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LANCASTER COUNTY
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CONTRACT DOCUMENTS

**CITY OF LINCOLN
LANCASTER COUNTY, NEBRASKA**

**Commercial Off The Shelf (COTS) Software And Related Services
State of Nebraska Contract 13093 OC
WSCA Master Price Agreement ADSP011-00000358-1**

**Contractor:
En Pointe Technologies Sales Inc.
18701 S. Figueroa St.
Gardena, CA 90248
602.524.7455**

**CITY OF LINCOLN AND LANCASTER COUNTY, N E B R A S K A,
C O N T R A C T A G R E E M E N T**

THIS CONTRACT, made and entered into by and between **En Point Technologies Sales Inc., 18701 S. Figueroa St., Gardena, CA 90248**, hereinafter called Contractor, and the City of Lincoln, Nebraska, a municipal corporation and the County of Lancaster, Nebraska, a political subdivision, hereinafter called the Owners.

WHEREAS, Neb. Rev. Stat. § 23-3109(1)(d)(iii) allows for waiver of bidding requirements when the price has been established by a cooperative purchasing agreement by which supplies, equipment, or services are procured in accordance with a contract established by another governmental entity or group of governmental entities if the contract was established in accordance with the laws and regulations applicable to the establishing governmental entity or, if a group, the lead governmental entity; and

WHEREAS, Lincoln Municipal Code §2.18.030(c) allows the City of Lincoln to join with other units of government for cooperative purchasing; and

WHEREAS, the Owners through local inter-governmental cooperative purchasing have chosen to participate in the contract between the **State of Nebraska and En Point Technologies Sales Inc., State of Nebraska Contract 13093 OC, WSCA Master Price Agreement ADSP011-00000358-1**, which was prepared in accordance with the State's usual and customary laws, procedures and policies, and has approved and adopted said documents connected with said, Work, to-wit:

for all materials and equipment necessary to furnish Commercial Off The Shelf (COTS) Software and Related Services to Owners' various departments, agencies and divisions as the Owners may determine in compliance with the prices as established via the State of Nebraska Contract 13093 OC, WSCA Master Price Agreement ADSP011-00000358-1; and

WHEREAS, the Contractor, in response to the Owners' request to participate in said agreement, has submitted to the Owners, an offer approving Owners participation under the same pricing structure, terms and conditions as the **State of Nebraska Contract 13093 OC, WSCA Master Price Agreement ADSP011-00000358-1 for Commercial Off The Shelf (COTS) Software and Related Services**, with only those exceptions stated herein; and

WHEREAS, the State of Nebraska, in the manner usual and customary to their laws, policies and procedures has opened, read, examined, and canvassed the Proposals submitted in response to the proposal request, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in **the State of Nebraska Contract 13093 OC, WSCA Master Price Agreement ADSP011-00000358-1**, a copy thereof being attached to and made a part of this Contract;

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the mutual covenants herein contained, the Contractor and the Owners hereby agree as follows:

1. The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other accessories, services, and facilities necessary to furnish Commercial Off The Shelf (COTS) Software and Related Services to the Owners' various departments, agencies and divisions as the Owners may determine.
2. Term of the Contract. The term of this contract is for a period beginning November 21, 2011 through June 02, 2013.
 - 2.1 Upon conclusion of the term, the contract may be extended beyond the termination date when mutually agreeable to the vendor and the State of Nebraska.
 - 2.2 Any extension of the contract will be under the same terms and conditions as the original agreement.

3. Pricing. Pricing of items will be pursuant to **State of Nebraska Contract 13093 OC, WSCA Master Price Agreement ADSP011-00000358-1.**
4. Independent Contractor. It is the express intent of the parties that this contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the Owners and employees of the Owners shall not be deemed to be employees of the Contractor. The Contractor and the Owners shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the Owners' employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.
5. Indemnification. The Contractor shall indemnify and hold harmless the Owners (City of Lincoln and Lancaster County), their agents, principals, officers, and employees from and against all claims, demands, suits, actions, payments, liabilities, judgments and expenses (including court-ordered attorneys' fees), arising out of or resulting from the acts or omissions of the Contractor, its principals, officers, agents, or employees in the performance of this contract. Liability includes any claims, damages, losses, and expenses arising out of or resulting from performance of this contract that results in any claim for damage whatsoever including any bodily injury, civil rights liability, sickness, disease, or damage to or destruction of tangible property, including the loss of use resulting therefrom. Further, Contractor shall maintain a policy or policies of insurance (or a self-insurance program), sufficient in coverage and amount to pay any judgments or related expenses from or in conjunction with any such claims. Nothing in this contract shall require either party to indemnify or hold harmless the other party from liability for the negligent or wrongful acts or omissions of said other party or its principals, officers, or employees.
6. Equal Employment Opportunity. In connection with the carrying out of this project, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.
7. Owner Inclusion. It is understood and agreed by all parties that "Owner/s" shall include the City of Lincoln and Lancaster County, Nebraska. Whenever in the Contract documents, including the instructions to bidders, specifications, insurance requirements, bonds, and terms and conditions of any other documents which are a part of the Contract, a singular entity is referenced (i.e., "the City" or "the County") it shall mean the "Owners" encompassing the City of Lincoln and County of Lancaster, Nebraska.

8. Termination. This Contract may be terminated by the following:
- 8.1 Termination for Convenience. Either party may terminate this Contract upon fourteen (14) days written notice to the other party for any reason without penalty.
 - 8.2 Termination for Cause. The Owners may terminate the Contract for cause if the Contractor:
 - 8.2.1 Refuses or fails to supply the proper labor, materials and equipment necessary to provide and deliver for Two-Way Communications Equipment and Related Accessories.
 - 8.2.2 Disregards Federal, State or local laws, ordinances, regulations, resolutions or orders.
 - 8.2.3 Otherwise commits a substantial breach or default of any provision of the Contract Document. In the event of a substantial breach or default the Owners will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the contract shall terminate.
9. E-Verify. In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section.
10. The parties agree that the terms and conditions of this Contract shall prevail and govern in the case of any such inconsistent or additional terms in the Agreement between the **State of Nebraska and En Point Technologies Sales Inc., State of Nebraska Contract 13093 OC, WSCA Master Price Agreement ADSP011-00000358-1.**

The Contract Documents comprise the Contract, and consist of the following:

1. Contract Agreement
2. State of Nebraska Contract 13093 OC
3. WSCA Master Price Agreement ADSP011-00000358-1
4. Federal Documents

This Contract Agreement, together with the other Contract Documents herein above mentioned, form this Contract, and are a part of the Contract as if hereto attached.

The Contractor and the Owners hereby agree that all the terms and conditions of this Contract shall be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the Owners do hereby execute this contract.

EXECUTION BY THE CITY OF LINCOLN, NEBRASKA

ATTEST:

CITY OF LINCOLN, NEBRASKA

City Clerk _____

Mayor _____

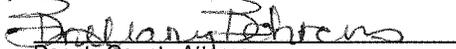
Approved by Resolution No. _____

Dated _____

EXECUTION BY LANCASTER COUNTY

Contract Approved as to Form:

The Board of County Commissioners of Lancaster County, Nebraska


Deputy County Attorney

Hudkins Absent

Dated: 12/20/11

EXECUTION BY CONTRACTOR

IF A CORPORATION:

ATTEST:

 (SEAL)
Secretary

Name of Corporation

(Address)

By: 
Duly Authorized Official

Legal Title of Official

IF OTHER TYPE OF ORGANIZATION:

Name of Organization

Type of Organization

(Address)

By: _____
Member

By: _____
Member

**PARTICIPATING ADDENDUM
WESTERN STATES CONTRACTING ALLIANCE
SOFTWARE VALUE-ADDED RESELLER CONTRACT (SVAR)**

**Master Price Agreement Number: ADSP011 00000358-1
Administered by the State of Arizona (hereinafter "Lead State")**

between

**EN POINTE TECHNOLOGIES SALES, INC.
(hereinafter "Contractor")**

And

**STATE OF NEBRASKA
(hereinafter "Participating State")**

Participating State Contract Number: 13093 OC

Page 5 of 8

- P. Contractor certifies it maintains a drug free work place environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.
- Q. Contract Monitoring: The Contractor is obligated to furnish information as requested to determine whether the objectives of the contract have been met. The Contractor will be required to furnish reports as requested to the State of Nebraska primary contact upon request.
- R. Effective Date and Contract Period: This Participating Addendum shall be effective upon the date of final execution by the State. The contract period for the State of Nebraska will be from the effective date of this participating addendum to the time period set forth in the Master Price Agreement No. ADSP11-00000358.
- S. Contract Order of Precedence: Contract Award to include State of Nebraska Participating Addendum, including any Exhibits and or Attachments, WSCA Master Price Agreement, Exhibits and Amendment to the WSCA Master Price Agreement, The list of products and services contained in the purchase order and or contract release order, Any Request for Proposal Addenda and/or Amendments to include Questions and Answers, The original RFP document, and The Contractor's Proposal, including any written clarifications and or final proposal revisions.
4. Lease Agreements: No leasing is authorized under this addendum.
5. Primary Contacts: The primary contact individuals for this participating addendum are as follows (or their named successors):

Lead State

Name	Terri Johnson
Address	State of Arizona - Department of Administration State Procurement Office 100 N 15 th Ave, Phoenix, AZ 85007
Telephone	602-542-9125
Fax	602-542-5508
E-mail	terri.johnson@azdoa.gov

**PARTICIPATING ADDENDUM
WESTERN STATES CONTRACTING ALLIANCE
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Administered by the State of Arizona (hereinafter "Lead State")

between

EN POINTE TECHNOLOGIES SALES, INC.

(hereinafter "Contractor")

And

STATE OF NEBRASKA

(hereinafter "Participating State")

Participating State Contract Number: 13093 OC

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Contractor

Name	Imran Yunus
Address	En Pointe Technologies Sales, Inc. 18701 S. Figueroa St. Gardena, CA 90248
Telephone	866-334-2087
Fax	310-337-3498
E-mail	iyunus@enpointe.com

Participating Entity - State of Nebraska

Name	Ruth Gray
Address	Administrative Services, Materiel Division, Purchasing Bureau 301 Centennial Mall South, Mall Level Lincoln, NE 68508
Telephone	402-471-0974
Fax	402-471-2089
E-mail	Ruth.Gray@nebraska.gov

6. **Subcontractors:** All En Point dealers and resellers authorized, as shown on the dedicated En Pointe/Nebraska website, are approved to provide sales and service support. En Pointe dealer's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Price Agreement. The State of Nebraska will issue all orders and payments directly to En Point Technologies sales, Inc.

**PARTICIPATING ADDENDUM
WESTERN STATES CONTRACTING ALLIANCE
SOFTWARE VALUE-ADDED RESELLER CONTRACT (SVAR)**

**Master Price Agreement Number: ADSP011 00000358-1
Administered by the State of Arizona (hereinafter "Lead State")**

between

**EN POINTE TECHNOLOGIES SALES, INC.
(hereinafter "Contractor")**

And

**STATE OF NEBRASKA
(hereinafter "Participating State")**

Participating State Contract Number: 13093 OC

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7. Purchase Order Instructions:

a. If a price quote is accepted by the participating entity, the participating entity shall submit purchase order via email to wscasoftwaresupport@enpointe.com or by fax to 310-337-3498

b. Purchase order is issued to:

En Pointe Technologies Sales, Inc
18701 South Figueroa Street
Gardena, CA 90248

Note: Purchase Order must include Master Agreement Number ADSP011-00000358 and Participating Entity Contract Number 13093 OC.

Purchase orders may be mailed to the above address or emailed to wscasoftwaresupport@enpointe.com

c. Payment shall be made to:

En Pointe Technologies Sales, Inc
PO Box 514429
Los Angeles, CA 90051-4229

8. Price Agreement Number: All purchase orders issued by purchasing entities within the jurisdiction of this participating addendum shall include the Participating State contract number: 13093 OC and the Lead State price agreement number: ADSP011-00000358-1.

9. Compliance with reporting requirements of the "American Recovery and Reinvestment Act of 2009" ("ARRA"): If or when contractor is notified by ordering entity that a specific purchase or purchases are being made with ARRA funds, contractor agrees to comply with the data element and reporting requirements as currently defined in Federal Register Vol 74 #61, Pages 14824-14829 (or subsequent changes or modifications to these requirements as published by the Federal OMB). Ordering entity is responsible for informing contractor as soon as the ordering entity is aware that ARRA funds are being used for a purchase or purchases. Contractor will provide the required report to the ordering entity with the invoice presented to the ordering entity for payment. The contractor, as it relates to purchases under this contract, is not a subcontractor or subgrantee, but simply a provider of goods and related services.

**PARTICIPATING ADDENDUM
WESTERN STATES CONTRACTING ALLIANCE
SOFTWARE VALUE-ADDED RESELLER CONTRACT (SVAR)**

**Master Price Agreement Number: ADSP011 00000358-1
Administered by the State of Arizona (hereinafter "Lead State")**

between

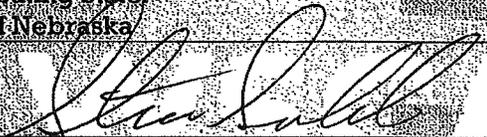
**EN POINTE TECHNOLOGIES SALES, INC.
(hereinafter "Contractor")**

And

**STATE OF NEBRASKA
(hereinafter "Participating State")**

Participating State Contract Number: 13093 OC

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating State: State of Nebraska	Contractor: En Pointe Technologies Sales, Inc.
By: 	By: 
Name: Steve Sulek	Name: Dr. Samuel D. Wankowski
Title: Materiel Administrator	Title: Western States Contracting Alliance
Date: 11-21-11	Date: 11/21/11



WESTERN STATES CONTRACTING ALLIANCE

SOFTWARE VALUE ADDED RESELLER

MASTER PRICE AGREEMENT

with

EN POINTE TECHNOLOGIES SALES, INC.

**State of Arizona
Lead State**

Contract No. ADSP011-00000358-1

EFFECTIVE: JUNE 3, 2011 to JUNE 2, 2013





Janice K. Brewer
Governor

Scott A. Smith
Director

ARIZONA DEPARTMENT OF ADMINISTRATION

STATE PROCUREMENT OFFICE

100 NORTH FIFTEENTH AVENUE • SUITE 201
PHOENIX, ARIZONA 85007

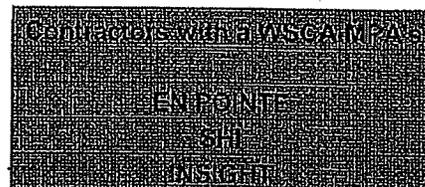
(602) 542-5511 (main) (602) 542-5508 (fax)
<http://spo.az.gov>

AWARD DETERMINATION

SOLICITATION # ADSP011-00000358 WSCA Software Value-Added Reseller

In accordance with the Arizona Procurement Code, the Procurement Officer accepts the recommendations of the Evaluation Committee that a multiple award is the most advantageous to the State based on the evaluation criteria set forth in the solicitation:

	Qualifications	Methodology	TC	Gov. Connections	CDW-G	Carahsoft	Compucom	Score
Technical Score - Subtotal (Qualifications, Methodology & TC)	309.88			290.25	473.75	322.25	0.0	
Cost Score - Subtotal (Cost Converted to Points)	52.00			16.00	18.00	16.00	0.0	
Combined Score - TOTAL	361.88			306.25	491.75	338.25	0.0	
Final Ranking	6							



The following offerors were deemed non-susceptible for award. Details of the scores of awarded and non-awarded offerors are provided in the procurement file.

- Carahsoft
- CDW-G
- GovConnections
- Compucom

DLT
Dell
Zones
Hewlett Packard Company
VLCM
Provista Software International, Inc.
Onix Networking Corp.
Sirius Computer Solutions Inc
IKON OFFICE SOLUTIONS
DISYS Solutions Inc.
PC Mall Gov, Inc
Framework 21
Xerox
The James Group
Logicalis
CCI

Please feel free to contact the Procurement Officer if you have any questions.



Stacy L. Ingalls
Senior Procurement Officer
Arizona State Procurement Office
Ph: 602-542-9134
Stacy.ingalls@azdoa.gov

6/3/11
Date



Offer and Acceptance

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPO)
Customer: WSCA participating states; AZ Statewide
(state agencies & cooperative partners)

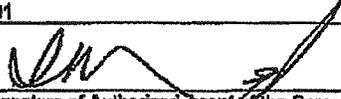
Description: WSCA Software Value-Added Reseller

OFFER

Arizona Transaction Privilege (Sales) Tax License No. 07-559425-R

Federal Employer Identification No. 954650291

En Pointe Technologies Sales, Inc.
Company Name


Signature of Authorized Agent of the Company

18701 S. Figueroa Street
Address

Imran Yunus
Printed Name

Gardena, California 90248-4506
City State Zip

Director of Government Sales
Title

Phone 310-337-5906

E-Mail iyunus@enpoints.com

Facsimile 310-258-2310

Web Site www.enpoints.com

Delivery and installation is promised within 9 calendar days after receipt of an order. If payment is made within 30 days after receipt of goods and services, the buyer is entitled to a discount of 0 % on the above-listed price(s).

ACCEPTANCE

Contract No. ADSP011-00000358-1

Contract Award Date 6/3/11


Signature of Authorized Procurement Officer

Stacy L. Insall
Printed Name

St. Procurement officer
Title



Uniform Terms and Conditions

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPO)
Customer: WSCA participating states; AZ Statewide
(state agencies & cooperative partners)

Description: WSCA Software Value-Added Reseller

1 DEFINITION OF TERMS. As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

"Attachment" means any item the Solicitation requires the Offeror to submit as part of the Offer.

"Contract" means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.

"Contract Amendment" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

"Contractor" means any person who has a Contract with the State.

"Days" means calendar days unless otherwise specified.

"Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

"Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

"Materials" means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

"Procurement Officer" means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

"Services" means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

"Subcontract" means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

"State" means the State of Arizona and Department or Agency of the State that executes the Contract.

"State Fiscal Year" means the period beginning with July 1 and ending June 30.

2 CONTRACT INTERPRETATION

2.1 Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

2.2 Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

2.3 Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order (a) Special Terms and Conditions; (b) Uniform Terms and Conditions; (c) Statement or Scope of Work; (d) Specifications; (e) Attachments; (f) Exhibits; (g) Documents referenced or included in the Solicitation.

2.4 Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5 Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

2.6 No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

2.7 No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.



Uniform Terms and Conditions

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPO)
Customer: WSCA participating states; AZ Statewide
(state agencies & cooperative partners)

Description: WSCA Software Value-Added Reseller

3 CONTRACT ADMINISTRATION AND OPERATION

- 3.1 **Records.** Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2 **Non-Discrimination.** The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 3.3 **Audit.** Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3.4 **Facilities Inspection and Materials Testing.** The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.
- 3.5 **Notices.** Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
- 3.6 **Advertising, Publishing and Promotion of Contract.** The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 3.7 **Property of the State.** Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
- 3.8 **Ownership of Intellectual Property.** Any and all intellectual property, including but not limited to copyright, invention, trademark, tradename, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.
- 3.9. **Federal Immigration and Nationality Act.** The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.
- 3.10 **E-Verify Requirements.** In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.



Uniform Terms and Conditions

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPO)
Customer: WSCA participating states; AZ Statewide
(state agencies & cooperative partners)

Description: WSCA Software Value-Added Reseller

- 3.11 **Scrutinized Businesses.** In accordance with A.R.S. § 35-391 and A.R.S. § 35-393, Contractor certifies that the Contractor does not have scrutinized business operations in Sudan or Iran.
- 3.12 **Offshore Performance of Work Prohibited.** Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

4 COST AND PAYMENTS

- 4.1 **Payments.** Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.
- 4.2 **Delivery.** Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.
- 4.3. **Applicable Taxes.**
- 4.3.1. **Payment of Taxes.** The Contractor shall be responsible for paying all applicable taxes.
- 4.3.2. **State and Local Transaction Privilege Taxes.** The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.
- 4.3.3. **Tax Indemnification.** Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.
- 4.3.4. **IRS W9 Form.** In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.
- 4.4 **Availability of Funds for the Next State fiscal year.** Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.
- 4.5 **Availability of Funds for the current State fiscal year.** Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions: (a) accept a decrease in price offered by the contractor; (b) cancel the Contract; or (c) cancel the contract and re-solicit the requirements.

5 CONTRACT CHANGES

- 5.1 **Amendments.** This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.
- 5.2 **Subcontracts.** The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.



Uniform Terms and Conditions

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPD)
Customer: WSCA participating states; AZ Statewide
(state agencies & cooperative partners)

Description: WSCA Software Value-Added Reseller

5.3 **Assignment and Delegation.** The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6 RISK AND LIABILITY

6.1 **Risk of Loss.** The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2 Indemnification.

6.2.1 **Indemnification – Contractor/Vendor Indemnification (Not Public Agency).** The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

6.2.2 **Indemnification – Public Agency Language Only.** Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers."

6.2.3 **Indemnification - Patent and Copyright.** The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

6.3 **Force Majeure.** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

Force Majeure shall not include the following occurrences: (a) late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market; (b) late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or (c) inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

6.4 **Third Party Antitrust Violations.** The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.



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Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPO)
Customer: WSCA participating states; AZ Statewide
(state agencies & cooperative partners)

Description: WSCA Software Value-Added Reseller

7 WARRANTIES

- 7.1 **Liens.** The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.
- 7.2 **Quality.** Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be: (a) of a quality to pass without objection in the trade under the Contract description; (b) fit for the intended purposes for which the materials are used; (c) within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units; (d) adequately contained, packaged and marked as the Contract may require; and (e) conform to the written promises or affirmations of fact made by the Contractor.
- 7.3 **Fitness.** The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- 7.4 **Inspection/Testing.** The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.
- 7.5 **Compliance with Applicable Laws.** The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.
- 7.6 **Survival of Rights and Obligations after Contract Expiration or Termination.**
- 7.6.1 **Contractor's Representations and Warranties.** All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.
- 7.6.2 **Purchase Orders.** The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8 STATE'S CONTRACTUAL REMEDIES

- 8.1 **Right to Assurance.** If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.
- 8.2 **Stop Work Order.** The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
- If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 8.3 **Non-exclusive Remedies.** The rights and the remedies of the State under this Contract are not exclusive.
- 8.4 **Nonconforming Tender.** Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.
- 8.5 **Right of Offset.** The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.



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Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPO)
Customer: WSCA participating states; AZ Statewide
(state agencies & cooperative partners)

Description: WSCA Software Value-Added Reseller

9 CONTRACT TERMINATION

- 9.1 **Cancellation for Conflict of Interest.** Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 9.2 **Gratuities.** The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.
- 9.3 **Suspension or Debarment.** The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.
- 9.4 **Termination for Convenience.** The State reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the State without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.
- 9.5 **Termination for Default.** In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.
- Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.
- The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.
- 9.6 **Continuation of Performance through Termination.** The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.
- 10 **CONTRACT CLAIMS.** All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.
- 11 **ARBITRATION.** The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).
- 12 **COMMENTS WELCOME.** The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.



Special Terms and Conditions

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPOO)
Customer: WSCA participating states; AZ Statewide
(state agencies and cooperative partners)

Description: WSCA Software Value-Added Reseller

1 **DEFINITIONS for ProcureAZ terms.** ProcureAZ (<https://procure.az.gov>) is the State's online eProcurement system. Although the system was configured for the State's needs, the application is based on a commercial product known as BuySpeed Online, made by Periscope Holdings, Inc. As a result, some of the terms used in the BuySpeed Online application may be semantically different to similar terms used by the State. The following terms are as they appear in BuySpeed Online (and ProcureAZ), along with their corresponding meanings as they apply to the solicitation.

"Actual Cost" means the total value of all items and their extended quantities.

"Alternate Id / Alternate ID" is an optional field and means any additional data in order to link a solicitation or project to a related project, activity or program.

"Attachments" means the section, as displayed in ProcureAZ, where the solicitation's electronic documents may be attached. Attachments as defined in the Uniform Instructions may include Solicitation Attachments, and/or as defined in the Uniform Terms and Conditions may include Contract Attachments.

"Buyer" means procurement officer.

"Catalog ID" is an optional data field and means an identification number to signify a group of related contracts.

"Contact Instructions" means the contact information for the procurement officer.

"Control Code" is an optional field and means an identification characteristic of the contract.

"Days ARO" means the number of days 'After Receipt of Order' in which the customer will receive the ordered materials and/or services.

"Department" means the customer for whom the solicitation or contract was conducted for.

"Discount %" is an optional field and means the standard discount applied to all items.

"Entered Date" means the date that the contract was awarded, not necessarily the date the contract starts, e.g., Master Blanket/Contract Begin Date.

"Fiscal Year" means the State Fiscal Year in which the solicitation was initiated. In the event of contract(s) resulting from the solicitation, the Fiscal Year shall remain unchanged.

"Freight Terms" means how freight will be charged under the contract.

"Header Information" means the section of the solicitation or contract, as displayed in ProcureAZ, containing solicitation or contract information other than the line items.

"Item information" means the section of the solicitation or contract, as displayed in ProcureAZ, containing the solicitation or contract line items.

"Location" means the specific customer, within the department, for whom the solicitation or contract was done.

"Master Blanket/Contract Begin Date" means the date that the contract starts.

"Master Blanket/Contract End Date" means the date that the contract ends.

"Master Blanket/Contract End Date (Maximum)" means the date that the contract may be extended through if all allowable term extensions are exercised.

"Master Blanket/Contract Vendor Distributor List" means the list of companies authorized to distribute the materials and/or services on behalf of the contractor under the contract.

"Master Blanket Purchase Order" means the contract, indicating that the contract will be in effect over a stated period of time.

"Minor Status" is an optional data field and means a type of status indicator of the contract in ProcureAZ.

"Organization" means the state agency under whose authority the solicitation or contract was conducted.

"Payment Terms" means the period of time that payment is due after receipt of an accurate invoice.

"Pcard Enabled" is an optional data field and means that customers are allowed to use their purchasing card (P-Card or Pcard) to order from the contract within the ProcureAZ system.

"PO Acknowledgement" means the list the notifications to the contractor and their acknowledgements of these notices.



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(state agencies and cooperative partners)

Description: WSCA Software Value-Added Reseller

"PO Type" means the period of time that the contract is in place, either a one-time transaction, Open Market, or for a stated period of time, Blanket.

"Print Dest Detail" is an optional data field and means a print format applicable to orders under the contract.

"Print Format" means the format of the solicitation or contract print output.

"Project No." is an optional field and means an identification characteristic of the contract.

"Purchase Order" means contract.

"Purchase Order Number" means the contract's identification number.

"Purchaser" means procurement officer.

"Receipt Method" means the method by which materials and/or services under the contract are received, either by amount spent, Dollar, or by item units, Quantity.

"Release Number" means the order number of each order under the contract. The Master Blanket/Contract will always reflect a zero "0" release number.

"Release Type" means the process that orders under the contract are subject to within ProcureAZ, requiring approval on an order-by-order basis, e.g., Standard Releases or not requiring approval, e.g., Direct Release.

"Retainage %" is an optional field and means the amount of the contract's value that is retained.

"Shipping Method" means the method of shipping to be used under the contract.

"Shipping Terms" means the point where the contractor will ship the materials and/or services to, and if accepted, the point when responsibility and title passes from the contractor to the state.

"Short Description" means the contract's title.

"Status" means the availability of the contract within ProcureAZ for ordering, e.g., Sent status.

"Tax Code", if applicable, means the amount of taxes, expressed as a percentage, to be added to all items purchased under the contract. As items may be subject to differing tax rates, this field may be blank.

"Type Code" means the category of customers that may use any resulting contract(s), e.g., Single-Agency, Multi-Agency or Statewide.

"Vendor" means contractor.

2 OTHER DEFINITIONS

"Lead State" means the State conducting this cooperative solicitation and centrally administering any resulting Master Agreement with the permission of the Signatory States.

"MPA Contractor" means the person or entity delivering Products or performing services under the terms and conditions set forth in this Master Price Agreement.

"Master Price Agreement" or "Master Agreement" means the underlying agreement, executed by and between the Lead State, as WSCA contract manager, acting on behalf of the Western States Contracting Alliance (WSCA), and the Contractor, as now or hereafter amended.

"Participating Addendum" means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any other additional Participating Entity's specific language or other requirements, e.g., ordering procedures specific to the Participating Entity, other terms and conditions.

"WSCA" means the Western States Contracting Alliance, a cooperative group contracting consortium for state procurement officials, representing departments, institutions, agencies, and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming. WSCA is a cooperative purchasing arm of the National Association of State Procurement Officials (NASPO).



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3 CONTRACT ADMINISTRATION

- 3.1 Contract.** The contract includes the Master Price Agreement executed between the MPA Contractor and the State of Arizona, as Lead State on behalf of WSCA, as a result of this solicitation, and a Participating Addendum executed between an MPA contractor and an individual participating State.
- 3.1.1 Master Price Agreement (MPA) or Master Agreement.** The MPA shall consist of: the solicitation as amended, any requests for clarifications and/or best and final offers, the proposal submitted by the MPA Contractor, their responses to any requests for clarifications and/or their best and final offer. In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth and/or referenced in the solicitation as amended shall govern. However, the State reserves the right to clarify any contractual relationship in writing, and such written clarification shall govern in case of conflict with the applicable requirements stated in the solicitation as amended or the contractor's proposal. In all other matters not affected by the written clarification, if any, the solicitation shall govern.
- 3.1.2 Participating Addendum (PA).** An individual participating state may execute an individual PA with one or more MPA Contractors. The PA will be administered by the Participating State, in conjunction with the Lead State.
- 3.1.3 Order of Precedence.** Any conflict in terms between the MPA and the PA shall be resolved by giving priority to the terms of the PA. In their PA, an individual state may establish their Order of Precedence for conflicting terms in the different sections of their contract.
- 3.2 Participation.** Use of a WSCA cooperative contract by state agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official. In Arizona, this contract shall be for the use of all State of Arizona departments, agencies, commissions and boards. In addition, eligible universities, political subdivisions and nonprofit educational or public health institutions may participate at their discretion. In order to participate in this contract, a university, political subdivision, or nonprofit educational or public health institution shall have entered into a Cooperative Purchasing Agreement with the Department of Administration, State Procurement Office as required by Arizona Revised Statutes § 41-2632. This contract has been awarded with the understanding and agreement that it is for the sole convenience of the State of Arizona. The State reserves the right to obtain like goods or services from another source when necessary. Off-contract purchase authorization(s) may be approved by either the agency (within an agencies delegated authority) or by the State Procurement Office. Approvals shall be at the exclusive discretion of the State and shall be final. Off-contract procurement shall be consistent with the Arizona Procurement Code.
- 3.3 Estimated Quantities.** WSCA and the State of Arizona anticipate considerable activity resulting from contracts that will be awarded as a result of this solicitation; however, no commitment of any kind is made concerning quantities actually acquired and that fact should be taken into consideration by each potential contractor. The Contract shall be on an as needed, if needed basis.
- 3.4 Contract Type.** The Contract shall be Firm Fixed Price, with firm pre-order quote based on the Contractor rates.
- 3.5 Contract Term.** Pursuant to Arizona law, the term of the Master Agreement shall be effective upon the date of final execution by the State of Arizona, and shall continue for a period of two (2) years from the date of the executed Master Agreement unless terminated, cancelled or extended as otherwise provided herein. The term of the individual Participating Addendum (PA) shall be effective upon the date of execution by the individual state, unless the individual state establishes a different effective date. Termination dates of an individual PA shall be the same as that of the Master Agreement unless terminated, cancelled or otherwise provided in the PA.
- 3.6 Contract Extensions.** By mutual written contract amendment, the MPA may be extended for three (3) one-year periods or a portion thereof for a total contract term not to exceed five (5) years. Unless otherwise established in the PA, the term of the PA will automatically be extended with the extension of the term of the MPA. No PA can be extended beyond the term established in the MPA.
- 3.7 Scrutinized Business Operations.** Pursuant to A.R.S. § 35-391.06 and § 35-393.06, the Contractor certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this Section the term "scrutinized business operations" shall have the meanings set forth in A.R.S. § 35-391 or and § 35-393, as applicable.
- 3.8 E-Verify.** The Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the e-verify program.). A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the



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contract and the Contractor may be subject to penalties up to and including termination of the contract. Failure to comply with a State audit process to randomly verify the employment records of contractors and subcontractors shall be deemed a material breach of the contract and the Contractor may be subject to penalties up to and including termination of the contract. The State Agency retains the legal right to inspect the papers of any employee who works on the contract to ensure that the Contractor or subcontractor is complying with the warranty.

- 3.9 Pandemic Contractual Performance.** The State shall require a written plan that illustrates how the contractor shall perform up to contractual standards in the event of a pandemic. The state may require a copy of the plan at anytime prior or post award of a contract. At a minimum, the pandemic performance plan shall include: (i) Key succession and performance planning if there is a sudden significant decrease in contractor's workforce; (ii) Alternative methods to ensure there are products in the supply chain; and (iii) An up to date list of company contacts and organizational chart.

In the event of a pandemic, as declared by the Governor of Arizona, U.S. Government or the World Health Organization, which makes performance of any term under this contract impossible or impracticable, the State shall have the following rights: (i) After the official declaration of a pandemic, the State may temporarily void the contract(s) in whole or specific sections if the contractor cannot perform to the standards agreed upon in the initial terms; (ii) The State shall not incur any liability if a pandemic is declared and emergency procurements are authorized by the director as per § 41-2537 of the Arizona Procurement Code; and (iii) Once the pandemic is officially declared over and/or the contractor can demonstrate the ability to perform, the State, at its sole discretion may reinstate the temporarily voided contract(s).

The State, at any time, may request to see a copy of the written plan from the contractor. The contractor shall produce the written plan within 72 hours of the request.

- 3.10 Electronic or Information Technology.** Products, services and maintenance shall comply with A.R.S. § 41-3531, which requires conformance with the requirements of Section 508 of the Rehabilitation Act of 1973. Failure to comply shall be considered a breach of the Contract.
- 3.11 Warranties.** The Contractor warrants that, per the period of time established in the Standard Publisher's Warranty, the materials shall be: (a) of a quality to pass without objection in the trade under the Contract description; (b) fit for the intended purposes for which the materials are used; (c) within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units; (d) adequately contained, packaged and marked as the Contract may require; and (e) conform to the written promises or affirmations of fact made by the Contractor.

4 CONTRACT OPERATION

- 4.1 Contract Release Orders.** Any services to be furnished under this contract shall be ordered by issuance of orders by the Participating Entity. Such orders may be issued from effective date of contract award. All orders are subject to the terms and conditions of this contract. All orders shall cite the contract numbers, that is, the number of the MPA and PA.

- 4.2 Ordering Process.** Any products or services to be furnished under this contract shall be ordered by issuance of orders, following receipt of a firm quote as required in the Statement of Work, by the Participating Entity. Individual PA's may modify these, or provide other requirements of an individual state for placing an order. Contract releases or purchase orders are those that are issued by an Authorized Purchaser (defined in the Statement of Work) in any of the following forms:

- Hard copy, one time only or blanket (term type)
- Electronically transmitted through facsimile equipment
- Electronically transmitted as an e-mail attachment
- Electronically transmitted through a contractor's Electronic Data Interchange (EDI) system or secured Internet/web portal, i.e. those that provide electronic commerce assistance for the electronic submission of purchase orders, purchase order tracking and reporting.
 - Such systems shall not allow for purchase orders to be placed for non-contract or excluded items
 - Use of such systems shall be at the sole discretion of the Participating Entity and all costs associated with set-up, maintenance and support shall be borne by the Contractor.
- Electronically through Participating Entity's p-card program.

- 4.3 Order Acknowledgement.** Contractor shall acknowledge receipt of all Orders. Contractor shall notify the Customer, in writing or electronically, within two (2) days of Order receipt. Customers may accept verbal Order acknowledgment when time and circumstances require.



Special Terms and Conditions

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
 State Procurement Office (ADOA/SPOO)
 Customer: WSCA participating states; AZ Statewide
 (state agencies and cooperative partners)

Description: WSCA Software Value-Added Reseller

- 4.4 **Billing.** Contractor shall include both the Master Agreement number, and the appropriate PA reference number on invoices.
- 4.5 **Travel.** When requested, in writing, from the Participating Entity to perform work that requires overnight accommodations, the Participating Entity will reimburse the contractor in accordance with the current rates specified in the Rules and Regulations applicable to that Entity or as otherwise defined in their PA. The Contractor shall itemize all per diem and lodging charges. The Rules and Regulations that apply to contractors for the State of Arizona are those which are applicable to State employee travel. These State rates may be located at www.gao.state.az.us.
- 4.6 **Key Personnel.** It is essential that the contractor provide an adequate staff of experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The contractor must assign specific individuals to the key positions. Once assigned to work under the contract, key personnel shall not be removed or replaced without the prior written approval of the issuing agency and a copy to the procurement office of record
- 4.7 **Notification.** The All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this provisions collectively called 'Notices'), shall be in writing and shall be sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the party or parties to receive such notice as follows:

To the Lead State (Administrator of the Master Agreement):

Arizona Department of Administration
 State Procurement Office
 100 North 15th Avenue, Suite 201
 Phoenix, Arizona 85007
 Fax: 602-542-5508

Procurement Officer: Maureen L. McGovern, MBA, CPPO
 Email: Maureen.mcGovern@azdoa.gov
 Direct Phone: 602-542-9125

To the Contractor: (to be completed at time of award):

To the Participating State: (to be defined in the Participating Addendum)

5 USAGE REPORTS AND ADMINISTRATIVE FEES

- 5.1 **Usage Reports.** Reseller agrees to provide quarterly utilization reports to WSCA. The report shall be in the format developed by the Lead State and supplied to the Reseller at time of award. Individual participating states may require their own usage reports. Reseller shall provide these reports at the intervals, and in the format, required by the States.
- 5.2 **Administrative Fees.**
 - 5.2.1 **WSCA Administrative Fee** - Reseller will remit to WSCA a contract administration fee in the amount of one-half of one percent (.5%) of the total sales from this contract. The pricing listed on the proposal shall include the WSCA administrative fee. Administrative fees shall not be added as a line item on any invoice. A statement verifying the total sales amount for all Participating States must accompany the remittance. This remittance is due to WSCA no later than 45 days after the last day of each calendar quarter. The form to be submitted with the check, as well as mailing address, will be provided to Reseller at time of contract award.
 - 5.2.2 **Individual State's Administrative Fees** - In addition to the WSCA contract administration fee as stated above, some Participating States may also require an administrative fee. See also the section entitled, "Price Quotes – General". Specific State Administrative Fees may be added to the price of each item. Information on a State's Administrative Fee will be provided in that State's PA.

6 RISK AND LIABILITY

The following pages cover indemnification and insurance requirements. Unless otherwise established or modified in an Individual PA, these requirements may be interpreted to apply to any Participating State. Contractors shall provide current Certificates of Insurance to each State with which the Contractor has an executed PA.



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Customer: WSCA participating states; AZ Statewide
(state agencies and cooperative partners)

Description: WSCA Software Value-Added Reseller

INDEMNIFICATION:

The Contractor shall defend, indemnify and hold harmless WSCA, the Lead State, and Participating Entities along with their officers, agencies, and employees as well as any person or entity for which they may be liable from and against claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to property arising from act(s), error(s), or omission(s) of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to the performance under the Master Agreement. This section is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

INSURANCE REQUIREMENTS:

Vendor shall procure and maintain, until all of their obligations, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the purchase and or use of the commodity.

The *insurance requirements* herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Vendor from liabilities that might arise out of the purchase and use of the commodities sold under this Contract by the Vendor, his agents, representatives, employees or subcontractors and Vendor is free to purchase such additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage at least as broad and with limits of liability not less than those stated below.

1. **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability.

• General Aggregate	\$2,000,000
• Products – Completed Operations Aggregate	\$1,000,000
• Personal and Advertising Injury	\$1,000,000
• Fire Legal Liability	\$ 50,000
• Blanket Contractual Liability – Written and Oral	\$1,000,000
• Each Occurrence	\$1,000,000

2. **Business Automobile Liability**

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

a. The policy shall be endorsed to include the following additional insured language: *"The [Participating State, e.g., the State of Arizona], its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor."*

b. Policy shall contain a waiver of subrogation against the [Participating State, e.g., State of Arizona], its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

3. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$ 500,000
Disease – Each Employee	\$ 500,000
Disease – Policy Limit	\$1,000,000

a. Policy shall contain a waiver of subrogation against the [Participating State, e.g., State of Arizona], its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

b. For the State of Arizona, this requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.



Special Terms and Conditions

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- B. ADDITIONAL INSURANCE REQUIREMENTS:** The policies are to contain, or be endorsed to contain, the following provisions:
1. The [Participating State., e.g., State of Arizona], its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required. Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
 2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
 3. Coverage provided by the Contractor shall not be limited to the liability assumed under the Indemnification provisions of this Contract.
- C. NOTICE OF CANCELLATION:** With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the Lead State (the State of Arizona) and the Participating State. Such notice shall be sent directly to the Procurement Officer for this Master Agreement and to the Procurement Officer of the Participating Addendum and shall be sent by certified mail, return receipt requested.
- D. ACCEPTABILITY OF INSURERS:** Insurance is to be placed with duly licensed or approved non-admitted insurers in the State of Arizona with an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Vendor from potential insurer insolvency.
- E. VERIFICATION OF COVERAGE:** Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the Participating State) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.
- All certificates and endorsements are to be received by the Participating State before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.
- All certificates required by this Contract shall be sent directly to the Procurement Officer of the Lead State and to the Procurement Officer of the Participating State. Both the Master Agreement number and the Participating Addendum number and contract description are to be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT DIVISION.**
- F. APPROVAL:** Any modification or variation from the *insurance requirements* in this Contract must have prior approval from the State of Arizona Department of Administration, Risk Management Division, whose decision shall be final. Such action will not require a formal contract amendment, but may be made by administrative action.
- G. EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university then none of the above shall apply.



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Description: WSCA Software Value-Added Reseller

1 INTRODUCTION

1.1 Purpose The State Procurement Office of the Arizona Department of Administration is requesting proposals, on behalf of the State of Arizona and the Western States Contracting Alliance (WSCA), from software value-added resellers to provide distributed software and related services.

1.2 Introduction and Background

WSCA was formed in October 1993. The purposes of WSCA are to establish the means by which participating states may join together in cooperative multi-state contracting, to ensure the commitment of each participating state, and to provide regular and ongoing assistance to participating states in researching, developing, and administering procurement and contractual specifications and requirements. WSCA is a cooperative purchasing arm of the National Association of State Procurement Officials (NASPO). The mission of WSCA is to implement multi-state contracts to achieve cost-effective and efficient acquisition of quality products and services. WSCA membership consists of the principal procurement official that heads the state central procurement organization, or designee for that state, from the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming.

NASPO is a non-profit association dedicated to strengthening the procurement community through education, research, and communication. It is made up of the directors of the central purchasing offices in each of the 50 states, the District of Columbia and the territories of the United States. NASPO is an organization through which the member purchasing officials provide leadership in professional public purchasing, improve the quality of purchasing and procurement, exchange information, and cooperate to attain greater efficiency and economy.

This is the first solicitation conducted under the auspices of WSCA for software value-added reseller (SVAR) products and services.

We anticipate multiple awards resulting from this solicitation. The State of Arizona, as Lead State, will conduct the solicitation and will execute a Master Price Agreement (MPA) with awarded offerors on behalf of the State of Arizona and the participating states. Individual participating states will select an MPA contractor and execute a Participating Addendum (PA) with each MPA contractor they select individually to establish the authorization for the MPA contractor to provide the products and services per the MPA and PA in that State. Individual states are not required to enter into a PA with all awarded MPA contractors. Some states may elect to enter a PA with only one MPA contractor; other states may elect to enter into multiple PA's.

1.3 Goals and Objectives. The goal of this solicitation is to contract with software value-added resellers who would provide distributed software and related services to eligible users of the resulting contracts. The objectives are to contract with successful offerors who are authorized resellers of distributed Commercial Off-the-Shelf (COTS) software for identified key software publishers as well as being sellers of general distributed software (non-specified publishers). In addition to selling software, and selling maintenance and support agreements for new and previously-purchased software, the Reseller would provide related services to include, but not be limited to, tracking licenses (new and existing), monitoring volume levels and opportunities, training, implementation, and consulting. The Reseller would also work in conjunction with the WSCA/NASPO personal computers, servers/storage, printers, and peripherals contracts, or a participating state's equivalent contracts, as may be required by the individual states, to provide their best reasonable effort to see ensure that software licenses for delivered computing hardware are purchased and tracked through this contract

1.4 Definitions

- "Authorized Purchaser" means an individual authorized by a Participating Entity to place orders against this contract.
- "Contracts" means a Master Price Agreement (MPA) executed between the Offeror and the State of Arizona on behalf of WSCA as a result of this solicitation, and a Participating Addendum (PA) executed between an MPA contractor and an individual participating State. For example, under this contract, a contractor with the State of Arizona would have an executed MPA and an executed PA with Arizona.
- "Commercial Off the Shelf or COTS" means software products that are ready-made and available for sale to the general public. COTS products are designed to be implemented easily into existing systems without the need for customization, also referred to as 'distributed software'.
- "End-User License Agreement" or "License Agreement" is a legal contract between the manufacturer (publisher) and the end user of an application that details how the software can and cannot be used.



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- "Non-perpetual licenses", or subscription licenses, are temporary and provide the right to use a particular licensed product until the end of the license-agreement term.
- "Perpetual licenses" are everlasting and valid if the software is being used in accordance with the license-agreement requirements.
- "Publisher" means a software manufacturer (e.g., Microsoft).
- "Reseller" or "Contractor" means a Software Value-Added Reseller who is awarded under this solicitation, and who has a fully-executed (MPA and PA) contract.
- "Reseller Cost" means the price that the Reseller pays the Publisher or Distributor to purchase software on behalf of the Participating Entity. Reseller Cost should not include any administrative or other mark-up costs.
- "Software" means the computer program, including media and associated documentation.
- "Software Licensing" means allowing an individual or group to use a piece of software.
- "Software Maintenance and Support" means any software upgrades, annual updates, patches and fixes needed to improve functionality and keep the software in working order.
- "Volume License Agreements (VLAs)" means an agreement with a Software Publisher wherein the Participating Entity's total expected purchasing over a period of time is considered in establishing the discount level.

2 SCOPE OF CONTRACT

The scope of any contract resulting from this solicitation includes the purchase of licenses for distributed software products through a software value-added reseller. The Reseller would also provide maintenance agreements for software licenses, whether those licenses were purchased under this agreement or are previously-purchased licenses. Reseller will provide services related to the sale and management of distributed software licenses.

3 GENERAL REQUIREMENTS – Products

Software Value-Added Reseller ("Reseller") shall be a large account reseller authorized to sell products direct from key software publishers. If the Reseller is not a direct reseller of a publisher, and the publisher does sell through a distributor, the Reseller would purchase software products through a distributor. The Reseller would be responsible for providing Commercial Off-the-Shelf-Software (COTS) and COTS software maintenance packages on behalf of Participating Entities. Reseller would honor an existing individual Participating Entity's volume or enterprise license agreements, and offer maintenance and support packages on licenses already owned by the Participating Entity. As this is a multi-state solicitation, and potential participants would include not only state governments but also their cooperative partners, volume is indefinite but expected to be considerable. The Reseller is expected to continue to work towards reducing their Reseller Cost, especially from the specific publishers identified in this solicitation (Itemized Publishers). Users envision pricing that is significantly better than Publisher's list price. Reseller will provide services directly related to these products such as: communicating channel partner status with publishers, retaining or enhancing reseller certifications with software publishers, negotiating for reduced Reseller Costs, and assisting with basic software installation. As may be required by a Participating Entity, Reseller would work with WSCA/NASPO computing equipment contractors, or a Participating Entity's comparable computer hardware contractor, to make their best reasonable effort to see ensure that any software acquired under those contracts can be tracked through this contract.

4 SPECIFIC REQUIREMENTS – Products

- 4.1 **Most Current Version.** Purchase orders shall be deemed to reference a manufacturer's most recent release model or version of the product at the time of the order, unless the Authorized Purchaser specifically requests in writing an earlier model or version and the Reseller is willing to provide such model or version.
- 4.2 **Product Offerings.** Reseller will provide COTS software, and software maintenance of new or existing licensed software, under this contract. Information on approved products, customized by participating state, will be available through an online catalog and through Reseller's representatives either through email or telephone inquiry during the standard working hours of the participating state. The online catalog shall provide an expansive list of products allowed per the contracts, particularly those products of itemized publishers.



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4.3 Product Acquisition

- 4.3.1 Volume License Agreements (VLA). The Reseller will honor existing Participating Entity's VLA with publishers and include those licenses as part of the Reseller's license tracking service. Following an executed PA with a State, and if so required by the State, the Participating Entity and/or an individual publisher, the Reseller will identify itself to software publishers as Reseller for that State or Participating Entity. If so required by the Publisher and Participating Entity, Reseller will execute a change of channel partner agreement with the Publisher. Resellers will sell additional seats consistent with Participating Entities' Enterprise or Volume Agreements. Reseller will work with Participating Entities and Publishers as needed to establish new VLAs. Details of individual VLAs, including copies of any VLA, may be included in individual states' PA. The Reseller will work with the Publisher and Participating Entity as necessary to ensure the Participating Entity receives timely and pertinent license information, such as for license or agreement renewals, or opportunities based on actual volume.
- 4.3.2 Individual Software Licenses. Participating Entities can purchase individual COTS licenses, such as perpetual and non-perpetual licenses, through the Reseller.
- 4.3.3 Leases. Lease purchase and term leases are allowable only for Participating Entities whose rules and regulations permit leasing of software. Individual Purchasing Entities may enter into a lease agreement for the products covered in this Master Price Agreement, if they have the legal authority to enter into these types of agreements without going through a competitive process. No lease agreements will be reviewed or evaluated as part of this RFP evaluation process.
- 4.3.4 Software Maintenance Agreements. Participating Entities can purchase maintenance agreements, including upgrade protection, through the Reseller. Resellers will sell software maintenance agreements, even if the software was not purchased under this agreement, such as on-going support for a user's existing perpetual license. As requested, Reseller will explain what product support or services are included in a publisher's maintenance agreement.
- 4.4 Software Publishers, Categories. The identified software product needs under this solicitation have been divided into three tiers: Itemized Top Publishers, Other Itemized Publishers, and Non-Itemized Publishers. See descriptions and chart which follow. As indicated, it is most desirable for Reseller to have a direct reseller agreement with the itemized software publishers. If a direct reseller agreement is not already in place between itemized software publishers and the Reseller, the Reseller is expected to enter into a direct reseller agreement and submit a rate for that itemized publisher that is better than the rate for a Non-Itemized Publisher. Over the life of this contract, product needs or volumes may change and new publishers may be added by amendment to the itemized publishers' lists.
- 4.4.1 Itemized Highest Volume Publishers (Highest Volume, Itemized Lines). The products of the publishers in this category represent the highest tier of sales volume identified for this solicitation, of those publishers who sell through resellers. This category is the one most likely to include a Participating Entity's enterprise or high volume agreements with a publisher. It is most desirable that Resellers are certified direct resellers for publishers in this category. The preferred pricing that a Reseller receives based on their reseller certification status, in conjunction with the anticipated considerable volume of purchases through these Contracts, is the expected foundation for a very competitive base Reseller Cost, with further reductions of Reseller Cost as they are achieved through ongoing Reseller negotiations. A percentage rate above or below Reseller Cost is to be provided for each itemized publisher. Specific requirements may be required for some publishers in this category in an individual State's PA.
- 4.4.2 Other Itemized Publishers (High Volume, Itemized Lines). The products of the publishers in this category represent a high level of sales volume as identified for this solicitation. This category may include a Participating Entity's high volume agreements or VLAs with a publisher. It is desirable for Resellers to be certified direct resellers for publishers in this category. A percentage rate above or below Reseller Cost is to be provided for each itemized publisher.
- 4.4.3 Non-Itemized Publishers (all other distributed software purchases). This category is defined to include all other distributed computer software not specifically itemized. It is not anticipated that there would be any Enterprise or volume agreements in this category. New or existing software products can be added to this category at any time during the term of the Contract without the written consent of the Procurement Officer and may be itemized in the online catalog, if volume justifies the addition. There should be one percentage rate above or below Reseller cost covering all products in this category.



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KEY ITEMIZED PUBLISHERS – certification as direct reseller required or highly desirable	OTHER ITEMIZED PUBLISHERS– certification as direct reseller desirable. If not certified, the percentage rate should be no greater than Non-Itemized rate.	OTHER ITEMIZED PUBLISHERS– Continued
Microsoft Adobe IBM Symantec McAfee Intel VMWare CA (Computer Associates) Quest SAP Business Objects Checkpoint TrendMicro BMC Commvault RedHat	AI Squared Apple Attachmate Autodesk Bakbone Barracuda Corel Cisco Citrix Compuware Doubletake EMC Enchoice ESET ESRI Freedom Scientific Guardian Edge GW Micro ICM Conversions HP HumanWare Hummingbird Exceed Information Builders Kronos Software LANdesk Laserfische Lotus Microfocus, Inc. Mindjet MPS MQSoftware nCircle Novell Nuance	Oracle OSAM Passport Patchlink Proofpoint SAS Solutions Software Sophos Splunk Software Stellent SunGard Sybase Techsmith Titus Ultrabac Websense
		NON-ITEMIZED PUBLISHERS – One 'not to exceed' rate for all other products



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4.5 Software Publishers, General Representation.

- 4.5.1 Excluded Software Publishers. The Reseller must agree that there are no software publishers with whom they will refuse to do business if the Software Publisher is willing to do business with them. Resellers shall advise the Procurement Officer or designee of any Excluded Software Publishers and provide explanations for the non-representation.
- 4.5.2 Expanded Representation. The Reseller is expected to continue to work towards reseller certifications with publishers not currently represented, particularly with those publishers whose sales volume merit classification into the itemized publisher lines. Similarly, Reseller is expected to continue to work towards a higher certification level with current publishers. If the Reseller's certification or reseller status is reestablished at a higher level, the Reseller is required to notify the MPA and individual PA Procurement Officers in writing explaining the change and any impact on their costs to obtain the product or services they may provide.
- 4.5.3 Continued Representation. The Reseller is expected, at a minimum, to maintain their reseller certification levels held at time of award. If the Reseller's certification or reseller status is withdrawn or reduced, the Reseller is required to immediately notify the MPA and individual PA Procurement Officers in writing explaining the change, the impact on their costs to obtain the product, or limitations on the products or services they may provide, and the reasons for the change. Failure to notify, or significant negative changes in their reseller status, may be grounds which individual States may use to suspend or cancel their PA.

4.6 Product Delivery and Returns

- 4.6.1 Media. The Reseller shall work with Participating Entity to provide media via any method available and as requested by the Participating Entity including, but not limited to: original Publisher media, CD copies of master media duplicated by the Reseller, electronic downloads, etc. In cases where original publisher's media is not available, the Reseller shall provide CD's copied from master disks of the software purchased under any volume or enterprise license agreement.
- 4.6.2 Delivery Period. Reseller to provide delivery within ten (10) business days after receipt of a valid order unless conditions arise that are outside the control of the Reseller, such as product out of stock. If delivery cannot be within this time frame, Reseller is to notify Participating Entity of delay and anticipated ship date. If this delayed delivery is unacceptable to Participating Entity, the order can be cancelled without penalty.
- 4.6.3 Product Returns. Unopened software can be returned with no restocking fee up to 30 days from date of receipt, if allowed by the software publisher. If the software publisher has a shorter timeframe for returns or requires a restocking fee, this must be stated on the quote. If that information is not provided to the Participating Entity by the Reseller, Reseller is responsible for the restocking fee. If delivered software is defective, or if the incorrect product was delivered, the Reseller must agree to accept returns. If delivered software is defective, the Reseller is responsible for return shipping and packaging costs and for restocking charges if applicable. The Reseller must agree that any defective or incorrectly delivered media will be replaced by overnight delivery at the Reseller's expense if requested by the Participating Entity. If overnight delivery is not requested, all replacement products must be received by the Participating Entity within seven (7) days of initial notification.
- 4.6.4 Shipping Charges. Items covered under this contract are FOB Destination and shipping charges are not to be included on any invoice unless the Participating Entity has ordered expedited shipment. For expedited shipment, Participating Entity would submit their order including related shipping charges, which may not exceed the cost of delivery by the carrier.

4.7 License Confirmations

- 4.7.1 Proof of License. For licenses ordered under the contract by authorized purchasers, Reseller shall be able to provide either: (i) certified Licensing Confirmation Certificates for all software licenses; (ii) Reseller's certified license confirmation certificates in the name of such Licensee; or (iii) a written confirmation from the Reseller or Publisher accepting the Eligible Participating Entity's contract or purchase order as proof of license. The form of Proof of License provided must be acceptable proof to the Publisher and in the format as requested by the purchaser. The Proof of License shall be provided as an electronic file and/or a hardcopy document, as requested by the Participating Entity. Reseller will retain an electronic file of Participating Entity's Proof of Licenses and provide copies to the Participating Entity as requested.
- 4.7.2 Hardware/Software Coordination – Reseller shall work with Participating Entity and any computer hardware contractor to provide their best reasonable effort to see ensure that license confirmation documents for any distributed software provided with those machines is provided to, and tracked by, the Reseller as consistent with this contract.



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~~4.8 Product Upgrades and/or Patches. Reseller shall notify Lead State and Participating Entities in writing of any changes in product, product version, or product enhancements for any of the itemized Publishers. This notification shall be made to the MPA Procurement Officer and the PA Procurement Officers as soon as possible but no later than 20 days before implementation. Such information should also be posted on the state web sites.~~

4.8 **Product Installation Assistance.** If the Participating Entity encounters difficulty in downloading or installing the software, the Reseller must provide assistance within eight business hours of being informed of the problem. If the installation issue is more complicated, such as an installation requiring limited configurations, Reseller may quote the total cost for services (estimated time, not to exceed contract hourly rates.) If installation or configuration requires the services of the publisher or designee, the Reseller may assist the Participating Entity in developing a separate agreement between the Participating Entity and the publisher or designee for that purpose.

5 GENERAL REQUIREMENTS – Services

In addition to the services directly associated with the receipt of product under this Scope, the Reseller will provide services related to the selection, purchase and management of distributed software. These services include, but are not limited to, development and maintenance of participating state websites, price quotes, license tracking and management, volume license agreements, software installation/ de-installation/ implementation assistance, software advisement, training, and software maintenance and support. The Reseller is expected to support the Participating Entities in getting best value from software decisions, providing information and advice regarding software and representing the State's interests in negotiating with software publishers.

6 SPECIFIC REQUIREMENTS – Services

6.1 **Develop and Maintain Website.** For each participating state, Reseller shall develop and support a website specific to that State, with content approved from the Contract Procurement Officer and/or State Procurement Officer as appropriate based on content. This web site information shall be available through the Internet without the use of additional software or licenses. Website should be user friendly to allow for quick and easy access and use. Reseller should provide web-based training regarding use of website at no additional cost, and online, email, or telephone help should be available to assist during State's standard working hours. Website must be available 24 x 7, except for scheduled maintenance and be ADA compliant. No costs or expenses associated with providing this information shall be charged to the States. Universal Resource Locator (URL) for the website must be supplied to the participating state and the contract Procurement Officer within 60 days of the execution of the PA. The website will include contract information, product information/catalog, the capability to generate online reports, and other pertinent information as may be reasonably requested by States, such as copies of VLAs.

6.1.1 **Contract and General Information.** The website will provide contract and ordering information to include, at a minimum: the contract number(s) (MPA and PA); the Reseller contact names and titles, including primary contact and contacts to whom incidents could be escalated; areas of responsibility for each contact name as well as their phone numbers and email addresses; information on use of website; quote and ordering information; and notifications regarding publishers and products, such as pending key product changes or upgrades.

6.1.2 **Online Catalog.** The website will provide contract and ordering information to include, at a minimum: publishers, product names, standard product pricing, and product descriptions (photos optional or links to access product literature). Non-authorized products or groups of products shall either not be viewable on the website or shall be clearly marked as excluded products. Regardless of the number and types of links to the Reseller's electronic catalog, the Reseller shall ensure that all eligible agencies purchasing under one PA are accessing the same current base version of the product catalog. Online information must include purchases of Volume or Enterprise License Agreement software as well as individual COTS software licenses

6.1.2.1 **Product Searching Capability.** At a minimum, the online catalog should be searchable by Purchasing Entity and their VLAs, Software Publisher, Product name, OEM product number, and software description (e.g., GIS, Security). The online category can be modified as users' needs dictate, such as including products obtained through a distributor (non-itemized publisher products) that are frequently purchased.

6.1.2.2 **Online Product Quotes.** Product price displayed online is a 'not-to-exceed' product price quote based on contract rate and real time Reseller Cost. For high dollar purchases, or quantity purchases, Authorized Purchaser should request a quote by contacting Reseller representative off-line. The online pricing should allow for overrides when a quote with a negotiated



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better price has been offered and is being placed online. Website should have capability to track all quotes by Authorized Purchaser and be easily accessible for viewing by quote number. Website shall include a shopping cart feature that allows Authorized Purchasers to provide shipping instructions. Authorized purchasers can place orders on the web either via credit card or purchase order. Specifics regarding an individual state's requirements for placing an order may be included in that State's PA.

- 6.1.2.3. **User Differentiation.** Catalog should be designed so as to provide a means to identify the using Participating Entity (state agency or eligible cooperative partner). This method used must not require any administrative tasks on the part of the contract Procurement Officer for the MPA, the Procurement Officer for the individual PA, or for the Participating Entity. Website should allow users to develop personal lists and profiles, including an option to securely store and maintain procurement card information. Catalog should have the capability of being used as a 'Punch Out' to an individual state's electronic purchasing system.
- 6.1.3 **Online Reports.** Website shall have capability to provide order history, as well as order status and order tracking.
- 6.1.4 **Other.** Other information may be added to the website as may be required by State (such as copies of volume license agreements) or enhancements that may be proposed by Reseller and approved by State.
- 6.2 **Price Quote, General.** Pricing is submitted in the MPA as a percentage of Reseller Cost. Individual PA's will use the MPA pricing as a base and may negotiate an adjusted rate. Any negotiated PA rates, exclusive of taxes or any individual state's administrative fee, shall not exceed the MPA rates. As requested by Authorized Purchaser, for example on a high volume single order, Reseller will negotiate to reduce Reseller Cost, to pass on savings to the Participating Entity. Firm individual order quotes shall be provided to Authorized Purchaser prior to order submittal.
- 6.2.1 **Telephone or Email Quote Support.** Reseller must accept requests for quotes by telephone, fax, email, or online. Reseller shall accept collect telephone calls and/or provide and maintain a toll-free number for eligible agency use. Reseller shall provide an email address for receipt of requests for price quotes. Reseller must provide written quotes by fax, email or online as requested by the Participating Entity.
- 6.2.2 **Quoted Delivery Method.** The quote must clearly indicate the method of delivery, whether via media, download, or some other means.
- 6.2.3 **Timely Quotes.** Reseller agrees to work with publishers and distributors to obtain quotes and deliver software in a timely fashion. Expected response should be within 24 hours but no more than three business days. If, after three business days, the Reseller has been unable to obtain the quote or assurances that they can obtain the software, the Reseller must contact the Participating Entity with a status report. The Reseller and the Participating Entity will mutually agree as to whether the Reseller shall continue to pursue a quote and within what timeframe, or whether the Reseller will provide the Participating Entity with a written statement that the Reseller cannot supply the software. If the Reseller has been unable to obtain a quote within 10 days of the request for quote, the Contract must provide a written statement (email is sufficient) to the Participating Entity, and the procurement officer as may be required under the PA, that the Reseller cannot supply the software, and the reason why.
- 6.2.4 **Guaranteed 30 Day Quote.** Reseller is required to honor all quotes for 30 calendar days. If it is known that a price increase will occur during the 30 calendar days following the quote, the Reseller may provide two quotes, based upon the date that the order is received.
- 6.2.5 **Sales Promotion.** The Reseller may conduct sales promotions involving specific products or groups of products for specified time periods. If electing to exercise this provision, the Reseller shall submit a formal request for approval to the Procurement Officer. The request should include: the product or product groups, the promotional price as compared to the standard price for the product or product groups, and the start and end dates of the sales promotion. Procurement Officer's approval shall be in the form of an amendment to the MPA. Upon approval, the Reseller shall provide conspicuous notice of the promotion.
- 6.3 **License Tracking and Management.** Reseller must have in place a product license inventory and asset management system, which will include an accurate inventory record of product licenses purchased under this Contract. Reseller must also have the capability of keeping track of maintenance renewal and other significant due dates. At a minimum, this system must be able to provide this information by Participating Entity. Reseller shall work with Participating Entity, publishers, previous and subsequent contract software resellers, and hardware computer contractors to ensure the most comprehensive record of licenses is created, maintained, and the information transferrable. States may choose to award



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multiple PA's under this Agreement. Details on how licenses are to be tracked and managed under multiple awards will be determined by that awarding State.

- 6.4 **Volume and Enterprise License Agreements.** Reseller will work directly with Authorized Purchasers in establishing, signing and maintaining enrollment agreements. If Reseller is sole SVAR contractor in a State, Reseller will aggregate all enrollments together for Master Agreement reporting purposes. If a State elects to have multiple SVAR contractors, Reseller's responsibilities will be delineated in that State's PA. Resellers shall monitor and be able to report on the current levels of software ordered towards any of the State's VLA required sales levels to ensure the Participating Entity does not fall short and thereby incur Publisher penalties. The Reseller shall be responsible for providing license usage information to the Publishers, if such information is required by the Publishers, in a timely manner (e.g., for 'true up' assessments).
- 6.5 **Software Installation/Implementation Assistance.** Reseller shall provide, at no additional cost, assistance or advice in basic installation or implementation of COTS software.
- 6.6 **Software Advisement.** Reseller will provide, at no additional cost, advice relative to software. Examples of such advice would be: in selecting appropriate software; in explaining Volume License Agreements with complicated rules; in determining the most cost-effective buying strategies; in ensuring that Participating Entity is in compliance with licensing requirements; and in finding software options to meet a specific need, for example, a flow-charting package.
- 6.7 **Training.** Reseller will provide, at no additional cost, training on how to use their website and how to use this contract in obtaining quotes and placing orders. Online training should be available on the website, but supplementary training should be provided as needed.
- 6.8 **Software Maintenance and Support.** Reseller to provide needed services to support maintenance products such maintenance agreements, software upgrades, annual updates, patches and fixes needed to improve functionality and keep the software in working order. Such services may include providing recommendations on most cost-effective or appropriate long-term maintenance plan. Reseller will provide such support, not only to maintenance packages purchases under this agreement, but in support of any existing and current agreements.
- 6.9 **Software Updates.** Users are eligible to receive from the publisher, ~~The Reseller shall provide~~, at no additional charge, all new releases and updates of the software while under a maintenance agreement. Release shall be defined as any collection of enhancements or updates which the Reseller Publisher generally makes available to its installed base of customers of such programs. The Reseller shall assist the User as necessary to facilitate or help the User in obtaining such releases or updates from the Publisher.
- 6.10 **Customer Service and Representation**
- 6.10.1 **Dedicated Representation and Timely Response.** Reseller shall provide a dedicated representative for each participating state. Such representative will become familiar with the State and its cooperative partners, provide a single point as needed for quote assistance, offer software recommendations, track and report on renewal deadlines, and serve as a contact point for the Procurement Officer. Reseller must commit to returning phone calls or responding to emails within two business days.
- 6.10.2 **Problem Escalation.** The Reseller must provide an incident escalation path for each State, showing on that State's website, the name, contact information, and role of individuals to whom problems should be escalated if the problems are not resolved by primary assigned contacts.
- 6.10.3 **Product purchasing trends.** The Reseller will speak with MPA Procurement Officer and sourcing team quarterly to review usage and discuss possible revisions of the categorization of publishers based upon actual sales volume or other changes.
- 6.10.4 **Customer Satisfaction/ Reseller Performance Standards.** See clause entitled, 'PERFORMANCE STANDARDS'.
- 6.10.5 **Contract Reviews.** Reseller is expected to conduct quarterly reviews of all sales volumes and report sales figures and savings from Publisher's list price, by Publisher and by PA, as well as observed trends or purchasing patterns, and to present the information to the Master Agreement Procurement Officer. At the discretion of the individual participating states, an equivalent review, limited to that state, will be presented to the PA Procurement Officer. All awardees under this contract shall meet once a year with the Master Agreement Procurement Officer and sourcing team to review usage and discuss possible revisions of the categorization of publishers based upon actual sales volume, and to discuss any service concerns, industry trends, and the effectiveness of the contract. Reseller is expected to conduct a customer satisfaction survey and an audit prior to this discussion and be prepared to discuss the results, and provide reports, at this review. At a minimum, the audit will report address quoting and billing accuracy, and any Reseller Cost that exceeds a Publisher's List



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price for that item. Based on historical sales volume information, Reseller should be prepared to discuss potential cost savings opportunities which could be passed through to Participating Entities. In a renewal year, the annual review will take place prior to contract extensions.

6.11 Interactions with Software Publishers

6.11.1 *Best Interests of Participating Entities.* Reseller would represent the best interests of the Participating Entity in negotiating or otherwise working with Publishers for such items as: maximizing cost savings with best use of volume or enterprise license agreements, better pricing on individual volume buys, taking advantage of publishers' specials, promotions, coupons or other savings opportunities.

6.11.2 *Liaison with Publisher.* A State may establish, in their individual PA, a requirement for Reseller Participating Entity as requested to arrange for implementation, customization, training, support, maintenance and other software related services which may be required directly from the software publisher or designee under a separate agreement.

6.12 Consulting/ Industry Information

6.12.1 *Product Pre-Sale Advisement.* The Reseller shall assist the Participating Entity in making strategic software application decisions by providing evaluation copies, product comparisons, needs analysis, product information and application recommendations. There shall be no charge for these services.

6.12.2 *Best Approaches.* The Reseller will act as liaison between the Participating Entity and individual publishers in identifying best approaches and cost savings opportunities for the Participating Entity.

6.12.3 *Publisher Notifications and Other Industry Information.* In the event that a publisher publicly announces changes that are pertinent to user licensing ~~es such as product or maintenance changes or discontinuation, new product versions, product enhancements, or technical issues,~~ the Reseller should assist Users by ~~shall be required to~~ posting the information on the state websites, ~~notify the MPA and PA Procurement Officers in writing, and work with the Procurement Officer(s) on recommended actions, as necessary.~~

6.13 *Transitioning License Tracking Information at Contract Termination.* The license information data acquired and retained by Reseller will be stored as sortable datafields so the license information can be transferred to a new system upon contract termination. Reseller will work with States and Participating Entities, or their designees, to ensure that the license information data has been successfully transferred in a usable format.

6.14 Reporting

6.14.1 *Standard reports.* Individual participating states may require their own standard reports, such as report on savings. Reseller shall provide these reports at the intervals, and in the format, as reasonably requested by the States. Reseller shall advise of standard reports which they can provide, and work with participating states on additional standard reports.

6.14.2 *Online reports -* The Software Reseller shall be able to provide online, real time, reporting capabilities through the Internet using established state website. These reports may include Back Order or Current Order Status reports. In addition, the system shall be able to provide the ability for the user agency to create custom reports. The requesting Participating Entity shall be able to select specific fields and create a necessary report for their specific needs. Data Fields shall include, but not be limited to, purchasing entity, Purchase Order Number, Order date, Invoice date, Publisher, Publisher Part Number, Software Reseller's Part Number, Description, Quantity Shipped, Unit actual price, Extended Price, Sales Tax and order total. Reports shall be able to be shown online as well as emailed to the requesting Participating Entity, if requested. Examples of Reseller's standard and online reports shall be submitted with the offer.

6.14.3 *Custom reports.* Reseller may develop and provide custom reports as an optional service at a pre-quoted estimated total amount, at established hourly contract rates.



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- 7 **OTHER VALUE-ADDED SERVICES.** Offeror may propose other Value-Added Services, e.g., key escrow, in their response. Such services from an awarded Offeror, if consistent with this Statement of Work, recommended by the Evaluation Team, and accepted by the Procurement Officer, would be added to the final awarded contract.
- 8 **EXCLUDED PRODUCTS AND SERVICES.** This contract is intended for the acquisition of distributed, commercial off the shelf software. It is not intended for the purchase of custom software applications. Individual PA's may further limit the scope of this contract.
- 9 **STATE SUPPORT.** No support, facility space, materials, special access, personnel or other obligations on behalf of the states, other than payment, are required under this contract.
- 10 **PERFORMANCE STANDARDS.** Offerors are requested to propose viable performance standards which the Offeror suggests as standards which best demonstrate the effectiveness of a Reseller in meeting the requirements of this contract, providing cost-savings solutions, and realizing a high level of customer satisfaction. The Standards agreed to would be added to the final awarded contract(s).



Offeror - Exceptions

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Please indicate as appropriate:

OFFEROR: En Pointe Technologies Sales Inc.

- TAKES NO EXCEPTIONS TO THE REQUIREMENTS OF THE SOLICITATION**
- TAKES EXCEPTIONS TO THE STATEMENT OF WORK OF THE SOLICITATION**
Please insert language; identify section, clause number (where applicable) and exception(s).
- TAKES EXCEPTIONS TO THE FOLLOWING TERM(S) AND CONDITION(S) OF THE SOLICITATION**
Please insert language; identify section, clause number (where applicable) and exception(s).
- Uniform Terms and Conditions**
- Special Terms and Conditions**
- WSCA Terms and Conditions**
- Participating State(s)' [Identify each] Terms and Conditions**
- TAKES THE FOLLOWING EXCEPTIONS TO OTHER REQUIREMENTS OF THE SOLICITATION:**
Please insert language; identify section, clause number (where applicable) and exception(s).



Offeror Questionnaire – Methodology

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Instructions: Complete each item, using attachments where necessary. Attachments shall indicate the item number and heading being referenced as it appears below. Label your response "Questionnaire-Methodology-companyname" and indicate each question number as it is being addressed. Your narrative response is limited to twenty-five (25) pages, 8.5" x11", with one-inch margins and no smaller than Times New Roman number 12 or Ariel 9 font. Attachments are not included as part of this total. All materials must be in electronic format that can be received by ProcureAZ, the State of Arizona's electronic procurement system (see Special Instructions.) **ANY NARRATIVE LANGUAGE RECEIVED IN EXCESS OF THE PAGE QUANTITY INDICATED WILL NOT BE CONSIDERED AS PART OF THE PROPOSAL.**

METHODOLOGY

1. Assume you recently received a contract as the sole Software Value-Added Reseller in a State (serving that State and its cooperative partners). Further assume: the State has multiple state agencies and multiple municipalities using that State's contract; the State and cooperative partners have separate volume license agreements and existing perpetual licenses; the State has an existing contract with a personal computer (hardware) provider which provides equipment already loaded with basic distributed software products.
 - DESCRIBE the actions you would take to establish yourself as that State's SVAR, with the central procurement office, and with individual using entities (e.g., a state agency and a coop partner such as a city).
 - DESCRIBE how those actions may be modified if your contract were the first SVAR contract for that State.
 - DESCRIBE your outreach to State and Cooperative Partner users.

Response:

If En Pointe has been chosen as a sole Software Value-Added Reseller in a State (serving that State and its cooperative partners), the process begins with an initial planning session or "On Boarding" meeting (called eConnect), where State's team of IT stakeholders will be introduced to the dedicated En Pointe team and receives an overview of our product and services. With your En Pointe Account Executive and the entire virtual team involved, we'll discuss how En Pointe can best assist you in managing and administering your SW licenses. We'll also explore your objectives, goals and timelines for deploying the technologies in which you've invested. By establishing this long term, proactive relationship, we'll be better able to assist you throughout the term of the contract and the lifecycle of the products included in it.

The benefits of e-Connect:

En Pointe's experienced Software licensing team can either advise you or do the heavy lifting on ongoing management and administration of your SW licencing procurements.

- Strategy discussion sessions help develop an understanding of your technology roadmap and allow En Pointe to keep you informed of offerings and promotions targeted to your specific needs. In many cases, we can assist in negotiations with manufacturers and publishers for project-related purchases.
- As a Services LAR (SLAR), En Pointe has the expertise to go beyond procurement of licenses to planning, deployment, full or partial management and retirement of software publishers' technologies.

Sample En Pointe eConnect Standard On Boarding Call Agenda

- Intro's
- Software Management, overview of En Pointe's offerings and options
- Confirm HUP and EPP kits received, discuss launch day offering.
- DDPS discussion
- Deployment/PSO/MSO introduction/Q&A
- Quick review of EA – touches on status/plans for each technology.
- AccessPointe – e-Procurement tool
- Introduce EA Management Guide deliverable
- Discuss relationship roadmap (lic+svcs), QBR schedule and participants



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Sample Software/LAR Transition Task List

- Complete Setup of Customer Account – 21 days
- Request Customer Purchase History (CVS/XLS format) – 7 days
- Upload Purchase history and information from other resellers – 3 days
- Microsoft Contracts: Sign Change of LAR Forms and process through MSLI – 7 days
- Other Contracts: Work with other publishers to upload contractual information – 14 days
- Load Contracts into En Pointe's SAP ERP system – 2 days
- Setup Customer Standards in AccessPointe – 3 days
- Rollout AccessPointe to Buyers, Staff and End-users – 1 day

Communication Plan to Create Outreach to State and Cooperative Partner users.

PURPOSE: En Pointe will develop an operations set of guidelines and metrics specific to the needs of each State. Our account managers are expected to measure deliverables and personnel using detailed reporting systems and scheduled conference calls (weekly) and when necessary a monthly visit with designated end-users, buyers, managers, etc. We will respond and deliver according to your expectations and adjust our operations accordingly. En Pointe will dedicate a Transition Manager to assist in defining key success criteria for both implementation and steady state support. Upon contract award, these resources will be assigned and will work with the State to finalize the Statement of Work, define the Customer vision and formalize the transition plan.

OBJECTIVES: The well-trained and dedicated support Account Team will be primarily responsible for providing advice and knowledge of the Software license products.

- Conducting account performance and service reviews on a periodic basis in accordance with the contractual requirements outlined in the RFP
- Coordinating OEM and contract related meetings, product demonstrations and product evaluations with the various State Departments/Agencies
- Reviewing work flow structure to ensure quality and efficiency for the State's order processing
- Communicating the State's goals, strategies, and policies to all members of the En Pointe account team
- Communicating the contractual pricing for all license contracts and other products to all users involved
- Training for State and Agency Purchasing on En Pointe's Web Tools

GOALS & TASKS:

- Develop regular/ongoing communications schedule
- Develop communication review/approval process
- Create a special email address & mailbox to send all approved communications and receive all community responses/questions
- Develop inquiry response guidelines
- Coordinate with OEM meetings, webinars, training and seminars

AUDIENCE:

- State Purchasing Staff
- Agency End Users
- Computer Directors
- Others as Defined

TOOLS AND TIMETABLES:

Tools that will be utilized to communicate information to the State will include:

- Company Intranet
- Email
- PowerPoint presentations

The tools will be used in combination with each other for maximum communication affect and community exposure.



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2. Contractor is required to provide a website for each participating state. Describe the website you would establish for a State and that website's functionalities or special features. You can supplement this response with illustrative page shots (no more than 10) from one of your existing websites. Please address, at a minimum:
- Home page appearance and information
 - On line tutorials
 - Product catalog (include searchable fields, which products you would include, how VLA information is provided)
 - Links
 - Downloadable standard reports, if any. Include how information is controlled and sorted (e.g., how can Tempe, AZ obtain only their information, how can Procurement Officer of contract obtain a purchasing profile for users and volume in State).
 - How website is monitored, kept current and accurate

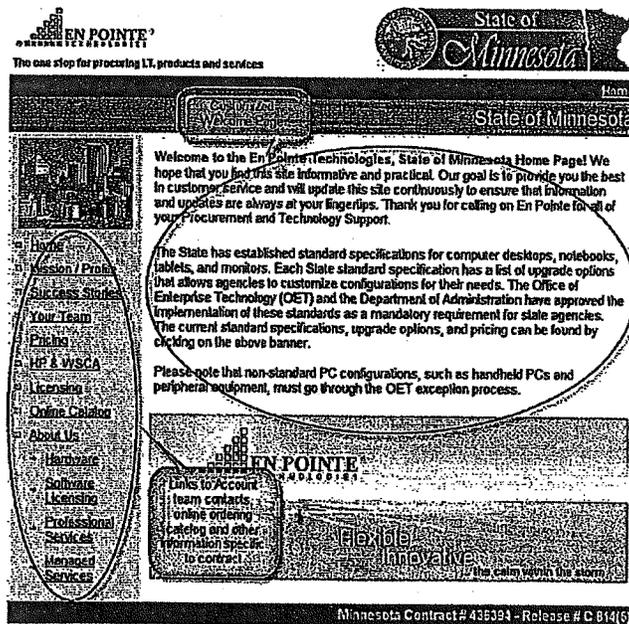
Response:

En Pointe will work with each State to create a customized website for this contract that includes leading online procurement capabilities. We provide this today for many of our State contracts.

Appearance & Links: We design informative, fast loading, and contextual websites for our customers that entails local/global navigation & ease of information retrieval bringing intuitive and easy to understand Site organization, Links and labels, content groupings are very easy to understand, modern searching techniques are employed, ease of information retrieval, readability and sufficient depth/breadth of content offerings are the main features of our customer based websites.

En Pointe can customize the content of the web site, so it meets the requirements with information relative to the specifics of the contract. A well-designed link directory will be maintained that will be relevant and useful to the State and State agencies. The home page can be a welcome page for new users with links to how to contact the En Pointe Account team, contract details, news and information, and links to our eProcurement online ordering and catalog.

The below screen shot shows an example of the State of Minnesota Home page: <http://minnesota.enpointe.com/>



Contact the webmaster for changes regarding this site.
Last modified: November 09, 2010 - En Pointe Media Works



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Online Tutorials : Online tutorials will be provided to provide access to a wide range of detailed, useful and accessible information. As an example, on the Commonwealth of Massachusetts website, in the eProcurement link, we provide a link for a demo, with a demo user id and password. Once on the site, there is an included user guide that takes the user through the features and use of the web site. *We have included the user guide as an attachment to this section.*

Commonwealth of Massachusetts, ITS42 Misc. SW Contract Web site, link to eProcurement tool/instructions:
<http://www.enpointe.com/massachusetts/eprocurement.asp>

****Your internal AccessPointe administrator determines which features are available within your organization.**

Each eligible entity will be able to set up an AccessPointe account and designate one or more Site Supervisors when establishing their buying account with En Pointe. The Site Supervisor will be given a login ID and password, which will enable access to account information and allow control of access to additional AccessPointe features. Changes or updates can be made at any time by contacting the Specialist Team or the En Pointe Account Manager.

Would you like to get a Sneak Peak?

How to get your login?

To get your AccessPointe login, simply send us your contact information at
its42@enpointe.com



URL: www.accesspointe.com

Username: MADemoUser

Password: enpointe

Once we've confirmed with your organization's site administrator, Your login credentials will be sent to you via email. Use that login to see your software contracts at state discounted pricing and to take advantage of other e-procurement features.

Once on the AccessPointe URL, users can sign in with a demo id. Below is a screenshot of the demo that was set up for the Commonwealth of Massachusetts. We have provided the User Guide as an attachment. The evaluation team is able to sign on as a Demo User to this site. En Pointe is also able to create a flash demo of the site, should States desire that feature.

The below example AccessPointe demo site from the Commonwealth of Massachusetts can be found at the following link: <http://www.accesspointe.com/appl/main.aspx>



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Instructions for self-paced demo

Internet Explorer 6 is now 10 years old and unsupported by Microsoft. We are going to follow suit... this site will function with IE8 but as we add new features, we will no longer be coding around IE6 specific quirks.

Even if you have had the chance to promote browser modernization, if your organization is still using IE6 we strongly encourage you to upgrade to IE8 or Firefox 3.6; both are capable, modern browsers and will give you a better, faster experience on all current internet sites.

Message from En Pointe

Welcome to En Pointe Technologies

This demo site has been specifically designed for the State of Arizona, to demonstrate the flexibility, features and account capabilities of our AccessPointe e-procurement solution. For a detailed list of features, please see the AccessPointe User Guide below.

After viewing this self-paced demo, you may also want to arrange a live walkthrough of AccessPointe. Please contact any of En Pointe's State of Arizona team members, listed below, for a live demo or to set up your account with En Pointe.

Get your Account today: To view your organization's custom pricing in AccessPointe, please call your inside support team at the number given below to have your account set up.

En Pointe Contacts

Ed Dobbins - (Team Lead - Inside Account Team)
 P: (202) 745-6976
 F: (202) 915-6150
Ed.Dobbins@enpointe.com

Mark Hestit - (Business Development)
 P: (410) 337-5200 Ext: 2204
Mark.Hestit@enpointe.com

Downloadable User Guide

Kathy Parson - (VP, Public Sector Sales)
 P: (202) 915-6150 Ext: 8437
Kathy.Parson@enpointe.com

Web site: www.enpointe.com

[AccessPointe User Guide](#)
 Click the above icon to view the customized user guide.

Product Catalog: En Pointe provides a catalog management system with a variety of flexible, modular and scalable features. En Pointe's e-procurement system, AccessPointe helps create, communicate and enforce corporate standards with customized catalogs containing contracted pricing. Electronic Product Catalogs are transmitted and hosted behind your firewall using a variety of methods including: XML, cXML, EDI, TXT, DB, XLS, etc.

Catalog Support is a service En Pointe has provided to a large segment of our customers. Managing content and catalogs is a daily task at En Pointe. We have built comprehensive tools utilizing complex processes that can filter, format, cleanse, and enhance data from any source and publish this data to any system capable of receiving it.



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En Pointe can provide an on-line catalog of available software with the following features:

- The ability to search VLA and Non-VLA products by various search options.
- Each State can have it's own pricing in the Catalog if variation based on Publisher pricing
- Pricing rules can be updated at anytime based on the States policies.
- Catalog for each State includes only software which the reseller has not been restricted from selling by that State
 - o The catalog will enforce the state's policy by restricting products from the catalog
 - o AccessPointe allows flexible management of each catalog
 - o AccessPointe allows ability to further restrict users to certain SW within a State

Searchable Fields:

Our Search Engines are tailored for the products En Pointe sells and can intelligently assist in finding products amongst a catalog of hundreds of thousands of products. Customers can search for products using one of two methods, a basic keyword search where any keyword or phrase can be conveniently entered into the search box, and an Advanced Search option which allows for more complex requests. Advanced Search will allow for combinations of different criteria to be used for the result, as well as powerful filters that will help delineate non-desired results. *More details on searchable fields can be found in the Demo Guide.*

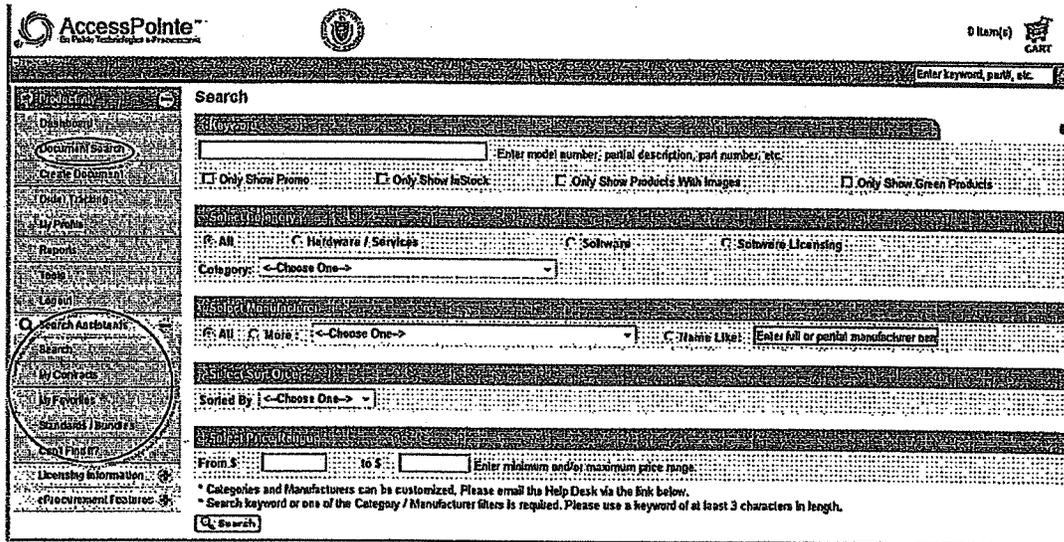


Figure 1: Sample Product Search View

Downloadable standard reports: Standard Reports are available online, free of charge, as a subscription or on an ad-hoc basis that will be integrated to your own website:

- Report of Outstanding Orders
- Detail Report by Manufacturer
- Detail Report by Customer PO#
- Detail Report by Ship To Location
- Raw Data File (all fields captured)
- Summary Totals by Product Name
- Sales and Backorder Report
- Summary Totals by Manufacturer
- Customer-Specific Price List
- Snapshot Report – graphical summary of purchase activity data
- License Consumption Report
- Purchase Activity Detail Report



Offeror Questionnaire – Methodology

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPO)
Customer: WSCA participating states; AZ Statewic
(state agencies & cooperative partners)

Description: WSCA Software Value-Added Reseller

En Pointe can create parent/child administrative rights. A State Contract Manager can pull standard and custom reports for the entire state and be provided admin rights for eligible entities. *See the Demo guide for more details on how to create reports and report features in AccessPointe.*

Website Monitoring/Updates: En Pointe has a dedicated online marketing manager who has a team of web and graphics developers that all they do is monitor all aspects of the site. They also work with the Account Teams to make sure requirements for the site are kept up to date. Each site can also be set up with a 'Contact Webmaster' should users need to provide feedback.

Actionable alerts are set that let us resolve issues before customers are impacted and trending data allows us to optimize uptime/performance and help us setting up escalation levels. Our software track website failures and logs detailed reports of the uptime/downtime of website each month. Your website will be kept with latest product lines, prices, news and other important information. We are also employing Google analytics for website monitoring;

3. Describe your method for tracking software licenses and ensuring that Participating Entities (PE) receive timely notifications of renewals or are advised of volume agreements opportunities or vulnerabilities, etc. Please address, at a minimum:

- The standard sort-able data fields you establish for these records
- The information you track on behalf of Participating Entities.
- How reminders of significant dates or volume plateaus are triggered and how your organization, as a partner with a PE, works with the PE to ensure no deadlines are missed or opportunities unexplored.

Response:

License Tracking

Our license tracking works by actively maintaining all licensing agreements customers have with software publishers (both contractual agreements as well as transactional software volume discount agreements). This enables us to ensure customers are purchasing products in compliance with any agreements they have, and prevents accidental quotes and/or orders for products at prices outside of any agreement terms. Because every license is individually recorded against a customer-specific agreement, we can easily track license purchases for customers and record them against contractual milestones to assist customers in recognizing how to take best advantage of any agreements they have entered into. *The below screenshot shows a summary of the various Publisher contracts and standard reports.*



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The screenshot displays the AccessPointe web application interface. The top navigation bar includes links for Home, About, and Logout. The main content area is divided into several sections:

- Account Information:** Shows user details for 'User: Adams, Paul', account number 'COUNTRYWIDE HOME LOANS (SFWAR)', and SAP account number '0001009891'.
- En Pointe Contacts:** Lists contact information for Shella Johns (National Account Executive) and Marlon Munoz-Fratt (Customer Support Representative).
- License Management:** A table listing various software licenses such as Microsoft Select 6.0 Level D, Microsoft Office, and Adobe Acrobat, with columns for Report Name, Date Created, and License Contract Summary.

Renewal Notification:

En Pointe provides pro-active notifications of renewals and contract expirations as part of our SW Account Management program. We maintain a dedicated renewals team that tracks all expirations, renewals and provides notification to your account management team.

Our Renewal Team ensures accuracy and timely delivery of information to the customers by converting the data into useful information. The team understands the importance of time for every tier involved in the process by making sure that all the relevant and pertinent information flows through the channel. Our team is equipped with the necessary skill set that is required for clients and customers satisfaction. Support dimension covers the customer services and management of services for the State so that they face no problem in getting the required Services. Moreover, Renewal Reporting helps in generating a projection of the potential business through Renewals in the upcoming 90 days and more for coming year.

Below is a sample of the type of information that we can send. Moreover we can customize the data to match what you require.

CUSTNAME	MFGNAME	CONTACT	PO#	EXP SKU/SERVICE DESCRIPTION	QTY	EXP DATE	ENP/ID/SKU/SERVICE	PROGRAM DESCRIPTION
VMware, Inc.	75006864	6051809		VIRTUAL CENTER MINGMT SVR FR INFRA\MNT	1	10/31/2009	VI-VCMS-P-SSS-C-8M	VMWare
VMware, Inc.	75006864	6051809		INFRASTRUCTURE 3 ENTERPRISE\MNT	1	10/31/2009	VI-ENT-P-SSS-C-8M	VMWare
VMware, Inc.	75006864	6051809		INFRASTRUCTURE 3 ENTERPRISE\MNT	3	10/31/2009	VI-ENT-P-SSS-C-7M	VMWare
VMware, Inc.	75006864	6051809		INFRASTRUCTURE 3 ENTERPRISE\MNT	1	10/31/2009	VI-ENT-P-SSS-C-4M	VMWare
VMware, Inc.	75006864	6051809		VMOTION\MNT	3	10/31/2009	VI-VMOT-P-SSS-C-1M	VMWare
VMware, Inc.	75006864	6051809		INFRASTRUCTURE 3 STANDARD\MNT	1	10/31/2009	VI-STD-P-SSS-C-23M	VMWare
VMware, Inc.	75006864	6051809		INFRASTRUCTURE 3 STANDARD\MNT	1	10/31/2009	VI-STD-P-SSS-C-7M	VMWare
VMware, Inc.	75006864	6051809		INFRASTRUCTURE 3 STANDARD\MNT	1	10/31/2009	VI-STD-P-SSS-C-2M	VMWare
VMware, Inc.	75006864	6051809		INFRASTRUCTURE 3 STANDARD\MNT	1	10/31/2009	VI-STD-P-SSS-C-1M	VMWare
VMware, Inc.	75005423	6056713		INFRASTRUCTURE 3 STANDARD\MNT	1	31-Dec-09	VI-STD-P-SSS-C	VMWare

The standard notifications are sorted by;

1. Customer Name
2. Manufacturer Name
3. EnPointe Purchase order number



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4. EnPointe Sales order number
5. Expiring SKU (Part number of the expiring License. Can be one or many)
6. Expiring Part Description (explanation of expiring licenses)
7. Expiration Date (the date when part gets expired)
8. Renewal SKU (Part number of the new service)
9. Opportunity amount (The list price customer will pay to renew)
10. AE name (who has been assigned to the customer)

Key Services of Renewal Team:

1. Renewal Process Management
2. Random Renewal Opportunities
3. Upgrade Promotions
4. Renewal Outsourcing
5. Renewal Repository

Renewal Reporting:

Reporting is one of the most critical parts of the renewal process that shows the results of a complete renewal activities performed in a particular quarter. Different reports are generated of which the most important is the Business Analysis Report (BAR) that determines the total potential renewal business per quarter. Apart from the business analysis report, a weekly report is also prepared that specifies the number of opportunities sent and followed up per week and the progress of the renewal opportunities.

General Notifications & Product Awareness:

We receive regular product announcements, anniversary dates, safety information and notifications, product compatibility information, new product highlights, pre-loads, product end-of-life and alliances information on all products from our publishers. The purpose is to communicate to the PEs, future product directions, discuss how it will affect your current standards and illustrate the migration from current platforms to future products several months in advance. Product announcement notifications generally start about 4 months prior to end of production or any product lead time issues (i.e. Constraint, manufacturers defect, etc.) and products are flagged in En Pointe's system with the appropriate status. Based on the State and PE catalog we will be able to alert you when there are any product announcements so we can assist in product transition decisions or alternative product acquisitions. In addition, your En Pointe account team will have regular meetings with manufacturers to discuss roadmap and product transitions. Quarterly updates on roadmap can be delivered to you via reporting/meetings where evaluation products can be provided to your technical evaluation teams.

4. Describe standard reports which you can generate for a PE (other than downloadable reports addressed earlier) and provide sample reports as examples. Describe and provide examples of Optional Reports which you could provide and provide pricing in the Offeror – Pricing attachment.

Response:

En Pointe has a variety of purchase activity reports available to you via the web, electronically (through email), and/or directly from your En Pointe account team. Our reports can track buying at every level and break down spend by division, parent, ship-to location, etc., to give you a clear view of your purchasing patterns.

Our raw purchase activities reports capture over 100 points of data, which can be sorted by authorized users and allow them to view information in any manner they choose. These reports provide a snapshot of your licensing & purchasing patterns by affiliate, location and (or) your entire organization. Your affiliate locations may access reports for their specific location and can be automatically e-mailed to the requestor. Your purchasers and administrators may access the following reports, 24 hours a day, 7 days a week, via a secure login utilizing En Pointe's AccessPointe. Reports will also be provided by means of your En Pointe account manager or inside account team as required in the terms.



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En Pointe's e-commerce solutions provide for comprehensive reporting for details of each and every transaction conducted between En Pointe and its valued customer base. Our reporting tools are both intuitive and powerful utilizing excel file formats, scheduling engines, and the ability to customize every aspect of your report.

Systems Sales Reports

Standard Reports are available online, free of charge, and in the following formats as a subscription or on an ad-hoc basis:

- Report of Outstanding Orders
- Purchase History
- Detail Report by Publisher
- Detail Report by Customer PO#
- Raw Data File (all fields captured)
- Summary Totals by Product Name
- Summary Totals by Publishers
- Customer-Specific Price List
- Snapshot Report – graphical summary of purchase activity data
- Purchase Activity Detail Report
- Sales and Backorder Report

Premium Reports

En Pointe offers additional reports for customers who would like to track licenses, maintenance consumption, or view non-standard purchase activity. The following Premium reports are available:

- License Consumption Report
- Maintenance Accumulation Report
- Global Report
- Total Sales By Month
- Purchase Activity Detail Report
- Summary Mfg Total by Dollars
- PAR by Mfg/Product
- Product Totals by Description
- Units Shipped/Units Returned
- Sales Orders Report
- Customer Contract Listing
- Cost Savings
- Return Activity
- Publisher Account Guide

En Pointe will provide these reports free of charge.

Software License Management Reporting:

Know what software your company is purchasing. Know where that software is being used. En Pointe offers a variety of purchase activity reports to help you:

- Identify cost-saving opportunities
- Get the best price
- Apply allocation costs
- Budget for future needs
- License Compliance

Custom Reports:



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For reporting requirements not covered by our standard reports, En Pointe's reporting team can create customized reports to capture any customer-specific data management field in a format that meets your needs. Custom reports are typically fee based depending on the complexity and manual effort required to create and distribute the report.

Two of the main reports that we offer to assist with licensing and renewals management are as follows:

Contract Expiration Reporting: This will allow us to report back to PE when contracts will be expiring so we can proactively renew without any lapse in coverage.

Future billing reporting: This will allow us to proactively maintain the annual offerings by our publishers. One single order is keyed into the system which creates future billing events based on contract anniversary dates. The PE will automatically receive accurate invoices when they're due. We can also provide reporting on when and how much your invoices will be.

Sample standard reports have been included in a supplementary attachment.

5. Explain your method of ensuring a PE will receive and can provide proof of licenses. Include in your response:
- Describe how you provide a Proof of License certificate to a buyer. Also, provide sample(s) of a Proof of License such as you would provide.
 - Explain your method of retaining back-up copies of Proofs of License; and how, and how quickly, you could provide duplicate copies as needed.
 - Describe how you partner with a PE to demonstrate accuracy of licensing information to a publisher (e.g., True Up).

Response:

En Pointe will provide a License Certificate that will substantiate Proof of Purchase for each type of license purchased under this contract. Additionally a duplicate copy of License Certificate will also be sent to the ordering agency. This License Certificate will contain all the necessary information. Typically the customer's order confirmation could be a possible proof of purchase for license certificate. For example, MS legally will not let us send any kind of certificate and it would not be a proof of purchase, whereas Adobe has licenses certs. Below is a standard order confirmation that can be used for proof of purchase.



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18701 S. Figueroa Street
Gardena, CA 90248-4506
Main (310) 337-5200
www.enpointle.com

En Pointe Contact
Janice G. Edwards

Branch Office:
En Pointe - Govt Sales - East
18701 S. Figueroa Street
Gardena CA 90248-4506
Ph: 310-337-5855
Fax: 310-258-2301

Customer Contact 972-925-4100	Customer Notes
Shipping Address [REDACTED]	Purchase Order Details PO# 408843 PO Date 03/11/2011 Customer # 1012767 Delivery Date 03/17/2011 Delivery Terms FOB DESTINATION Payment Terms Net 25 Gross Weight 1.000 LB Ship Via BW Best Way-3 to 7 days
Sold to Address [REDACTED]	

**ORDER
CONFIRMATION**

50122312
Page 1 of 1

Item	Material / Mfg Part / Mfg Name	Description	Unit Price \$	Qty	Ext Price \$
10	EP2510390 / 1253278 SolarWinds.Net	Orion SL500 TO SLX w/Colterm Mnt Bun Most Current Electronic Download American English (Windows) 1 User Corporate	13,469.39	1	13,469.39

Proof of License Database:

When En Pointe receives the customer's Purchase Order our Customer Support Representative (CSR) places the order in our system through SAP to our vendors. The order is then confirmed by the vendor electronically and the product is shipped directly to the customer. Shipment confirmation is sent to purchasing who then closes the order and adds shipping information in case of POD requests. Customer is then electronically invoiced and all licensing proof of purchase data is recorded in AccessPointe our e-Procurement tool. Proof of purchase documentation requests can then be satisfied quickly through inquiry into the AccessPointe account database.

En Pointe will provide and archive reports that keep track of the number of licenses purchased which will support our response to any compliance inquiry or audit.

You can request reports via subscription or ad-hoc for all licenses purchased from En Pointe. For many of our software customers we have established a process where En Pointe receives all proof of licenses forwards them to the client and then also stores them electronically for future reference.

Accuracy of licensing information/True-ups

En Pointe's Software Licensing Team offers licensing expertise, creative and cutting edge software management practices, and the benefits that come with well-established publisher relationships

En Pointe continues to follow up with timely renewal notices, updates on publisher licensing programs and policies, True-Up, all product related notifications, on-site business reviews and consulting.

En Pointe makes it our #1 priority to ensure our customers are getting the most out of their IT spend while continuously looking for savings opportunities and accuracy of information. A true-up analysis as well as volume license agreements are reviewed during client quarterly and annual account reviews. For example, En Pointe



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has successfully renegotiated a Microsoft Enterprise Agreement after only 1 year resulting in a \$9 million savings for a "major computer manufacturer". This is an important part of the En Pointe commitment that demonstrates proactive client advocacy with proven success.

Licensing Sales Support Examples:

- Proactive contact with Publishers to arrange annual or quarterly True-Ups when possible
 - Proactive contact with Publishers to co-term renewal dates to be consistent with the State budgets and requirements
 - Risk Mitigation through pro-active tools and process management
 - Consultations on best negotiation tactics with vendors including direct relationships
 - ROI analysis
 - Promotions Analysis customized to customer's environment and business drivers
 - En Pointe potential service dollar supplement
 - Road Map planning
 - True-Up worksheets and planning
 - Regular customized promotions and changes notification specific to the State's needs
 - Regular review of purchases to ensure best practices are being utilized
 - Pro-Active re-harvesting of license to reduce total spend
 - Contract Amendment Negotiations and Management
 - Contract and Agreements form management including pre-filled out forms and instructions for process
6. Describe how you work with a PE and publisher to maximize the Entity's value in obtaining products and services under this contract. Description is to address, but is not limited to, the following:
- Working with a PE and a publisher to assist the Entity in best managing their volume or enterprise license agreements.
 - Working with a State and publisher to maximize the leverage created by the total sales volume from a State and its cooperative partners to ensure best value to all PE's.
 - Working with a publisher to maximize the leverage created by the total sales volume overall resulting from this contract.
 - Working with a PE and publisher to obtain the best quote on a high volume purchase.
 - If, and how, you use historical purchase information to provide targeted assistance to a PE.
 - Assuming a software configuration is not within the knowledge or authority of your organization, describe how you could assist a PE in finding a solution (i.e., helping PE obtain needed configuration assistance from the publisher or designee.) Explain how you would 'price out' such assistance.
 - Explain the training you could provide (other than online tutorials) to assist PE's in using this contract and obtaining best value from it.

Response:

License Agreement Management

While Volume License Agreements lower software asset-management costs significantly and ease compliance worries, some organizations are reluctant to implement them because they can be complex. It is easy to be intimidated by confusing terms and conditions, a plethora of product and purchase options, and ongoing reporting requirements. En Pointe Technologies works with our clients to make sense of their volume license agreements. We deliver cost-effective guidance through contract interpretation, licensing deployment, and comprehensive reporting.

First, we review the purchases you have made within the last few years. We examine upcoming projects you are planning, as well as acquisition and divestitures, to predict future needs. Then we look at the licensing programs publishers provide, and decide how to set up each program so that your future purchases will be the most economical as well as fit best into your procurement processes.

Our initial assessment will determine where improvements are needed, if any. That will provide us a stable platform to pro-actively engage with your software publishers on your behalf to increase cost savings, increase compliancy and reduce risk to our customers.



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We can uniquely bring significant cost savings to your organization because of our service support and relationship with publishers. Our software specialists work directly with publishers and are well versed in programs to help your organization select the optimum program.

En Pointe has made significant investments in systems such as SAP (ERP) and AccessPointe (web-based application) to deliver tools for procurement and robust reporting to manage contracts.

Managing software license contracts can be complicated. En Pointe removes the complexity and serves as a trusted advisor to your organization.

Our license consulting services include the following:

- **Publisher, Product, and Program Information** – En Pointe will proactively deliver key information customized to your environment to help you make informed decisions
- **Program Awareness and Needs Analysis** – En Pointe will help you understand its options for acquiring software based on your business objectives and needs and provide analysis to justify those business decisions (excel cost summaries, executive analysis, etc).
 - We excel in the area of "One-Off" software research and sourcing. Our SW specialists will work with a PE in finding a solution for a particular requirement and facilitate researching and negotiating with the Publisher on behalf of the PE. We provide this consulting service at no charge.
 - Pre-Sales Engineering engagements would be billable activity.
- **Volume License Program Recommendation and Justification** – En Pointe licensing managers and license contract specialists will advise you on license programs, contract structure, industry trends and strategy.
- **Software Procurement Process Consulting** – En Pointe will provide advice on how to put administrative advantages of licensing programs into use to save time and money including providing access up to and including facilitating customer oriented seminars and open discussions. Much of this advice will be derived through our experience, key relationships with the software publishers and our ability to track licenses and licensing contracts and then produce a total solution to the needs defined.
- **Publisher and Contract Facilitation/Negotiation** – En Pointe will work directly with software publishers to negotiate favorable terms and conditions on your behalf.
- **En Pointe Asset Services (EAS)** offers an affordable, highly configurable cloud-based software asset management solution that will enable the State to quickly and easily determine exactly what software is installed on their network, servers and end point devices in order to reconcile/manage their license position and address entitlements. All forms of software are discovered and inventoried as well as hardware including non networked printers and monitors.
 - **Increase the ROI of software and hardware assets.**
 - Eliminate Software overspending
 - Allow underutilized software licenses to be redeployed
 - Discover lost hardware assets
 - Reduce Support costs
 - **Reduce Security Risk.**
 - Restrict the use of unauthorized Software or Hardware that may contain harmful viruses or malware
 - **Eliminate Compliance Risk**
 - Know what software is installed and where it is located on a "real time" basis
 - Software negotiations: Stop an audit before it starts

The En Pointe Account Executive will validate all contracts and high volume purchases as part of our initial integration plan as well as ongoing account maintenance. We will compare current and future programs including contract and licensing changes to gain the most aggressive terms available for each PE under this agreement. We will also monitor internal growth (projected and M/A) to re-work contracts when appropriate.

Specifically En Pointe will work with each PE to determine the most appropriate licensing structure for your needs. This typically includes a customized cost analysis – analyzing spends, product lifecycle, software assurance value, estimated end-user usage, and total ROI. Furthermore, we will include best practices given our



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expertise with other customers. Overall through understanding your business priorities and IT initiatives, we will derive a plan that best meets your strategic objectives. In doing this we will help you to control costs, improve productive and accelerate agility.

Historical purchase information to provide targeted assistance to a PE:

Access Pointe, web-based procurement tool, allows us to provide a real-time depository of software license information such as key-codes, purchase history, software assurance benefits, etc. Access Pointe will show purchase history (including prices), allow the management of all software agreements (not just Microsoft) and provides for the online direct purchase of products. En Pointe can benefit you in many ways, maintaining the historical purchases and carefully managing this data, this includes;

- Better forecast your annual software budget and manage costs
- Gain greater control over your product upgrade cycle
- Effectively plan for new software deployments
- Ensure good corporate governance

In addition to that;

- We consolidate software purchase history reports collected from your software vendor, your own internal accounting processes, and from resellers you may be buying software from, to determine what software license you have purchased, and what are you legally entitled to be running. This is very helpful to us in managing your licenses.
- In addition to helping you determine what software you really need, En Pointe specialist help you better understand the full capabilities of what you have already got. This avoids unnecessary buying and enables to make better use of your software to solve additional business problems.
- Based on your purchase history and software asset discovery, we determine whether the software you are actually running is all properly licensed or whether at risk of non-compliance. We recommend ways to achieve compliance that best fit your situation and implement fixes as requested.
- Access Pointe allows Purchase Order History to be analyzing by variety of criteria including all Purchase Orders with receipt discrepancies.
A detailed report may be printed that contains the Purchase Order history grouped by Purchase Order number and includes all the line item data.



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Sample screenshot of EA deployment on Access Pointe

Upload Deployment

Download Deployment file

Agreement Number: 8970196

Upload Deployment Data

Browse... (10 MB Max)

Delta Upload Full Upload

Upload...

Information

You can download the Excel Template - fill it up with deployment information and upload this as either Delta Upload or Full Upload. Later on you can run report based on that deployment information that you have provided.

Deployment Search

Agreement Number: 8970196

Agreement Status: All

Date Range: Start Date: 4/5/2011 (Format "MM/DD/YYYY")
End Date: 4/12/2011 (Format "MM/DD/YYYY")

Keyword (Product Description):

Search



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Customer Letter acknowledging the better management of software licenses on basis of purchase history maintained by En Pointe:

Yum! Brands Letter - Best-in-Class Service



Yum! Brands, Inc.
17801 Von Karman
Irvine, CA 92614-6221
949 863-4500



To whom it may concern;

With over 2300 locations worldwide, Yum Brands had a multitude of software license contracts which overlapped and required consolidation. Yum Brands provided En Pointe with purchase history reports from our previous resellers which they were able to filter through all the reports, contact our publisher reps to tried to negotiate steeper discounts, and work to bring co-terminus dates for existing contracts. En Pointe was also very helpful in identifying which software products we regularly purchased, qualified to purchase under a volume license contracts which resulted in savings for Yum Brands.

Our En Pointe account team is very knowledgeable and responsive and has done a great job on our account.

Thank you,

Gaylinn Tenkley
Sr. Procurement Analyst
YUM Brands, Inc

Lower Cost Purchasing Alternatives: En Pointe has the ability to offer a number of lower cost purchasing alternatives to save PE's budget.

- **Multi-Vendor Sourcing:** Ability to source lower cost or complementary 3rd party option alternatives. Our partners provide a wealth of resources to En Pointe. We have access to technical information and support staff at no cost to En Pointe which allows us to provide a level of service that is greater than the manufacturer direct model. We have the ability to build and configure hardware from "non-like" brands where clients can build a fully customized solution through En Pointe in one unique shipment.
- **Promos:** Leverage 40,000+ promos monthly from distribution to offer lower cost alternatives. (Example: On a recent order we saved our customer IBM \$41,825 on a PO valued at \$997,595 by utilizing a promo available from distribution.)
- **Special Bid Audit:** Ability to audit OEM special bid prices and help prevent 'price creep' over contract life.
- **Single Account Management:**



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We provide you with a single point of contact for all vendor products & services.

Training:

En Pointe has many certified service professionals who are fully authorized to install, upgrade, repair and train on all major publisher partners like Microsoft, Adobe, Symantec, VMWare, McAfee, Novel, just to name a few.

- **On-Site Training** - One to one training can be arranged as well as classroom environment training. Our training professionals and partners can accommodate these scenarios both on- and off-site.
- **Off-Site Training**- En Pointe is certified by all major software titles. We can offer on-site or off-site training in any software capacity. We have provided training in software to a large number of customers. This training ranged from beginner level end users to high level IT professionals.

7. This contract has a maximum life of five (5) years, the technology field is a fast evolving one, and the potential volume under this contract is beyond any single entity contract.
- How would you improve the value of this partnership, over time, during the life of the contract?
 - We require the successful contractor(s) to retain publisher certification levels, to improve upon them, to work to reduce their costs to obtain publisher products, etc. Explain your processes to meet these requirements.
 - How would you partner with the Procurement Officer and Participating States to adapt to changes and keep the contract viable?
 - As this is a contract which is expected to be used by many states, there is potential for a level of value and partnership – considering market information, volume, extended relationships with publishers, shared standards, etc. – beyond that provided by a single State or PE contract. What extra services or value do you feel you could provide given this expanded user and volume base?

Response:

Each PE will benefit from our long-standing strategic partnerships with our publisher partners.

En Pointe is an authorized reseller and integration partner for dozens of software publishers, including Microsoft (LAR/ESA), Symantec, IBM/Lotus, Computer Associates, McAfee, Trend Micro, Altiris, Citrix, and all other major publishers. We also excel in the area of "One-Off" software research and sourcing.

Software Certifications:

En Pointe holds high level certifications from many of our key suppliers. Only a small number of distributors receive these distinctions from hardware manufacturers and software publishers. En Pointe has earned these certifications through intensive education and training, product support programs, customer satisfaction and sales performance. Certification assures the PEs that En Pointe is a well-qualified supplier and partner who is focused on the delivery of quality support and service after the sale.

We maintain a dedicated Vendor Partner Relationship team who manages our Publisher relationships. We work directly with the Publisher on certifications required to keep the highest level of authorizations or through authorized distributors. In other cases, we can utilize teaming agreements to provide SW that we may not be authorized for. Should we not be authorized for a certain publisher that is required, we can work with the publisher on understanding the requirements and costs to become authorized – typically based on projected volume of the contract.

En Pointe carries over 1600 publishers, including the following key certifications:



Offeror Questionnaire – Methodology

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPO)
Customer: WSCA participating states; AZ Statewic
(state agencies & cooperative partners)

Description: WSCA Software Value-Added Reseller

	GOLD, LAN	Elite Partner 	ELITE PARTNER
	PLATINUM CHANNEL PARTNER	McAfee	ELITE
	PREMIER PARTNER	citrix partner Gold Solution Advisor	GOLD SOLUTION ADVISOR
	ELITE/ESP ENTERPRISE SOLUTION PROVIDER	AT AUTHORIZED License Center	AUTHORIZED LICENSING CENTER
	TIER 2 ASSOCIATE LEVEL	Novell	GOLD PARTNER
	VOLUME RESELLER	netIQ	PREMIER-INDIRECT
	AUTHORIZED RESELLER	ORACLE	GOLD PARTNER
	PREMIER PARTNER	QUEST SOFTWARE	SERVER PARTNER
	PREMIER	attachmate	NORTH AMERICAN RESELLER
	ADVANCED BUSINESS PARTNER	websense FOR ENTERPRISE SECURITY PROTECTION	AUTHORIZED RESELLER
	AUTHORIZED RESELLER	Information Builders	GOLD DMR

Our technical certifications afford En Pointe additional discounts and rebates from other publishers that the "software only" companies do not receive. En Pointe will build these discounts and rebates in to your pricing resulting in additional hard dollar savings. In addition, many other publishers provide additional discounts or rebates for the reseller service partner that can provide more than transactional services. This includes being able to consult, deploy, and migrate their technology as En Pointe has the capabilities to do. A good example is Symantec and Microsoft. We are one of only a handful of resellers who maintain the technical certifications and engineering team to provide complimentary services around these product publishers.

En Pointe has had and continues to have a strong partnership with these and other software publishers. With decades of combined industry experience, our Software Account Managers offer licensing expertise, creative and cutting edge software management practices, and the benefits that comes with well-established publisher relationships.

Multi-year or volume-based discounts:

En Pointe will leverage our vendor relationships and programs to ensure the PE will always be presented with multi-year discount options and when evaluating bulk purchases including maintenance.

Cost Saving Solutions on a Volume Basis:

En Pointe can reduce total cost of ownership by offering following value adds;

- En Pointe's deal registration and contract management processes ensure capture of rebates and discounts from publishers.
- If a special bid is not in place, En Pointe can assist the PE with the orchestration of competitive bid
- En Pointe can provide an ongoing pricing benchmark check point/audits to validate that each PE is receiving the best prices from the publishers. We can ensure the same price concessions are being made to each PE.
- En Pointe will identify any promotions or rebate programs made available by the manufacturer or any other supply source. You'll be provided all product savings that qualify for rebates or promotions.



Offeror Questionnaire – Methodology

STATE OF ARIZONA

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Description: WSCA Software Value-Added Reseller

- A company that delivers competitive pricing by leveraging the flexibility of our multiple product sourcing partners.
- Our unique value added offerings and services are aimed at making our customer's lives easier, lowering life cycle costs and improving efficiencies.
- Reporting, customer satisfaction and continuous improvement initiatives help us support you in best achieving your requirements.
- For PE to obtain the lowest acquisition price, it's our experience that this is first obtained through a volume special bid with the OEM manufacturer. En Pointe can provide the following benefits with this process:
 - Our reports help clients track SW assets, track cost savings, and assess status against volume licensing and purchasing commitments.
 - End of life, discontinued or constrained products are to be identified clearly in any quote response. Frequency of such pricing actions to be provided in accordance with the scheduled catalog updates

PE Communication and Marketing of Contract

The En Pointe Account Team will maintain regular communication with the PEs in order to enhance and improve the viability of this contract. En Pointe is committed to your satisfaction and to ensuring that you have resources, both sales and technical, who understand your business and that your team can rely on when needed. Our customers should expect that their En Pointe team will be knowledgeable about the industry and able to provide guidance on solutions and technologies from various partner publishers and manufacturers portfolios that make sense for our customers. In conjunction with quarterly updates and audits, we can establish customer satisfaction surveys to help us identify issues, resolve obstacles and improve on methods of supporting the contract.

En Pointe can also provide a number of marketing activities to further support and add value to this program. We believe these to be critical in helping our customer further establish itself as a comprehensive program and at the same time adding value to its partners.

Marketing Collateral: Brochure

If awarded this purchase contract, En Pointe will immediately begin collaboration on an En Pointe-branded brochure highlighting our customer strengths and En Pointe's solutions for them. This brochure will be widely distributed to the entire business sector in your area of influence. In addition, the brochure will be available for download from En Pointe's Web Site www.enpointe.com.

Marketing: Newsletter

En Pointe publishes a quarterly solution newsletter that we will include your organization on our distribution list. The Newsletter highlights upcoming events, webinars, technology spotlights, funding opportunities and other technology articles of interest to your business sector.

Marketing: Flyers

The En Pointe team will maintain a distribution list of your organizations contacts and periodically send out communication spotlights with promo's, events and pricing lists. Our customers particularly like monthly updated pricing lists for products like Microsoft, Adobe, Symantec/McAfee and VMware.

Onsite Technology Updates

En Pointe will work with your organization to host vendor technology fairs, updates and lunch and learns to help keep abreast of the latest technologies and solutions to maintain your competitiveness, life cycle cost improvements and enhanced learning opportunities for their employee base.



Offeror Questionnaire – Methodology

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPO)
Customer: WSCA participating states; AZ Statewide
(state agencies & cooperative partners)

Description: WSCA Software Value-Added Reseller

Value Add Partnership Offerings Summary

Our Software Licensing Account Executives and their internal counterparts are able to provide the following services for each of our software publisher partners:

- Simplify complex program details
- Analyze and propose best programs
- Coordinate publisher's technical resources
- Assist with contract negotiations
- Streamline and ensure timeliness of renewals
- Communicate pertinent product and program changes

Our software specialists can help you understand what you are licensed for and what you are entitled to. We offer Services from Pre-Contract through Post Contract LifeCycle.

Pre-Contract Services:

- Review of existing software platform & buying trends
- Comprehensive cost analysis
- Customized business proposal outlining specified objectives
- Technology planning and roadmap sessions
- Long-term budget planning & forecasting
- Contract interpretation & simplification
- Proposal of quantifiable software & satisfaction assurance
- SAM assist to lay the foundation for best practices

In-Contract (Training/Management):

- Facilitate Software Assurance Benefit activation
- MVLS site training & benefit administration
- Provide customized departmental training on MSDN and TechNet
- Manage TechNet subscriptions: Add all new TechNet users and subscription benefits
- Manage MSDN subscriptions: Add all new MSDN users, assign appropriate subscriptions/benefits, transfer/modify current subscriptions, send monthly user report

In-Contract (Processes):

- Set-up AccessPointe
- Implement EA tracking system
- Plan for deployments/migrations
- Provide License harvesting & audit consulting
- Track to SAM processes for yearly True-up
- Schedule subscription based/ad-hoc reporting
- Monthly Microsoft (and other Publishers) Newsletter

Post-contract:

- Enterprise Agreement /software assurance ROI summary
- SLA scorecard breakdown and vendor performance overview
- Technology initiatives and roadmap analysis
- Asset management support
- Assistance with license transfers
- Proactive contract re-negotiations with Microsoft and other Publishers



Offeror Questionnaire – Methodology

STATE OF ARIZONA

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Description: WSCA Software Value-Added Reseller

8. What performance measures would you establish to ensure yourself and users of this contract that you are, at a minimum, meeting the requirements of this contract, providing cost-savings solutions, and realizing a high level of customer satisfaction? Describe your methods of defining and tracking your performance against specific measurable objectives. Provide copies of any reports you may have developed that communicate your performance levels to customers.

Response:

En Pointe is more than a software reseller. A significant portion of our revenues are derived from services engagements, all of which are driven and governed by very tight Service Level Agreements (SLA). We create, track, monitor and report on mutually agreed upon SLA's at which time specific staffing levels and timelines for deliverables are also established in conjunction with the customer's requirements and expectations. We take this "best practices" approach and applied it across all aspects of our business – hardware delivery, services deployment, software sales and licensing and total customer expectation management.

Once specific Service Level Agreements are established, we monitor and report on them to the contracting agency on a regular basis. Typically, these metrics are measured through our electronic ordering system (AccessPointe), our ERP financial system (SAP), our call management system (Clarify), or any combination thereof. We can report on attainment of SLA's as frequently as the State desires: daily, weekly, monthly, or quarterly. At a minimum, we will conduct QBR's (Quarterly Business Reviews) and ABR's (Annual Business Reviews), during which we'll formally present SLA attainment metrics for the previous period.

While performance metrics and SLA's are (and should be) unique to each En Pointe customer, detailed below are several service level objectives requested by our larger customers. We look forward to discussing what specific service level expectations you have and how En Pointe can exceed these expectations:

Order Metrics

- Delivery time
- Order accuracy
- Standard vs. rush orders
- RMA's – processing time, % of orders RMA'ed

Price Quote Metrics

- Quote accuracy
- Turnaround time – standard, rush

Invoice Metrics

- Invoice accuracy
- Invoice timeliness

Call Response Metrics

- Calls answered
- Calls returned

Spend Monitoring:

System tools will allow En Pointe to monitor your spend to take advantage of additional discounts and contracts. In addition the Enterprise Account Executive will validate current contracts on an on-going basis to ensure current market discounts.

Project Improvement:

En Pointe utilizes ITIL best in practice methods and processes. We utilize our Project Management Organization to facilitate process improvements across various functions of the organization. For this purpose we also use scorecards. En Pointe utilizes several systems to monitor and track performance. We run our business on SAP and this system is used extensively to track and manage important aspects of our business. We have developed a number of custom applications in SAP for specific aspects of our business, such our Logistics Management System (LMS) that helps manage customer owned inventory. En Pointe also utilizes Clarify extensively to help manage our service engagements with our customers. The data entered into these systems is used to derive



Offeror Questionnaire – Methodology

STATE OF ARIZONA

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weekly, monthly, quarterly and yearly reports. These reports range from SLA's reports to inventory reports, from operations staff reports to executive reports. These reports are derived from customer SLA's and key measurement points that define our day to day business.

Many customers have unique needs that require our functional departments to perform in a specific or nonstandard way. In these cases, En Pointe develops an internal Operational Level Agreement (OLA) for different departments to adhere to.

In addition to the internal OLA, En Pointe also develops Operation Guides for our customers. These guides can be brief outlines of a basic how to do business with a particular customer, or for our large and/or complicated engagements, these guides are quite extensive and include all aspects of doing business with a customer. The Operations Guides contain all processes performed by the account teams with detailed documentation and flow charts.

Certified MBE Minority Status:

En Pointe Technologies is a Certified MBE and able to support existing minority objectives and initiatives of PE. We can also integrate with other Minority Vendors a *Diversity Trading Exchange* with the ability to receive management and vendor spending reports from a single source.

En Pointe Continuous Improvement Program:

En Pointe values client feedback and communications and realizes satisfied clients are loyal clients. Ongoing communications are essential for straightforward, two-way exchanges that keep both the client and En Pointe informed regarding performance and client requirements.

To ensure continuous and open communications, En Pointe will implement a formal process of weekly and monthly communication and quarterly reviews with varying levels of our clients' management team. En Pointe considers this a best practice for the review of service performance and overall client satisfaction.

Weekly & Monthly Reviews: are conducted to review all the activity related to ramping up an engagement. Establishing SLA's, metrics, processes, procedures and support plans are key discussion items for these meetings. In addition, these meetings are a forum to discuss performance and results, address any issues that may arise, track quality improvements, and plan for any changes required in response to the ongoing engagement implementation.

Quarterly Reviews: occur once an engagement has entered the on-going or maintenance phase. SLA's, metrics, and performance parameters are now established for the engagement and support is on-going. These meetings are to review past performance, successes and areas of improvement, as well as plans for improvement in the next quarter, changes planned to occur in the environment, and to provide open communication on the satisfaction of service provided by En Pointe.

Included in an attachment are samples of QBR reports we have created with other customers.

9. We have requested information about optional reports (Question #4), about functions you could serve to assist in more complicated configurations (Question #6), and in providing extra value possible given the potential magnitude of this solicitation (Question #7). Please use this item as an opportunity to describe other value-added services you can provide that were not specifically required in this solicitation, but are consistent with its intent. Please advise the cost for the services you describe in the Offeror – Pricing attachment, or advise if they are included at no additional cost.

Response:

En Pointe Technology Solutions Offerings

En Pointe's core engineering staff is centered on implementation of the strategic products of our major partners: Microsoft, Cisco, Citrix, VMWare, HP, IBM, EMC, NetApp, Symantec, LANDesk and others. Outside of implementing our own Call Center and our Cisco VoIP telephone system across 1000 employees in 7 U.S. sales branches as well as a private Desktop Virtualization Cloud for internal I/T, En Pointe has principally delivered projects which integrate multiple technologies in partnership with companies that specialize in each category.



Offeror Questionnaire – Methodology

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
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(state agencies & cooperative partners)

Description: WSCA Software Value-Added Reseller

En Pointe's Professional Services/I.T. Consulting Services practice maintains centers of excellence for the following technology areas:

- Microsoft
- Networking
- Storage, Servers, and Virtualization
- Security (McAfee, Symantec)
- Systems Management (LANDesk)
- Cloud Solutions (Off Premise and On-Premise)

Our Practice Areas help our customers with solutions in the following areas:

- Consolidation (data center, servers, images, storage, and network)
- Convergence (infrastructure: server, storage and network)
- Automation (hardware, software, and end-to-end)
- Virtual / NG Datacenter (Integration of converged infrastructure and delivery)
- Service delivery (automated management and monitoring, audit and compliance, metering, and governance)
- Facilities / Green Initiatives (power and cooling, green technologies, metering, monitoring, and resilience)

Microsoft Services Include:

- | | |
|--|---|
| <ul style="list-style-type: none"> • Microsoft Consulting Staff Aug • System Management Solutions • Virtualization Solutions • SharePoint Infrastructure • Desktop & Office Deployments • Lync / OCS Implementations • Email Migrations | <ul style="list-style-type: none"> • Desktop Virtualization • Cloud offerings and migrations • Active Directory Solutions • Software Asset Management • Software Metering • Server Deployments • Datacenter Virtualization |
|--|---|

LANDesk Services Include:

- Infrastructure Onsite Consulting
 - LANDesk Deployments, Upgrades and Express Upgrades
 - LANDesk Health Checks
- Operational Onsite Consulting
 - Software License Management
 - OSD, HII, & Provisioning
 - Design Workflows
 - Internal Processes
- Project Planning Services

Security Consulting Services Provided:

- Architecture & Design
- Implementation
- Optimization
- Project Management
- Statement of Work Scoping
- Presales
- Training

Specializations

- Enterprise Security
- Endpoint Management
- Data Loss Prevention
- IT Compliance
- Data Protection
- High Availability
- Storage Management



Offeror Questionnaire – Methodology

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPO)
Customer: WSCA participating states; AZ Statewide
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Description: WSCA Software Value-Added Reseller

- Proof of Concepts
- Risk Assessments
- Health Checks
- Archiving and eDiscovery
- Managed Security Services
- Authorized Product Program
- Hosted Services Partner

Cisco Services Provided

En Pointe is able to support all the following services:

- **Network, Voice and Security Implementation**
 - Deployments, Upgrades and Support
 - Assessments and Health Checks
- **Onsite Consulting and Staff Augmentation**
 - Onsite Engineering Support
 - Design
 - Technician and engineering short and long term placement
- **Project Planning Services**
 - Design and Planning
 - Formal Project Management Services
- **Technology Training**
 - Certified Cisco Technology Training
 - Custom admin and user training built into projects

Cloud Offerings

En Pointe offers five cloud solutions for our customers to virtualize their environment to the cloud. Our solutions can be on or off premise. These include:

- Cloud Desktops
- Cloud Servers
- Cloud Voice/Video
- Cloud Storage: Ours, Amazon, Iron Mtn
- Cloud Apps: VDI / Web / Mobile (www,ipad,android)

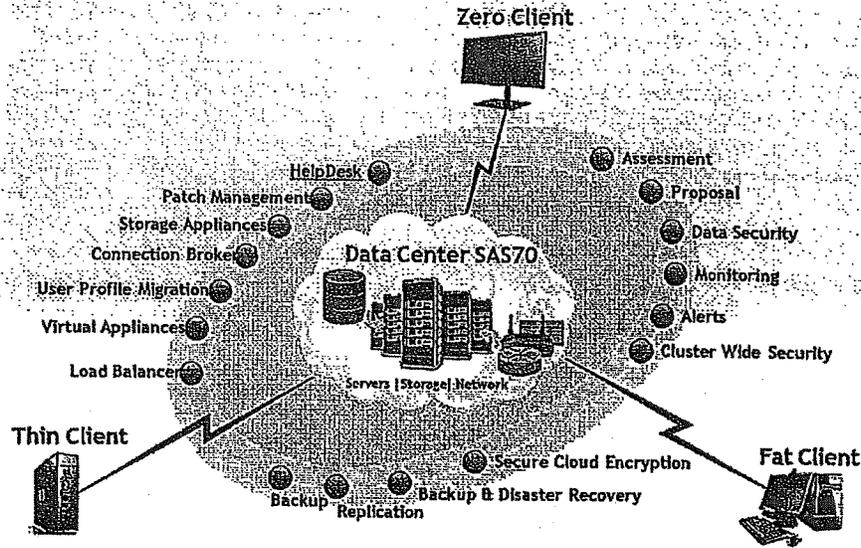


Offeror Questionnaire – Methodology

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
State Procurement Office (ADDA/SPO)
Customer: WSCA participating states; AZ Statewide
(state agencies & cooperative partners)

Description: WSCA Software Value-Added Reseller



Our service engineering rates are included in the pricing attachment.



Offeror Questionnaire – Qualifications

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPO)
Customer: WSCA participating states; AZ Statewide
(state agencies & cooperative partners)

Description: WSCA Software Value-Added Reseller

Instructions: Complete each item, using attachments where necessary. Attachments shall indicate the item number and heading being referenced as it appears below. *Please note: Please respond to all questions, even if your answer may be 'Not Applicable'.* Label your response "Questionnaire-Qualifications-companyname" and indicate the question number that is being addressed. Your narrative response is limited to 15 pages. All attachments under this header should be labeled, "Questionnaire-Qualifications-companyname-Attachments". Attachments are not included as part of the page total. Responses should be comprehensive but concise, addressing specifics with minimal extraneous information. Charts and graphs may be utilized to outline specific information, such as an organization chart or current client list, where appropriate. All materials must be in electronic format that can be received in ProcureAZ, the State of Arizona's electronic procurement system (See Special Instructions). **ANY NARRATIVE LANGUAGE RECEIVED IN EXCESS OF THE PAGE QUANTITY INDICATED WILL NOT BE CONSIDERED AS PART OF THE PROPOSAL.**

QUALIFICATIONS:

1. Provide an overview of the organization, including its structure, number and location of offices. Include an organizational chart to show the lines of responsibility at the highest levels. Provide a short history of your organization. Include number of years in business, industry awards, and corporate trade affiliations (publisher certifications are addressed in #2). This solicitation is for the products and services offered by a Software Value-Added Reseller (SVAR (Yes/No)). Is your organization a SVAR? If not, please describe the nature of your business (e.g., LAR)

Response:

Company Data:

Legal Name: En Pointe Technologies Sales, Inc.
18701 S. Figueroa Street
Gardena, CA 90248-4506
Ph: (310) 337-5200
Fax: (310) 725-5240

Year Founded: 1993
State/Date of Incorporation: Delaware, August 25, 1997
Federal Tax ID: 95-4650291
Dun & Bradstreet DUNS #: 80-009-0219
Delaware Corp. Register #: 8624057

Number of Employees:

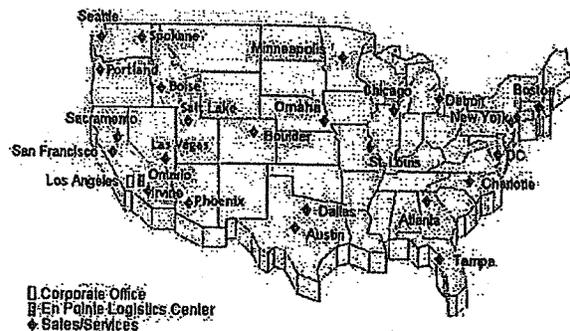
In FY 2010 En Pointe employed approximately 233 individuals including:

- 29 Executive, First/Mid Officials & Mgrs
- 23 Professionals
- 58 Technicians and Service
- 35 Sales Workers
- 88 Administrative Support

Many of these individuals work across multiple lines of business, geography and departments.

Sales and Service Offices:

En Pointe maintains with a physical presence in over twenty major U.S. markets





Offeror Questionnaire – Qualifications

STATE OF ARIZONA

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Company Overview

En Pointe Technologies Sales, Inc. is a national, dynamic, flexible technology company focused on delivering the most effective solutions for the acquisition, configuration, deployment, maintenance and disposal of IT hardware and software assets. En Pointe is one of the nation's largest resellers of computer products and services. Our team of service, sales and operations employees provides our customers with a wide range of technology solutions and capabilities.

En Pointe provides fulfillment services for I.T. hardware, software licensing (a National Software LAR), and offers a comprehensive portfolio of services. Our goal is to provide cost savings to you through the sourcing of products and services best matched to your current and future plans. We do this by helping you select, optimize, secure and manage your I.T. infrastructure.

En Pointe is one of the few companies in the country that has national core competencies in each of the four disciplines listed below and can flexibly provide a client with a single point of responsibility to span asset and service delivery anywhere in the U.S. Additionally, our ability to leverage spend dollars in these different lines of business often helps us add additional cost savings for our customers.

Hardware Fulfillment

- Procurement
- Integration
- E-Business
- Logistics
- Configuration
- Asset Management

Software Licensing

- Licensing
- Contracts Management
- Vendor Management
- Compliance
- SAM

Consulting Services

- Virtualization
- Service Desk
- Security
- Systems and Storage
- Networking
- Messaging

Cloud

- Hosted Virtual Desktop
- Hosted Servers
- App Virtualization
- Hosted Voice and Video
- Cloud Storage

Corporate History

Bob and Naureen Din founded the company that became En Pointe in 1993 in the garage of their Manhattan Beach, CA home. En Pointe developed a DOS based application that tied directly into the systems of the six largest IT distributors of that time. The corporate purchasing goal was to reduce costs and delivery times. This 'Virtual Warehouse' model was pioneered by En Pointe and enabled us to shop for customer product across many distributors, based on best price and availability. This new business model provided the benchmark for supply chain best practices and quickly propelled us to a nationally competitive IT company. We grew to \$300M in the first three years of our existence, strictly by bringing on new clients – no acquisitions.

In 1996 we went public and changed our name to En Pointe Technologies Sales, Inc. (In 2009, we became a private company again). We invested in an Integration facility in Memphis, TN that enabled us to provide our customers with basic integration services, conveniently located near Fed Ex for easy shipping. We began building a services business that was solidified by our investment in Clarify as our service management tool in 1997.

In 1998, En Pointe invested \$10M to procure and develop an ISO9001:2000 integration facility that provided us with 126,000 sq. ft. of warehousing and configuration space. We also built a component level repair facility to enable our engineers to save our customers money by diagnosing and repair issues down to the chip level. In 1999, we invested \$12M in SAP, allowing us to more effectively manage our business as well as easily develop EDI links with our manufacturer and distributor partners and our customers.

At the time we were implementing SAP, we were also merging the two applications that we provided to our customers to make their buying experience easier. One was a web based procurement tool, and the other was a tool to allow our customers to build requisitions on-line, and have them flow through their internal work flow electronically. We ended up spinning this new product off into a separate company called Supply Access. Supply Access received venture capital from companies like Microsoft, Peregrine and Tech Data, and was positioned to compete against Ariba and Commerce One in the web procurement space as a low cost, easy to implement alternative. We renamed the tool AccessPointe, and give this tool to our clients to provide them with a simple way to automate their requisition through acquisition process.

En Pointe continued to focus on growing our services business and began acquiring small IT companies in strategic markets or with strategic positioning. We bought Tabin Corporation in Chicago in 2002 to expand our presence in the Chicago market. In 2004 we purchased Viable Links of Seattle to expand our presence in Seattle, Portland and Boise, and to expand our professional services offerings. In 2006 we purchased Software Medium of Dallas to expand our presence in Dallas and Austin, and to acquire a sophisticated security practice.



Offeror Questionnaire – Qualifications

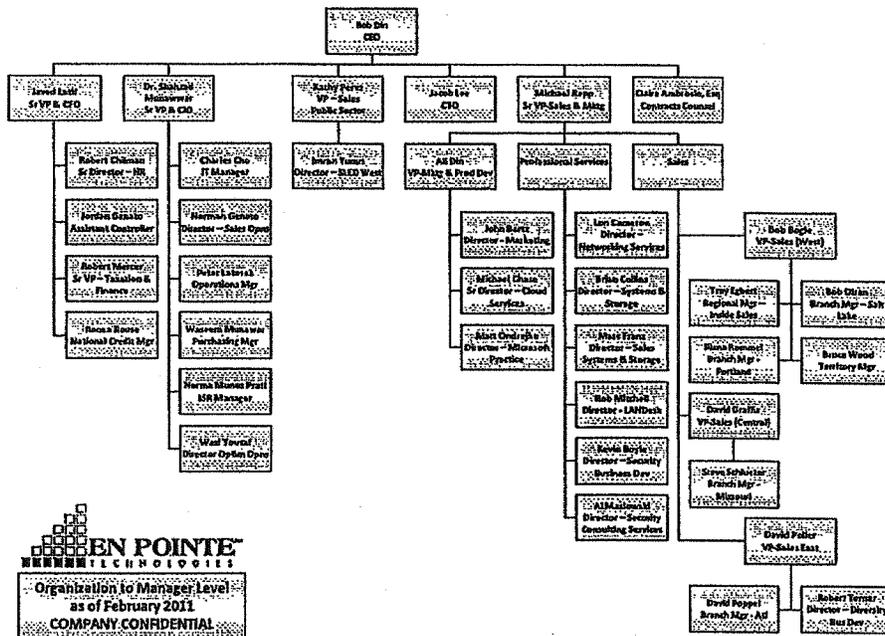
STATE OF ARIZONA

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Over the past six years, En Pointe has been focusing on growing our software and service business. We have been a Microsoft LAR for nearly ten years, but we have recently invested in the services side of our Microsoft business to attain Microsoft Gold status. Additionally, we have invested in our SAP system to develop modules that allow us to better manage software contracts (as opposed to manage distribution of physical assets). We have grown our services business to \$50M annually and our goal is to become a \$100M service business within the next five years. We grow predominantly through our large, national, outsourced service engagements for help desk, desk-side support, maintenance services, asset recovery services, and installation services. We have also invested greatly in the Professional Services side of our business with certified practices in Networking/Communication, HP, Systems Management, Security, Microsoft, Systems and Storage, and Virtualization/Cloud (dinCloud).

En Pointe Organization Chart



Recent Microsoft Accomplishments

- Awarded "Operational Excellence Award 2010", 3rd consecutive year
- Recognized in the Pacific Northwest for "Best Practices or Excellence in Competency" and "Top Partner Depth Alignment Program" (PDAP)
- En Pointe ranked in the Top 2 out of 22,500 partners on the Microsoft Partner Solution website, derived from customer testimonials www.pintpoint.microsoft.com
- 90% Software Assurance Benefits Activation for existing customers (all levels A-D)
- Leading Microsoft LAR to conduct Infrastructure Optimization Assessments to identify cost savings opportunities for client
- 1 of only 4 companies designated as SI LAR (System Integrator Large Account Reseller)

Recent Major Accomplishment: En Pointe ranking by Microsoft #2 as of March 23, 2011

Microsoft, 2 years ago released a solution website that ranked all partners in the United States. Pinpoint helps business customers find technology experts, licensing experts, software applications, and professional services that solve specific business



Offeror Questionnaire – Qualifications

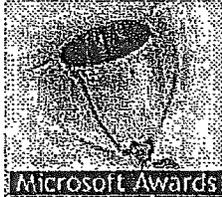
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issues and support long-term goals. Since its conception En Pointe has been ranked in the Top 10 as a company and the services it provides. (Rankings change on a daily basis per Microsoft and Customer Reviews)

www.pintpoint.microsoft.com



Awarded "Operational Excellence Award 2009": 2nd consecutive year!
Recognized in the Northwest for "Best Practices of Excellence in Competency" and "Top Partner"
Depth Alignment Program (FDAP): 2009
Recognized in the North Central for "Partnering to Succeed" 2009
Recognized as "DDPS Distinguished Partner" 2008
Awarded "Team Work Award" in PNW 2008
Nominated for "Partner of the Year: FY08"

2. Using Excel file 'Questionnaire–Qualifications, RepPublishers', please advise of the publisher accounts for which you are an authorized reseller. Using this same Attachment, advice of those publishers for which you are not an authorized reseller, and briefly explain why you are not a reseller for those publishers. A contract requirement states that the Contractor must agree that there are no software publishers with whom they would refuse to do business if the Software Publisher is willing to do business with them. Please affirm that you agree with this requirement or state your objection and provide an explanation for requesting a modification of this requirement, providing names of publishers your organization would not represent and the reasons why. Provide written proof of your reseller status (certifications) with individual publishers as attachments to your response.

Response:

En Pointe is an authorized reseller and integration partner for dozens of software publishers, including Microsoft (LAR/ESA), Symantec, IBM/Lotus, Computer Associates, McAfee, Trend Micro, Altiris, Citrix, and all other major publishers. We also excel in the area of "One-Off" software research and sourcing.

En Pointe holds high level certifications from many of our key suppliers. Only a small number of distributors receive these distinctions from software publishers. En Pointe has earned these certifications through intensive education and training, product support programs, customer satisfaction and sales performance. Certification assures WSCA that En Pointe is a well-qualified supplier and partner focused on delivery, quality support, and service after the sale.

En Pointe carries over 1600 publishers. We have included our certifications on the Questionnaire-Qualifications, RepPublishers' attachment and are including our Letters of Authorization as a separate attachment as well.

En Pointe affirms that there are no software publishers with whom we refuse to do business. If we are currently not authorized, we will work with the Publisher to understand authorization requirements or other ways to procure their product for the requesting agency.

Our Letters of Authorization are included as attachments to this response.

3. Describe the company's experience and expertise providing the following services.
- License Management
 - Account Management (assume 'accounts' as equivalent to a state contract, and to a using municipality)
 - Training
 - Software Consultation
 - Other (Specify)

Response:

a. License Management

Managing software licensing contracts is getting more complex. Each publisher has a different set of programs. Tracking what you bought, what you own, and what you are using can be an overwhelming undertaking. En Pointe Software Licensing Services eliminates complexity by helping you manage your publisher relationships. Our Software Specialists work directly with publishers and are well versed in programs to help your organization select the optimum program. En Pointe has made significant investments in systems such as our SAP (ERP backend) and AccessPointe (online application) to deliver tools for procurement and robust reporting to manage contracts. Managing to software license contracts can be complicated. En Pointe removes the complexity and serves as a trusted advisor to your organization.



Offeror Questionnaire – Qualifications

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPO)
Customer: WSCA participating states; AZ Statewide
(state agencies & cooperative partners)

Description: WSCA Software Value-Added Reseller

En Pointe's Licensing Program Includes:

- License Program Analysis and Comparisons
- Online Catalog Standards and Bundles Management
- Publisher Contract Negotiations
- Publisher Incentive Dollar Negotiations (money to assist with deployments or assessments)
- Pro-active notifications of renewals and contract expirations
- Budget Planning and Forecasting
- Assistance with License Transfer and Consolidation during M&A's
- Compliance Reviews and Audit Consulting
- Subscription-based and Ad-Hoc Reporting
- Self-Service P&A, Ordering and Reporting
- Media duplication, Electronic Software Distribution
- Software Asset Management

Software License Monitoring

En Pointe can additionally help with the State's license management through our SW Asset Management (EAS) offering providing Software License Monitoring services.

Software License Monitoring pulls software inventory, software usage and purchasing information together to provide consolidated software license reporting. This service enables customers to easily identify under-utilized software, over installed software, unauthorized software and potential software license compliance issues.

Services

- Track software deployed across organization
- Track usage of software
- Track un-authorized software
- Track Software License Purchases through customer provided data
- Compare Purchases (Allowed) to In-Use consumption
- Track un-used software
- Track License Contract Renewals

Note: Harvesting and re-distribution of un-used licenses requires Software Distribution Module (fee based)

Monthly Reporting

- Installed software on managed devices
- Usage of software installed on managed devices
- New software installed on managed devices
- Unauthorized software installed on managed devices
- Software Contracts due to expire, up for renewal in next ninety (90) days
- Software Usage Report (purchased licenses, installed, frequency of use)
- Un-used software

Capturing licensing information at the time of purchase and allocation information at the time when the software is installed provides an accurate ownership and allocation database. Reconciling the licensing information with discovery data provides for a "checks and balances" process to ensure data validity for compliance purposes.

Account Management

En Pointe's customer support model includes dedicated field and inside support personnel working as a team to service ForestCity. This primary account team will also manage additional En Pointe personnel on your behalf, both local and national. Between the primary account team and additional En Pointe personnel, En Pointe's teams are Subject Matter Experts on all of the different licensing models from each of our publishers. There are technical resources available to WSCA PE's as well, aided by groups of engineers and vendor specific support teams.



Offeror Questionnaire – Qualifications

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPO)
Customer: WSCA participating states; AZ Statewide
(state agencies & cooperative partners)

Description: WSCA Software Value-Added Reseller

Account Team Commitments:

- Participation in En Pointe eConnect
- Assist with vendor cost analysis and licensing program comparisons
- Provide opportunities for cost-savings through evaluation of purchasing trends
- Provide technical resources for project planning, assessments, or deployments
- Hold (at minimum) quarterly meetings to evaluate the partnership, processes and upcoming initiatives
- Quarterly QBRs
- Ensure software assurance benefits utilization by assisting with set-up/processes
- Customize the AccessPointe tool and provide training to utilize its capabilities to the fullest
- Provide local vendor engagement and single point of escalation for issues
- Proactively inform you of all local events, seminars and workshops
- Implement true-up tracking system/process (if desired); to assist with budgeting and management

Training

Your account manager will work with our partner Publishers, training vendors and En Pointe licensing specialists to provide a detailed and comprehensive plan to train and implement the use of the SW Reseller products contract with WSCA. Details of this plan include:

- On-site presentations or assistance visits where required
- Select/Enterprise Agreement/SA Benefits training presentations
- Training on product use
- Roles, responsibility, and compliance verification of agencies
- AccessPointe online training

En Pointe has many certified service professionals who are fully authorized to install, upgrade, repair and train on all major publisher partners like Microsoft, Adobe, Symantec, VMWare, McAfee, Novel, just to name a few.

- **On-Site Training** - One to one training can be arranged as well as classroom environment training. Our training professionals and partners can accommodate these scenarios both on- and off-site.
- **Off-Site Training**- En Pointe is certified by all major software titles. We can offer on-site or off-site training in any software capacity. We have provided training in software to a large number of customers. This training ranged from beginner level end users to high level IT professionals.

Software Consultation

En Pointe has extensive experience in providing software pre-sales licensing advice, acquisition, reporting, deployment and support. We can add tremendous value by helping State Agencies understand your buying volume and asset utilization for products and licenses.

En Pointe provides advice you can rely on from experts in volume license agreements and software programs. Our license consulting services include the following:

- **Publisher, Product, and Program Information** – En Pointe will proactively deliver key information customized to your environment to help you make informed decisions
- **Program Awareness and Needs Analysis** – En Pointe will help you understand its options for acquiring software based on your business objectives and needs and provide analysis to justify those business decisions (excel cost summaries, executive analysis, etc)
- **Volume License Program Recommendation and Justification** – En Pointe licensing managers and license contract specialists will advise you on license programs, contract structure, industry trends and strategy.
- **Software Procurement Process Consulting** – En Pointe will provide advice on how to put administrative advantages of licensing programs into use to save time and money including providing access up to and including facilitating customer oriented seminars and open discussions. Much of this advice will be derived through our experience, key relationships with the software publishers and our ability to track licenses and licensing contracts and then produce a total solution to the needs defined.
- **Pro-active renewal notifications** – En Pointe will provide 60-day advance notice of all volume licensing renewals.



Offeror Questionnaire – Qualifications

STATE OF ARIZONA

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Description: WSCA Software Value-Added Reseller

- Tracking/POD/Compliance on ESD software – En Pointe can set up an email alias and receive all ESD deliveries in one central location – forwarding on to you with PO or other ref#, to facilitate proper “receipt of goods.”
- En Pointe Asset Services (EAS) offers an affordable, highly configurable cloud-based software asset management solution that will enable the State Agencies to quickly and easily determine exactly what software is installed on their network, servers and end point devices in order to reconcile/manage their license position and address entitlements. All forms of software are discovered and inventoried as well as hardware including non networked printers and monitors.
 - Increase the ROI of software and hardware assets.
 - Eliminate Software overspending
 - Allow underutilized software licenses to be redeployed
 - Discover lost hardware assets
 - Reduce Support costs
 - Reduce Security Risk.
 - Restrict the use of unauthorized Software or Hardware that may contain harmful viruses or malware
 - Eliminate Compliance Risk
 - Know what software is installed and where it is located on a “real time” basis
 - Software negotiations: Stop an audit before it starts

Specifically En Pointe will work with the WSCA States to determine the most appropriate licensing structure for your needs. This typically includes a customized cost analysis – analyzing spend, product lifecycle, software assurance value, estimated end-user usage, and total ROI. Furthermore, we will include best practices given our expertise with other customers. Overall through understanding your business priorities and IT initiatives, we will derive a plan that best meets your strategic objectives. In doing this we will help you to control costs, improve productive and accelerate agility.

Other (Specify)

In addition to what we believe to be the high standards of reseller offerings, En Pointe has many key services that may result in a collective cost savings as well as a heightened customer experience:

- A. **Enterprise Agreement Tracking:** En Pointe can offer comprehensive management of contract agreements. This offering provides a uniform purchase process, tracking of EA product deployments and also provides access to EA pricing for inter-department bill-back as well as additional contract details.
- B. **Electronic Software Delivery (ESD), Microsoft Products:** By setting up a secure server at our ISO certified configuration center and delivering software electronically, your organization could be eligible to save significant hard dollars by not having to pay sales tax. Although many of the Microsoft titles are available for download on the MVLS website, not all are available and new release updates generally run slow (as much as 30 days after release), by utilizing En Pointe ESD, our clients have access to a complete library when needed.
- C. **Electronic Software Delivery (ESD), other publishers:** En Pointe, as part of our practice, establishes an email alias for customers so that emails from the publisher arrive back to En Pointe. This allows us to manage to the SLA's agreed to with the customer for all orders and delivery. With En Pointe's unique offering, you would also receive products with all other pertinent information (PO #, cost center, end user information etc.) to allow proper receipt of product while En Pointe manages the responsibility. This would allow a simpler and more efficient receiving process on all ESD products.
- E. **AccessPointe:** AccessPointe is not just another web portal for purchasing but a extremely robust application (38 million invested by SAP, Peregrine, Tech Data etc.) that allows the best possible integration with your current procurement system as well as the ability to punch out to all of you other suppliers with electronic catalogs. This would give you one portal for all of you on-line procurement needs.
- F. **Support for Electronic Software Download:** En Pointe can effectively reduce costs by leveraging the electronic distribution of software products. We can review your existing process while applying tax strategies that utilize exemptions for intellectual property. By fully leveraging electronic software delivery, our clients realize cost savings while having immediate access to software via an En Pointe maintained Image Library. Your data images can contain all relevant programs including network and security settings for a variety of departments functions within your organization so that desktop deployments and upgrades are seamless and without technical complications.
- G. **Systems Integration:** As a Systems Integrator Large Account Reseller (SI LAR), En Pointe has the expertise to go beyond procurement of licenses to provide planning, deployment, full or partial management and retirement of your Microsoft and other Publisher technologies. Overall, En Pointe's goal is to ensure that you are maximizing your investment in Software technology. Our SAM consultants have vast and varied experience consulting and designing SAM programs, hold SAM certifications from Microsoft, ITIL and IAITAM organizations.



Offeror Questionnaire – Qualifications

STATE OF ARIZONA

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4. Clients

- a. Provide information on your current government client list. In addition, explain the services you provide to each client and how long you have been working with each one.
- b. List government contracts you have gained over the past three years and provide an explanation of why your company was chosen.
- c. List government contracts you have lost or resigned over the past three years and provide an explanation of why your company lost or resigned these accounts.
- d. If you have no government clients, note this in your response and answer questions A, B, and C based on non-government clients.
- e. Provide the agency/company name, contact name, email address and telephone number for three client references. Providing this information shall constitute your permission for the Procurement Officer to contact the clients to discuss your work and your working relationship with them.

Response:

a. Current Government client list:

En Pointe has over 3000 clients across the nation, providing various types of IT equipment and service and we manage over 200,000 seats from various managed services contracts. We deliver our products and services to a wide range of customers in a wide range of industries and geographies. Worldwide our outsourcing and managed services contracts include over 100 customers.

En Pointe maintains several large government contracts including specialized services for individual Counties, Cities, Health Departments and Government Funded Educational Institutions across the U.S. Such clients utilize our deployment, configuration, maintenance, help desk, and software management competencies while receiving leveraged discounts through larger contracts. We provide support and sales for GSA, WSCA, E-Rate, HIPAA and other government programs.

The below represent several of our long time contracts:

- State of California – Since 1999
- State of Montana – Since 1997
- State of Utah – Since 1998
- County of Riverside – Since 1996
- City of Los Angeles – Since 1995
- County of Los Angeles – Since 1995
- State of Alabama – Since 1998
- County of San Francisco – Since 2005

Attached with this Questionnaire is a list of our current Government Contracts and Description of Service.

b. New Government Contracts

Through competitive bid process, the following are several of our new contracts acquired over the past 18 months.

- State of New Jersey – Misc. Software
- Commonwealth of Massachusetts – SW Reseller
- State of Maine – SW Reseller
- State of Vermont – SW Reseller
- State of New York – Misc. Software
- State of Rhode Island – SW Reseller
- State of North Carolina – MS Academic
- State of Wisconsin – MS Academic
- State of Washington- Symantec SW and Services
- State of Missouri – Microsoft and Adobe (as subcontractor)



Offeror Questionnaire – Qualifications

STATE OF ARIZONA

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- Connecticut State University Systems – HW, SW, Services
- University of Washington - Lenovo

c. Government Contracts Lost

Any State contract would have been lost through competitive bid process, majority based on price.

d. N/A

e. References

<p><u>Utah Reference</u></p>	<p>Mike Freeland mike.freeland@slcgov.com 801-535-6115 Salt Lake City – Information Management 349 S 200 E, Suite 300 SALT LAKE CITY UT 84111-2836 The City has been a Customer for 10 year's</p>	<p>Elaine Oaks eoaks@utah.gov 801-538-3462 State of Utah –Department of Technology Services 1 State Office Building Floor 6 Salt Lake City, UT 84114 The State of Utah has been a customer of En Points for 8+ years</p>
<p><u>Vermont Reference</u></p>	<p>John McIntyre, Purchasing Agent State of Vermont BGS Financial Operations Division Office of Purchasing and Contracting 10 Baldwin Street Montpelier, VT 05633-7501 phone (802) 828-2210 - fax (802) 828-2222 john.mcintyre@state.vt.us This is a new contract for SW Licensing.</p>	
<p><u>State of Maine</u></p>	<p>Howker, Thomas N. [mailto:Thomas.N.Howker@maine.gov] Purchasing/Contracts Manager State of Maine (207) 624-8878 Division of Purchases 111 Sewall Street Burton M. Cross Building 4th Floor 9 State House Station Augusta, ME 04333-0009 This is a new contract for SW Licensing.</p>	
<p><u>TIPS/TAPS Cooperative Agreement</u></p>	<p>The Interlocal Purchasing System Kim Thompson Cooperative Coordinator 903 575-2608 kthompson@reg8.net \$10M MS LAR Contract for Government/Education in</p>	



Offeror Questionnaire – Qualifications

STATE OF ARIZONA

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	Texas/Arkansas	
<u>California</u>	<p>Karen Buehler Los Angeles County ISD Purchasing & Contracts Analyst II 1100 N. Eastern Ave. – RM G115 Los Angeles, CA 90063 kbueherl@isd.lacounty.gov 323 267-2468 Contract for SW. En Pointe has been a customer with LA County for 15 years.</p>	<p>Mathew Alger City of San Diego, Dept. of Information Technology Information Systems Analyst 1010 2nd Ave., Suite 500-E San Diego, CA 92101-4998 malger@sandiego.gov 619 533-3489 SW contract</p>

5. Accuracy in Quotes and Billings; Audits. Pricing for software in this contract is largely based on pre-order, firm quotes, which in turn are based on a contract rate multiplied by your cost from publishers. Such quotes may be automatically provided online, or may – as a result of SVAR's negotiation with the publisher for reduced cost – be less than a price that would be automatically calculated.
- Describe your system and controls to ensure your actual costs to obtain the product are used as a basis for the quotes and resultant invoices.
 - Provide a sample invoice (of a product sold under a similar pricing model).
 - Describe your cost accounting system for tracking employee hours on an hourly service rate invoice, and provide a sample hourly-rate invoice.
 - Describe how you audit your billings for accuracy. Explain how you would work with a Participating Entity (PE) who is conducting an audit of their purchases through you. ~~e-cost Provide information on your current government client list. In addition, explain the services you provide to each client and how long you have been working with each one.~~

Response:

a. System for Quotes and Invoices

En Pointe has invested in our state-of-the-art systems and facilities like our fourth generation E-Procurement System AccessPointe™ (\$38M) and SAP ERP System (\$10M to build the foundation of our Supply Chain Infrastructure. En Pointe's Supply Chain Integration is tightly coupled with Distribution partners where we get daily reports and numbers of products, their pricing and availability all the way to the individual warehouses.

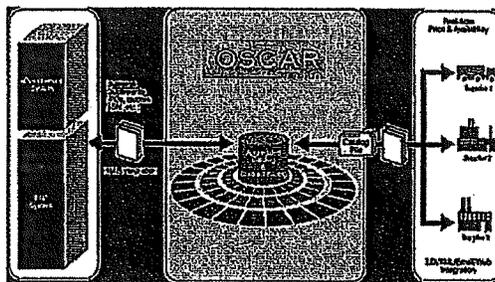
Our Enterprise level system, Oscar, is integrated with all industry leader distribution partners and handles millions of records to update parts, pricing, Government Pricing, Education Pricing, Promotional Pricing and Special Bids type pricing is available and applicable. En Pointe has a road map in place to upgrade this system to the latest infrastructure including hardware, software, services (xml calls etc) and other features like Catalog Syndication and Content Management System. Details are available if needed.

E-Business with En Pointe

Catalog Management Solutions

Buyer Systems

Vendors





Offeror Questionnaire – Qualifications

STATE OF ARIZONA

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State Procurement Office (ADOA/SPO)
Customer: WSCA participating states; AZ Statewide
(state agencies & cooperative partners)

Description: WSCA Software Value-Added Reseller

We proactively maintain Microsoft's and other top tier publishers licensing programs within our system. This allows us to proactively maintain the annual offerings by our publishers. One single order is keyed into the system which creates future billing events based on contract anniversary dates. Customers can automatically receive accurate invoices when they're due. We can also provide our customers reporting on when and how much their invoices will be.

En Pointe invoices carry following information:

- All items billed are mentioned in itemized form, to identify the specific item(s) being billed.
- All items are identified by name, model number, and/or serial number.
- Delivery tracking numbers are mentioned on the invoice if applicable.
- En Pointe invoices clearly identify addresses for Sold to Party, Ship to Party and Bill to Party.
- Remittance information is clearly marked on all En Pointe invoices.
- En Pointe invoices clearly describe unit price, quantity, taxes (if any), freight charges (if any) and invoice totals.
- Customer PO#, Billing date, PO date, En Pointe Invoice# and En Pointe AE are also identified on the invoice.
- En Pointe invoices are also marked with special instructions (if required).

b. Sample Invoice

Please refer to attachment for a sample software invoice.

c. Cost Accounting System for hourly service rates

En Pointe is using the Timesheet application designed to help us track time, and bill our clients easily and quickly creating professional invoices. Timesheet tracks client information such as names, addresses, and hourly rates and creates fully customizable settings for invoice generation.

Our Time Tracking software records activity periods, expenses, clients, projects, billing time and the dollar rates we charge to our clients. Using the built-in Timesheet Wizard we can instantly print or email PDF time sheets which accompany invoices we send out.

Our hourly rates tracking software holds the below features:

- Maintain custom billing rates, client details and project details.
- Record start & stop activity dates / times to the second.
- Timesheeting - Produces client time sheets to accompany the hourly rate service invoice via our built in wizard.
- Instant breakdown of charges and rates.
- Flexible Report templates allowing printing, emailing or exporting to many different electronic formats.

A copy of a Service Invoice can be found in the Attachments.

d. Billing audit

En Pointe's SAP accounting system provides precise calculation of customer pricing throughout the life of the contract.

Your Account Manager will establish a price profile for your account that dictates costs calculations based on variables per category. Such rules include margin, dollar amount, markup, and fixed calculations set at the manufacturer name, product group (hierarchy), manufacturer part number, or at a blanket threshold. Established pricing complies with the customer contract.

Management and Monitoring

En Pointe's systems are design to continuously monitor pricing transmitted from our key partners daily. Our ability to tabulate costs, rebates, and commissions are all interdependent on capturing current and accurate pricing from our supplier partners as well as any variants. Such deviations from their own prior price catalog are noted within our Goods Issue /Receipt Module and trigger internal



Offeror Questionnaire – Qualifications

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alerts and discrepancy reports for our Vendor Statusing Teams. En Pointe Buyers and Rebates personnel also have visibility to such changes. Customer costs are automatically updated without human intervention all based on daily, auditable costs adjustments. These changes in price directly affect all customers hence our ability to manage and validate costs are critical.

Auditing and Contingency Management

En Pointe Account Managers are required to verify contract pricing monthly or as often as needed to ensure customer contract compliance. Based on your cost profile, your dedicated manager can easily search within SAP or our on-line portal AccessPointe to validate calculations as well as immediately compare our captured costs to the pricing provided to us from the supplying vendor.

In addition, our accounting department independently audits contract compliance for contractual customers. En Pointe is happy to provide a Participating Entity with any necessary history reports to support their audit requirements.

6. Provide Key Personnel Information for this contract as a whole, and, as feasible, for any States who indicated their Intent to Participate, including brief biographies. Explain how the redundancy of account management will cover vacations, illness or resignations.

Response:

The States participating in this WSCA contract will be provided the highest level of customer satisfaction and account coverage. En Pointe achieves this by assigning a single point of contact for overall contract supervision and escalation. En Pointe maintains an office in Boston, MA that houses an experienced team of Software Specialists that will be leveraged for this contract. En Pointe will also provide a full support team that will be knowledgeable around all areas of the engagement between our two organizations.

The dedicated En Pointe team will consist of the following roles:

- An Overall Contract Account Executive
- Outside F2F Account Manager for each awarded PE
- An Inside Sales Representative
- 10 Member Customer Support Team (all States)
- Software License Specialist assigned to support the account team

The States will also be provided a dedicated 1-800 telephone, fax hotline and email ID that will be routed to all pertinent individuals within En Pointe. There will always be a live person to take the calls from 8:00 am to 8:00 pm EST available on this 1-800 number ready to support any caller. Email and telephone queries and request for quotes will be responded within four hours in addition to real-time quote-formulation, order-placing and order tracking capabilities available around the clock through En Pointe's e-Procurement solution.

Contract Manager Role/Account Manager:

- Ensuring the States' contract needs are met for ongoing quality control processes, customer satisfaction, technical support, expert account management, licensing services, and procurement expertise
- Developing strong working/selling relationship with Publisher representatives and the State agencies
- Consulting on Publisher volume license agreements with the State users and ensuring seamless processing of OEM enrollment forms, quotes, orders, invoices, reports, etc.
- Conducting account performance and service reviews on a periodic basis in accordance with the contractual requirements outlined in the RFP
- Coordinating OEM Publisher and contract related meetings, product demonstrations and product evaluations with the State agencies.
- Reviewing work flow structure to ensure quality and efficiency for order processing.
- Communicating with the State goals, strategies, and policies to all members of the En Pointe account team.
- Communicating the State contractual pricing for all license contracts and other products to the all users involved.
- Suggesting best procurement practices based on regular review of purchase activity and other reports to identify purchasing trends and patterns.

Inside Sales Roles:



Offeror Questionnaire – Qualifications

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- Support the State through the 1-800 toll free number, email and fax for orders, quotes, reporting, sending out marketing collateral, etc.
- Ensure timely and correct order processing along with proactive calls to inform users about order status, invoicing and any other issues of concern
- Review agencies' business needs, present Software Publishers including Microsoft offerings
- Monitor service levels through proactive customer contact
- Continually survey customer base regarding their business needs, product requirements, operational issues, A/R conflicts and reporting timeliness
- Provide complete information on software products, licensing programs and services
- Manage pending/on-hold orders
- Manage customer account setup information including, but not limited to (EC, EDI, SAP).
- Resolve customer orders and license issues
- Stay current with customer requirements

Customer Support Team Roles:

- Act as resource to the Account Manager for help with processing of orders, enrollment forms and other contractual agreements.
- Proactive information sent to the States through the Account Manager regarding special Microsoft and other Publisher offers and updates
- Proactive information sent to the State regarding SW licensing programs and products, including new product releases.
- Review the States' business needs, work in conjunction with the account manager to present En Pointe offerings from a licensing perspective.
- Work to resolve any SW license issues for each State.
- Stay current with customer requirements.

Software License Specialist Role:

En Pointe's Software Licensing Specialists will be primarily responsible for providing pre-sales licensing advice and support for ALL Software Publishers including Microsoft products. The Team comprises of software licensing specialists that have solid knowledge of the offerings of Software Publishers including Microsoft software, various license agreement programs and are experts in quoting, ordering, resource utilization, and system functionality with a strong commitment to customer satisfaction – proactively identifying and resolving customer issues. Services include:

- *Publisher, Product, and Program Information*
- *Program Awareness and Needs Analysis*
- *Software Publishers including Microsoft License Program Recommendation and Justification*
- *Software Procurement Process Consulting*

We have included an organization chart depicting overall account management supporting the PEs as well as BIOs from the Account Executive team.

7. Provide information which demonstrates your organization's financial stability, such as independent audited financial statements from the last three (3) years. The State may request additional information pertaining to your financial stability as deemed necessary. Proposals which do not include sufficient information regarding the organization's financial stability may be negatively impacted.

Response:

WSCA can be assured that En Pointe is financially capable of performing the Services described in this RFP. Since our inception in 1993, we experienced rapid growth in net sales, employees and branch offices. In 2010, we continued on a path of growth with the following achievements:

- Employee Headcount: 38% Growth
- Total Revenue: 39% Growth



Offeror Questionnaire – Qualifications

STATE OF ARIZONA

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State Procurement Office (ADOA/SPO)
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Description: **WSCA Software Value-Added Reseller**

- GMD: 24% Growth
- Professional Service Business: 200% Growth.
- Software Business: 41% Growth
- Product Business: 20% Growth

Other accomplishments of note are:

- Our balance sheet is healthy and strong.
- En Pointe Technologies has earned an unqualified audit opinion on its FY 2010 consolidated financial statements.
- We have established an "internal audit department" to ensure business policies/standards and controls remain in place.
- We have successfully obtained a credit line of \$45 million to finance our business initiatives.

Our largest customers include JP Morgan Chase, Met Life, IBM, Los Angeles County, and State of MN, all of whom can also provide references for us.

As a private corporation our financials are confidential. We are happy to provide confidentially at time of down select.

Please see below En Pointe's DNBI Rating:

D&B Rating:	ER3
PAYDEX® :	80
Commercial:	Credit Score Class 1
Financial Stress:	Class 3

8. Provide information on any subcontractors you propose to use on this contract, including approximate percentage of work directed to subcontractor, proposed work that subcontractor will perform, subcontractors' Minority or Woman-Owned Business status, resumes of their key personnel, etc.

Response:

En Pointe is not anticipating any subcontractors required for fulfillment of this contract. En Pointe Technologies was certified in 2002 by the National Minority Supplier Development Council (NMSDC) as its first minority-owned company. En Pointe has reciprocal certification with 15 regional NMSDC councils across the U.S.

PRICING SHEET - Rates by Publisher

There are two Excel pricing sheets 'Rates by Publisher' and 'Reports-Hourly' in this

Rates by Software Publisher	Do you sell this publisher's products?		Certification Level	Pricing
	YES		NO	On a 1 - 5 scale (5=best), rate your level
	Direct	Through Channel		

Key Itemized

Microsoft	X	x	5	0% and 2% on all fulfillment Skus
Adobe		x	5	0.75%
IBM		x	5	0.75%
Symantec	X	x	5	0.75%
Intel		x	5	0.75%
McAfee	X	x	5	0.75%
VMWare		x	5	0.75%
CA (Computer Associates)		x	5	0.75%
Quest		x	5	0.75%
SAP Business Objects	X	x	5	0.75%
Checkpoint		x	5	0.75%
TrendMicro		x	5	0.75%
BMC		x	3	0.75%
Commvault		x	5	0.75%
RedHat	X	x	5	0.75%

Other Itemized

AI Squared	x		3	0.75%
Apple		x	5	0.75%
Attachmate		x	5	0.75%
Autodesk		x	5	0.75%
Bakbone		x	4	0.75%
Barracuda		x	5	0.75%
Cisco		x	5	0.75%
Citrix		x	5	0.75%
Compuware		x	5	0.75%
Corel		x	5	0.75%
Doubletake		x	4	0.75%
EMC		x	5	0.75%
Enchoice	x		3	0.75%
ESET	x		3	0.75%
ESRI		x	3	0.75%
Freedom Scientific		x	3	0.75%
Guardian Edge		x	3	0.75%
GW Micro	x		3	0.75%
HumanWare		x	3	0.75%
Hummingbird Exceed		x	5	0.75%
ICM Conversions	x		3	0.75%
HP		x	5	0.75%
Information Builders		x	5	0.75%
Kronos Software		x	3	0.75%
LANDesk		x	5	0.75%

Laserfische		x		5	0.75%
Lotus		x		5	0.75%
Microfocus	x			4	0.75%
Mindjet		x		5	0.75%
MPS		x		3	0.75%
MQSoftware		x		3	0.75%
nCircle	x			3	0.75%
Novell		x		5	0.75%
Nuance		x		4	0.75%
Oracle		x		4	0.75%
OSAM	x			4	0.75%
Passpoint		x		3	0.75%
SAS	x			5	0.75%
Sophos		x		5	0.75%
Solutions Software					
Splunk Software		x		3	0.75%
Stellent		x		3	0.75%
Sun Gard		x		3	0.75%
Sybase		x		5	0.75%
Techsmith		x		4	0.75%
Titus		x		3	0.75%
Ultrabac		x		3	0.75%
Websense		x		5	0.75%
Non-Itemized*					One Rate Only for All
All Other		x			2.00%
Other (not previously itemized) Directly Represented Lines					
See <i>Ingram Micro.pdf</i> attachment for softwares list.		x			2.00%
Note: Above Offered %ages include 0.5% WSCA Fee					



Nebraska Resale or Exempt Sale Certificate

FORM
13

for Sales Tax Exemption
* Read instructions on reverse side/see note below

NAME AND MAILING ADDRESS OF PURCHASER			NAME AND MAILING ADDRESS OF SELLER		
Name	State of Nebraska		Name	En Pointe Technologies Sales, Inc.	
Street or Other Mailing Address	PO Box 94664		Street or Other Mailing Address	18701 S. Figueroa Street	
City	State	Zip Code	City	State	Zip Code
Lincoln	NE	68509-4664	Gardena	CA	90248-4506
Check Type of Certificate			If blanket is checked, this certificate is valid for three (3) years from date of issuance.		
<input type="checkbox"/> Single Purchase <input checked="" type="checkbox"/> Blanket					

I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:

Check One Purchase for Resale (Complete Section A) Contractor (Complete Section C)
 Purchaser or Product Use is Exempt (Complete Section B)

SECTION A — Nebraska Resale Certificate

Description of Item(s) Purchased

Our purchase of
is a purchase for resale, rental or lease in the normal course of our business, either in the form or condition in which purchased, or as an ingredient or component part of other property to be resold.

I further certify that we are engaged in business as a: Wholesaler Retailer Manufacturer Lessor

Description of Product Sold, Leased, or Rented

If none, state reason

and hold Nebraska Sales Tax Permit Number 01-

or Foreign State Sales Tax Number

SECTION B — Nebraska Exempt Sale Certificate

The basis for this exemption is exemption category 1 (Insert appropriate category as described on reverse of this form.)

If exemption category 2 is claimed, enter the following information:

Description of Item(s) Purchased	Intended Use of Item(s) Purchased
----------------------------------	-----------------------------------

If exemption category 6 is claimed, seller must enter the following information and sign this form below:

Description of Item(s) Sold	Date of Seller's Original Purchase	Was Tax Paid when Purchased by Seller?	Was Item Depreciable?
		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO

If exemption categories 3 through 5 are claimed, enter the Nebraska Exemption Certificate number. 05 -

SECTION C — Contractors

I certify that we are engaged in business as a contractor operating under OPTION 1, and that we will collect and remit sales tax on the materials portion of our customer's invoice. Our Nebraska Sales Tax Permit Number is: 01-

OR

I certify that we are engaged in business as a contractor operating under OPTION 3, and that we will remit consumer's use tax on the materials withdrawn from our inventory that will be annexed into real estate. Our Nebraska Sales or Consumer's Use Tax Identification number is:

Any purchaser, or the agent thereof, or other person who completes this certificate for any purchase which is other than for resale, lease, or rental in the regular course of the purchaser's business, or is not otherwise exempted from the sales and use tax under Sections 77-2701 through 77-27,136 of the Nebraska Revenue Act, as amended, shall in addition to any tax, interest, or penalty otherwise imposed, be subject to a penalty of \$100.00 or ten times the tax, whichever amount is larger, for each instance of presentation and misuse. With regard to a blanket certificate, said penalty shall apply to each purchase made during the period the blanket certificate is in effect. Under penalties of law, I declare that I am authorized to sign this certificate, and to the best of my knowledge and belief, it is correct and complete.

sign here

Michael J. Keys
Authorized Signature

ACCOUNTING
ADMINISTRATOR
Title

9/1/10
Date

NOTE: Sellers must keep this certificate as part of their records. DO NOT SEND TO THE NEBRASKA DEPARTMENT OF REVENUE. Incomplete certificates cannot be accepted.

ACCESS TO RECORDS

Access to Records. The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the grantee or a subgrantee in accordance with Federal Requirements, the Contractor agrees to provide the Purchaser, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to Federal Requirements to provide the appropriate Federal agency access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the Recipient or a subgrantee of the Recipient in accordance with Federal Requirements, Contractor agrees to provide the Purchaser and the appropriate Federal agency access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the Recipient or a subgrantee of the Recipient in accordance with Federal Requirements, Contractor agrees to provide the Purchaser, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any Purchaser which is the Recipient or a subgrantee of the Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

**CLEAN AIR ACT
CLEAN WATER ACT**

Clean Air

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

Clean Water

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

Rights to Inventions Made Under a Contract or Agreement

Contractor agrees to comply with 37 CFR Part 401, Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts or Cooperative Agreements, and any implementing regulations issued by the City of Lincoln and Lancaster County. This contract provides for the rights of the Federal Government and the City of Lincoln and Lancaster County with regard to the performance of experimental, developmental, or research work in any resulting invention as specified under 37 CFR Part 401.

REPORTING REQUIREMENT AND REGULATIONS

Contractor agrees to provide the City and County, upon request, full and complete reports and/or other information as to the Contractor's operations and conduct under the Contract.

RETENTION OF RECORDS

Contractor agrees to retain all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

EQUAL EMPLOYMENT OPPORTUNITY

Civil Rights, Equal Employment Opportunity The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.

ENERGY POLICY AND CONSERVATION ACT

Contractor will comply with mandatory standards and policies relating to energy efficiency which are contained in the Nebraska state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871.) [53 FR 8078, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19645, Apr. 19, 1995].

PATENT RIGHTS

Patent Rights - These following requirements apply to each contract involving experimental, developmental, or research work:

- (1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until the necessary parties are notified.
- (2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.
- (3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

TERMINATION PROVISIONS

Termination. This Contract may be terminated by the following:

Termination for Convenience. Either party may terminate this Contract upon thirty (30) days written notice to the other party for any reason without penalty.

Termination for Cause. The City and/or County may terminate the Contractor for cause if the Contractor:

- 1) Refuses or fails to supply the proper labor, materials and equipment necessary to provide the services outlined in the Contract
- 2) Disregards Federal, State or local laws, ordinances, regulations, resolution or orders
- 3) Otherwise commits a substantial breach or default of any provision of the Contract Document. In the event of a substantial breach or default the City and/or County will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the contract shall terminate.

DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

Davis-Bacon and Copeland Anti-Kickback Acts

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) Withholding - The City and County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis- Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the City and County may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section (b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the City and County for transmission to the appropriate Federal agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the appropriate Federal agency or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship

program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.

Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Contract Work Hours and Safety Standards

(1) **Overtime requirements** - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) **Withholding for unpaid wages and liquidated damages** - The City and County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

COPYRIGHTS AND RIGHTS IN DATA

CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.

A. Rights in Data - These following requirements apply to each contract involving experimental, developmental or research work:

(1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and

2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance.

(c) When Federal assistance is awarded for experimental, developmental, or research work, the general intention is to increase knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless determined otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit the Federal agency involved to make available to the public, either the Federal agency's license in

the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.

(g) Unless determined otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

BREACHES AND DISPUTE RESOLUTION

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the City and County. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the City and County. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the City and County shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by the City and County, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City and County, Architect or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Bid Protests; Definitions; Appeals.

(a) Definitions.

- (1) Interested party shall mean an actual or prospective bidder whose direct economic interest would be affected by the award of a contract by the County to another party, or by the failure of the County to award a contract to such actual or prospective bidder.
- (2) Protest shall mean a written objection by an interested party on any phase of the bidding process, including specification preparation, bid solicitation, and intent to award, for the acquisition of supplies or services.
- (3) Protester shall mean an interested party who has filed a protest pursuant to subsection (b).
- (4) Procurement Appeals Board shall mean the independent panel of five unbiased individuals, appointed by the Mayor of the City of Lincoln and currently serving on behalf of the Lincoln/Lancaster County Purchasing Department, which individuals have a thorough knowledge of the purchasing process and practices, and laws applicable thereto. Members of such board have been appointed for three-year, staggered terms.

(b) Right to Protest. An interested party may protest to the Purchasing Agent, which protest shall be submitted in writing on company letterhead. Protests based on alleged apparent improprieties in a solicitation or other request for proposals must be filed before bid opening. In all other cases, the protest must be filed within five working days following the bid opening or if the protest is based on the selection of the lowest responsible bidder, not later than five working days following the selection of the lowest responsible bidder. To expedite handling of protests, the envelope containing the protest should be clearly labeled "Protest".

The written protest shall include, at a minimum, the following:

- (1) The name and address of the interested party;
- (2) Appropriate identification of the relevant solicitation, and if a bid has been opened, its number, and date of opening;
- (3) A statement of reasons for the protest;
- (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.

Upon timely receipt of a protest, the County shall not proceed further with the solicitation or with the award of the contract and shall suspend performance under the contract until the Purchasing Agent has resolved the protest or the Procurement Appeals Board has made a decision on the protest.

(c) Authority to Resolve Protests. Prior to the commencement of an appeal to the Procurement Appeals Board concerning any protest, the Purchasing Agent shall attempt to resolve any protest filed by an interested party concerning any solicitation. If the protest is not resolved by mutual agreement, the Purchasing Agent shall issue a decision in writing within five working days. The decision shall (1) state the reasons for the action taken, and (2) inform the interested party of their right to administrative review as provided by the Procurement Appeals Board. A copy of the decision shall be mailed or otherwise furnished immediately to the protester and all other bidders. If not satisfied with the decision of the Purchasing Agent, any

protester may appeal to the Procurement Appeals Board, but the decision shall be final unless the protester files a timely appeal with the County Clerk.

(d) Appeal Procedures. Any protester, within five working days of receipt of a decision of the Purchasing Agent, may file with the County Clerk a written notice of appeal for a hearing before the Procurement Appeals Board. The Notice of Appeal must clearly state the action protested and the basis of appeal.

Upon receipt of an appeal from a protester, the Procurement Appeals Board shall convene, in person or by video teleconferencing, within ten working days or as soon thereafter as reasonably possible to conduct an administrative review of the appeal. The Procurement Appeals Board shall decide whether the solicitation being appealed was in accordance with the applicable laws and regulations and the terms and conditions of all applicable specifications, and whether waiver of specifications, conditions or defects in a bid, if any, were justified and in the best interest of the County.

Within ten working days of hearing such appeal, the Procurement Appeals Board shall submit its findings and recommendations to the Lancaster County Board of Commissioners. If all five members of the Procurement Appeals Board are present, an affirmative vote of three shall be required for final action. If only three members are present, only an affirmative vote of two shall be required for final action. Should it become impossible to obtain a quorum of three members, the appeal shall proceed directly to the County Board without Procurement Appeals Board action.

No determination by the Procurement Appeals Board concerning an issue of law or fact shall be final or binding on the County.

(e) Finality of Decision. The County Board shall consider the recommendations of the Purchasing Agent, the Procurement Appeals Board, and the Department Head or agency for which the solicitation was made and shall make the final decision on the protest. The County Board's decision shall be final and binding upon the County.

Bid Protests; Definitions; Appeals Board; Fees.

Definitions.

- (1) **Interested party** shall mean an actual or prospective bidder whose direct economic interest would be affected by the award of a contract by the City to another party, or by the failure of the City to award a contract to such actual or prospective bidder.
- (2) **Protest** shall mean a written objection by an interested party on any phase of the bidding process, including specification preparation, bid solicitation, and intent to award, for the acquisition of supplies or services.
- (3) **Protester** shall mean an interested party who has filed a protest pursuant to subsection (b).
- (4) **Procurement Appeals Board** shall mean an independent panel of five disinterested individuals appointed by the Mayor, which individuals shall have a thorough knowledge of the purchasing process and practices, and laws applicable thereto. Members of such board shall be appointed for three-year, staggered terms; provided, however, two of the members first appointed shall serve for a period of one year, two shall serve for a period of two years, and one for a period of three years, with each appointee thereafter, except for appointees filling a vacancy, serving for a period of three years.
 - (b) **Right to Protest.** An interested party may protest to the City Purchasing Agent, which protest shall be submitted in writing on company letterhead. Protests based on alleged apparent improprieties in a solicitation or other request for proposals must be filed before bid opening. In all other cases, the protest must be filed within five working days following the bid opening or if the protest is based on the selection of the lowest responsible bidder, not later than five working days following the selection of the lowest responsible bidder. To expedite handling of protests, the envelope containing the protest should be clearly labeled "Protest." The written protest shall include as a minimum the following:
 - (1) The name and address of the interested party;
 - (2) Appropriate identification of the relevant solicitation, and if a bid has been opened, its number, and date of opening;
 - (3) A statement of reasons for the protest;
 - (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. Upon timely receipt of a protest, the City shall not proceed further with the solicitation or with the award of the contract and shall suspend performance under the contract until the Mayor has made a decision on the protest.
 - (c) **Authority to Resolve Protests.** Prior to the commencement of an appeal to the Procurement Appeals Board concerning any protest, the Purchasing Agent shall attempt to resolve any protest filed by an interested party concerning any solicitation. If the protest is not resolved by mutual agreement, the Purchasing Agent shall issue a decision in writing within five working days. The decision shall (1) state the reasons for the action taken, and (2) inform the interested party of their right to the administrative review as provided by the Procurement Appeals Board. A copy of the decision shall be mailed or otherwise furnished immediately

to the protester and all other bidders. If not satisfied with the decision of the Purchasing Agent, any protester may appeal to the Procurement Appeals Board, but the decision shall be final unless the protester files a timely appeal with the Procurement Appeals Board.

- (d) Appeals Board Procedures. Any protester, within five working days of receipt of a decision of the Purchasing Agent, may file with the Finance Director a written notice of appeal for a hearing before the Procurement Appeals Board. The Notice of Appeal shall be accompanied by a deposit of \$500.00 to defray the cost of processing such appeal, which deposit shall be returned if the Mayor decides in favor of the protester filing the appeal. The Notice of Appeal must clearly state the action protested and the basis of appeal.

Upon receipt of an appeal from an protester, the Finance Director shall convene the Board within ten working days or as soon thereafter as reasonably possible to conduct an administrative review of the appeal. The Board shall decide whether the solicitation being appealed was in accordance with all applicable laws and regulations and the terms and conditions of all applicable specifications, and whether waiver of specifications, conditions or defects in a bid, if any, were justified and in the best interest of the City.

Within ten working days of hearing such appeal, the Board shall submit its findings and recommendations to the Mayor. If all five members are present, an affirmative vote of three shall be required to pass the recommendation on to the Mayor. If only three members are present, only an affirmative vote of two shall be required to pass the recommendation on to the Mayor. Should it become impossible to obtain a quorum of three members, the appeal shall proceed directly to the Mayor without Procurement Appeals Board action.

No determination by the Board concerning an issue of law or fact shall be final or binding on the City.

- (e) Finality of Decision. The Mayor shall consider the recommendations of the Purchasing Agent, the Procurement Appeals Board, and the Department Head or agency for which the solicitation was made and shall make the final decision on the protest. The Mayor's decision shall be final and binding upon the City. (Ord. 18495 §1; January 31, 2005; prior Ord. 16442 §1; August 9, 1993).

Debarment and Suspension

Awards that exceed the small purchase threshold fixed at 41 U.S.C. 403(11), are considered covered transactions for purposes of 44 CFR. As such, no contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Order No. 12549 and 12689, Debarment and Suspension. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order No. 12549.

Contractors with awards that exceed the small purchase threshold fixed at 41 U.S.C. 403(11), must provide the required certification regarding its exclusion status and that of its principal employees.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The signed and submitted bid or proposal contains material representations of fact relied upon by **City of Lincoln and Lancaster County**. If it is later determined that the bidder or proposer knowingly rendered an erroneous representation of its debarment or suspension status, in addition to remedies available to **City of Lincoln and Lancaster County**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 44 CFR. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Debarment and Suspension

Awards that exceed the small purchase threshold fixed at 41 U.S.C. 403(11), are considered covered transactions for purposes of 45 CFR. As such, no contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Order No. 12549 and 12689, Debarment and Suspension. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order No. 12549.

Contractors with awards that exceed the small purchase threshold fixed at 41 U.S.C. 403(11), must provide the required certification regarding its exclusion status and that of its principal employees.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The signed and submitted bid or proposal contains material representations of fact relied upon by **City of Lincoln and Lancaster County**. If it is later determined that the bidder or proposer knowingly rendered an erroneous representation of its debarment or suspension status, in addition to remedies available to **City of Lincoln and Lancaster County**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 45 CFR. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Enforcement of Contract

(A) Remedies for noncompliance. If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:

- (1) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency,
- (2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance,
- (3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program,
- (4) Withhold further awards for the program, or
- (5) Take other remedies that may be legally available.

(B) Hearings, appeals. In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.

(C) Effects of suspension and termination. Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes the in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

- (1) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,
- (2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(D) Relationship to debarment and suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude grantee or subgrantee from being subject to "Debarment and Suspension" under E.O. 12549.

Contract Remedies

(A) Remedies for breach or noncompliance with contract. If a contractor or subcontractor materially fails to comply with any term of the contract, the City and County may take one or more of the following actions, as appropriate in the circumstances:

- (1) Withhold payments pending correction of the deficiency or breach by the contractor or subcontractor.
- (2) Impose liquidated damages, where appropriate.
- (3) Temporarily cancel further purchases or services until a resolution is reached.
- (4) Ban the contractor from further business with the City and County, or
- (5) Take other remedies that may be legally available.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] -

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*]

- Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d).

- Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A. Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.

- Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date