILCS can be viewed at <http://www.ilga.gov/legislation/ilcs/ilcs.asp>.
- 2.16 Offer:** the Offer consists of the Bid, the Contract for Supplies, and all required forms and certifications—completed, signed, and returned by the Vendor.
- 2.17 Order:** any written request from CMS or an Agency/Buyer for services and/or products and/or equipment pursuant to this Contract.
- 2.18 Parties:** the State of Illinois and the Vendor.
- 2.19 Performance Guarantee:** the Vendor's commitment to place some or all of its fee at risk contingent upon the Agency/Buyer's satisfaction with the work to be performed.
- 2.20 Qualified Products List:** an approved list of Supplies described by model or catalogue numbers that, prior to competitive solicitation, the State has determined will meet the applicable specification requirements.
- 2.21 Response:** when used in association with the term "IFB" refers to the Vendor's(s') Bid and clarifications in response to the State's Invitation for Bids.
- 2.22 Responsible Bidder:** a person, company or organization who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.
- 2.23 Responsive Bidder:** a person who has submitted a bid that conforms in all material respects to the Invitation For Bids.
- 2.24 Security:** the Vendor may be required to provide offer security (e.g., bond) with the Bid and performance security within ten (10) days of acceptance of the Bid unless a different time is specified herein. Security shall be in the form of a bond unless otherwise agreed. In the event a bond is used, a surety licensed to do business in Illinois must issue the bond on a form acceptable to the Agency/Buyer. The security shall be forfeited if the selected Vendor withdraws its Bid after the Agency/Buyer issues a Notice of Intent to Award, does not honor the terms in its Bid, or does not negotiate contract terms in good faith. Security submitted by Vendors will be returned when the Bids expire, are rejected, or the

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Agency/Buyer enters into a contract with the successful Vendor, whichever is earliest.

- 2.25 Specifications:** any description of the physical, functional, or performance characteristics, or of the nature of a supply or service. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply or service item for delivery. Unless the context provides otherwise, the terms "specification" and "purchase description" are used interchangeably.
- 2.26 State:** the State of Illinois, as represented through any agency, department, board, or commission.
- 2.27 State Facility:** any facility, site or location owned, managed, controlled or operated by the State.
- 2.28 State Liaison:** when applicable, the CMS employee who shall act as a centralized liaison between Vendor(s) and Agency/Buyer with respect to all matters relating to the administration of this Contract.
- 2.29 Supplies:** the equipment, supplies, goods, or commodities defined as the subject matter of the IFB, and includes related transportation, installation, warranty, insurance, financing, or maintenance related to such supplies.
- 2.30 Third Party:** any entity other than the Agency/Buyer, Vendor(s), or any of their respective Affiliates.

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3. KEY INFORMATION ABOUT THIS IFB

3.1 BID NUMBER: IBM ESS F20 DASD Expansion 07-21295

3.2 IFB CONTACT: The IFB Contact, identified below, is the sole point of contact regarding the IFB from the date of issuance until selection of the successful Vendor.

<i>Name, IFB Contact:</i> Stan Sandidge	Phone: 217-557-0127
<i>Agency:</i> CMS BOSSAP	Fax: 217-782-5187
<i>Location:</i> Stratton Office Building	TDD: 217-782-2000
<i>Street Address:</i> 401 S. Spring St.	E-mail: Stanley.sandidge@illinois.gov
<i>City, State Zip Code:</i> Springfield, IL. 62706	

3.3 QUESTIONS: Please direct all questions (and requests for Americans with Disabilities Act accommodations) to the IFB Contact. Do not discuss this IFB with any person other than the IFB Contact. Questions received less than seven calendar days prior to the due date and time may be answered at the discretion of the Agency/Buyer. When the answer to a question regarding the IFB may result in a material change to the IFB, we will respond in writing. In that case, we will either send the answer to all eligible recipients of the IFB or post the answer in the Illinois Procurement Bulletin, which may be viewed at <http://www.purchase.state.il.us/>. Only written answers to questions will be binding on the State.

3.4 SUBMISSION DEADLINE AND PROCUREMENT TIMETABLE: The following dates are set forth for informational and planning purposes; however, the Agency/Buyer reserves the right to change the dates.

Issue IFB	Date 2/9/07
Due Date and Time for Bids	Date and time 2/23/07 10 am
Opening Date and Time	Date and time 2/23/07 10 am
Anticipated Announcement of Successful Vendor	Date 3/23/07

3.5 PRE-BID CONFERENCE: A pre-bid conference will not be held

3.6 NUMBER OF COPIES: Submit signed original and 2 copies of the Bid in a sealed envelope or container.

Vender is required to provide a copy of the bid document on a CD in MSWord format upon request.

3.7 SUBMIT BIDS TO:	LABEL ENVELOPES/CONTAINERS
CMS BOSSAP Contract Compliance IBM ESS F20 DASD Expansion 07-21295	
Attn: Shirley Webb	Date and time 2/23/07 10 am
Rm 405 Stratton Office Building	Vendor name and address
401 South Spring Street	
Springfield, IL 62704	

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- 3.8 OPENING:** The State will open all Bids that are submitted in a proper and timely manner, and will record the names and other information specified by law and rule. All Bids become the property of the State and will not be returned except in the case of a late submission. Bids will be opened at the Submission Location
- 3.9 BID BONDS OR OTHER SECURITY:**
Bid: N/A Performance: N/A
- 3.10 BID FIRM TIME:**
90 Days from Opening
- 3.11 PROTEST REVIEW OFFICE:**
Agency: Central Management Services Phone: (217) 782-2141
Attn: Paul J. Campbell, Director Fax: (217) 524-1880
Address: Room 715 Stratton Office Building TDD: (217) 785-4115
401 South Spring Street
Springfield, Illinois 62706
- 3.12 SMALL BUSINESS SET -ASIDE:** ☐ Yes ☒ No. If "Yes" is marked this has been set-aside for award to small businesses in Illinois (30 ILCS 500/45-45). A small business (including affiliates) has annual sales for its most recently completed fiscal year less than (1) \$10,000,000 for a wholesaler; (2) \$6,000,000 for a retailer or business selling services; (3) \$10,000,000 for a construction business; and (4) must have less than 250 employees if a manufacturer. For complete requirements, contact the CMS Small Business Specialist at 866-ILL-BUYS, TDD 800-526-0844.

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4. SPECIFICATIONS (PURCHASE DESCRIPTION)

The Agency/Buyer will detail the specific requirements and needs the Contract must address. This section will include the Agency/Buyer's needs, goals and requirements as well as any other specifications. This information should be used by the Vendor to prepare its Bid and will also constitute the terms of the Contract.

4.1. Agency/Buyer's Needs For Supplies and Services

The Illinois Department of Central Management Services (CMS) intends to purchase additional IBM ESS F20 Mainframe DASD disk capacity and expand the current disk in use today. Installation will be required.

4.2. Agency/Buyer's Goals and Objectives

CMS expects to purchase hardware that will fully meet the requirements listed in this section of the IFB and to have the solution fully installed and implemented within 60 days from the date of contract signature or subsequent order. Specific goals of this IFB include:

- Increase the available IBM ESS F20 DASD capacity currently installed in the CMS HCF Data Center
- Increase the PPRC ESCON communication links to handle the increased communications load

Due to budget constraints, final awarded purchase quantities / license limits may be reduced.

4.3. Supplies Required

The vendor shall provide a bid to furnish and deliver each of the following brand name items as described in the tables below. Only IBM brand will satisfy the State's needs in order to ensure compatibility with existing systems and is not intended to limit or restrict competition.

CMS is aware that in the IT industry manufacturers often make products/services available to customers via an indirect channel. Those channel participants may be referred to as resellers, distributors, partners, providers, etc. CMS is unable to research, distinguish and define the various types of manufacturer sales programs for all products and services on the market; therefore, CMS requires that vendors responding to this bid provide a statement indicating their ability and authorization to resell and deliver products or services to the customer on behalf of the manufacturer. Vendors providing bids are also required to acknowledge responsibility for and authorization to provide pre and post sales support where applicable.

State will accept refurbished equipment described below. Vendor must indicate warranty length on refurbished equipment. The State reserves the right to award based on the best value to the State. Cost consideration will be based on maintenance and warranty for refurbished and new equipment quotes.

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ITEM	DESCRIPTION	QTY
2105-F20	Enterprise Storage Server Serial 16600	
	ADDITIONS	
2124	72.8GB DISK 8-PACK,10K RP	4
9016	DISK 8-PACK COUNT = 16	1
1804	PAV 8 TB CAPACITY	1
1824	PPRC 8 TB CAPACITY	1
3011	STANDARD ESCON HOST ADAPTER	2
	REMOVALS	
9012	DISK 8-PACK COUNT = 12	1
9301	MODEM	1
1803	PAV 4 TB CAPACITY	1
1823	PPRC 8 TB CAPACITY	1
2105-F20	Enterprise Storage Server Serial 16766	
	ADDITIONS	
2100	EXPANSION ENCLOSURE	1
2124	72.8GB DISK 8-PACK,10K RP	16
9028	DISK 8-PACK COUNT = 28	1
9085	8 TB CAPACITY	1
9101	DISK 8-PACK MOUNTING KIT	1
9153	DISK 8-PACK MOUNTING KIT COUNT = 3	1
9301	MODEM COUNTRY GROUP M01	1
9854	THREE PHASE 50/60 HZ 60 AMP	1
1804	PAV 8 TB CAPACITY	1
1824	PPRC 8 TB CAPACITY	1
3011	STANDARD ESCON HOST ADAPTER	2
	REMOVALS	
9012	DISK EIGHT-PACK COUNT = 12	1
9082	2.1 TB CAPACITY	1
9152	DISK 8-PACK MOUNTING KIT COUNT = 2	1
1802	PAV 2 TB CAPACITY	1
1822	PPRC 2 TB CAPACITY	1
2105-800	Enterprise Storage Server Serial 29651	

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	ADDITIONS	
3011	STANDARD ESCON HOST ADAPTER	4
2105-800	Enterprise Storage Server Serial 29389	
	ADDITIONS	
3011	STANDARD ESCON HOST ADAPTER	4

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4.4. Delivery Specifications (Including Schedules and Guarantees)

Delivery to be within 30 days after contract execution or receipt of order, whichever is applicable, unless otherwise stated herein. Vendor shall ship to all State and Local government locations F.O.B. Destination with all transportation and handling paid by the Vendor. Packing lists showing State-provided order number must be furnished with each shipment, and must be shown on the outside of each shipping container along with the Vendor name.

Equipment as ordered must be shipped in its entirety in a timely fashion; no partial shipments are allowed. Multiple packaging, however, is acceptable. Vendor shall pay all shipping and insurance costs. Equipment should be drop shipped to the address indicated in Section 4.5. Any damaged packages will be rejected.

SERVICES DELIVERY REQUIREMENTS: Specified below:

- Vendor **must** include installation of purchased hardware to be included in total equipment cost. In the event that hardware needs to be removed to accommodate the upgrade, all equipment removed remains property of the State (no trade-in).
- Bid **must** include all shipping and insurance expenses required to drop ship the replacement hardware to the address indicated:

4.5. Where Supplies are to be Delivered

CMS Bureau of Communications and Computer Services (BCCS) Central
Computing Facility
201 W. Adams
Springfield, IL 62704
Attn: John Livingstone

Note: Delivery must occur between the hours of 8:30 am – 5:00 pm Monday through Friday. This location is equipped with a loading dock, elevator, and limited material handling capabilities.

4.6. Other Specifications

4.6.1 Contract Monitoring

4.6.1.1 Vendors are responsible for the faithful performance of the contract and shall have internal monitoring procedures and processes to ensure compliance.

4.6.1.2 The State reserves the right to monitor and track Vendor's performance over the course of the contract including any warranty term. The information gathered may be used in administration of the contract including payment, and may be used when evaluating the vendor in future procurements.

4.6.1.3 In appropriate circumstances, the State and the Vendor will work together to develop a performance scorecard with conditions, milestones, requirements, or timetables that must be met before additional steps may be taken or payment is due. The scorecard

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may additionally record matters related to price, service, quality and other factors deemed important.

4.6.1.4 The Vendor shall cooperate with the State in this monitoring and tracking activity, which may require that vendor report progress and problems (with proposed resolutions), provide records of its performance, allow random inspections of its facilities, participate in scheduled meetings and provide management reports as requested by the State.

4.6.1.5 The State expects to have quality vendors who are willing to work with us during the term of the contract to provide us with better quality at the same price, or to provide the same quality at a lower price.

4.7. Term of Contract

The contract shall begin upon CMS execution. This is a one-time purchase utilizing fiscal year 07 funds. Equipment and installation must be received and completed within 60 days of execution but no later than June 30, 2007.

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5. INSTRUCTIONS FOR PREPARING AND SUBMITTING BIDS

5.1 GENERAL INSTRUCTIONS:

- 5.1.1 These instructions provide bidders with all necessary information for preparing and submitting a Bid to the above-listed agency or buyer. They prescribe the format and content of the Bid. They also provide dates, locations and other information specific to this solicitation. They are designed to facilitate a fair and uniform review process. Failure to adhere to this format will affect our evaluation and may result in disqualification of the Bid. For purposes of this IFB, the bidder's response to the IFB may sometimes be called a "bid."
- 5.1.2 The response--completed, signed and returned--will constitute the Bid. An original and the designated number of copies of each Bid are required (see Section 3 of the IFB, "Key Information about this IFB"). Failure to submit the required number of copies may prevent the Bid from being evaluated within the allotted time.
- 5.1.3 Your Bid must provide all information requested and must address all points. **Suggested exceptions to requirements and contract modifications are allowed so long as they do not affect the Supplies described in Section 4 of the IFB, "Specifications (Purchase Description)," but such exceptions and modifications are discouraged. The Agency/Buyer is under no obligation to accept exceptions or modifications suggested by the Vendor (or any Third Parties/subcontractors), and any exceptions or modifications will affect our evaluation and may result in rejection.** Bids, including suggested exceptions to requirements and contract modifications, must be submitted in ink, typed, or printed form and signed by an authorized representative. The State may require that bids be submitted in electronic form. All terms to which the Vendor (or any Third Parties/subcontractors) does not suggest an exception or modification will be deemed by the Agency/Buyer as having been accepted by the Vendor. Suggested exceptions or modifications shall be made by the Vendor (or any Third Parties/subcontractors) on the relevant page containing the language to be modified or the requirement to which an exception is proposed. If the suggested changes cannot reasonably be made on the relevant page, the Vendor may include specific, suggested exceptions or modifications referencing specific paragraphs of the IFB or the Sample Contract for Supplies on separate pages, and shall attach those pages to the Bid as addenda.
- 5.1.4 Samples are not required as a part of this Invitation for Bids.
- 5.1.5 Completion of Bid Forms: The Bid forms consist of the "Specifications (Purchase Description)," "Supplies Vendor Agrees to Provide," "Price Quotation," and the "Standard Terms and Conditions." Bidder must complete, respond to, and submit all sections of each set of forms including attachments.
- 5.1.6 The Bid must be submitted in a sealed envelope or container, and must be labeled with the following information: Agency/Buyer's Name and

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Address, IFB Title and Reference Number, Due Date and Time, and Vendor's Name and Address.

5.1.7 If the Vendor designates any information in its Bid as confidential, the Vendor must also submit one (1) copy of the Bid from which confidential information has been excised. The confidential material must be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the Bid as possible.

5.1.8 Bids must not contain promotional or display materials.

5.1.9 Attachments must be referenced in the Bid.

5.2 BID: The following documents and responses will be included in the Bid **and tabbed as such in the order given below:**

5.2.1 TRANSMITTAL LETTER: An individual authorized to legally bind the Vendor must sign the transmittal letter. The person who signs the transmittal letter will be considered the contact person for all matters pertaining to the Bid unless the Vendor designates another person in writing. The letter must include the Vendor's mailing address, email address, fax number and telephone number.

Any request for confidential treatment of information must be included in the transmittal letter in addition to the specific statutory basis supporting the request and an explanation of why disclosure of the information is not in the best interest of the public and the specific basis under Section 7 of the Illinois Freedom of Information Act (5 ILCS 140/7) for the exemption from disclosure of such information. The transmittal letter must also contain the name, address and telephone number of the individual authorized to respond to the Agency/Buyer about the confidential nature of the information.

5.2.2 TABLE OF CONTENTS: The Vendor must include a table of contents in its Bid. Bids must be page numbered sequentially from front to back.

5.2.3 DESCRIPTION OF SUPPLIES TO BE PROVIDED: The Vendor must provide a detailed description of the Supplies it intends to provide. Bids must be fully responsive to each Specification of the IFB, as described in Section 4 of the IFB, "Specifications (Purchase Description)." Bids must identify any deviations from the stated Specifications that the Vendor cannot satisfy. Any deviations from the Specifications or any Specifications that the Vendor cannot satisfy will affect the evaluation of the Bid and may disqualify the Vendor.

5.2.4 CHANGES TO THE IFB: If the Agency/Buyer issues any changes (including amendments or addenda) to this IFB, these changes must be signed by an individual authorized to legally bind the Vendor and included in the Bid.

5.2.5 STATE FORMS REQUIRED OF THE VENDOR:

The Vendor is required to complete and submit all forms listed below as part of the Bid. It is important to note that this section references State

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forms that the Vendor must complete as part of the procurement process and does not serve as an opportunity for Vendors to insert their own forms.

- Attachment A** – Qualification Form
- Attachment B** – Business and Directory Information
- Attachment C** – References
- Attachment D** – Department of Human Rights (DHR) Public Contract Number
- Attachment E** – Minority, Female, Person with Disability Status and Subcontracting
- Attachment F** – Conflicts of Interest Disclosures
- Attachment G** – Taxpayer Identification Number
- Attachment H** – Information Regarding Terminations, Litigation and Debarment
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- Attachment J** – Designation of Confidential and Proprietary Information
- Attachment K** – Subcontractors

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Attachment A - Qualification Form

The undersigned authorized representative of Vendor submits the following and hereafter attached Qualification Information to the AGENCY with the understanding that the AGENCY will use and rely upon the accuracy and currency of the information in the evaluation of Vendor's Offer to the Agency/Buyer.

VENDOR (Official Name and D/B/A)

Signature

Date

Printed Name

Title

Address

City/State

Zip Code

Telephone

Facsimile

E-mail

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Attachment B - Business and Directory Information

(a)	Name of Business (Official Name and D/B/A)
(b)	Business Headquarters (include Address, Telephone and Facsimile)
(c)	If a Division or Subsidiary of another organization provide the name and address of the parent
(d)	Billing Address
(e)	Name of Chief Executive Officer
(f)	Customer Contact (include Name, Title, Address, Telephone, Toll-Free Number, Facsimile and E-mail)
(g)	Company Web Site
(h)	Type of Organization (i.e., Sole Proprietor, Corporation, Partnership, etc. -- should be the same as on the Taxpayer ID form below)
(i)	Length of Time in Business
(j)	Annual Sales (for most recently completed Fiscal Year)
(k)	Number of Full-Time Employees (average from most recent Fiscal Year)
(l)	Type of and description of business
(m)	State of incorporation, state of formation or state of organization
(n)	Identify and specify the location(s) and telephone numbers of the major offices and other facilities that relate to the Vendor's performance under the terms of this IFB
(o)	Identify the Vendor's accounting firm
(p)	The successful Vendor will be required to register to do business in Illinois. If already registered, provide the date of the Vendor's registration to do business in Illinois and the name of the Vendor's registered agent in the State.

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Attachment C – References

Provide references from established firms or government agencies, (four preferred; two of each type preferred) other than the procuring agency, that can attest to your experience and ability to perform the contract subject of this IFB.

(1) Firm/Government Agency (Name):	Contact Person Name: Address: Phone: E-mail Address:
Types of Supplies/Services Provided and Dates Provided/Contracted:	
(2) Firm/Government Agency (Name):	Contact Person Name: Address: Phone: E-mail Address:
Types of Supplies/Services Provided and Dates Provided/Contracted:	
(3) Firm/Government Agency (Name):	Contact Person Name: Address: Phone: E-mail Address:
Types of Supplies/Services Provided and Dates Provided/Contracted:	
(4) Firm/Government Agency (Name):	Contact Person Name: Address: Phone: E-mail Address:
Types of Supplies/Services Provided and Dates Provided/Contracted:	

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Attachment D - Department of Human Rights (DHR) Public Contract Number

If Vendor has employed fifteen (15) or more full-time employees at any time during the 365-day period immediately preceding the publication of this IFB in the Illinois Procurement Bulletin (or issuance date if not published), then Vendor must have a current Public Contract Number or have proof of having submitted a completed application for one prior to the offer opening date. If the Agency cannot confirm compliance, it will not be able to consider the bid or offer. Please complete the appropriate sections below.

Name of Company (and D/B/A): _____

DHR Public Contracts Number: _____

Date of Expiration: _____

_____(check if applicable) The number is not required as the company has employed 14 or less full-time employees during the 365-day period immediately preceding the publication of this IFB in the Illinois Procurement Bulletin (or issuance date if not published).

IF NUMBER HAS NOT YET BEEN ISSUED:

Date Completed Application was submitted to DHR: _____

NOTICE:

Upon expiration and until their Contractor Identification Number is renewed, companies will not be eligible to be awarded contracts by the State of Illinois or other jurisdictions that require a current DHR number as a condition of contract eligibility (44 IL Adm. Code 750.210(a)).

Numbers issued by the Department of Human Rights (or its predecessor agency, the Illinois Fair Employment Practices Commission) prior to July 1, 1998, are no longer valid. This affects numbers below 89999-00-0. Valid numbers begin with 90000-00-0.

IF YOUR ORGANIZATION HOLDS AN EXPIRED NUMBER, YOU MUST RE-REGISTER WITH DHR.

Bidder/Vendor may obtain an application form by:

1. **Telephone:** Call the DHR Public Contracts unit between Monday and Friday, 8:30 a.m. to 5:00 p.m. CST, at (312) 814-2431
2. **Internet:** Download the form from the internet at http://www.state.il.us/cms/1_selling/vendfrms.htm. In the Purchasing area of CMS home page, click the "Download Vendor Forms" line.
3. **Mail:** Write to the Department of Human Rights, Public Contracts Unit, 100 West Randolph Street, Suite 10-100, Chicago, Illinois 60601.

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**Attachment E - Minority, Female, Person with Disability Status and
Subcontracting**

The Business Enterprise Program Act for Minorities, Females and Persons with Disabilities (BEP) (30 ILCS 57511) establishes a goal for contracting with businesses that have been certified as owned and controlled by persons who are minority, female or who have disabilities. While you must complete this form, your response will not be considered in the evaluation. A listing of certified businesses may be obtained from the Department of Central Management Services' Business Enterprise Program for Minorities, Females and Persons with Disabilities by calling 312/814-4190 (Voice & TDD), 800/356-9206 (Toll Free), or 800/526-0844 (Illinois Relay Center for Hearing Impaired).

Name of Company (and D/B/A): _____

Is your company at least 51% owned and controlled by individuals in one or more of the following categories? Yes _____ No _____

If "Yes" check each that applies:

Category:

Minority _____

Female _____

Person with Disability _____

Disadvantaged _____

If "Yes," please identify, by checking the applicable blanks, which agency certified the business and in what category:

Certifying Agency:

Department of Central Management Services _____

Women's Business Development Center _____

Chicago Minority Business Development Council _____

Illinois Department of Transportation _____

Other (please identify): _____

Category:

Minority _____

Female _____

Person with Disability _____

Disadvantaged _____

If you are not a certified BEP business, do you have a written policy or goal regarding contracting or subcontracting with BEP certified vendors? Yes _____ (attach copy) No _____

If "No," will you make a commitment to contact BEP certified vendors and consider them for subcontracting opportunities on this contract? Yes _____ No _____

Do you plan on ordering supplies or services in furtherance of this contract from BEP certified vendors? Yes _____ No _____

If "Yes," please identify what you plan to order, the estimated value as a percentage of your total Offer, and the names of the BEP certified vendors you plan to use.

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Attachment F - Conflicts of Interest Disclosures

Instructions. The Illinois Procurement Code requires that Vendors desiring to enter into certain contracts with the State of Illinois must disclose the financial and potential conflict of interest information that is specified below (30 ILCS 500/50-13 and 50-35 (a)(b)(h)).

Vendor shall disclose the financial interest, potential conflict of interest and contract information identified in Sections 1, 2, 3, and 4 below as a condition of receiving an award or contract. Please submit this information along with your bid or offer.

Section 1 applies to all contracts regardless of dollar amount. In addition, you must complete Sections 2, 3, and 4 for contracts with an annual value exceeding \$10,000 that must be procured using one of the authorized competitive methods of source selection.

If the Vendor is a wholly owned subsidiary of a parent organization, separate disclosures (Sections 2, 3, and 4) must be made by the Vendor and the parent. For purposes of this form, a parent organization is any entity that owns 100% of the Vendor.

When determining ownership or distributive income shares, use the most current information that you consider reliable, but in no event for a period before your last completed fiscal period.

A designee may submit this form on behalf of the Vendor (or its parent). However, that person must have verified the information with each affected individual.

Vendor Information

This disclosure information is submitted on behalf of (show official name of Vendor, and if applicable, D/B/A and parent):

Name of Vendor:
D/B/A (if used):
Name of any Parent Organization:
Address:
Contact Person: Name: Title: Address: Telephone/Fax:

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Section 1: Section 50-13 Conflicts of Interest

(a) Prohibition. It is unlawful for any person holding an elective office in this State holding a seat in the General Assembly, or appointed to or employed in any of the offices or agencies of State government and who receives compensation for such employment in excess of 60% of the salary of the Governor of the State of Illinois **[\$90,414.60]**, or who is an officer or employee of the Capital Development Board or the Illinois Toll Highway Authority, or who is the spouse or minor child of any such person to have or acquire any contract, or any direct pecuniary interest in any contract therein, whether for stationery, printing, paper, or any services, materials, or supplies, that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois or in any contract of the Capital Development Board or the Illinois Toll Highway Authority.

(b) Interests. It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a) is entitled to receive (i) more than 7 1/2% of the total distributable income or (ii) an amount in excess of the salary of the Governor **(\$150,691.00)**, to have or acquire any such contract or direct pecuniary interest therein.

(c) Combined interests. It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a) together with his or her spouse or minor children is entitled to receive (i) more than 15%, in the aggregate, of the total distributable income or (ii) an amount in excess of 2 times the salary of the Governor **[\$301,382.00]**, to have or acquire any such contract or direct pecuniary interest therein.

(d) Securities. Nothing in this Section invalidates the provisions of any bond or other security previously offered or to be offered for sale or sold by or for the State of Illinois.

(e) Prior interests. This Section does not affect the validity of any contract made between the State and an officer or employee of the State or member of the General Assembly, his or her spouse, minor child or any combination of those persons if that contract was in existence before his or her election or employment as an officer, member, or employee. The contract is voidable, however, if it cannot be completed within 365 days after the officer, member, or employee takes office or is employed.

(f) Exceptions.

(i) Public aid payments. This Section does not apply to payments made for a public aid recipient.

(ii) Teaching. This Section does not apply to a contract for personal services as a teacher or school administrator between a member of the General Assembly or his or her spouse, or a State officer or employee or his or her spouse, and any school district, public community college district, or State University.

(iii) Ministerial duties. This Section does not apply to a contract for personal services of a wholly ministerial character, including but not limited to services as a laborer, clerk, typist, stenographer, page, bookkeeper, receptionist, or telephone switchboard operator, made by a spouse or minor child of an elective or appointive State officer or employee or of a member of the General Assembly.

(iv) Child and family services. This Section does not apply to payments made to a member of the General Assembly, a State officer or employee, his or her spouse or minor child acting as a foster parent, homemaker, advocate, or volunteer for or in behalf of a child or family served by the Department of Children and Family Services.

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(v) Licensed professionals. Contracts with licensed professionals provided they are competitively bid or part of a reimbursement program for specific, customary goods and services through the departments of Children and Family Services, Human Services, Public Aid, Public Health, or Aging.

CHECK ONE:

_____ No Conflicts Of Interest

_____ Potential Conflict of Interest *(If checked, name each conflicted individual, the nature of the conflict, and the name of the State agency that is associated directly or indirectly with the conflicted individual.)*

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Section 2: Disclosure of Financial Interest in the Vendor

All vendors, except for publicly traded corporations subject to SEC reporting requirements and privately held corporations with more than 400 shareholders, must complete subsection (a) below. Publicly traded corporations may complete subsection (b) and privately held corporations with more than 400 shareholders may complete subsection (c) in lieu of completing subsection (a).

(a) General disclosure. For each individual having any of the following financial interests in the vendor (or its parent), please mark each that apply and show the applicable name and address. Then complete Sections 3 and 4. If no individual has any of the following financial interests in the vendor (or its parent), check this blank _____, skip Section 3, but complete Section 4.

Ownership exceeding 5% (____)
Ownership value exceeding \$90,414.60 (____)
Distributive Income Share exceeding 5% (____)
Distributive Income Share exceeding \$90,414.60 (____)

Name: _____
Address: _____

For each individual identified above, show the dollar value of the ownership interest: \$ _____ or the proportionate share of the ownership interest: _____% and the type of ownership/distributable income share:

Sole Proprietorship _____
Stock _____
Partnership _____
Other (explain) _____

**For partnerships with more than 50 but fewer than 400 partners, the proportionate share of ownership interest of each individual identified above may be shown in the following ranges:*

1% _____
1 up to 2% _____
2 up to 3% _____
3 up to 4% _____
4 up to 5% _____
and in additional 1% increments as appropriate _____%

For partnerships with more than 400 partners, the proportionate share of ownership may be shown in the following ranges:

0.5% or less _____
>0.5 to 1.0% _____
>1.0 to 1.5% _____
and as appropriate in additional 0.5 increments _____%

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(b) Publicly traded corporations subject to SEC reporting requirements. These Vendors may submit their 10k disclosure (*include proxy if referenced in 10k*) in satisfaction of the financial and conflict of interest disclosure requirements set forth in subsections **50-35 a** and **b** of the Procurement Code. An SEC 20f or 40f, supplemented with the names of those owning in excess of 5% and up to the ownership percentages disclosed in those submissions, may be accepted as being substantially equivalent to 10k. Vendor may skip Section 3 of this form, but must complete Section 4.

Check here if submitting a 10k _____, 20f _____, or 40f _____.

(c) Privately held corporations with more than 400 shareholders. These Vendors may submit the information identified in 17 CFR 229.401 and list the names of any person or entity holding any ownership share in excess of 5% in satisfaction of the financial and conflict of interest disclosure requirements set forth in subsections **50-35 a** and **b** of the Procurement Code. Vendor may skip Section 3 of this form, but must complete Section 4.

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Section 3: Disclosure of Potential Conflicts of Interest

For each individual having the level of financial interest identified in Section 2(a) above, indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes," please describe each situation (label with appropriate letter) using the space at end of this Section 3 (attach additional pages as necessary).

- (a) State employment, currently or in the previous 3 years, including contractual employment of services directly with the individuals identified in Section 1 in their individual capacity unrelated to the Vendor's contract. Identify contracts with the VENDOR in Section 4. Yes ____ No ____
- (b) State employment of spouse, father, mother, son, or daughter, including contractual employment for services in the previous 2 years. Yes ____ No ____
- (c) Elective status; the holding of elective office of the State of Illinois, the government of the United States, any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois currently or in the previous 3 years. Yes ____ No ____
- (d) Relationship to anyone holding elective office currently or in the previous 2 years; spouse, father, mother, son, or daughter. Yes ____ No ____
- (e) Appointive office; the holding of any appointive government office of the State of Illinois, the United States of America, or any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois, which office entitles the holder to compensation in excess of expenses incurred in the discharge of that office currently or in the previous 3 years. Yes ____ No ____
- (f) Relationship to anyone holding appointive office currently or in the previous 2 years; spouse, father, mother, son, or daughter. Yes ____ No ____
- (g) Employment, currently or in the previous 3 years, as or by any registered lobbyist of the State government. Yes ____ No ____
- (h) Relationship to anyone who is or was a registered lobbyist in the previous 2 years; spouse, father, mother, son, or daughter. Yes ____ No ____
- (i) Compensated employment, currently or in the previous 3 years, by any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections. Yes ____ No ____
- (j) Relationship to anyone; spouse, father, mother, son, or daughter; who is or was a compensated employee in the last 2 years of any registered election or reelection committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections. Yes ____ No ____

Explanation of potential conflicts of interest:

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Section 4: Current and Pending Contracts and Offers (bids and proposals)

(a) VENDOR shall identify each contract it has with other units of State of Illinois government by showing agency name and other descriptive information such as purchase order or contract reference number (attach additional pages as necessary). Show "none" if appropriate.

(b) VENDOR shall identify whether it has pending contracts (including leases), bids, proposals, or other ongoing procurement relationships with other units of State of Illinois government by showing agency name and other descriptive information such as bid or project number (attach additional pages as necessary). Show "none" if appropriate.

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Attachment G - Taxpayer Identification Number

I certify that:

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

Name (Printed): _____

Taxpayer Identification Number:

Social Security Number _____
or
Employer Identification Number _____

Legal Status (check one):

- | | |
|--|--|
| _____ Individual | _____ Governmental |
| _____ Sole Proprietorship | _____ Nonresident alien |
| _____ Partnership/Legal Corporation | _____ Estate or Trust |
| _____ Tax-exempt | _____ Pharmacy (non-corporate) |
| _____ Corporation providing or
billing medical and /or
health care services | _____ Pharmacy/Funeral Home/Cemetery (Corp.) |
| _____ Corporation NOT providing
or billing medical and / or
health care services | _____ Other _____ |

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Attachment H - Information Regarding Terminations, Litigation and Debarment

The Agency/Buyer requests that the Vendor provide the following information:

1. During the last five (5) years, has the Vendor had a contract for services terminated for any reason? If so, provide full details related to the termination.
2. During the last five (5) years, describe any damages or penalties or anything of value traded or given up by the Vendor under any of its existing or past contracts as it relates to services performed that are similar to the services contemplated by this IFB and the resulting Contract. If so, indicate the reason for the penalty or exchange of property or services and the estimated amount of the cost of that incident to the Vendor.
3. During the last five (5) years, describe any order, judgment or decree of any Federal or State authority barring, suspending or otherwise limiting the right of the Vendor to engage in any business, practice or activity.
4. During the last five (5) years, list and summarize pending or threatened litigation, administrative or regulatory proceedings, or similar matters that could affect the ability of the Vendor to perform the required services. The Vendor must also state whether it or any owners, officers, or primary partners have ever been convicted of a felony. Failure to disclose these matters may result in rejection of the bid Offer or in termination of any subsequent contract. This is a continuing disclosure requirement. Any such matter commencing after submission of a bid Offer, and with respect to the successful Vendor after the execution of a contract, must be disclosed in a timely manner in a written statement to the Agency.
5. During the last five (5) years, have any irregularities been discovered in any of the accounts maintained by the Vendor on behalf of others? If so, describe the circumstances of irregularities or variances and disposition of resolving the irregularities or variances.

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Attachment I - Domestic Products

You may be eligible for a preference when we evaluate your response to this solicitation if your product is manufactured in the United States.

The Procurement of Domestic Products Act (30 ILCS 517) states: "Manufactured in the United States means, in the case of assembled articles, materials, or supplies, that design, final assembly, processing, packaging, testing or other process that adds value, quality, or reliability occurs in the United States."

If, after reading the cited Act, you made the following certification, we will, as necessary, investigate the claim and consider applying the allowable preference set forth in the Standard Procurement Rules (44 Ill. Adm. Code 1.4575).

I certify the following product of products bid or proposed in response to this solicitation meet the requirements of the Procurement of Domestic Products Act:

Check and complete as applicable:

_____ All products

_____ The following line item (list by number or description, if no line number)

Company Name _____

Authorized Representative Signature _____

Type or Print Name _____

Date _____

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Attachment J - Designation of Confidential and Proprietary Information

The attached material submitted in response to Bid / Proposal # _____ includes confidential and proprietary information which qualifies as a trade secret or is otherwise material that can be kept confidential under the Illinois Freedom of Information Act. As such, we ask that certain pages, as indicated below, of the bid / proposal response be treated as confidential material and not be released without our written approval.

Prices always become public information when bids / proposals are opened, and therefore cannot be kept confidential.

We request that the following pages not be released:

Section	Page #	Topic

In the event the designation of confidentiality of this information is challenged, the undersigned hereby agrees to provide legal counsel or other necessary assistance to defend the designation of confidentiality and agrees to hold the State harmless for any costs or damages arising out of the State's agreeing to withhold the materials.

Failure to include this form in the bid / proposal response may mean that all information provided as part of the bid / proposal response will be open to examination and copying. The State considers other makings of confidential in the bid / proposal document to be insufficient. The undersigned agrees to hold the State harmless for any damages arising out of the release of any materials unless they are specifically identified above.

Company Name _____

Authorized Representative Signature _____

Type or Print Name _____

Date _____

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Attachment K - Subcontractors

Vendor shall identify the names and addresses of all subcontractors utilized by Vendor in the performance of this Contract, together with the anticipated amount of money that each subcontractor is expected to receive pursuant to this Contract. The State may request updated information at any time.

For purposes of this section, subcontractors are those specifically hired to perform all or part of the work of this contract or to provide the supplies requested by the State.

Subcontractor Name

Amount to be paid

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Company Name _____

Authorized Representative Signature _____

Type or Print Name _____

Date _____

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5.3 PRICE QUOTATION:

The Vendor will provide its Price Proposal in accordance with the specifications provided below for the supplies specified in Section 4 of the IFB, "Services Required from the Vendor."

Detail pricing requirements with at least the following categories of information:

5.3.1 Method of determining price or rate: Identify the method of charging (per item or other method) and provide the rate or price for all relevant Supplies. Pricing shall be in accordance with the unit of measure specified and only one unit price shall be quoted per item unless specifically provided below. All extensions and totals requested shall be shown. Prices quoted must be net after deducting all trade or quantity discounts. Delivery specifications must be as specified in the Contract with all transportation and handling included and paid by the Vendor.

5.3.2 Price for Supplies: Show price in checked category only:

Part Numbers and descriptions of parts were current at the time of this posting. The vendor is responsible for notifying buyer of invalid or discontinued part numbers or changes in description of parts or warranty.

5.3.2.1 ☐ Price per item :

ITEM	DESCRIPTION	QTY	ITEM PRICE	TOTAL PRICE
2105-F20	Enterprise Storage Server Serial 16600		N/A	N/A
	ADDITIONS			
2124	72.8GB DISK 8-PACK,10K RP	4		
9016	DISK 8-PACK COUNT = 16	1		
1804	PAV 8 TB CAPACITY	1		
1824	PPRC 8 TB CAPACITY	1		
3011	STANDARD ESCON HOST ADAPTER	2		
	REMOVALS			
9012	DISK 8-PACK COUNT=12	1		
9301	MODEM	1		
1803	PAV 4 TB CAPACITY	1		
1823	PPRC 8TB CAPACITY	1		
2105-F20	Enterprise Storage Server Serial 16766		N/A	N/A
	ADDITIONS			
2100	EXPANSION ENCLOSURE	1		
2124	72.8GB DISK 8-PACK,10K RP	16		

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9028	DISK 8-PACK COUNT = 28	1		
9085	8 TB CAPACITY	1		
9101	DISK EIGHT-PACK MOUNTING KIT	1		
9153	MOUNTING KIT COUNT = 3	1		
9301	MODEM COUNTRY GROUPD M01	1		
9854	THREE PHASE 50/60 HZ 60 AMP	1		
1804	PAV 8 TB CAPACITY	1		
1824	PPRC 8 TB CAPACITY	1		
3011	STANDARD ESCON HOST ADAPTER	2		
	REMOVALS			
9012	DISK 8-PACK COUNT=12	1		
9082	2.1 TB CAPACITY	1		
9152	DISK 8-PACK MOUNTING KIT COUNT = 2	1		
1802	PAV 2 TB CAPACITY	1		
1822	PPRC 2 TB CAPACITY	1		
2105-800	Enterprise Storage Server Serial 29651		N/A	N/A
3011	STANDARD ESCON HOST ADAPTER	4		
2105-800	Enterprise Storage Server Serial 29389		N/A	N/A
3011	STANDARD ESCON HOST ADAPTER	4		
GRAND TOTAL				

Grand Total must include all installation services at State site. There will be no other billable items beyond the Grand Total price.

5.3.2.2 ☒ Extended grand total lump sum.

5.3.2.3 ☐ Hourly rate _____

5.3.2.4 ☐ Other [please specify] _____

5.3.3 Expenses: This contract does not allow for reimbursement of any expense incurred by Vendor, including but not limited to telephone or other communications device, postage, copying, travel, transportation, lodging, food and per diem.

5.3.4 Payment Terms and Conditions (including when paid, frequency and retainage): Payment will be made after completion of the Contract unless otherwise specified below.

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5.3.5 Discounts: ____% discount for payment within ____ days of delivery. This discount will not be a factor in making the award.

5.3.6 Tax Exemption: The ordering Agency/Buyer's Illinois tax exemption number is E9989-0046-04. Federal tax exemption information is available upon request to the ordering Agency/Buyer.

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6. HOW WE WILL EVALUATE BIDS

6.1 EVALUATION STEPS: The evaluation and award process will consist of the following:

- 6.1.1 Review of the Bids to assess bidder responsibility.
- 6.1.2 Evaluation of the requirements set forth in this IFB, which may include criteria to determine acceptability such as inspection of samples, testing, quality, workmanship, delivery, and suitability for the particular purpose required by the State. Other criteria which may affect the bid price and be considered in evaluation for award include discounts, transportation costs, and total or life cycle costs. These costs will be measured objectively. No bid shall be evaluated for any requirements or criteria that are not disclosed in the IFB.
- 6.1.3 Clarifications, discussions, presentations and referrals to Agencies (if necessary).
- 6.1.4 Determine the lowest Responsible Bidder, whose bid meets the requirements and criteria set forth in this IFB.
- 6.1.5 Price negotiation with the low bidder is permitted to obtain a lower price for the item bid.
- 6.1.6 Determine whether there is any reason why it would not be in the best interests of the State to award the Contract to the lowest Responsible and Responsive Bidder.
- 6.1.7 Access the Illinois Office of the Comptroller's Offset System as part of the process to determine if the vendor (and any known sub-contractors) who submitted the offer to be recommended for award has an unsatisfied delinquent debt with the State. If delinquent debt is discovered, the selected vendors' offer may be found to be non-responsive. This step does not relieve any vendor from satisfying any debt owed to the State.
- 6.1.8 Award decision by management.
- 6.1.9 If we select your Bid and make an award, we will post the notice to the Illinois Procurement Bulletin and may send you written notice. This notice will extend the Offer Firm Time until we sign a contract or determine negotiations with you have failed. Receipt or posting of a notice of award is not equivalent to a contract with the State. Protested awards are subject to resolution of the protest.

6.2 CRITERIA FOR EVALUATION AND AWARD: We evaluate four categories of information: administrative compliance, vendor responsibility, responsiveness, and price. All Bids, regardless of the type of solicitation, must meet the following administrative and responsibility criteria.

6.2.1. Administrative Compliance: We will determine whether the Bids complied with the Instructions for Preparing and Submitting Bids. We must reject your Bid if you submit it late. Failure to meet other requirements could result in rejection.

6.2.2 Vendor Responsibility: We will determine whether the Vendor submitting the Bid is one with whom we can or should do business.

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Factors that we may evaluate to determine “responsibility” include, but are not limited to: certifications, conflict of interest disclosures, taxpayer identification number, past performance, references (including those found outside the Bid), compliance with applicable laws, financial stability and the perceived ability to perform completely as specified. A Vendor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the contract and must provide proof upon request. Any failure to supply information and our determination of the quality of the information will affect our evaluation and may result in rejection.

- 6.2.3 Brand Name or Equal:** When the specification calls for “Brand Name or Equal,” the brand name product is acceptable. Other products will be considered upon a showing that the other product meets stated specifications and is equivalent to the brand product in terms of quality, performance and desired characteristics. Minor differences that do not affect the suitability of the supply or service for the State’s needs may be accepted. The Agency/Buyer reserves the right to use its discretion to eliminate Bids that are deemed unacceptable.
- 6.2.4 Invitation for Bids:** We will identify the lowest cost Bid and may rank the others in order of price. The Responsible Vendor who submitted the lowest cost Bid that meets “administrative” and “responsiveness” requirements shall be eligible for the award.

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7. ILLINOIS PROCUREMENT NOTICES AND REQUIREMENTS

7.1 NOTICES AND REQUIREMENTS FOR THIS IFB:

- 7.1.1 ILLINOIS PROCUREMENT BULLETIN:** The Agency/Buyer publishes in the electronic Illinois Procurement Bulletin (Supplies and Services Edition) various procurement information including Notices of Procurement Opportunities and Notices of Award. Procurement information may not be available in any other form or location. The Vendor may register to view and download procurement information from the Illinois Procurement Bulletin at <http://www.purchase.state.il.us/>. The Vendor is responsible for monitoring the Illinois Procurement Bulletin and the Agency/Buyer cannot be held responsible if you fail to receive the optional e-mail notices.
- 7.1.2 NON-DISCRIMINATION POLICY:** In compliance with the State and Federal Constitutions, the Illinois Human Rights Act, the United States Civil Rights Act, and Section 504 of the Federal Rehabilitation Act, the State of Illinois does not unlawfully discriminate in employment, contracts, or any other activity.
- 7.1.3 RESPONSIBILITY TO READ AND UNDERSTAND:** Failure to read, examine and understand the IFB will not excuse any failure to comply with the requirements of the IFB or any resulting contract, nor will such failure be a basis for claiming additional compensation. If you suspect an error, omission or discrepancy in this IFB, you must immediately notify the IFB Contact listed in Section 3.2 of the IFB. The Agency/Buyer will issue written instructions, if appropriate.
- 7.1.4 AMENDMENTS TO THE IFB:** The Agency/Buyer reserves the right to amend the IFB at any time. The Vendor must acknowledge receipt of an amendment in its Bid. The amendments must be signed by an individual legally authorized to legally bind the Vendor and included in the Bid. If the amendment occurs after the closing date for receipt of Bids, the Agency/Buyer may, in its sole discretion, allow Vendors to amend their Bids in response to the Agency/Buyer's amendment if necessary.

7.2 NOTICES AND REQUIREMENTS OF THE BID:

- 7.2.1 SUBMISSION OF BIDS:** You may mail or hand-deliver bids. We do not allow computer, fax, or other electronic submissions unless otherwise authorized. We must actually receive submissions as specified. It will not be sufficient to show that you mailed or commenced delivery before the due date and time. All times are State of Illinois local times. You must allow adequate time to accommodate all security screenings prior to delivery at the delivery site.
- 7.2.2 MODIFICATION / WITHDRAWAL OF BID:** Written requests to withdraw or correct inadvertently erroneous bids, received before the time and date set for opening of bids, will be allowed according to the following rules. Any withdrawal or modification of a bid received after the time and date set for opening of bids is late and will not be considered. If received at other than the specified location, the submission is late and will not be considered. After bid opening, no changes in bid prices or other

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provisions prejudicial to the interest of the State or fair competition shall be permitted. Requests must be addressed and labeled in the same manner as the Bid and marked as a MODIFICATION or WITHDRAWAL of the Bid.

- 7.2.3 LATE DELIVERY:** We will not consider Bids received at the designated submission location after the stated due date and time.
- 7.2.4 RESERVATIONS:** We reserve the right to reject all Bids; to reject individual Bids for failure to meet any requirement; to award by item, part or portion of an item, group of items, or total; and to waive minor defects. We may seek clarification of the Bid from you at any time, and failure to respond is cause for rejection. Clarification is not an opportunity to change the Bid. Submission of a Bid confers on you no right to an award or to a subsequent contract. The IFB process is for the State's benefit only and is to provide the State with competitive information to assist in the selection process. All decisions on compliance, evaluation, terms and conditions will be made solely at our discretion and made to favor the State.
- 7.2.5 COST OF PREPARATION:** We are not responsible for and will not pay any costs associated with the preparation and submission of your Bid.
- 7.2.6 PUBLIC RECORDS AND REQUESTS FOR CONFIDENTIAL TREATMENT:** The Agency/Buyer may treat all information submitted by a Vendor as public information following the conclusion of the selection process unless the Vendor properly requests that information be treated as confidential at the time of Bid submittal. All information submitted is subject to the Illinois Freedom of Information Act ("IFOIA") (5 ILCS 140), the Code, and other applicable laws and rules.

Vendors are encouraged to familiarize themselves with the IFOIA and the Code before submitting a Bid. The Agency/Buyer will copy public records as required to comply with the public records laws. Any request for confidential treatment of information must be included on Attachment J with the Vendor's bid. In addition, the Vendor must enumerate the specific grounds in the IFOIA, the Code, or other applicable law which support treatment of the material as exempt from disclosure and explain why disclosure is not in the best interest of the public. The request for confidential treatment of information must also include the name, address, and telephone number of the person authorized by the Vendor to respond to any inquiries by the Agency/Buyer concerning the confidential status of the materials.

Any Bid submitted which contains confidential information must be conspicuously marked on the outside as containing confidential information, and each page upon which confidential information appears must be conspicuously marked as containing confidential information. Identification of the entire Bid as confidential may be deemed non-responsive and disqualify the Vendor. If the Vendor designates any portion of the IFB as confidential, the Vendor must submit one copy of the Bid from which the confidential information has been excised. This excised copy is in addition to the number of copies requested in Section 3

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of the IFB, "Key Information about this IFB." The confidential material must be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the Bid as possible.

The Agency/Buyer will treat as confidential the information marked confidential. In the event the Agency/Buyer receives a request for information marked confidential, it will give the Vendor written notice five (5) calendar days prior to the release of the information to allow the Vendor to seek injunctive relief pursuant to the IFOIA or the Code. Absent the granting of such relief, the Agency/Buyer shall release the information ten (10) calendar days after the information request. The Vendor's failure to request confidential treatment of material will be deemed by the Agency/Buyer as a waiver of any right to confidentiality which the Vendor may have had.

Upon award, the name of the successful Vendor and price as well as sufficient information from that Bid will be made available to the public to allow for meaningful review and protest regardless of any claim of exemption. After award, we will disclose only the name of the unsuccessful Offerors. Any release of information is governed by the IFOIA, the Code and any other applicable law or statute.

7.2.7 DOWNGRADING OR DISQUALIFICATION: The following are cause for downgrading or disqualification of the Bid, depending on the circumstances:

- 7.2.7.1 The Vendor fails to deliver the Bid by the due date and time.
- 7.2.7.2 The Vendor fails to meet one or more requirements of the IFB.
- 7.2.7.3 The Vendor's Bid materially changes one or more requirements of the IFB.
- 7.2.7.4 The Vendor's Bid limits the rights of the Agency/Buyer.
- 7.2.7.5 The Vendor fails to include information necessary to substantiate that it will be able to provide required Supplies. A response of "will comply" or merely repeating the required Supplies is not sufficient. Responses must indicate present capability; representations that future developments will satisfy the required Supplies are not sufficient.
- 7.2.7.6 The Vendor fails to respond to the Agency/Buyer's request for information, documents, or references.
- 7.2.7.7 The Vendor fails to include a bid bond (if required).
- 7.2.7.8 The Vendor fails to include any signature, certification, authorization, stipulation, disclosure or guarantee requested in this IFB.

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- 7.2.7.9 The Vendor initiates unauthorized contact regarding the IFB with state employees.
- 7.2.7.10 The Vendor provides misleading or inaccurate responses.
- 7.2.7.11 The Vendor fails to attend a mandatory Pre-Bid Conference.

7.2.8 NONMATERIAL AND MATERIAL VARIANCES: The Agency/Buyer reserves the right to waive or permit cure of nonmaterial variances in the Bid if it is in the Agency/Buyer's best interest to do so. "Nonmaterial variances" include minor informalities that do not affect responsiveness; that are merely a matter of form or format; that do not prejudice other vendors; that do not change the meaning or scope of the IFB; or that do not reflect a material change in Section 4 of the IFB, "Specifications (Purchase Description)." In the event the Agency/Buyer waives or permits cure of nonmaterial variances, such waiver or cure will not modify the IFB requirements or excuse the Vendor from full compliance with IFB specifications or other contract requirements if the Vendor is awarded the contract. The determination of materiality is in the sole discretion of the Agency/Buyer.

7.2.9 VERIFICATION OF BID CONTENTS: The content of a Bid submitted by a Vendor is subject to verification. Misleading or inaccurate responses may result in disqualification.

7.2.10 PRESENTATIONS: Vendors may be required to make a presentation of the Bid. The presentation may occur at the Agency/Buyer's offices or at the offices of the Vendor. The determination as to need for presentations, the location, order, and schedule of the presentations is at the sole discretion of the Agency/Buyer. The presentation may include slides, graphics and other media selected by the Vendor to illustrate the Vendor's Bid. The presentation will not materially change the information contained in the Bid.

7.2.11 RESTRICTIONS ON GIFTS AND ACTIVITIES: The Code and the State Officials and Employees Ethics Act ("the Act") (**5 ILCS 430**) restrict gifts which may be given or received by State employees and require certain individuals to disclose information concerning their activities with state government. Vendors are responsible to determine the applicability of the Code and the Act and any other legal requirements to their activities and to comply with those requirements. In addition, under Illinois law, it is a felony offense to bribe or attempt to bribe a public official.

7.3 NOTICES AND REQUIREMENTS OF THE VENDOR FIRM:

7.3.1 PUBLIC CONTRACTS NUMBER: Vendors with 15 or more employees must have a Public Contracts Number issued by (or completed application submitted to) the Illinois Department of Human Rights (DHR) prior to the opening date. Contact DHR at (312) 814-2431.

7.3.2 OUT OF STATE COMPANIES: Please contact the Illinois Secretary of State ((217) 782-1834) regarding a Certificate of Authority to Transact Business in Illinois. Application Form BCA 13.15 may be downloaded from http://www.cyberdriveillinois.com/departments/business_services/publicatio

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[ns and forms/bca.html](#). It is entirely the Vendor's responsibility to determine whether the Vendor is required to obtain a Certificate of Authority to Transact Business in Illinois, and if so to obtain that Certificate via the filing of the required form and payment of any required fees and taxes.

7.3.3 VENDOR SUSPENSION: Any Vendor may be suspended for violation of the Code or for failure to conform to specifications or terms of delivery. Suspension will be for cause and may be for a period of up to the maximum provided by law at the discretion of the applicable chief procurement officer. Vendors may be debarred in accordance with the Code and the rules promulgated by the chief procurement officer or as otherwise provided by law (30 ILCS 500/50-65).

7.3.4 EMPLOYMENT TAX CREDITS: Vendors who hire qualified veterans may be eligible for tax credits. Any vendor receiving a tax credit pursuant to this Act must report to the Department of Central Management Services the number of individuals hired for whom tax credits are received. This information is due by August 31 of each year and is to cover the previous 12 months (July-June). A similar credit is available when hiring certain ex-offenders. (See the Act or 30 ILCS 500/45/67 and 45-70 for additional information.)

7.4 NOTICES AND REQUIREMENTS FOR THE REVIEW AND EVALUATION OF BIDS:

7.4.1 INFORMATION FROM OTHER SOURCES: The Agency/Buyer reserves the right to obtain and consider information from other sources concerning a Vendor, such as the Vendor's capability and performance under other contracts.

7.4.2 CRIMINAL HISTORY AND BACKGROUND INVESTIGATION: The Agency/Buyer reserves the right to conduct criminal history and other background investigation of the Vendor, its officers, directors, shareholders, or partners and managerial and supervisory personnel retained by the Vendor for the performance of the contract.

7.4.3 BID CLARIFICATION PROCESS: The Agency/Buyer reserves the right to contact a Vendor after the submission of Bids for the purpose of clarifying a Bid to ensure mutual understanding. This contact may include written questions, interviews, site visits, a review of past performance if the Vendor has provided goods or services to the Agency/Buyer or any other political subdivision wherever located, or requests for corrective pages in the Vendor's Bid. The Agency/Buyer will not consider information received if the information materially alters the content of the Bid or alters the type of goods and services the Vendor is offering to the Agency/Buyer. An individual authorized to legally bind the Vendor must sign responses to any request for clarification. Responses must be submitted to the Agency/Buyer within the time specified in the request. Failure to comply with requests for additional information may result in rejection of the Bid as noncompliant.

7.4.4 DISPOSITION OF BIDS: Ordinarily, all Bids become the property of the Agency/Buyer and will not be returned to the Vendor. Those Bids will be

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in the public domain and will be open to inspection by interested parties, subject to exceptions provided in the IFOIA, the Code, or other applicable law.

7.4.5 COPYRIGHTS: By submitting a Bid, the Vendor agrees that the Agency/Buyer may copy the Bid for purposes of facilitating the evaluation of the Bid or to respond to requests for public records. The Vendor consents to such copying by submitting a Bid and warrants that such copying will not violate the rights of any third party. The Agency/Buyer will have the right to use ideas or adaptations of ideas that are presented in the Bids.

7.5 NOTICES AND REQUIREMENTS FOR AWARD AND PROTESTS:

7.5.1 NOTICE OF AWARD: The Agency/Buyer will publish a Notice of Award in the electronic Illinois Procurement Bulletin (Supplies and Services Edition). Notice of Award information may not be available in any other form or location. The Vendor may register to view and download procurement information at <http://www.purchase.state.il.us>.

7.5.2 PROTESTS: READ THIS CAREFULLY FOR NEW REQUIREMENTS. (Complete requirements can be found at 44 Ill. Adm. Code 1.5550.)

You must submit protests to the Protest Review Office identified in this document. Do not submit it to any other person or address.

You must protest anything in the Bulletin posting or the solicitation document within seven (7) calendar days of the posting and it must be in our hands by that deadline.

You must protest the award by noon of the seventh (7th) calendar day following posting to the bulletin and it must be in our hands by that deadline.

The protest must contain the following as a minimum:

- 7.5.2.1 the name and address of the protestor;
- 7.5.2.2 appropriate identification of the procurement and, if a contract has been executed, it's contract number;
- 7.5.2.3 a statement of reasons for the protest specifically identifying any alleged violation of the Illinois Procurement Code or other law, any associated rules, or the solicitation itself, including the evaluation or award; and
- 7.5.2.4 supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case, the expected availability date shall be indicated.

It is not sufficient to simply state that you are protesting, that your product is better or the winning bid is not in the best interests of the State. We must have detailed reasons to support the protest. Failure to do so may result in your protest being denied.

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7.6 NOTICES AND REQUIREMENTS FOR CONTRACTS RESULTING FROM THE IFB:

- 7.6.1 CONTRACT NEGOTIATIONS:** Vendors must be prepared for the Agency/Buyer to accept the Bid as submitted, but contract negotiations may be necessary or desirable at the State's sole option. If negotiations do not result in an acceptable agreement, the Agency/Buyer may reject the Bid or revoke the award and may begin negotiations with another vendor. Final contract terms must be approved or signed by the appropriately authorized State official(s).
- 7.6.2 COMMENCEMENT OF WORK:** Vendors shall not commence, and will not be paid for any billable work prior to the contract being executed by the Vendor and the State. Any exception must be approved by the State Purchasing Officer, the Chief Procurement Officer or a designee of the Chief Procurement Officer in advance of the work being performed.
- 7.6.3 DEFINITION OF CONTRACT:** The Contract for Supplies included with this IFB, along with any amendments or addenda will constitute the written Contract between the successful Vendor and the Agency/Buyer. The full execution of this written Contract will constitute the making of a Contract for Supplies and no Vendor will acquire any legal or equitable rights relative to the Contract for Supplies until the Contract has been fully executed by the successful Vendor and the Agency/Buyer.
- 7.6.4 CHOICE OF LAW AND FORUM:** This IFB and the resulting contract are to be governed by the laws of the State of Illinois. Changes in applicable laws and rules may affect the award process or the resulting contract. Vendors are responsible for ascertaining pertinent legal requirements and restrictions. Any and all litigation or actions commenced in connection with this IFB will be brought in the appropriate Illinois forum.
- 7.6.5 NO MINIMUM GUARANTEED:** The Agency/Buyer anticipates that the selected Vendor will provide Supplies, as requested by the Agency/Buyer. The Agency/Buyer will not guarantee any minimum compensation will be paid to the Vendor or any minimum purchase of the Vendor's Supplies, unless specifically identified in the Contract.

END OF INVITATION FOR BID

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SAMPLE CONTRACT FOR SUPPLIES

The following pages, including any attachments or amendments, will constitute the binding and enforceable contract between the Agency/Buyer and the Vendor based upon the submission of the bid and any subsequent negotiations. The Contract is arranged as follows:

1. **AGENCY/BUYER AND VENDOR CONTACT PAGE:** This section provides for the Agency/Buyer and Vendor to specify contact people for the Contract.
2. **SUPPLIES VENDOR AGREES TO PROVIDE:** The Agency/Buyer requests from the Vendor, in this section, a detailed description of how the Vendor will meet the contractual requirements and Agency/Buyer needs.
3. **PRICE:** This section will detail pricing requirements with at least the following categories of information: (1) Method of Determining Price or Rate, (2) Price for Supplies (3) Expenses, (4) Payment Terms and Conditions, (5) Discounts, (6) Tax Exemption.
4. **TERMS AND CONDITIONS:** This section contains the State's terms and conditions for this Contract.
5. **AGENCY/BUYER SUPPLEMENTAL TERMS AND CONDITIONS:** This section indicates whether or not any supplemental terms and conditions are attached and applicable to this Contract.
6. **STATE FORMS REQUIRED OF THE VENDOR:** This section includes all State Forms that are required to be included in the Contract.
7. **SIGNATURE PAGE: CONTRACT FOR SERVICES:** This section provides for the Agency/Buyer and Vendor to sign and execute the Contract.

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1. AGENCY/BUYER AND VENDOR CONTACT PAGE

	VENDOR		AGENCY/BUYER
Name:	_____	Name:	Stan Sandidge
Title:	_____	Title:	Procurement Specialist
Date:	_____	Date:	02/07/2007
Address:	_____	Address:	401 So. Spring St.
	_____		Stratton Office Building
	_____		Springfield IL 62706
Phone:	_____	Phone:	217-557-0127
TDD:	_____	TDD:	217-782-2000
Fax:	_____	Fax:	217-782-5187
E-mail:	_____	E-mail:	Stanley.sandidge@illinois.gov

(fill out below fields if additional contact information is necessary)

Name:	_____	Name:	_____
Title:	_____	Title:	_____
Date:	_____	Date:	_____
Address:	_____	Address:	_____
	_____		_____
	_____		_____
Phone:	_____	Phone:	_____
TDD:	_____	TDD:	_____
Fax:	_____	Fax:	_____
E-mail:	_____	E-mail:	_____

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2. SUPPLIES VENDOR AGREES TO PROVIDE

This section serves as a placeholder for the Statement of Work that will be prepared by the successful Vendor and the State upon selection of the winning Vendor. This section will serve as the single location in the Contract that indicates what the Vendor has contractually agreed to provide to the State. This also includes the contract term and any renewal options available. **No response is required from the Vendor for this section of the Sample Contract.**

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3. PRICE

This section serves as a placeholder for the pricing information that will be included as part of the executed Contract. **No response is required from the Vendor for this section of the Sample Contract.**

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4. TERMS AND CONDITIONS

This section contains the State's standard terms and conditions for all contracts. These terms and conditions will govern this contractual relationship and the Vendor is bound by them and is responsible for reading and understanding them. The State reserves the right to amend these terms and conditions when and where needed and to supplement them with any appropriate addendum, as noted herein.

4.1 BILLING AND PAYMENT

4.1.1 BILLING: The Agency/Buyer's billing practices are set out as follows and Vendor is presumed to have read and understands the following procedures:

4.1.1.1 Vendor shall submit invoices to the address, on the schedule and with the detail required by the ordering Agency/Buyer. Invoices for equipment and/or supplies purchased and/or services performed and expenses incurred prior to July 1st must be presented to the Agency/Buyer no later than July 31; otherwise Vendor may have to seek payment of such invoices through the Illinois Court of Claims **(30 ILCS 105/25)**. Billings shall be made to conform to State fiscal year requirements, including prorating if necessary, notwithstanding any contrary provision in this Contract or order.

4.1.1.2 Vendor shall not bill for any taxes unless a statement is attached to the bill identifying the tax and showing why it is legally chargeable to the State. The State does not warrant the interest component of any payment, including installment payments, are exempt from income tax liability.

4.1.1.3 By submitting an invoice Vendor certifies that the equipment, supplies and/or services provided meet all requirements of the Contract, and the amount billed and expenses incurred are as allowed in the Contract.

4.1.2 PAYMENT:

4.1.2.1 Late payment charges, if any, shall not exceed the formula established in the State "Prompt Payment" Act **(30 ILCS 540/1)** and rules **(74 Ill. Adm. Code 900)**. Payments delayed at the beginning of the State's fiscal year (July and August payments) because of the appropriation process shall not be considered a breach.

4.1.2.2 The Agency/Buyer shall not be liable to pay for any equipment and/or supplies provided and/or services rendered, including related expenses subject of this Contract incurred prior to the beginning of the term of this Contract. Any Contract or order labeled "subject to financing" or words to similar effect is subject to the Agency/Buyer obtaining suitable financing.

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- 4.1.2.3 The approved invoice amount will be paid less any retainage and previous partial payments. Final payment shall be made upon determination by the Agency/Buyer that all requirements under this Contract have been completed; such determination shall not be unreasonably withheld. The final payment will be made subject to adjustment after completion of an audit of vendor's records as provided for in this Contract.
- 4.1.2.4 Any contract or order requiring payment of financing interest is subject to the interest rate limitation set by law of the greater of 9% or 125% of the G.O. Bond Index **(30 ILCS 305/1)**.
- 4.1.2.5 As a condition of payment, Vendor must pay its employees prevailing wages when required by law (e.g., public works, printing, janitorial, window washing, building and grounds services, site technician services, natural resources services, security guard and food service), and must pay its suppliers and subcontractors providing lien waivers on request **(30 ILCS 500/25-60(b))**. We have the authority to request certified payrolls. Any stipulation made by Vendor to pay prevailing wages shall be deemed to be incorporated in the project specifications as if specifically set forth therein **(820 ILCS 130/4(a))**.

4.1.3 DELAY OF PAYMENT DUE TO VENDOR FAILURE: If the Agency/Buyer in good faith determines that the Vendor has failed to deliver any Supplies as required by this Contract, the Vendor shall not be entitled to any compensation under this Contract until such service or product is performed or delivered. In this event, the Agency/Buyer may withhold that portion of the Vendor's compensation, which represents payment for service or product that was not performed or delivered.

4.1.4 SET-OFF AGAINST SUMS OWED TO THE VENDOR: The State may set off any sum owed to the Vendor on account of any debt owed to the State, unless otherwise required by law, in accordance with the State Comptroller Act **(15 ILCS 405)**. The Vendor agrees that this provision constitutes proper and timely notice under the law of setoff.

4.1.5 AVAILABILITY OF APPROPRIATIONS (30 ILCS 500/20-60): Agency/Buyer shall use its best efforts to secure sufficient appropriations to fund this CONTRACT. However, the Agency/Buyer's obligations hereunder shall cease immediately, without penalty or further payment being required, if: (a) the Illinois General Assembly or the federal funding source fails to make an appropriation sufficient to pay such obligation; (b) adequate funds are not appropriated or granted the Agency/Buyer by the Illinois General Assembly or the federal funding source, to allow the Agency/Buyer to operate as required and to fulfill its obligations under the Contract; or (c) funds appropriated are de-appropriated or not allocated, or if funds needed by the Agency/Buyer, at the Agency/Buyer's sole discretion, are insufficient for any reason. Agency/Buyer shall give Vendor notice of insufficient funding

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as soon as practicable. Vendor's obligation to perform shall cease upon receipt of the notice.

4.2 DELIVERY

4.2.1 MINIMUM ORDER: It is required that the minimum order be as specified in the Contract. If the bidder's minimum order requirement is less than that specified in the Contract, that minimum shall become the minimum order if a Contract is awarded to the Vendor.

4.2.2 DELIVERY POINT: Unless otherwise specified in Section 3 of the Contract, "Price Quotation," all Supplies to be provided under this Contract will be delivered, at Vendor's expense, to locations specified by the State, and title and risk of loss to said Supplies will pass to the State at the time of delivery to such locations.

4.2.3 PACKAGING: The pack sizes indicated in the IFB, if any, represent the sizes currently used by the industry. The bidder is requested to provide packaging that most closely meets these packaging sizes. However, bidders can submit alternates. The State reserves the right of final approval on packaging offered by the bidder. Packaging and containers, etc. shall be in accordance with supplier's commercial practice and shall meet the requirements of the Department of Transportation (D.O.T.) and rail and motor carrier freight classifications in effect at time of shipment, which will permit application of the lowest freight rate.

4.2.4 PALLETIZING: Unless specified otherwise in the Contract or elsewhere within the Bid document, shipments shall be palletized whenever possible and shall conform to the following:

4.2.4.1 Manufacturers' standard 4-way shipping pallets are acceptable.

4.2.4.2 Maximum Height: 5/6, including pallet.

4.2.4.3 Maximum Weight: 3500 pounds, including pallet.

4.2.4.4 Pallets are to be securely banded or shrink-wrapped.

4.2.4.5 The cost of palletizing must be included in the unit price.

4.3 QUALITY ASSURANCE

4.3.1 TESTING: The State reserves the right to periodically test products which have been received to verify compliance with specifications. If laboratory analysis shows that the product does not meet specifications or fails to perform satisfactorily at any time, the Contractor shall be responsible for:

4.3.1.1 All costs of testing and laboratory analysis.

4.3.1.2 Disposal of/or replacement of all products which fail to meet specifications.

4.3.1.3 All costs of repair and/or replacement of equipment deemed to have been damaged by substandard products as determined by the State.

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4.3.2 INSPECTION: All Supplies are subject to inspection and testing. In the event Supplies are defective in material or workmanship, or otherwise fail to meet the requirements of the Contract, the State shall have the right to reject the Supplies or retain the Supplies and correct the defects. The bidder shall pay the State for expenses incurred in correcting defects. Rejected Supplies will be held for 45 days after delivery. The bidder must arrange for the return of said Supplies, including paying for handling, packing, and transportation costs. The State also has the authority to dispose of the Supplies without further liability to the State in the event the Contractor fails to make arrangements within the specified time.

4.4 VENDOR PERFORMANCE AND RESPONSIBILITIES

4.4.1 CONSULTATION: Vendor shall keep the Agency/Buyer fully informed as to the progress of matters covered by this Contract. Where time permits and Vendor is not otherwise prohibited from so doing, Vendor shall offer the Agency/Buyer the opportunity to review relevant documents prior to filing with any public body or adversarial party.

4.4.2 PERFORMANCE REVIEWS:

4.4.2.1 The State or Agency/Buyer may conduct a performance review of the Vendor's performance under the Contract. The Vendor shall cooperate with the State or Agency/Buyer in this review, which may require that the Vendor provide records of its performance and billing. Vendor shall provide any required information within 30 days of the Agency/Buyer's request. This performance review may be used by any State agency in determining whether to enter into other contractual relationships with the Vendor.

4.4.2.2 Vendor shall have and maintain, during the term of this contract, internal procedures and processes to monitor performance to ensure full compliance with the contract. Vendor shall disclose such procedures and processes to the State upon request.

4.4.2.3 At the direction of the State, Vendor and State shall work together to develop a performance scorecard to record relevant facts related to performance as well as establishing conditions, milestones, requirements or timetables that must be met before additional steps may be taken or payment is due.

4.4.3 AUDIT/RETENTION OF RECORDS (30 ILCS 500/20-65): Vendor and its subcontractors shall maintain books and records relating to performance of the Contract or subcontract and necessary to support amounts charged to the State under the Contract or subcontract. Books and records, including information stored in databases or other computer systems, shall be maintained by the Vendor for a period of 3 years from the later of the date of final payment under the Contract or completion of the Contract, and by the subcontractor for a period of 3 years from the later of the date of final payment under the subcontract or completion of the subcontract. The 3-year period shall be extended for the duration of any audit in progress during the term. Books and records required to be maintained under this section shall be available for review or audit by representatives of the

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Auditor General, the Agency/Buyer, the Inspector General and other governmental entities with monitoring authority, upon reasonable notice and during normal business hours. Vendor and its subcontractors shall cooperate fully with any such audit. Failure to maintain books and records required by this section shall establish a presumption in favor of the State for the recovery of any funds paid by the State under the Contract for which adequate books and records are not available to support the purported disbursement. The Vendor shall not impose a charge for audit or examination of the Vendor's books and records. If federal funds are used to pay contract costs, the Vendor must retain its records for five years. If only state funds are involved, three years is sufficient.

4.4.4 SCHEDULE OF WORK: Any work performed on State premises shall be done during the hours designated by the State and shall in any event be performed so as to minimize inconvenience to the State and its personnel and minimize interference with the State's operations.

4.4.5 RESPONSIBILITY FOR AGENTS AND EMPLOYEES: Vendor shall be responsible for the negligent acts and omissions of its agents, employees and subcontractors in their performance of Vendor's duties under this CONTRACT. Vendor represents that it shall utilize the services of individuals skilled in the profession for which they will be used in performing services hereunder. In the event that the Agency/Buyer determines that any individual performing services for Vendor hereunder is not providing such skilled services, it shall promptly so notify Vendor and Vendor shall replace that individual.

4.4.6 ASSIGNMENT AND DELEGATION:

4.4.6.1 This Contract may not be assigned, transferred or conveyed in whole or in part by the Vendor without the prior written consent of the State. For the purpose of construing this clause, a transfer of a controlling interest in the Vendor shall be considered an assignment.

4.4.6.2 After notice, the Agency/Buyer may transfer the Contract or payment responsibility to another State Agency, or assign the Contract to a third-party for financing purposes.

4.4.7 USE OF THIRD PARTIES:

4.4.7.1 The Agency/Buyer acknowledges that the Vendor may contract with third parties for the performance of any of the Vendor's obligations under this Contract. However, all subcontracts shall be subject to prior approval by the Agency/Buyer, so the Vendor must obtain the Agency/Buyer's prior written consent before allowing any Third Party to perform any of the Vendor's obligations under this Contract.

4.4.7.2 A Vendor who obtains the Agency/Buyer's prior written consent and subsequently enters into a contract with a Third Party for performance of any of the Vendor's obligations under this Contract remains responsible for all

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services performed under this Contract. All restrictions, obligations and responsibilities of the Vendor under this Contract shall also apply fully and completely to subcontractors. This includes requiring all subcontractors to submit certifications and disclosures to Agency/Buyer for review and approval upon request. The Agency/Buyer shall have the right to request the removal of a subcontractor from the Contract for good cause.

4.4.7.3 If Vendor is unable to secure or maintain key personnel named in the Contract to render the services, Vendor shall not be relieved of its obligations to complete performance. Agency/Buyer shall have the option to accept a substitute or to terminate the Contract.

4.4.8 LICENSE: Vendor, directly or through its employees, shall have and maintain any required license. With written consent of the Agency/Buyer, Vendor may meet the license requirement through a subcontractor.

4.4.9 MAINTENANCE ASSURANCE:

4.4.9.1 The Agency/Buyer reserves the right to maintain any equipment purchased under this Contract using Agency/Buyer personnel or third-party maintainers. In such case, Vendor shall provide the Agency/Buyer or its maintenance provider with such services, documentation, materials and parts under reasonable terms and conditions and at reasonable costs. The Agency/Buyer reserves the right to return to Vendor's maintenance following written certification by Vendor that the equipment is eligible for Vendor's maintenance. Vendor's standard charges for the certification inspection, plus any applicable charges required to bring the equipment into eligibility for Vendor's maintenance shall apply. Exercise of these rights by the Agency/Buyer shall be without penalty or sanction by Vendor.

4.4.9.2 If Vendor discontinues service or maintenance of equipment or software provided under this Contract, Vendor shall provide to the Agency/Buyer, at no cost, adequate documentation and access to specialized or proprietary tools to allow the Agency/Buyer or a subcontractor to maintain the equipment or software. This provision shall not apply if Vendor arranges for continued service and maintenance through another vendor and at a price acceptable to the Agency/Buyer.

4.4.10 SOLICITATION AND EMPLOYMENT: Vendor shall not employ any person employed by the Agency/Buyer during the term of this Contract to perform any work required by the terms of this Contract. As a condition of this Contract, the Vendor shall give notice immediately to the Agency/Buyer's director if Vendor solicits or intends to solicit for employment any of the Agency/Buyer's employees during the term of this Contract.

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Agency/Buyer has no authority to contractually refuse to hire Vendor's employees who apply to the State for employment.

- 4.4.11 FORCE MAJEURE:** Failure by either party to perform its duties and obligations will be excused by unforeseeable circumstances beyond its reasonable control, including acts of nature, acts of the public enemy, riots, labor or material shortages, labor disputes, fire, flood, explosion, legislation, and governmental regulation.
- 4.4.12 TAX COMPLIANCE:** Vendor shall be in compliance with applicable tax requirements and shall be current in payment of such taxes.
- 4.4.13 COMPLIANCE WITH THE LAW:** The Vendor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders when performing the services under this Contract, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or suppliers. The Contractor, its employees, agents and subcontractors shall also comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under this Contract.
- 4.4.14 ANTITRUST ASSIGNMENT:** Vendor hereby assigns, sells and transfers to the State of Illinois all right, title and interest in and to any claims and causes of action arising under antitrust laws of Illinois or the United States relating to the subject matter of the Contract.

4.5 CONFIDENTIALITY AND WORK PRODUCT

- 4.5.1 CONFIDENTIALITY:** Vendor's employees, agents and subcontractors may have access to confidential data maintained by the Agency/Buyer to the extent necessary to carry out its responsibilities under the Contract. As such, the following applies unless agreed to otherwise in writing:
- 4.5.1.1 Vendor shall presume that all information received pursuant to this Contract is confidential unless otherwise designated by the Agency/Buyer;
 - 4.5.1.2 Vendor shall provide to the Agency/Buyer a written description of its policies and procedures to safeguard confidential information. Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;
 - 4.5.1.3 Vendor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Vendor in connection with the performance of the Contract;
 - 4.5.1.4 Vendor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of this Contract;
 - 4.5.1.5 The private or confidential data shall remain the property of the Agency/Buyer at all times.

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- 4.5.2 CONFIDENTIAL INFORMATION MAY NOT BE DISSEMINATED:** No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of the Agency/Buyer, either during the period of the Contract or thereafter. Any data supplied to or created by the Vendor shall be considered the property of the Agency/Buyer. The Vendor must return any and all data collected, maintained, created or used in the course of the performance of the Contract in whatever form it is maintained promptly at the request of the Agency/Buyer.
- 4.5.3 SUBPOENA:** In the event that a subpoena or other legal process is served upon the Vendor for records containing confidential information, the Vendor shall promptly notify the Agency/Buyer and cooperate with the Agency/Buyer in any lawful effort to protect the confidential information.
- 4.5.4 REPORTING UNAUTHORIZED DISCLOSURES:** The Vendor shall immediately report to the Agency/Buyer any unauthorized disclosure of confidential information.
- 4.5.5 SURVIVES TERMINATION:** Vendor's obligations regarding Confidential Information and Work Product Usage under this Contract shall survive termination of this Contract.

4.6 INDEMNIFICATION AND LIABILITY

- 4.6.1 BY THE VENDOR:** The Vendor agrees to indemnify and hold harmless the State of Illinois and the Agency/Buyer, its officers, employees and agents (appointed and elected) and volunteers from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments, including reasonable value of the time spent by the Attorney General's Office, and the costs and expenses and reasonable attorneys' fees of other counsel required to defend the State of Illinois or the Agency/Buyer, related to or arising from:
- 4.6.1.1 Any breach of this Contract;
 - 4.6.1.2 Any negligent, intentional or wrongful act or omission of the Vendor or any agent or subcontractor utilized or employed by the Vendor;
 - 4.6.1.3 The Vendor's performance or attempted performance of this Contract, including any agent or subcontractor utilized or employed by the Vendor;
 - 4.6.1.4 Any failure by the Vendor to fulfill the Compliance with the Law provision of this Contract;
 - 4.6.1.5 Any failure by the Vendor to make all reports, payments and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees or costs required by the Vendor to conduct business in the State of Illinois;
 - 4.6.1.6 Any infringement of any copyright, trademark, patent, trade dress, or other intellectual property right; or

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4.6.1.7 Any failure by the Vendor to adhere to the confidentiality provisions of this Contract.

4.6.2 SURVIVES TERMINATION: Indemnification obligation of the parties shall survive termination of this Contract.

4.6.3 LIABILITY: Vendor agrees to assume, without limitation, all risk of loss and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments, including costs, attorneys' and witnesses' fees, and expenses incident thereto, relating to bodily injuries to persons (including death) and for loss of, damage to, or destruction of real and/or tangible personal property (including property of the State) resulting from the negligence or misconduct of Vendor, its employees, agents, or subcontractors in the performance of the Contract. Vendor shall assume risk of loss until delivery to the Agency/Buyer's facility. Vendor shall do nothing to prejudice the State's right to recover against third parties for any loss, destruction, or damage to State property, and shall at the State's request and expense, furnish to the State reasonable assistance and cooperation, including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the State in obtaining recovery. Neither party shall be liable for incidental, special or consequential damages.

4.6.4 LEGISLATIVE CHANGES: The Vendor herein expressly acknowledges that the Contract and its subject matter are subject to legislative change by either the federal or state government. Should either legislative body enact measures which alter the terms or subject matter of this Contract, the Vendor shall not hold the Agency/Buyer liable in any manner for the resulting changes. The Agency/Buyer shall use best efforts to provide thirty (30) days' written notice to the Vendor of any legislative change. During the thirty (30) day period, the parties shall meet and make a good faith effort to agree upon changes to the Contract to address the legislative change. Nothing in this Subsection shall affect or impair the Agency/Buyer's right to terminate the Contract pursuant to the termination provisions.

4.6.5 JOINT AND SEVERAL LIABILITY: If the Vendor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of this Contract, and for any default of activities and obligations.

4.7 WARRANTIES

4.7.1 CONSTRUCTION OF WARRANTIES EXPRESSED IN THE CONTRACT WITH WARRANTIES IMPLIED BY LAW: All warranties made by the Vendor in all provisions of this Contract and the Bid by the Vendor, whether or not this Contract specifically denominates the Vendor's promise as a warranty or whether the warranty is created only by the Vendor's affirmation or promise, or is created by a description of the materials and services to be provided, or by provision of samples to the Agency/Buyer, shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties which arise

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through course of dealing or usage of trade. The warranties expressed in this Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the goods and services provided by the Vendor. The provisions of this section apply during the term of this Contract and any extensions or renewals thereof.

- 4.7.2 CONCEPTS, MATERIALS AND WORKS PRODUCED:** Vendor represents and warrants that all the concepts, materials and works produced, or provided to the Agency/Buyer pursuant to the terms of this Contract shall be wholly original with the Vendor or that the Vendor has secured all applicable interests, rights, licenses, permits or other intellectual property rights in such concepts, materials and works. The Vendor represents and warrants that the concepts, materials and works and the Agency/Buyer's use of same and the exercise by the Agency/Buyer of the rights granted by this Contract shall not infringe upon any other work, other than material provided by the Contract to the Vendor to be used as a basis for such materials, or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm or corporation and that the concepts, materials and works will not infringe upon the copyright, trademark, trade name, literary, dramatic, statutory, common law or any other rights of any person, firm or corporation or other entity. The Vendor represents and warrants that it is the owner of or otherwise has the right to use and distribute the software, the materials owned by the Vendor and any other materials, works and methodologies used in connection with providing the services contemplated by this Contract
- 4.7.3 CONFORMITY WITH CONTRACTUAL REQUIREMENTS:** The Vendor represents and warrants that the goods or services will appear and operate in conformance with the terms and conditions of this Contract.
- 4.7.4 AUTHORITY TO ENTER INTO CONTRACT:** The Vendor represents and warrants that it has full authority to enter into this Contract and that it has not granted and will not grant any right or interest to any person or entity that might derogate, encumber or interfere with the rights granted to the Agency/Buyer.
- 4.7.5 OBLIGATIONS OWED TO THIRD PARTIES:** The Vendor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Vendor pursuant to this Contract are or will be fully satisfied by the Vendor so that the Agency/Buyer will not have any obligations with respect thereto.
- 4.7.6 TITLE TO PROPERTY AND EQUIPMENT:** The Vendor represents and warrants that title to any property assigned, conveyed or licensed to the Agency/Buyer is good and that transfer of title or license to the Agency/Buyer is rightful and that all property shall be delivered free of any security interest or other lien or encumbrance. Vendor further warrants that it has title to, or the right to allow the State to use, the equipment, supplies and/or services being provided and that the State may use same without suit, trouble or hindrance from Vendor or third parties.

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- 4.7.7 EQUIPMENT AND SUPPLIES QUALITY:** Unless otherwise agreed, Vendor warrants that all equipment and/or supplies shall be new, unused, of most current manufacture and not discontinued, shall be free of defects in materials and workmanship, shall be provided in accordance with manufacturer's standard warranty and shall perform in accordance with manufacturer's published specifications.
- 4.7.8 INDUSTRY STANDARDS:** The Vendor represents and expressly warrants that all aspects of the goods and services provided or used by it shall conform to the standards in the relevant industry in the performance of this Contract.
- 4.7.9 TECHNOLOGY UPDATES:** The Vendor represents warrants that it shall continually use and integrate the most current and up-to-date technology commercially available.
- 4.7.10 SOLICITATION:** The Vendor warrants that no person or selling Agency/Buyer has been employed or retained to solicit and secure this Contract upon an agreement or understanding for commission, percentage, brokerage or contingency excepting bona fide employees or selling agents maintained for the purpose of securing business.

4.8 INSURANCE

- 4.8.1 INSURANCE:** Vendor shall maintain public liability, casualty and auto insurance in sufficient amount to protect the State from liability for acts of Vendor and risks and indemnities assumed by Vendor. If Vendor does not have minimum coverage (for bodily injury of \$250,000 per person/\$500,000 per occurrence, and for property damage, \$100,000 per occurrence) Vendor must inform the Agency/Buyer and seek written permission for lesser coverage. Vendor shall carry Workers' Compensation Insurance in amount required by law. Upon request, Vendor shall provide and maintain any bond required by law or the Agency/Buyer. Vendor shall provide copies of certificates of insurance evidencing the coverage described in this paragraph.

4.9 VENDOR STATUS AND QUALIFICATIONS

- 4.9.1 BACKGROUND CHECK:** The State may conduct criminal and driver history background checks of Vendor's officers, employees or agents who would directly supervise or physically perform any of the Contract requirements at State facilities. Any officer, employee or agent deemed unsuitable by the State must be replaced immediately.
- 4.9.2 LEGAL ABILITY TO CONTRACT:** Vendor certifies it is under no legal prohibition on contracting with the State of Illinois, has no known conflicts of interest and further specifically certifies that:
- 4.9.2.1** Vendor, its employees and subcontractors will comply with applicable provisions of the U.S. Civil Rights Act, Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) and applicable rules in performance under this Contract.
- 4.9.2.2** Vendor is not in default on an educational loan (**5 ILCS 385/3**).

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- 4.9.2.3 Vendor has informed the director of the Agency/Buyer in writing if he/she was formerly employed by that agency and has received an early retirement incentive prior to 1993 under Section 14-108.3 or 16-133.3 of the Illinois Pension Code, **40 ILCS 5/14-108.3** and **40 ILCS 5/16-133.3**, and acknowledges that contracts made without the appropriate filing with the Auditor General are not payable from the “contractual services” or other appropriation line items. Vendor has not received an early retirement incentive in or after 2002 under Section 14-108.3 or 16-133.3 of the Illinois Pension Code, **40 ILCS 5/14-108.3** and **40 ILCS 5/16-133.3**, and acknowledges that contracts in violation of Section 15a of the State Finance Act are not payable from the “contractual services” or other appropriation line items **(30 ILCS 105/15a)**.
- 4.9.2.4 Vendor has not been convicted of bribing or attempting to bribe an officer or employee of the State of Illinois or any other State, nor has made an admission on the record of having so bribed or attempted to bribe **(30 ILCS 500/50-5)**.
- 4.9.2.5 If Vendor has been convicted of a felony, at least five years have passed after the date of completion of the sentence for such felony, unless no person held responsible by a prosecutor’s office for the facts upon which the conviction was based continues to have any involvement with the business **(30 ILCS 500/50-10)**.
- 4.9.2.6 If Vendor, or any officer, director, partner, or other managerial agent of Vendor, has been convicted of a felony under the Sarbanes-Oxley Act of 2002, or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953, at least 5 years have passed since the date of the conviction. Vendor further certifies that it is not barred from being awarded a contract and acknowledges that the contracting State Agency/Buyer shall declare the contract void if this certification is false **(30 ILCS 500/50-10.5)**.
- 4.9.2.7 Vendor and its affiliates are not delinquent in the payment of any debt to the State (or if delinquent has entered into a deferred payment plan to pay the debt), and Vendor and its affiliates acknowledge the contracting State Agency/Buyer may declare the contract void if this certification is false **(30 ILCS 500/50-11)** or if Vendor or an affiliate later becomes delinquent and has not entered into a deferred payment plan to pay off the debt **(30 ILCS 500/50-60)**.
- 4.9.2.8 Vendor and all affiliates shall collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with provisions of the Illinois Use Tax Act **(30 ILCS 500/50-12)** and acknowledge that failure to comply can result in the contract being declared void.
- 4.9.2.9 Vendor certifies that it has not committed a willful or knowing violation of the Environmental Protection Act (relating to Civil Penalties under the Environmental

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- Protection Act) within the last five (5) years, and is therefore not barred from being awarded a contract. If the State later determines that this certification was falsely made by the Vendor, the Vendor acknowledges that the contracting State Agency/Buyer may declare the contract void. **(30 ILCS 500/50-14)**
- 4.9.2.10 Vendor has not paid any money or valuable thing to induce any person to refrain from bidding on a State contract, nor has Vendor accepted any money or other valuable thing, or acted upon the promise of same, for not bidding on a State contract **(30 ILCS 500/50-25)**.
- 4.9.2.11 Vendor is not in violation of the "Revolving Door" section of the Illinois Procurement Code **(30 ILCS 500/50-30)**.
- 4.9.2.12 Vendor will report to the Illinois Attorney General and the Chief Procurement Officer any suspected collusion or other anti-competitive practice among any bidders, offerors, contractors, proposers or employees of the State **(30 ILCS 500/50-40, 50-45, 50-50)**.
- 4.9.2.13 Vendor will, pursuant to the Drug Free Workplace Act, provide a drug free workplace, and if an individual shall not engage in the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance in the performance of the Contract. This certification applies to contracts of \$5000 or more with: individuals; and to entities with twenty-five (25) or more employees **(30 ILCS 580)**.
- 4.9.2.14 Neither Vendor nor any substantially owned affiliate is participating or shall participate in an international boycott in violation of the U.S. Export Administration Act of 1979 or the applicable regulations of the U.S. Department of Commerce. This certification applies to contracts that exceed \$10,000 **(30 ILCS 582)**.
- 4.9.2.15 Vendor has not been convicted of the offense of bid rigging or bid rotating or any similar offense of any State or of the United States **(720 ILCS 5/33E-3, 5/33E-4)**.
- 4.9.2.16 Vendor complies with the Illinois Department of Human Rights Act and rules applicable to public contracts, including equal employment opportunity, refraining from unlawful discrimination, and having written sexual harassment policies **(775 ILCS 5/2-105)**.
- 4.9.2.17 Vendor does not pay dues to, or reimburse or subsidize payments by its employees for, any dues or fees to any "discriminatory club" **(775 ILCS 25/2)**.
- 4.9.2.18 Vendor complies with the State Prohibition of Goods from Forced Labor Act, and certifies that no foreign-made equipment, materials, or supplies furnished to the State under the contract have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction **(PA 93-0307)**.
- 4.9.2.19 Vendor certifies that no foreign-made equipment, materials, or supplies furnished to the State under the contract have been

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produced in whole or in part by the labor of any child under the age of 12 (**PA 94-0264**).

- 4.9.2.20 Vendor certifies that it is not in violation of Section 50-14.5 of the Illinois Procurement Code that states: "Owners of residential buildings who have committed a willful or knowing violation of the Lead Poisoning Prevention Act (**410 ILCS 45**) are prohibited from doing business with the State of Illinois or any State agency until the violation is mitigated".

- 4.9.3 CONFLICTS OF INTEREST:** Vendor has disclosed, and agrees it is under a continuing obligation to disclose to the Agency/Buyer, financial or other interests (public or private, direct or indirect) that may be a potential conflict of interest or which would prohibit Vendor from having or continuing the Contract. This includes, but is not limited to conflicts under the "Infrastructure Task Force Fee Prohibition" section of the State Finance Act (**30 ILCS 105/8.40**), Article 50 of the Illinois Procurement Code (**30 ILCS 500/50**), or those which may conflict in any manner with the Vendor's obligation under this Contract. Vendor shall not employ any person with a conflict to perform under this Contract. If any conflict under Section 50-13 exists no contract may be issued without an exemption from the Governor pursuant to Section 50-20 of the Illinois Procurement Code. An exemption is necessary if:

- 4.9.3.1 the person intending to contract with the State, their spouse or child: (i) holds an elective office in Illinois; (ii) holds a seat in the Illinois General Assembly; (iii) is an officer or employee of the Capital Development Board or the Illinois Toll Highway Authority; or holds an appointed position or is employed in any of the offices or agencies of the State government and who receives compensation for such employment in excess of 60% of the salary of the Governor (**currently \$90,414.60**). (The conflict of interest threshold of 60% of the Governor's salary set forth in Section 50-13 does not apply to elective office holders, legislators, and officers or employees of the Capital Development Board or the Illinois Toll Highway Authority.);

- 4.9.3.2 the contract is with a firm, partnership, association or corporation in which a person referenced in item 4.9.3.1 above receives more than 7.5% of the total distributable income or an amount in excess of the salary of the Governor (**currently \$150,691.00**).

- 4.9.3.3 the contract is with a firm, partnership, association or corporation in which a person referenced in item 4.9.3.1 above, together with their spouse or minor child, receives more than 15% in the aggregate of the total distributable income or an amount in excess of 2 times the salary of the Governor (**currently \$301,382.00**) from the firm, partnership, association or corporation.

- 4.9.4 INDEPENDENT CONTRACTOR:** The Vendor shall be an independent contractor. Equipment and/or supplies provided and/or services performed

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pursuant to this Contract are not rendered as an employee of the Agency/Buyer or of the State of Illinois. Amounts paid pursuant to this Contract do not constitute compensation paid to an employee.

4.9.5 NOT A JOINT VENTURE: Nothing in this Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. Each party shall be deemed to be an independent contractor contracting for services and acting toward the mutual benefits expected to be derived herefrom. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Contract.

4.9.6 NON-DISCRIMINATION: In compliance with the State and Federal Constitutions, the Illinois Human Rights Act, the U. S. Civil Rights Act, and Section 504 of the Federal Rehabilitation Act, the Agency/Buyer does not unlawfully discriminate in employment, contracts, or any other activity.

4.10 TERMINATION OF CONTRACT

4.10.1 TERMINATION FOR CAUSE WITHOUT ADVANCE NOTICE: The Agency/Buyer may terminate this Contract for any of the following reasons effective immediately without advance notice:

4.10.1.1 In the event the Vendor is required to be certified or licensed as a condition precedent to providing Supplies, the revocation or loss of such license or certification will result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;

4.10.1.2 The Agency/Buyer determines that the actions, or failure to act, of the Vendor, its agents, employees or subcontractors have caused, or reasonably could cause jeopardy to health or safety;

4.10.1.3 The Vendor fails to comply with confidentiality laws or provisions;

4.10.1.4 The Vendor furnished any statement, representation or certification in connection with this Contract or the IFB which is materially false, deceptive, incorrect or incomplete.

4.10.2 TERMINATION FOR CAUSE WITH NOTICE: The occurrence of or any one or more of the following events shall constitute cause for the Agency/Buyer to declare the Vendor in default of its obligations under this Contract:

4.10.2.1 The Vendor fails to perform, to the Agency/Buyer's satisfaction, any material requirement of this Contract or is in violation of a material provision of this Contract, including, but without limitation, the express warranties made by the Vendor;

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- 4.10.2.2 The Agency/Buyer determines that satisfactory performance of this Contract is substantially endangered or that a default is likely to occur;
- 4.10.2.3 The Vendor fails to make substantial and timely progress toward performance of the Contract;
- 4.10.2.4 The Vendor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Vendor terminates or suspends its business; or the Agency/Buyer reasonably believes that the Vendor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- 4.10.2.5 The Vendor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of this Contract;
- 4.10.2.6 The Vendor has engaged in conduct that has or may expose the Agency/Buyer to liability, as determined in the Agency/Buyer's sole discretion; or
- 4.10.2.7 The Vendor has infringed any patent, trademark, copyright, tradedress or any other intellectual property right.
- 4.10.2.8 If there is a default event caused by the Vendor, the Agency/Buyer shall provide written notice to the Vendor requesting that the breach or noncompliance be remedied within the period of time specified in the Agency/Buyer's written notice to the Vendor. If the breach or noncompliance is not remedied by the date of the written notice, the Agency/Buyer may either: (a) immediately terminate the Contract without additional written notice; or, (b) enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

4.10.3 TERMINATION FOR CONVENIENCE UPON NOTICE: Following **fifteen (15)** days written notice, the Agency/Buyer may terminate this Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Vendor. Following termination upon notice, the Vendor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for services provided under this Contract to the Agency/Buyer up to and including the date of termination.

4.10.4 TERMINATION DUE TO LACK OF FUNDS OR CHANGE IN LAW: The Agency/Buyer shall have the right to terminate this Contract without penalty by giving written notice to the Vendor as a result of any of the following:

- 4.10.4.1 Adequate funds are not appropriated or granted to allow the Agency/Buyer to operate as required and to fulfill its obligations under this Contract;

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- 4.10.4.2 Funds are de-appropriated or not allocated or if funds needed by the Agency/Buyer, at the Agency/Buyer's sole discretion, are insufficient for any reason;
- 4.10.4.3 The Agency/Buyer's authorization to operate is withdrawn or there is a material alteration in the programs administered by the Agency/Buyer;
- 4.10.4.4 The Agency/Buyer's duties are substantially modified.

4.10.5 VENDOR'S REMEDIES IN EVENT OF TERMINATION BY AGENCY/BUYER: In the event of termination of this Contract for any reason by the Agency/Buyer, the Agency/Buyer shall pay only those amounts, if any, due and owing to the Vendor for services actually rendered or Supplies actually provided up to and including the date of termination of the Contract and for which the Agency/Buyer is obligated to pay pursuant to this Contract. Payment will be made only upon submission of invoices and proper proof of the Vendor's claim. This provision in no way limits the remedies available to the Agency/Buyer under this Contract in the event of termination. However, the Agency/Buyer shall not be liable for any of the following costs:

- 4.10.5.1 The payment of unemployment compensation to the Vendor's employees;
- 4.10.5.2 The payment of workers' compensation claims, which occur during the Contract or extend beyond the date on which the Contract terminates;
- 4.10.5.3 Any costs incurred by the Vendor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract;
- 4.10.5.4 Any taxes that may be owed by the Vendor in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

4.10.6 VENDOR'S TERMINATION DUTIES: The Vendor upon receipt of notice of termination or upon request of the Agency/Buyer, shall:

- 4.10.6.1 Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, any other matters the Agency/Buyer may require;
- 4.10.6.2 Immediately cease using and return to the Agency/Buyer any personal property or materials, whether tangible or intangible, provided by the Agency/Buyer to the Vendor;

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- 4.10.6.3 Comply with the Agency/Buyer's instructions for the timely transfer of any active files and work product produced by the Vendor under this Contract;
- 4.10.6.4 Cooperate in good faith with the Agency/Buyer, its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor; and
- 4.10.6.5 Immediately return to the Agency/Buyer any payments made by the Agency/Buyer for services that were not rendered by the Vendor.

4.11 GENERAL PROVISIONS

- 4.11.1 **TERM AND RENEWALS:** The length of the Contract, including any renewals, may not exceed that allowed by law pursuant to **30 ILCS 500/20-60** or other applicable statutes. When the term begins on execution that means the date of final execution by the State. If the commencement of performance is delayed because the Contract is not executed by the State on the start date, the State may change the start date, end date and milestones to reflect the delayed execution. No renewal may be effective automatically. No renewal may be effective solely at the Vendor's option.
- 4.11.2 **NON-EXCLUSIVE RIGHTS:** This Contract is not exclusive. The Agency/Buyer reserves the right to select other contractors to provide services similar or identical to the Scope of Services described in this Contract during the term of this Contract.
- 4.11.3 **APPLICABLE LAW:** The terms and conditions of this Contract, including those set forth in any attachment, shall be construed in accordance with and are subject to the laws and rules of the State of Illinois, including, without limitation, the Illinois Procurement Code (**30 ILCS 500/1-5 et seq.**) and the rules promulgated thereunder (**44 Ill. Admin. Code 1**), the Illinois Freedom of Information Act (**5 ILCS 140**) and the Attorney General Act (**15 ILCS 205**). The Department of Human Rights' Equal Opportunity requirements (**44 Ill. Admin Code 750**) are incorporated by reference. Any claim against the State arising out of this CONTRACT must be filed exclusively with the Illinois Court of Claims (**705 ILCS 505/1**). The State shall not enter into binding arbitration to resolve any Contract dispute. The State of Illinois does not waive sovereign immunity by entering into this Contract. Any provision containing a citation to an Illinois statute (cited ILCS) may not contain complete statutory language. The official text, which is incorporated by reference, can be found in the appropriate chapter and section of the Illinois Compiled Statutes. An unofficial version can be viewed at <http://www.ilga.gov/legislation/ilcs/ilcs.asp>.
- 4.11.4 **ENTIRE CONTRACT:** This Contract, including any attachments or amendments, constitutes the entire agreement between the Parties concerning the subject matter of the Contract. Modifications and waivers must be in writing and signed by authorized representatives of the Parties. Any provision of this Contract officially declared void, unenforceable, or against public policy, shall be ignored and the remaining provisions of this Contract shall be interpreted, as far as possible, to give effect to the Parties'

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intent. All provisions that by their nature would be expected to survive, shall survive termination of this Contract, including without limitation provisions relating to confidentiality, warranty, ownership and liability. This Contract represents the entire Contract between the parties. The parties shall not rely on any representation that may have been made which is not included in this Contract.

- 4.11.5 CONTRACTING AUTHORITY:** Certain contracts must be signed or approved by the Director of the Department of Central Management Services (CMS) before they are binding on the State. In those instances CMS shall not be responsible for costs or funding even though payments may be made through CMS facilities.
- 4.11.6 AMENDMENTS:** This Contract may be amended in writing from time to time by mutual consent of the parties. All amendments to this Contract must be in writing and fully executed by the parties.
- 4.11.7 THIRD PARTY BENEFICIARIES:** There are no third party beneficiaries to this Contract. This Contract is intended only to benefit the State, the Agency/Buyer and the Vendor.
- 4.11.8 HEADINGS OR CAPTIONS:** The paragraph headings or captions used in this Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.
- 4.11.9 SUPERSEDES FORMER CONTRACT AGREEMENTS:** This Contract supersedes all prior Contracts or Agreements between the Agency/Buyer and the Vendor for the services provided in connection with this Contract.
- 4.11.10 WAIVER:** Except as specifically provided for in a waiver signed by duly authorized representatives of the Agency/Buyer and the Vendor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.
- 4.11.11 NOTICE:** Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to each party as set forth in Section 1 of the Sample Contract for Supplies, the "Agency/Buyer and Vendor Contact Page." Notices by fax must show the date and time of successful receipt. Each such notice shall be deemed to have been provided: (a) at the time it is actually received; or, (b) within one day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day delivery; or, (c) within five (5) days after it is deposited the U.S. Mail in the case of registered U.S. Mail. From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.
- 4.11.12 CUMULATIVE RIGHTS:** The various rights, powers, options, elections and remedies of any party provided in this Contract, shall be construed as

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cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.

4.11.13 SEVERABILITY: If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Contract.

4.11.14 TIME IS OF THE ESSENCE: Time is of the essence with respect to the performance of the terms of this Contract.

4.11.15 AUTHORIZATION: Each party to this Contract represents and warrants to the other parties that: (a) it has the right, power and authority to enter into and perform its Obligations under this Contract; and (b) it has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of this Contract, and this Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

4.11.16 SUCCESSORS IN INTEREST: All the terms, provisions, and conditions of the Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

4.11.17 OBLIGATIONS BEYOND CONTRACT TERM: This Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to this Contract. All obligations of the Agency/Buyer and the Vendor incurred or existing under this Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of this Contract.

4.11.18 COUNTERPARTS: The parties agree that this Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

4.11.19 FURTHER ASSURANCES AND CORRECTIVE INSTRUMENTS: The parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Contract.

4.11.20 ADDITIONAL PROVISIONS: The parties agree that if an Addendum, Rider or Exhibit is attached hereto by the parties, and referred to herein, then the same shall be deemed incorporated herein by reference.

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5. AGENCY/BUYER SUPPLEMENTAL TERMS AND CONDITIONS

The following supplemental terms and conditions, if checked, are attached and are applicable to this contract:

- _____ Public Works Requirements (**820 ILCS 130/4**) *
- _____ Prevailing Wage (janitorial cleaning, window cleaning, building and grounds, site technician, natural resources, food services, and security services, if valued at more than \$200 per month or \$2000 per year. (**30 ILCS 500/25-60**) *
- _____ Prevailing Wage (all printing contracts) (**30 ILCS 500/25-60**). *
- _____ Prohibition of Contingent Fees (certain federally funded contracts)
- _____ Other (describe)

*Information regarding prevailing wage, benefit and working condition requirements may be obtained from the Illinois Department of Labor (217-782-6206) and information may be viewed at their website (www.state.il.us/agency/idol). You must check with IDOL before submitting your offer to determine the prevailing wages, benefits and working conditions applicable to this solicitation.

[Agency/Buyer to fill in any additional Supplemental Terms and Conditions or Agency-specific definitions]

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6. STATE FORMS REQUIRED OF THE VENDOR

This section serves as a placeholder for any State Forms completed as part of the IFB process that also need to be included in the Contract (if necessary). It is important to note that this section references State forms that are necessary to be included in the Contract and may not include all of the forms listed in section 5.2.5 of the IFB, "State Forms Required of the Vendor." In addition, this section does not serve as an opportunity for Vendors to insert their own forms.

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7. SIGNATURE PAGE: CONTRACT FOR SUPPLIES

This contract ("Contract") is made and entered into by and between the State of Illinois, a body politic ("State") by and through its agency and/or buyer, ("Agency" "Buyer" or "Agency/Buyer") and (" " or "Vendor").

WITNESSETH:

WHEREAS, on February, 9th, 2007, CMS issued an IFB to purchase additional IBM ESS F20 DASD Storage capacity with installation services to expand the Mainframe DASD capacity in use today at CMS to be used in support of Tier 1 Business Continuity (Disaster Recovery).

WHEREAS, as a result of Vendor's Bid and in reliance on the representations, assurances, and acknowledgements made therein, as well as the representations, assurances and acknowledgements made herein, State has determined to award Vendor this contract based upon its Bid and subject to the terms and conditions contained herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the foregoing and to the terms set forth herein.

In Witness whereof, Agency/Buyer and Vendor have caused this CONTRACT to be executed by duly authorized representatives of the respective PARTIES on the dates shown below:

Vendor (Company Name and D/B/A):

Agency/Buyer (Name):

Signature

Signature

Printed Name

Printed Name

Title: _____ **Date:** _____

Title: _____ **Date:** _____

BY: _____

Signature: _____

Title: _____ Date: _____