



for Texas Centers

iServTM Owners Group

**Request for Offer
RFO #170-10-001**

Training and Software Development Analysis Project

Issued: July 1, 2010

Responses Due: August 9, 2010

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1. Introduction

1.1. Purpose

The purpose of this Request for Offer (“RFO”) is to ask vendors (“Vendors”) to propose their approach to assisting the iServ™ Owners Group (“iServ”) with a project to do the following:

- Rewrite the iServ™ for Texas Centers clinical practice management software utilizing .NET and Microsoft’s SQL Server database,
- Develop technical and user documentation to support the rewritten system,
- Develop installation programs to install the system on customer computer systems,
- Develop conversion programs to move data from the current system into the newly developed one,
- Implement leading edge software tools for software development, source code management, testing, project management and other relevant tools necessary to maximize the quality of the iServ™ for Texas Centers software and maximize staff productivity,
- Assist in determining the technical competency of applicants for staff positions that iServ may hire to participate in the project,
- Implement a software development and maintenance methodology that maximizes quality and productivity.

For future reference, the above project will be referred to as the “Development Project”.

iServ asks that Vendor provides a Not-To-Exceed Price (“NTE Price”) for doing the analysis necessary to develop an NTE Price for assisting with the Development Project. For future reference, the effort to perform the analysis necessary to develop an NTE Price for assisting with the Development Project will be referred to as the “Analysis Project”. ***Development of an NTE Price for assisting with the Development Project is not expected in the response to this RFO.*** Development of the NTE Price for assisting with the Development Project will be a subsequent effort performed by the Vendor that is awarded the contract resulting from this RFO. To summarize, responses to this RFO should provide an NTE Price for assisting with the Analysis Project.

iServ plans to select and award a contract to the Vendor that provides, through its response to this RFO (“Response”), the most comprehensive and effective approach to assisting with the Development Project. iServ will work with this Vendor to analyze iServ’s internal capabilities, customer requirements, and software needs. Based on this analysis, Vendor will develop an NTE Price for assisting with the Development Project. If the Vendor’s NTE Price for assisting with the Development Project is within iServ’s funding limits, iServ plans to enter into a contract with this Vendor to assist with the Development Project. If the selected Vendor’s NTE Price for assisting with the Development Project isn’t within iServ’s funding limits, iServ plans to select another Vendor that responded to this RFO to perform the same Analysis Project.

It is extremely important to note that iServ operates on a tight budget and hopes to leverage the selected Vendor’s expertise as much as possible for the Development Project while performing as many tasks as feasible with iServ staff.

1.2. Background

iServ is a small software development shop in Austin that supports and enhances a clinical practice management software system for six Mental Health Mental Retardation (MHMR) Community Centers (“Centers”) that are scattered across Texas. The Centers are all local governmental entities as defined by §791.003 Texas Government Code and stated in Chapter 534, Sub-chapter A of the Texas Health and Safety Code. The Centers executed an Interlocal Cooperation Agreement which formed the iServ™ Owners Group for the purpose of jointly purchasing, maintaining, enhancing, and marketing a clinical practice management software system. Permian Basin Community Centers for MHMR, one of the Centers, acts as the administrative agency for the iServ™ Owners Group. The name of the clinical practice management software is iServ™ for Texas Centers (“iServ Software”).

The Centers’ services are funded from a variety of sources including Medicaid, Medicare, Texas Department of State Health Services, Texas Department of Aging and Disability Services, private insurance, counties, and cities. These funding sources often require specific data elements and the need for enforcing business rules to validate the quality of the data. iServ prides itself on quickly analyzing upcoming requirements and providing the necessary software modifications to the Centers to address these funding source requirements.

iServ has close working relationships with the Centers. iServ has quarterly meetings with the Centers’ Executive Directors where financial status, strategy, and operational performance are discussed. iServ also has quarterly meetings with the Centers’ systems administrators where priorities are set, training is performed, software designs are discussed, and business requirements are reviewed. iServ provides unlimited phone and email support in an effort to be as responsive to the Centers as possible and avoid disincentives for seeking assistance.

The iServ Software is a complex system with approximately 400 screens and 100 reports. There are complex billing functions, accounts receivable processes, and external system interfaces. There are comprehensive field level and cross-table data validations to ensure that the iServ Software maintains a high level of data quality and clinical accuracy. There is role-based security where users assigned to a role have access to certain functions and patients (“Clients”). This role-based security also can be set to grant access to functions, but only in “view only” mode. iServ Software supports fingerprint and personal ID Number (PIN) electronic signatures so that Centers don’t have to print and hand sign clinical documents. The Centers are required to operate under the requirements of the Health Insurance Portability and Accountability Act (HIPAA). The iServ Software is written in FoxPro and Visual FoxPro. iServ utilizes Visual Sourcesafe for source code control and xBase for documenting the iServ Software’s core database structure.

iServ has been in business since 1992 and it has operated under three different organizational structures. iServ has supported the iServ Software for a total of ten years, five of those years under its current organizational structure. Prior to the iServ Software, iServ supported a Unix-based practice management system that was written in FOCUS. iServ has five staff positions and two of these positions are open. iServ has been holding off on filling these two positions until its new technical environment has

been selected. iServ's objective is to hire staff with experience in the selected technical environment. Of the three existing staff, two have worked with iServ for eighteen years and the other for ten years.

iServ recognizes the need to modernize the iServ Software's underlying software development and database architecture. iServ has identified .NET and Microsoft SQL Server as the targeted software development platform for the following reasons:

- Large developer community,
- Operates in mainstream network environments,
- Ability for system to be browser-based,
- Strong commitment from Microsoft,
- Long product life.

While Microsoft SQL Server is identified as the database, iServ's objective is to develop the software so that it can use different back-end databases should the need arise to do so. iServ wants the software architecture to support the ability for the iServ Software to run in a hosted environment for multiple Centers. In addition, iServ wants the architecture to support tablet computers that operate on .NET supported operating systems. iServ recognizes the need to become proficient in this new platform as quickly as possible while completing the rewrite of the iServ Software in the shortest possible time. iServ's hope is that by working with a highly qualified Vendor that will mentor iServ staff while assisting with the various Development Project tasks, iServ can achieve both of these objectives.

From a design perspective, iServ is in a good place. This is based on the fact that the changes requested by the iServ Software's User Group typically aren't significant in nature. iServ can provide design specifications for the various iServ Software modules without having to go through a fact-finding design process with the Centers. iServ polled the Centers to confirm this design fact prior to creating this RFO.

2. Scope

2.1. Software Scope

The iServ Software is an enterprise clinical practice management clinical software tool for use in behavioral healthcare businesses. The following are examples of the types of functionality provided by the iServ Software:

- Client Demographics
- Clinical Screenings and Assessments
- Protected Health Information Releases
- Medication Tracking
- Episodes of Care
- Treatment Plans
- Referrals
- Special Populations
- Program Assignments
- Waiting Lists
- Financial Assessments
- Payer Authorizations
- Service Tracking
- Billing

- Accounts Receivable
- “Outlook-like” internal messaging system for messaging between staff
- Comprehensive scheduling
- A desktop for performing clinical workflows, accessing reports, and reviewing alerts.
- Various data exports to external systems
- General ledger journal entry exports
- A variety of clinical, financial, and management reports

Centers typically have multiple sites and some of these sites may be rural. Most Centers have broadband connections to all sites and terminal services has been employed to minimize bandwidth requirements. This is one of the reasons that a browser-based application is one of the Development Project’s objectives.

3. General Information

3.1. Point of Contact

All communications regarding this RFO must be addressed in writing to:

Roger Speight
 iServ for Texas Centers
 9300 Jollyville Road, Suite 100
 Austin, Texas 78759
 Phone: 512-241-1200, extension 100
 Fax: 512-241-1993
 Email: rspeight@iservtexas.com.

Verbal inquiries regarding this RFO are not accepted. iServ will not be bound by any oral statement or representation contrary to the written specifications of this RFO.

3.2. Anticipated Schedule

3.2.1 RFO Schedule

It is iServ’s intention to comply with the following schedule for this RFO. These dates represent a tentative schedule of events. iServ reserves the right to modify these dates at any time, with appropriate notice to prospective Vendors.

Date/Time	Activity
July 1, 2010	Publish RFO on Electronic State Business Daily (http://esbd.cpa.state.tx.us/). The posting will be listed under the name “Permian Basin Community Centers (R1650)”.
July 26, 2010 at 5:00 pm (CST)	Deadline for submitting questions
August 2, 2010 at 5:00 pm	Deadline for answering questions. Answers

Date/Time	Activity
(CST)	will be posted on Electronic State Business Daily.
August 9, 2010 at 5:00 p.m. (CST)	Deadline for submitting Responses to RFO
August 10, 2010 until completed	Evaluation of Responses, negotiation and contract execution

3.3. Response Deadline and Submission Requirements

Vendors are invited to submit Responses in accordance with the requirements outlined in this RFO. Responses must be received by iServ on or before **5:00 p.m. (CST) on August 9, 2010. No late Responses will be reviewed.** Responses must be hand-delivered or mailed to the submittal address listed in Section 3.4.1. No faxed or e-mailed Responses will be accepted. Vendor's entire Response is binding upon Vendor for 180 days from the deadline for submission of Responses.

Vendors who discover any ambiguity, conflict, discrepancy, exclusionary specifications, omissions, or any other errors in this RFO shall immediately provide written notification to the iServ Point of Contact listed in section 3.1 above. If Vendor fails to submit notification to the iServ Point of Contact of any ambiguity, conflict, discrepancy, exclusionary specifications, omissions, or any other errors, Vendor is submitting an Offer at its own risk. Vendor that is awarded a contract resulting from this RFO is not entitled to additional compensation, relief, or time due to any error or its later correction.

3.3.1 Official Timepiece

The Central Time Zone time reported through www.time.gov is the official timepiece for determining compliance with the deadline. All Responses will be date and time stamped when received.

3.3.2 Hand Delivery of Responses

iServ will not be responsible for delays associated with hand delivery of Responses.

3.3.3 United States Postal Service Delivery of Responses

Delivery of Responses via United States Postal Service is acceptable. However, the Response must arrive prior to the deadline regardless of the postmark date. To ensure that there is no question about delivery time, iServ strongly recommends using a courier or type of postage that requires iServ's signature when Response is delivered.

3.4. Response Format and Contents

3.4.1 Submittal Address and External Packaging of Response

Responses should be addressed to:

iServ for Texas Centers

ATTN: Roger Speight
9300 Jollyville Road, Suite 100
Austin, Texas 78759
512-241-1200

3.4.2 Number of Copies

Vendor must submit the complete Response as follows:

1. One (1) signed original (clearly marked) of the complete Response;
2. Six (6) additional paper copies of the complete Response;
3. One (1) electronic copy of complete Response on CD-ROM;
4. If applicable, one (1) CD-ROM containing any and all Response materials, which Vendor asserts, are confidential or proprietary;
5. If applicable, One (1) CD-ROM containing any and all copyrighted materials in the Vendor's Response; and
6. One (1) CD-ROM containing any and all non-proprietary/confidential and non-copyrighted materials in the Vendor's Response.

Paper Responses must be bound and the cover of the binders must reference "iServ Training and Software Development Analysis Project" and include the name and address of the responding Vendor.

Each CD-ROM must be clearly marked as to its contents. The Response materials on each CD-ROM must be compatible with Microsoft Office 2003 or Adobe Acrobat Reader 8.0. If there are any disparities between the contents of the printed Response and any of the Response materials on CD-ROM, the contents of the signed original printed Response will take precedence.

3.4.3 Mandatory Response Contents

VENDOR MUST PROVIDE THE ITEMS LISTED BELOW OR THE RESPONSE WILL BE REJECTED.

1) Vendor Information – Appendix A

This form must be filled out in its entirety and signed by an officer or agent empowered to contractually bind the Vendor. Copies of employee resumes requested in Appendix A should also be included.

2) Compliance with Contract Terms and Conditions – Appendix C

This form must be filled out in its entirety and signed by an officer or agent empowered to contractually bind the Vendor.

3) Vendor Affidavit – Appendix D

This form must be filled out in its entirety and signed by an officer or agent empowered to contractually bind the Vendor. This document should also be notarized.

4) Conflict of Interest Questionnaire – Appendix E

This form should be filled out in its entirety for any conflicts. If there are no conflicts, the form must be provided indicating that "no conflicts exist" and signed by an officer or agent empowered to contractually bind the Vendor.

5) Copy of standard contract used by Vendor for engagements such as the Analysis Project. In addition, please provide a copy of standard contract used by Vendor for engagements such as the Development Project.

3.5. Rejection of Responses

iServ has the sole discretionary authority and reserves the right to reject any and all Responses received as a result of this RFO. Responses that do not comply with the mandatory submission requirements may be rejected. In addition, iServ reserves the right to accept or reject, in whole or in part, any Responses submitted, and to waive minor technicalities when in iServ's best interest.

3.6. Right to Amend or Withdraw RFO

iServ reserves the right to alter, amend or modify any provision of this RFO, or to withdraw this RFO at any time prior to the award of a contract if to do so is in its best interest. iServ reserves the right to re-solicit for like or similar products and services whenever iServ determines re-solicitation to be in its best interest.

Any changes or additional information regarding this RFO will be posted as an addendum to RFO #170-10-001 on the Electronic State Business Daily, <http://esbd.cpa.state.tx.us/>. The posting will be listed under the name "Permian Basin Community Centers (R1650)". It is the responsibility of Vendors to check periodically for addenda.

3.7. Pre-agreement Costs

iServ shall not be responsible or liable for any cost incurred by any Vendor in the preparation and submission of its Response to this RFO, or for other costs incurred by participating in this procurement process.

3.8. Ownership of Responses

All Responses become iServ's property. iServ reserves the right to use any and all information or materials presented in Response to this RFO. Disqualification of a Vendor's Response does not eliminate this right.

3.9. Public Information

iServ is a government entity subject to the Texas Public Information Act. Responses submitted to iServ as a result of this RFO are subject to release as public information after contracts are executed or if the procurement is terminated. If a Vendor believes that its Response, or parts of its Response, may be exempted from disclosure under Texas law, the Vendor must specify page-by-page and line-by-line the parts of the Response that it believes are exempt. In addition, the Vendor must specify which exception(s) are applicable and provide detailed reasons to substantiate the exception(s).

The determination of whether information is confidential and not subject to disclosure under the Public Information Act is the duty of the Office of Attorney General ("OAG"). iServ must provide the OAG sufficient information to render an opinion and therefore, vague and general claims to confidentiality by the Vendor are not acceptable. iServ will comply with the all opinions of the OAG.

iServ assumes no responsibility for asserting legal arguments on behalf of any Vendor. Vendors are advised to consult with their legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information.

4. Evaluation, Negotiations, and Award

4.1. Evaluation of Responses

iServ will review Vendor RFO Responses to determine whether necessary components are included. Those Responses missing components may be rejected. All determinations about rejections due to missing components are final. All Responses determined to include all necessary components will go through a financial review overseen by iServ. **The financial review is a pass/fail determination which is final.** Only Responses which receive a passing grade will proceed to the Evaluation Committee. iServ will establish an Evaluation Committee to review all Responses that have not been rejected. iServ may ask any or all Vendors to elaborate on or clarify specific points or portions of their Response. Clarifications may take the form of written responses to questions or as presentations. Once initial evaluation of Responses has been completed, the Evaluation Committee shall provide tabulated scores, recommendations, and conclude their duties. **It is important to note that the Vendor's willingness to comply with Appendix B – Contract Terms and Conditions as evidenced by the Vendor's response to Appendix C – Compliance with Contract Terms and Conditions is a pass/fail determination which is final.**

4.2. Evaluation Criteria

Final evaluation criteria will be scored by iServ's Evaluation Committee. iServ will arrive at a final score to the evaluation by applying the weights described below:

4.2.1 Past Project Experience – 30%

iServ will evaluate the Vendor's performance on similar projects that are provided by the Vendor in response to Attachment A. Project descriptions and customer references provided will be used to verify Vendor experience and demonstrated success of the referenced projects.

4.2.2 Vendor Qualifications – 30%

iServ will score Vendor's qualifications and certifications based on information provided by Vendor in response to Appendix A.

4.2.3 Approach to Project – 20%

Vendor's approach to assisting iServ with the "culture change" regarding the new software development environment, new database, and new development/maintenance methodology will be reviewed for effectiveness and ability to rapidly complete the Development Project. This review will be based on information provided by Vendor in Appendix A.

4.2.4 NTE Price to Analyze Current System – 10%

Vendor's NTE Price for performing the Analysis Project will be assessed against the NTE Prices provided by other Vendors to seek the best value for iServ. The NTE Price will be reviewed based on information provided by Vendor in Appendix A.

4.2.5 Process to Analyze Current System – 10%

Vendor's process and deliverables for analyzing iServ and the iServ Software at an adequate level of detail to develop an NTE Price for assisting with the Development Project will be reviewed based on information provided by Vendor in Appendix A.

4.3. Best and Final Offer

iServ in its discretion shall make the determination whether to engage in the Best and Final Offer process. The Best and Final Offer process, if held, will also be scored.

iServ reserves the right to continue to evaluate Responses until such point as the best value, as defined by §2157.003, Texas Government Code, is obtained for the State.

4.4. Negotiations

At the conclusion of the evaluation, as described in Sections 4.1 through 4.3 above, iServ shall determine the number of Vendors with which it will start contract negotiations. In its discretion, iServ shall terminate contract negotiations when iServ determines that the best value for the State has been obtained.

4.5. Award of Contract

iServ shall make the decision to award any contracts, if in the best interest of iServ and the State to do so. The decision of iServ on any award is final. Any award for this RFO shall be posted under the name Permian Basin Community Centers (R1650) and requisition number RFO #170-10-001 on the Electronic State Business Daily, <http://esbd.cpa.state.tx.us/>, upon execution of a contract with a Vendor. All Responses and working papers pursuant to this RFO are not subject to disclosure under the Public Information Act until the contract has been executed.



Appendix A – Vendor Information Form

iServ™ Owners Group

Training and Software Development Analysis Project

Vendor Information Form

Please fill out this form in its entirety and have it signed by an officer or agent empowered to contractually bind the Vendor.

- 1) Company Name: _____
- 2) Principal place of business
Address:
City:
State:
Zip Code:
- 3) Contact Person regarding Vendor's Response to the RFO
Name:
Address:
City, State, Zip:
Phone Number:
Fax:
Email:
- 4) Please list the legal structure of your entity (ex. corporation, LLC, sole proprietorship, partnership, etc.) and provide the year in which your company was created/incorporated.
- 5) Please provide a brief history of your company.
- 6) Please provide the number of years your company has provided the services requested in this RFO.
- 7) Please provide the number of employees (not contractors) that work for your company.
- 8) Please provide the name and business address of each person or legal entity which as a ten percent or more ownership or control interest in your company.
- 9) Does your company have any current or pending litigation and has your company been involved in any litigation in the past five years? If yes, please provide the following information for each instance of current, pending, or past five year litigation:
 - Type of business relationship with other litigants,
 - Description of factors and actions that caused litigation,
 - Outcome of litigation,
 - Contractual wording between your company and other litigant(s) that would have avoided the litigation,
- 10) Proof of Financial Stability
The following items MUST be included in the Vendor's Response. Failure to include any of the items listed for the appropriate company type will cause automatic rejection of the Response.
 - A. Public companies:

- a. Most recent audited financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP);
 - b. Portion of 10K and 10Q that indicates the date filed; and
 - c. Proof of Professional Liability Insurance.
 - d. If available, please provide a DUNS Number.
 - B. Non-public corporations:
 - a. Most recent audited, reviewed or compiled financial statements prepared in accordance with GAAP;
 - b. Latest two quarters internally prepared financial statements;
 - c. Statement declaring any pending or current litigation and reasons. If none, so indicate;
 - d. Contingencies not shown on the financial statements. If none, so indicate; and
 - e. Proof of Professional Liability Insurance.
 - f. If available, please provide a DUNS Number.
 - C. Partnerships, LLCs, Proprietorships, etc.:
 - a. Most recent audited financial statements, if applicable;
 - b. Latest two quarters of internally prepared financial statements;
 - c. Statement declaring any pending or current litigation and reasons. If none, so indicate;
 - d. Contingencies not shown on the financial statements. If none, so indicate; and
 - e. Proof of Professional Liability Insurance.
 - f. If available, please provide a DUNS Number.
- 11) List the specific tools (ex. source code management, editor, programming language, testing, documentation development, project management) that you would recommend for iServ's software development environment.
 - 12) As stated in the Background section, iServ is interested in becoming proficient as quickly as possible in the new software development environment while completing the Development Project in the shortest possible time. Describe the assistance (ex. classroom training, on-the-job mentoring) that you could provide to help iServ meet these two objectives.
 - 13) Please list the current certifications relevant to iServ's targeted technical environment that are maintained by your employees. For each type of certification, provide a resume for each employee that is currently certified and the length of time that each of these employees has been employed with your organization. Please only include employees and not contractors.
 - 14) Please provide resumes for key employees not identified in the prior question that would be likely participants in the Analysis Project and the Development Project.
 - 15) Please describe the software development and maintenance methodology that you would recommend for the Development Project. Please provide a summarized description of the methodology and describe why it makes sense for the Development Project and iServ. How does this methodology maximize productivity while ensuring high quality deliverables? How could you assist in the implementation of this methodology?
 - 16) Please describe projects that you have performed within the past five years where, during

a significant software development project, you mentored a software development shop into a .NET software development platform from a different software development platform. For each project, please provide the following information:

- A. Brief description of project
 - B. Duration of Project
 - C. Metrics (ex. total hours, developer hours, testing hours, number of tables, number of screens/reports/processes) regarding the size of the project
 - D. Number of client developers allocated to project
 - E. Number of your developers allocated to project
 - F. Methods used to train client developers
 - G. Software development platform that client moved away from
 - H. Specific software development tools that client implemented as part of the project
 - I. Client Contact information for reference
- 17) Please describe projects that you have performed within the past five years where you mentored a client software development shop into a new software development and maintenance methodology. For each project, please provide the following information:
- A. Brief description of project
 - B. Duration of project
 - C. Methods used to implement new methodology
 - D. Methodology that client moved away from
 - E. Methodology implemented as part of the project
 - F. Client Contact information for reference
- 18) iServ plans to hire programming staff to assist with the project based on our chosen software development environment. During the hiring process, what assistance could you provide in evaluating the technical competency of prospective staff?
- 19) Please describe the process that you would use to analyze the iServ Software and develop an NTE Price for assisting us with the Development Project? What would be the contents and format of the deliverables that you would provide to us to indicate the basis for your NTE Price?
- 20) What would be your NTE Price for analyzing the iServ Software and developing an NTE Price for assisting us with the Development Project?
- 21) If your organization is selected to assist us with the Development Project, please describe the process you would recommend for seeking acceptance of deliverables and services.
- A. Explain what happens when a test or inspection fails or a deliverable or on-going service is unacceptable.
- 22) Officer or Agent empowered to contractually bind the Vendor:
Name:
Title:
Address:
Phone Number:
Fax:
Email:
- 23) **Statement of Compliance**

A. Checklist for the RFO

The following checklist is provided for the convenience of Vendors in their Response preparation process. It is not intended to represent an exhaustive list of the mandatory requirements for this RFO. Vendors must ensure that all mandatory requirements for this RFO are met, even if they are not included in this checklist. The mandatory documentation must be submitted with the original and each copy of the Response. A completed checklist shall not be binding on iServ's administrative review for compliance with the mandatory response contents specified in this RFO. As step one of the evaluation process, iServ will review all responses to ensure compliance with the mandatory response contents as specified in Section 3.4.3. of the RFO and reject any Response that does not comply.

All Responses must be received by iServ on or before 5:00 pm (CST) on August 9, 2010. No late Responses will be reviewed.

Item	Check
Response addressed to: iServ™ for Texas Centers ATTN: Roger Speight 9300 Jollyville Road, Suite 100 Austin, TX 78759	
External packaging with Vendor name and address clearly displayed	
Package contains one (1) signed original (clearly marked) of the complete Response	
Package contains five (6) additional paper copies of the complete Response	
Package contains one (1) electronic copy of complete Response on CD-ROM	
Package contains one (1) CD-ROM, if applicable, containing any and all Response materials, which Vendor asserts, are confidential or proprietary	
Package contains one (1) CD-ROM, if applicable, containing any and all copyrighted materials in the Vendor's Response	
Package contains one (1) CD-ROM containing any and all non-proprietary/confidential and non-copyrighted materials in the Vendor's Response.	
Mandatory Response Contents	
Vendor Information - Appendix A and any supporting documentation	
Compliance with Contract Terms and Conditions – Appendix C	
Proof of Insurance – Insurance requirements described in Item 21 in Appendix B and Item 10 in Appendix A	
Vendor Affidavit – Appendix D	
Conflict of Interest Questionnaire – Appendix E	
Copy of Vendor's Standard Contract for engagements such as Analysis Project	
Copy of Vendor's Standard Contract for engagements such as Development Project	

B. Certification Statement

The undersigned hereby certifies on behalf of insert company name here that iServ RFO #170-10-001 has been read and understood. In submitting its Response, insert company name here represents to iServ that: i) it is capable of providing the services as described

in the RFO; ii) agrees, if awarded a contract, to abide by the terms and conditions of the resulting contract; iii) as of the date of signature below, it is not listed in the prohibited vendors list authorized by Executive Order #13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*", published by the United States Department of the Treasury, Office of Foreign Assets Control; iv) is not suspended or debarred from doing business with the federal government as listed in the *Excluded Parties List System (EPLS)* maintained by the General Services Administration; v) under Section 2155.004, Texas Government Code, the Vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate, vi) under Section 2155.004, Texas Government Code, the Vendor has not received compensation for participation in the preparation of the Response for this solicitation, vii) pursuant to 15 United State Code Section 1, et seq. and Texas Business and Commerce Code Section 15.01, et seq. neither the Vendor nor the firm, corporation, partnership, or institution represented by the Vendor, or anyone acting for such a firm, corporation or institution has violated the antitrust laws of this state, federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business, viii) if applicable, pursuant to Texas Family Code, Title 5, Subtitle D, Section 231.006(d), regarding child support, the Vendor certifies that the individual or business entity named in this bid is not ineligible to receive the specified payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, any Vendor subject to Section 231.006 must include names and Social Security Numbers of each person with at least 25% ownership of the business entity submitting the Response. This information must be provided prior to award, ix) Vendor agrees to comply with Texas Government Code, Title 10, Subtitle D, Section 2155.4441, relating to use of service contracts for products produced in the state of Texas, x) if a Texas address is shown as the address of the Vendor, Vendor qualifies as a Texas Bidder as defined in Texas Administrative Code, Title 34, Part 1, Chapter 20, and xi) Vendor certifies that it is in compliance with Texas Government Code, Title 6, Subtitle B, Section 669.003 of the Government Code relating to contracting with executive head of a state agency. If Section 669.003 applies, Vendor will complete the following information in order for the bid to be evaluated:

Name of Former Executive:
Name of State Agency:
Date of Separation from State Agency:
Position with Vendor:
Date of Employment with Vendor:

I, individually and on behalf of Vendor named above, do by my signature below certify that the information provided in this Vendor Information Form is true and correct. I understand that if the information provided herein contains any false statements or any misrepresentations: 1) iServ will have the grounds to terminate any or all contracts which iServ has or may have with Vendor named above; 2) iServ may disqualify Vendor named above from consideration for contracts and may remove Vendor from the iServ's bidders list; or/and 3) iServ may have grounds for initiating legal action under federal, state, or local law.

Signature of Officer or Agent empowered to contractually bind Vendor

Printed Name

Date

Title



for Texas Centers

Appendix B – Contract Terms and Conditions

iServ Owners Group

Training and Software Development Analysis Project

Contract Terms and Conditions

This appendix describes some of the terms and conditions to be addressed in the preparation of a Response to this RFO and includes some, but not all, of the terms and conditions that may be included in any contract ("Analysis Contract") that may result from this RFO or a subsequent contract ("Development Contract") to assist iServ with the Development Project. Please note that many of the contract terms below refer to the Contract and Development Contract. The objective of these references is to indicate that the contract terms may occur in the Analysis Contract and Development Contract.

By providing a binding signature of intent to comply with these terms and conditions in Appendix C, Compliance with Terms and Conditions, each Vendor acknowledges its acceptance of these terms and conditions set forth in this RFO, and agrees that, at iServ's discretion, these or similar provisions will be included in the resulting Analysis Contract or Development Contract.

If a Vendor takes exception to a provision, the Vendor must explicitly identify the subsection of the term or condition, state the reason(s) for the exception, and set forth in Appendix C, Compliance with Terms and Conditions, its proposal of the specific language it proposes to include in place of such provision. It is mandatory that a completed Appendix C be included in the Response to this RFO. Responses that do not contain Appendix C, Compliance with Terms and Conditions, will be deemed by iServ to be non-responsive and will be rejected. Exceptions and alternatives will be considered in the evaluation process.

Contract Terms

The successful Vendor will contract with iServ. This section describes some of the terms and conditions to be included in any Analysis Contract or Development Contract.

1. Sole Agreement

The Analysis Contract entered into, together with the RFO and the Response, any supplements, and exhibits, will constitute the sole, entire and only agreement between the parties hereto. This Analysis Contract will supersede any prior agreements or understandings, whether written or oral, between the parties with respect to the products and/or services contracted for under the Analysis Contract. No course of prior dealings, no usage of trade, and no course of performance will be used to modify, supplement, or explain any terms used in the Analysis Contract.

Similar Sole Agreement wording will exist in Development Contract.

2. Claims for Overcharges

The Vendor will assign to iServ any and all claims for overcharges associated with any Analysis Contract or Development Contract which arise under the antitrust laws of the United States 15 United States Code Annotated Section 1, et seq. (1973) and which arise under the antitrust laws of the State of Texas, Texas Free Enterprise and Antitrust Act of 1983, Texas Business and Commercial Code Annotated Sec. 5.01, et seq. (1987).

3. Software Ownership

All work products, including without limitation all Applications, Application Software,

Source Code, and Application Materials, that the Vendor provides under the Analysis Contract and Development Contract, including complete source code and machine readable data, associated manuals, procedures, processes, documentation, descriptions, data files and other such items as available in accordance with existing third party licensing agreements, will be the sole property of iServ.

4. Intellectual Property

All copyright, patent rights and any other propriety rights to all Application Software and Application Materials, including the Application Source Code, developed or produced by the Vendor in the performance of the Analysis Contract and Development Contract shall become the sole property of iServ. Upon request, the Vendor shall promptly provide an acknowledgement or assignment in tangible form satisfactory to iServ to evidence iServ's sole ownership of all such Application Software and Application Materials. To the extent that any preexisting or third party works are contained in either the Application Software or Application Materials, Vendor will obtain from third parties for the benefit of iServ an irrevocable, nonexclusive, worldwide, royalty-free, perpetual license to use, maintain, execute, reproduce, display, perform, and produce derivative works of such preexisting works contained in the Application Software, Application Materials, including the Application Source Code, or any derivative works thereof. Until such time as all Application Software and Application Materials developed or produced by the Vendor in the performance of the Analysis Contract and Development Contract are delivered to iServ, iServ shall have a secured interest in such Application Software and Application Materials.

5. Source Code

iServ will own the source code for all applications provided by the Vendor. iServ shall be entitled to have, use, and duplicate for their own use, a copy of the source code and associated documentation for the software products covered by the Analysis Contract and Development Contract. Until such time as a complete copy of such material is provided, iServ shall have a secured interest in, ownership of, and exclusive right to possess, all physical embodiments of such Vendor developed materials. The rights of iServ in this respect shall be perpetual. Any third party license and royalty fees necessary to support the right to utilize the Application Software and Application Materials are to be set out in the initial license fee contained in any pricing schedule provided by Vendor for the Analysis Contract or Development Contract.

6. Ownership of Work Products

All work products developed under the Analysis Contract and Development Contract shall be the sole property of iServ. All property rights, including publication rights in all work products, including, without limitation, the interim drafts and final reports, programs, and documentation (in printed and machine-readable media) developed under the Analysis Contract and Development Contract shall belong to iServ. The Vendor will be required to assign to iServ all rights, titles and interest in the work product and all copyrights, patents, trade secrets and other proprietary rights in each of the foregoing. With regard to any work performed by the Vendor's subcontractors, the Vendor shall require that all agreements with subcontractors provide for the irrevocable assignment of ownership or proprietary rights to iServ, without additional consideration, of all work products of the subcontractors. All records applicable to iServ, including working papers and operational documentation, will be the property of iServ. Upon termination or expiration of the Analysis Contract or Development Contract, all records and all work products must be delivered immediately to iServ.

7. Compliance with State, Federal, and Local Laws

The Vendor will be required to comply with all applicable state, federal and local laws and ordinances in providing services to iServ under the Analysis Contract and Development Contract. Without limiting the generality of the foregoing, the Vendor will be required to comply with all applicable federal non-discrimination statutes, such as Title VII of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973 as amended, and the Age Discrimination in Employment Act of 1974.

8. Time of the Essence

Time is of the essence in the rendering of services and delivery of products hereunder. Vendor will be required to agree to perform all obligations and render services set forth in the Analysis Contract and Development Contract in accordance with timelines set out in Project Schedules, which shall be exhibits to the Analysis Contract and Development Contract.

9. Default

In the event that the Vendor fails to carry out or comply with any of the provisions of the Analysis Contract or Development Contract with iServ, iServ may notify the Vendor of such failure or default in writing and demand that the failure or default be remedied within a defined time period; and in the event that the Vendor fails to remedy such failure or default within the time period, iServ shall have the right to immediately terminate the Analysis Contract or Development Contract. The cancellation of the Analysis Contract or Development Contract will not relieve Vendor from any obligation or liability it may have incurred or would incur pursuant to the Analysis Contract or Development Contract, and termination by iServ will not limit any other right or remedy available to iServ.

10. Force Majeure

Neither party will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control, including, but not limited to, acts of God, employee strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character. Vendor will be required to use its commercially reasonable best efforts to mitigate the impact of any such event or occurrence.

11. Termination

For Convenience: the Analysis Contract or Development Contract may be terminated, without cause or penalty, by iServ without cause by giving thirty days written notice of such termination to the Vendor. The Vendor shall immediately: (1) stop the work on receipt of the notice; (2) follow the iServ instructions regarding shutdown and termination procedures; and (3) strive to minimize any further costs. If iServ terminates the Analysis Contract or Development Contract pursuant to this paragraph, the Vendor shall be paid for the work performed up to date of receipt of the notice.

For Cause: the Analysis Contract or Development Contract may be terminated by iServ if the Vendor breaches any of its material duties or obligations under the Analysis Contract or Development Contract and the breach is not cured within the time period specified in the Analysis Contract or Development Contract. iServ will have the right to refuse to accept and not pay for any partially completed deliverable as well as offset any amounts due Vendor by the amounts of any damages for which Vendor is liable to iServ under the terms of the Analysis Contract and Development Contract. In no event will

either termination for Convenience or for Cause by iServ give rise to any liability whatsoever on the part of iServ or Centers. Notwithstanding the Termination For Cause provisions, iServ's and Centers' sole obligation under the Analysis Contract and Development Contract is to compensate the Vendor for products and/or services ordered, received, and accepted prior to the date of termination.

12. Governing Law

The Analysis Contract and Development Contract will be construed and governed by the laws of the State of Texas. Venue for any litigation, mediation, or other proceedings arising from the Analysis Contract and Development Contract shall be exclusively in Midland County, Texas.

13. Agreement Amendments

No modification or amendment to the Analysis Contract and Development Contract will be valid unless same is in writing and signed by both parties. Only the contract administrator within iServ or his/her designee will be authorized to sign changes or amendments.

14. Independent Contractor Status

Vendor will, at all times during the performance of the Analysis Contract and Development Contract, be considered an independent contractor. Vendor will agree that Vendor and Vendor's employees and agents have no employer-employee relationship with iServ. iServ shall have no liability or responsibility with respect to payment of Federal Insurance Contribution Act (FICA), federal or state unemployment taxes, income tax withholding, Workers Compensation Insurance payments, or any other insurance payments, nor will iServ furnish or be liable for the provision of any medical or retirement benefits or any paid vacation or sick leave to the Vendor or any of its employees.

15. Right to Audit

The Analysis Contract and Development Contract will provide that at any time during the term of the Analysis Contract and Development Contract and for a period of four years thereafter iServ or duly authorized audit representatives of iServ, at their expense and at reasonable times, will have the right to audit Vendor's records relevant to all costs associated with the Analysis Contract and Development Contract. In the event such an audit by iServ or duly authorized audit representatives of iServ reveals any errors by iServ or the Vendor resulting in overpayment to the Vendor, the Vendor will be required to refund iServ the full amount of such overpayments within thirty days of such audit findings, or iServ, at its option, will have the right to deduct such amounts owing iServ from any payments due Vendor.

16. Non-Disclosure

Vendor will acknowledge that it, and its employees, may, in the performance of the Analysis Contract and Development Contract, come into the possession of proprietary or confidential information owned by or in the possession of iServ, or owned by a Center. Vendor will be required to agree that it will not use any such information for its own benefit or make such information available to any person, firm, corporation, or other organization, whether or not directly or indirectly affiliated with Vendor or iServ unless expressly approved by iServ in writing in advance of such disclosure and as required by law. Vendor will be required to have all employees assigned to this project sign an agreement to comply with this provision.

17. Severability

If one or more provisions of the Analysis Contract and Development Contract, or the application of any provision to any party or circumstance, is held invalid, unenforceable, or illegal in any respect, the remainder of the Analysis Contract and Development Contract and the application of the provision to other parties or circumstances shall remain valid and in full force and effect.

18. Presentment of Claims

The Vendor may not file suit against iServ or any of the Centers on any claim arising from the Analysis Contract and Development Contract without first presenting the claim in writing to iServ and the Centers. The claim shall include the Vendor's proposed resolution of the claim. iServ and the Centers will have sixty days to respond to the claim. The aforementioned shall not be construed as a waiver of any defense or immunity available to either iServ or the Centers.

19. Acceptance of Products and Services

All products furnished and all services performed under the Analysis Contract and Development Contract must be to the satisfaction of iServ and in accordance with the specifications, terms, and conditions of the Analysis Contract and Development Contract. iServ and representatives from Centers will reserve the right to inspect the products furnished and the services performed and to perform acceptance testing developed by the parties for the services delivered in order to determine the quality, acceptability, and fitness of such products or services. Vendor will make available any/all value-added products and services to iServ and Centers as part of the Analysis Contract and Development Contract.

20. Confidentiality of Information

The Vendor will be required to keep confidential all information concerning the business of iServ and the Centers, the makeup of its systems and methods of automation, their financial affairs, as well as information which may be specifically classified as confidential by iServ or the Centers.

21. Insurance

No Analysis Contract or Development Contract will be executed unless and until appropriate insurance coverages are negotiated and certificates delivered. The following insurance provisions are standard for iServ's service contracts and may be subject to modification depending on the specific goods and services awarded. All required insurance must be issued by companies that are A+ financially rated and duly licensed, admitted, and authorized to do business in the State of Texas. Required coverages must remain in effect through the term of the resulting Analysis Contract and Development Contract. Standard insurance provisions are as follows:

1. Workers' Compensation and Employers' Liability coverage with
 - limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Sec. 401.001 et seq. Tex. Labor Code); and
 - minimum policy limits for Employers' Liability of \$250,000 bodily injury per accident, \$500,000 bodily injury disease policy limit and \$250,000 per disease per employee; and
 - Waiver of Subrogation endorsement.
2. Commercial General Liability with a combined single limit of \$1,000,000 per occurrence for coverage AB&C including products/completed operations, where

appropriate, with a separate aggregate of \$1,000,000. The policy shall contain the following provisions:

- Blanket contractual liability coverage for liability assumed under the Analysis Contract and Development Contract.
 - Independent Vendors coverage.
 - 30-day Notice of Cancellation in favor of iServ.
 - Waiver of Transfer Right of Recovery Against Others in favor of iServ.
3. Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsement in favor of iServ and the Centers:
- Waiver of Subrogation endorsement
 - 30-day Notice of Cancellation endorsement

22. Payment Terms

The following reflects the payment terms and conditions:

1. 90% of work performed will be invoiced upon successful completion and acceptance by iServ of the agreed upon phase of Analysis Contract or Development Contract.
2. 10% will be invoiced upon successful completion of the Analysis Contract or Development Contract.

23. Non-Discrimination Policy

In compliance with state and federal law, iServ does not unlawfully discriminate in employment, contracts, or any other activity. If any special accommodations are needed for Americans with Disabilities Act (ADA) compliance, the Vendor shall promptly notify iServ.

24. Delegation of Duties

Unless specified in the Analysis Contract or Development Contract, the Vendor will not be permitted to delegate any duties under the Analysis Contract or Development Contract to a subcontractor unless iServ has approved the subcontractor and given written consent to the delegation of specific services. iServ shall have the right to approve all subcontractors and to require the Vendor to replace any subcontractor found, in the opinion of iServ, either initially or based on performance, to be unacceptable. iServ will reserve the right to receive copies of and review all subcontracts. The contract management of any subcontractor will be the sole responsibility of the Vendor, and failure by a subcontractor to perform shall be deemed to be failure of the Vendor. The Vendor must make all payments to subcontractors or suppliers. iServ will direct all payments for services or products acquired in connection with the Analysis Contract or Development Contract to the Vendor and iServ will not release the Vendor from having to perform any obligation under the Analysis Contract or Development Contract, notwithstanding the fact that a subcontractor may have been engaged by the Vendor to perform those obligations.

25. Conflict of Interest

The Vendor will certify in the Analysis Contract and Development Contract that no relationship exists between the Vendor and iServ that interferes with fair competition or is a conflict of interest, and no relationship exists between the Vendor and another

person or organization that constitutes a conflict of interest with respect to the Analysis Contract and Development Contract with iServ. The Vendor will provide assurances that it presently has no interest and shall not acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its services under the Analysis Contract and Development Contract. The Vendor shall also provide assurances that no person having any such known interests shall be employed during the performance of Analysis Contract and Development Contract.

26. Assignment by the Vendor

The Vendor will not be permitted to assign or transfer any interest in the Analysis Contract or Development Contract without the express prior written consent of iServ.

27. Performance Bond

The Vendor must provide to iServ on or before the execution date of the Development Contract a performance bond ("Performance Bond") in favor of iServ. The Performance Bond (a) shall be in the amount of FIVE HUNDRED THOUSAND DOLLARS and (b) shall be issued by a bank or insurance company authorized to transact business in the State of Texas and acceptable to iServ. iServ shall be responsible for all administrative costs charged by the bank or insurance company for the Performance Bond. The Performance Bond shall remain in full effect through successful completion of the Development Contract.

28. Indemnity

The Vendor must agree to indemnify, defend and hold harmless iServ and the Centers, their officials, directors, employees and agents against any and all claims for damages, costs, and expenses to persons or property that may arise from or be caused by any act, or omission of the Vendor or any officer, agent, subcontractor, employee, associate of the Vendor or other person acting on behalf of the Vendor in the execution or performance of the services under the Analysis Contract and Development Contract. Vendor will be required to agree that in no circumstance will a Center be individually or jointly liable to Vendor for the conduct of another Center or for the conduct of the iServ, and will indemnify and hold harmless each Center, its officials, directors, employees and agents against any and all claims for damages, costs, and expenses to persons or property that may arise from or be caused by any act, or omission of the Centers or iServ or any officer, agent, subcontractor, employee, associate of the Centers or iServ or other person acting on behalf of the Centers or iServ in the execution or performance of the services under the Analysis Contract and Development Contract.

29. Intellectual Property Infringement Indemnity

The Vendor must agree to indemnify, defend, and hold harmless iServ and the Centers, their officials, directors, employees and agents from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), incurred in connection with any action or proceeding brought against iServ and/or the Centers to the extent that such action or proceeding is based on a claim that any piece of equipment or any software supplied by the Vendor or its subcontractors, or the operation thereof, or goods or services provided, or the use or reproduction of any documentation provided with such equipment or software, infringes any United States or foreign patent, copyright, trade secret, or other proprietary right of any person or entity. In addition, should the equipment or software, or goods or services provided, become, or in the Vendor's opinion be likely to become, the subject of a claim

of infringement, the Vendor, at its own expense, shall:

1. Procure for iServ the right to continue using the equipment, software, goods or services; or, if such option is not reasonably available to Vendor:
2. Replace or modify the same with equipment or software, as the case may be, of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Vendor
3. Accept its return by iServ with appropriate credits to iServ against the Vendor's charges, or refunds to the iServ for amounts previously paid. Such credits and/or refunds shall be in addition to any other remedies available to iServ.

30. Other Indemnities

The Vendor will be required to indemnify, defend and hold harmless iServ and Centers, their officials, employees and agents from and against all losses, liabilities, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

1. The breach by the Vendor or its subcontractor of any representation or warranty made by the Vendor in the Analysis Contract or Development Contract;
2. Any claims arising out of, or related to, occurrences that the Vendor is required to insure against as provided above;
3. The death or bodily injury of any person, or the damage, loss or destruction of any real, tangible or intangible personal property in connection with the performance of services by the Vendor, by any of its subcontractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused solely by the negligence or reckless or intentional conduct of iServ;
4. Any claim or demand asserted against iServ or the Centers which results from an act or omission of the Vendor or any of its subcontractors in its or their capacity as an employer of a person; and
5. Any breach of the Vendor's confidentiality obligations set forth in the Analysis Contract or Development Contract.

In any and all claims against iServ, Centers, or any of their agents, directors, or employees, by any employee of the Vendor or any of its subcontractors, the indemnification obligation under the Analysis Contract or Development Contract shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Vendor or any of its subcontractors under worker's disability compensation acts, disability benefits acts, or other employee benefits acts.

31. Personnel

The Vendor shall warrant that all persons assigned to the project shall be employees or subcontractors of the Vendor, and shall be fully qualified to perform the work required herein. Personnel commitments made in the Vendor's Response and subsequent Analysis Contract and Development Contract shall not be changed without the prior written approval of iServ. Replacement of key personnel, if approved by iServ, shall be with personnel of equal or greater ability and qualifications.

32. Key Personnel

The Vendor shall assign all key personnel in its Response to complete all of their planned and assigned responsibilities in connection with performance of the obligations

of the Vendor under the Analysis Contract and Development Contract. iServ will have the right to approve the assignment and replacement by the Vendor of all key personnel assigned to provide services or to provide onsite representation of the Vendor, including, without limitation, the project team manager, other individuals named or described in the Vendor's Response, and individuals assigned significant managerial responsibilities as mutually agreed by the parties. Before assigning an individual to any of these positions, the Vendor shall notify iServ of the proposed assignment, shall introduce the individual to the appropriate representatives of iServ, and shall provide to iServ a résumé and any other information about the individual reasonably requested by iServ. iServ reserves the right to interview the individual before granting approval.

33. Replacement of Personnel at iServ's Request

iServ will reserve the right to require the Vendor to replace Vendor and/or subcontractor employees whom iServ judges to be incompetent, careless, unsuitable or otherwise objectionable, or whose continued use is deemed contrary to the best interests of iServ. Before a written request is issued, authorized representatives of iServ and the Vendor will discuss the circumstances. Upon receipt of a written request from an authorized representative of iServ, the Vendor shall be required to proceed with the replacement. The replacement request will include the desired replacement date and the reason for the request. The Vendor shall use its best efforts to effect the replacement in a manner that does not degrade service quality. This provision will not be deemed to give iServ the right to require the Vendor to terminate any Vendor employee's employment. Rather, this provision is intended to give iServ only the right to require that the Vendor discontinue using an employee in the performance of services for iServ.

34. Unauthorized Removal of Key Personnel

It is critical to the overall success of the project that the Vendor not remove or reassign, without iServ's prior written approval, any of the key personnel until such time as the key personnel have completed all of their planned and assigned responsibilities in connection with performance of the Vendor's obligations under the Analysis Contract or Development Contract. The unauthorized removal of key personnel by the Vendor shall be considered by iServ as a material breach of the Analysis Contract or Development Contract and grounds for termination.

35. Contract Modifications and Change Orders

iServ may, from time to time, modify contract terms or require changes in the scope of the services of the Vendor to be performed under the Contract or Development Contract. Such modifications or changes shall be incorporated as a written amendment to the Contract or Development Contract and be approved in writing by both parties prior to the commencement of any work related to the changes.

36. Other Representations and Warranties

The Vendor will be asked to make at a minimum, the following representations and warranties:

1. The Vendor will perform all services in accordance with the highest professional standards in the industry, and will use its best efforts, skill, judgment, and abilities to provide the products and/or perform the services set forth in the Analysis Contract and Development Contract.
2. The Vendor represents and warrants that all products and services it provides under the Analysis Contract and Development Contract will be accurate and free

- from any material errors and will perform in accordance with the Analysis Contract and Development Contract specifications.
3. The Vendor represents and warrants that the work delivered under the Analysis Contract and Development Contract will be delivered free of any rightful claim of any third party for infringement of any United States patent, copyright or intellectual property right, and that all necessary third party consents with respect to the software have been obtained by Vendor.
 4. Vendor represents and warrants that it will, at its own cost, correct any defects in products or services it provides under the Analysis Contract and Development Contract as soon as is practical after Vendor becomes aware of such effects or is notified of such defects. If Vendor refuses or neglects to make good such defects within a reasonable time after receiving notice requesting such remedial work, then iServ will be entitled to make good such defective products or services at the expense of Vendor. This commitment by Vendor is in addition to, and not in substitution for, any other remedy for defective products or services that iServ may have at law or in equity.
 5. Vendor will call to iServ's attention all information in any computations, models, data, information, requirements, procedures, and all other documentation and materials supplied to Vendor which it regards in its opinion as unsuitable, improper or inaccurate in connection with the purposes for which such documentation or material is furnished. Nothing will excuse or detract from Vendor's responsibilities or obligations under the Analysis Contract and Development Contract in a case where such documentation or material is furnished, unless Vendor advises iServ in writing that, in its opinion, such documentation or material and any requests made therein for action are unsuitable, improper, or inaccurate, and iServ confirms in writing that it wishes Vendor to proceed in accordance with the documentation and material as originally provided.
 6. The Vendor will use adequate numbers of qualified individuals with suitable training, education, experience and skill to perform the services.
 7. The Vendor will maintain all equipment and software for which it has maintenance responsibilities in good operating condition and will undertake all repairs and preventive maintenance in accordance with the manufacturers' recommendations.
 8. The Vendor will use its best efforts to use efficiently all resources or services necessary to provide the services that are required under the Analysis Contract and Development Contract.
 9. The Vendor will use its best efforts to perform the services in the most cost-effective manner consistent with the required level of quality and performance.
 10. The Vendor will perform the services in a manner that does not infringe the proprietary rights of any third party.
 11. The Vendor will perform the services in a manner that complies with all applicable laws and regulations.
 12. The Vendor has duly authorized the execution, delivery and performance of the Analysis Contract and Development Contract.
 13. The Vendor has not provided any gifts, payments or other inducements to any officer, employee or agent of iServ or Centers.
 14. The Vendor will warrant that there are no viruses or similar items are coded or introduced into the systems used to provide the services.
 15. The Vendor will not insert or activate any disabling code into the systems used to provide the services without iServ's express prior written approval.

16. Any systems developed through the Analysis Contract or Development Contract shall be successfully functioning and available for use by any user desiring to access such system and services twenty four hours a day and three hundred sixty-five days a year with system availability and functionality of no less than 99.5%, notwithstanding any routine maintenance. Routine maintenance shall be performed no more than once a month at non-peak hours for a maximum of two hours a time.

The Vendor shall require its subcontractors, if any, to make the same representations and warranties.

37. iServ Exculpation

The Vendor will agree that iServ and Centers are not responsible for, or liable to, the Vendor or its subcontractor(s) for any increased costs or expenses that may be incurred by the Vendor, or for any other damages that may be suffered by the Vendor, as a result of any act or omission of any other Vendor to iServ.

38. Publicity

Vendor must agree that it shall not publicize any portion of the Analysis Contract or Development Contract or their content or disclose, confirm or deny any details thereof to third parties or use iServ's name or the name of any Center in connection with any sales promotion, advertisement, or publicity event, or for any purpose whatsoever, without the prior express written approval of iServ or Centers. The Vendor will not make any news releases, public announcements or public disclosures, nor will it have any conversations with representatives of the news media, pertaining to this RFO, the Analysis Contract, the Development Contract, or the services, study, data or project to which this RFO, the Analysis Contract, the Development Contract relate, without the prior written approval of iServ or Centers.

39. Survival

Any provisions of the Analysis Contract or Development Contract that impose continuing obligations on the parties including, but not limited to, the parties' respective indemnity and confidentiality obligations, will survive the expiration or termination of the Analysis Contract and Development Contract for any reason.

40. Dissolution of iServ

In the event that the corporate structure of the iServ is dissolved, the Analysis Contract and Development Contract including all software license agreements, software ownership agreements, and support services agreements shall remain in effect between the Vendor and the Centers pursuant to the Analysis Contract or Development Contract until the term of the Agreements expires or the Agreements are terminated by the Centers and subject to the contract termination survival provisions.

41. Responsibility for iServ Property

The Vendor will assume full responsibility for and will indemnify iServ and Centers for any and all loss or damage of whatsoever kind and nature to any and all iServ or Center property, including any equipment, supplies, accessories, or parts furnished, while in the Vendor's custody and care for storage, repairs, or services to be performed under the terms of the resultant Analysis Contract or Development Contract, resulting from the negligent acts or omissions of Vendor or any employee, agent, representative, or subcontractor of Vendor.

42. Non-waiver of Defaults

Any failure of the iServ, at any time, to enforce or require the strict keeping and performance of any provision of the Analysis Contract or Development Contract will not constitute a waiver of such provision, and will not affect or impair same or the right of iServ at any time to avail itself of same. A waiver does not become effective unless iServ expressly agrees to such waiver in writing. Any acceptance, payment or use by iServ regarding any deliverable provided shall not constitute a waiver or otherwise impair or prejudice any right, power, privilege, or remedy available to iServ to enforce its rights, as such rights, powers, privileges, and remedies are specifically preserved.

43. Rolling Estoppel

iServ will be conclusively deemed to have fulfilled its obligations under the Analysis Contract or Development Contract, unless iServ receives a deficiency report from Vendor within five (5) business days of the occurrence of the alleged deficiencies and Vendor identifies specific deficiencies in iServ's fulfillment of its obligations in that report. Deficiencies must be described in terms of how they have impacted the specific performance requirement of Vendor. Vendor is estopped from claiming that a situation has arisen that might otherwise justify changes in the project timetable, the standards of performance under the Analysis Contract or Development Contract, or the project cost, if Vendor knew of that problem and failed to include it in the applicable report. The deficiency report must be sent to the iServ Project Manager.

In the event Vendor identifies a situation wherein iServ is impairing Vendor's ability to perform for any reason, Vendor's deficiency report must contain Vendor's suggested solutions to the situation(s). These suggestions should be in sufficient detail so that the iServ Project Manager can make a prompt decision as to the best method of dealing with the problem and continuing the project in an unimpeded fashion.

44. Dispute Resolution

Pursuant to Chapter 2260 of the Texas Government Code, any dispute arising under a contract for goods and services for which this chapter applies must be resolved under the provisions of this chapter.



for Texas Centers

Appendix C – Compliance with Contract Terms and Conditions

iServ Owners Group

Training and Software Development Analysis Project

APPENDIX C: COMPLIANCE WITH TERMS AND CONDITIONS

Please complete the checklist below, marking each line to signify acceptance or note exceptions for each contract term or condition.

Ref	Contract Term or Condition	Accepted	Exception Noted	Description of Exception or Recommended Modification
1	Sole Agreement			
2	Claims for Overcharges			
3	Software Ownership			
4	Intellectual Property			
5	Source Code			
6	Ownership of Work Products			
7	Compliance with State, Federal and Local Laws			
8	Time of the Essence			
9	Default			
10	Force Majeure			
11	Termination			
12	Governing Law			
13	Agreement Amendments			
14	Independent Contractor Status			
15	Right to Audit			
16	Non-disclosure			
17	Severability			
18	Presentment of Claims			
19	Acceptance of Products and Services			
20	Confidentiality of Information			
21	Insurance			
22	Payment Terms			
23	Non-discrimination Policy			
24	Delegation of Duties			
25	Conflict of Interest			
26	Assignment by the Vendor			
27	Performance Bond			
28	Indemnity			
29	Intellectual Property Infringement Indemnity			
30	Other Indemnities			
31	Personnel			
32	Key Personnel			
33	Replacement of Personnel at iServ's Request			
34	Unauthorized Removal of Key Personnel			

35	Contract Modifications and Change Orders			
36	Other Representations and Warranties			
37	iServ Exculpation			
38	Publicity			
39	Survival			
40	Dissolution of iServ			
41	Responsibility for iServ Property			
42	Non-waiver of Defaults			
43	Rolling Estoppel			
44	Dispute Resolution			

By signing below, your firm agrees to provide the services described in the RFP and agrees to abide by all the terms and conditions as specified in this document. Any exceptions taken to the terms and conditions as set forth in this document and the attached standard terms and conditions of purchase order must be identified, including an explanation as to why your firm cannot comply with the specific term or condition and a statement recommending terms and conditions the Vendor would find acceptable. Any exceptions not identified will not be considered.

Vendor: _____
Signature of Authorized Representative: _____
Printed Name of Authorized Representative: _____
Title of Authorized Representative: _____
Date: _____

Additional Exceptions:



for Texas Centers

Appendix D – Vendor Affidavit

iServ Owners Group

Training and Software Development Analysis Project

Vendor Affidavit

STATE OF TEXAS (
COUNTY OF MIDLAND (

BEFORE ME the undersigned authority, on this day personally appeared _____ known to me to be the person whose name is subscribed to the following, who upon oath, says:

I am the Manager, Secretary, or other agent or officer or the principal of the Proposer in the matter of the Responses to which this affidavit is attached, and I have full knowledge of the relations of the Proposer with the other firms in this same line of business, and the Proposer is not a member of any trust, pool or combination to control the price of Responses, or to influence any person to propose or not propose thereon.

I further affirm that the Proposer has not given, offered to give, or intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal.

Affiant

SWORN TO AND SUBSCRIBED BEFORE ME by the above Affiant, who, on oath states that the facts contained in the above are true and correct, this _____ day of _____, 20____.

Notary Public in and for _____ County,
Texas

Name of Proposer _____

Signed by _____

Address _____

Telephone Number _____

**NOTE: RESPONSES NOT ACCOMPANIED BY A COMPLETED AFFIDAVIT
WILL NOT BE CONSIDERED.**



for Texas Centers

Appendix E – Conflict of Interest Questionnaire

iServ Owners Group

Training and Software Development Analysis Project

The following Conflict of Interest Questionnaire is used to document any conflicts of interest between Vendor and iServ as defined in Chapter 176 of Local Government Code. If there are no conflicts of interest, Vendor should return a statement on company letterhead stating the following: “No conflicts of interest exist between <vendor name> and iServ”. This statement should be signed by an officer or agent empowered to contractually bind the vendor.

CONFLICT OF INTEREST QUESTIONNAIRE**FORM CIQ**

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1481, 80th Leg., Regular Session. This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of person who has a business relationship with local governmental entity.**2** ☐ Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 Name of local government officer with whom filer has employment or business relationship._____
Name of Officer

This section (Item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

☐ Yes ☐ No

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

☐ Yes ☐ No

D. Describe each employment or business relationship with the local government officer named in this section.

4_____
Signature of person doing business with the governmental entity_____
Date

Adopted 06/29/2007