

STATE OF MAINE
Child Development Services



RFP # 201309603

**Request for Proposals for
Early Childhood Intervention Management System**

RFP Coordinator

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From the time this RFP is issued until award notification is made, all contact with the State regarding this RFP must be made through the aforementioned RFP Coordinator. No other person / State employee is empowered to make binding statements regarding this RFP. Violation of this provision may lead to disqualification from the bidding process, at the State's discretion.

Bidders' Conference: November 20, 2013, 1:30 p.m., Room 500, 5th Floor, Burton M. Cross State Office Building, 111 Sewall Street, Augusta, ME

Deadline for Submitted Questions: November 22, 2013, 5:00 p.m. local time

Proposals Due: December 17, 2013, not later than 2:00 p.m. local time

Submit to:

**Division of Purchases
Burton M. Cross Building, 111 Sewall Street, 4th Floor
9 State House Station, Augusta ME 04333-0009**

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State of Maine
Office of Information Technology
Child Development Services
Early Childhood Intervention Management System
RFP # 201309603

1. INTRODUCTION

1.1 Purpose and Background

Child Development Services (CDS) is seeking proposals to provide the service for development, hosting, maintenance and support of an Early Childhood Intervention Management System (“eCIMS”) as defined in this Request for Proposals (RFP) document. This document provides instructions for submitting proposals, the procedure and criteria by which the Provider(s) will be selected, and the contractual terms which will govern the relationship between CDS and the awarded Bidder(s).

The CDS program provides early childhood intervention services and a Free Appropriate Public Education (FAPE) to children with disabilities from birth through age five in accordance with federal requirements in the Individuals with Disabilities Education Act (IDEA). The organizational structure, with related roles and responsibilities, for implementing the program is established in Maine statute and is referred to as the CDS System.

The Individuals with Disabilities Education Act (IDEA) is the federal law under which states provide early intervention and special education and related services to infants, toddlers, and children with disabilities. Part B of IDEA provides for a Free Appropriate Public Education (FAPE) for all eligible children ages 3 – 20 with disabilities. Part C of IDEA provides for early intervention services for children with developmental delays from birth up to 3 years. Maine, like all other states, has chosen to receive the federal funds available for IDEA and, therefore, must comply with specific federal regulations. These regulations include requirements to determine eligibility and provide services to all eligible children within specified timeframes.

The eCIMS will meet the following Federal and State requirements:

- IDEA (see Appendix B – Supporting Policy Documents),
- FERPA (see Appendix B – Supporting Policy Documents),
- HIPAA (see Appendix B – Supporting Policy Documents),
- All IT products and services delivered as part of this Agreement must conform to the State IT Policies, Standards, and Procedures (Maine.Gov/oit/oitpolicies) including, but not limited to:

- Deployment Certification Policy for Major Application Projects (see Appendix B – Supporting Policy Documents),
- Web Standards and Accessibility Policies (see Appendix B – Supporting Policy Documents),
- State of Maine Information Technology Security Policy (see Appendix B – Supporting Policy Documents),
- State of Maine Remote Hosting Policy (see Appendix B – Supporting Policy Documents), and
- All other legislation guiding the CDS system.

The Maine Department of Education is responsible for ensuring Maine complies with the federal IDEA regulations and related requirements as specified in Maine Statute 20-A MRSA Chapter 303 (see Appendix B – Supporting Policy Documents). However, the program is actually implemented, and services are provided, through other entities. Implementation of the Part B program for children ages six through 20 is the responsibility of, and accomplished through, Maine’s public schools. The Part B program for children ages three through five and the Part C program for infants and toddlers from birth through age two are implemented through the Child Development Services System. The Maine Department of Education will participate in aspects of eCIMS as necessary and appropriate to achieve the goals of the system.

1.2 General Provisions

- A.** Issuance of this RFP does not commit CDS to issue an award or to pay expenses incurred by a Bidder in the preparation of a response to this RFP. This includes attendance at personal interviews or other meetings and software or system demonstrations, where applicable.
- B.** All proposals should adhere to the instructions and format requirements outlined in this RFP and all written supplements and amendments (such as the Summary of Questions and Answers), issued by CDS. Proposals are to follow the format and respond to all questions and instructions specified below in the “Proposal Submission Requirements and Evaluation” section of this RFP.
- C.** Bidders shall take careful note that in evaluating a proposal submitted in response to this RFP, CDS will consider materials provided in the proposal, information obtained through interviews/presentations (if any), and internal CDS information of previous contract history with the Bidder (if any). CDS also reserves the right to consider other reliable references and publicly available information available in evaluating a Bidder’s experience and capabilities. The proposal shall be signed by a person authorized to legally bind the Bidder and shall contain a statement that the proposal and the pricing contained therein will remain valid and binding for a period of 180 days from the date and time of the bid opening.
- D.** The RFP and the selected Bidder’s proposal, including all appendices or attachments, will be incorporated in the final contract.

- E. Following announcement of an award decision, all submissions in response to this RFP will be considered public records available for public inspection pursuant to the State of Maine Freedom of Access Act (FOAA) (1 M.R.S. §§ 401 et seq.). In the event a request is made to produce any proposal, the Department will notify the bidder that the Department will produce the proposal unless the bidder takes steps it deems necessary to prohibit production. The Department will not undertake to determine whether any proposal is confidential or otherwise protected from disclosure.
- F. CDS, at its sole discretion, reserves the right to recognize and waive minor informalities and irregularities found in proposals received in response to this RFP.
- G. All applicable laws, whether or not herein contained, shall be included by this reference. It shall be Bidder's responsibility to determine the applicability and requirements of any such laws and to abide by them.

1.3 Eligibility to Submit Bids

Public agencies, private for-profit companies, and non-profit companies and institutions are invited to submit bids in response to this Request for Proposals.

1.4 Contract Term

CDS is seeking a cost-efficient proposal to provide services, as defined in this RFP, for the anticipated contract period defined in the table below. Please note that the dates below are estimated and may be adjusted as necessary in order to comply with all procedural requirements associated with this RFP and the contracting process. The actual contract start date will be established by a completed and approved contract.

Contract Renewal: Following the initial term of the contract, CDS may opt to renew the contract for 3 renewal periods of one year each, subject to continued availability of funding and satisfactory performance.

The term of the anticipated contract, resulting from this RFP, is defined as follows:

Period	Start Date	End Date
Initial Period of Performance	3/1/2014	12/31/2014
Renewal Period #1	1/1/2015	12/31/2015
Renewal Period #2	1/1/2016	12/31/2016
Renewal Period #3	1/1/2017	12/31/2017

1.5 Number of Awards

CDS anticipates making one award as a result of this RFP process.

1.6 RFP Changes and Addenda

In the event it becomes necessary to revise any part of this RFP prior to the scheduled submittal date, an amendment or an addendum shall be issued to all potential bidders who have registered and received this RFP, consistent with any amendment timelines required by the Division of Purchases.

1.7 Rejection of Proposals

CDS reserves the right to accept or reject any part of any proposal, and to accept or reject any or all proposals without penalty for any one of the following reasons:

- a. Failure to include the required Cost Proposal Form signed by an officer of the company submitting the proposal.
- b. Failure to include the Cost Proposal in a separate sealed envelope.
- c. Failure to follow the proposal format instructions as specified.

1.8 Certification of Independent Price Determination

By submission of a response to this RFP, the bidder certifies that in connection with this procurement:

- a. The prices in this proposal have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any competitor.
- b. Unless otherwise required by law, the prices, which have been quoted in this proposal, have not been knowingly disclosed by any prospective bidder and shall not knowingly be disclosed by the bidder prior to the notice of intent to award, directly or indirectly to any competitor.
- c. No attempt has been made, or shall be made, by a bidder to induce any other person or firm to submit, or not to submit, a proposal for the purpose of restricting competition.
- d. The person signing this proposal certifies that:
 1. He/she is the person in the bidder's organization responsible within that organization for the decision as to the prices being offered herein; or
 2. He/she is not the person in the bidder's organization responsible within that organization for the decision as to the prices being offered herein, but that he/she has been authorized in writing to act as agent for the persons responsible for such decision.
 3. The offer is made by the submitted proposal, and an officer of the offering firm shall sign any clarifications to that proposal or a designated agent empowered to bind the firm in an Agreement.

1.9 Withdrawal of Proposals

Proposals may be withdrawn, modified, and resubmitted at any time prior to the time set for the receipt of proposals.

1.10 Disposition of Proposals

Written proposals submitted in response to this RFP (including the recording and any transcriptions of oral presentations by bidders) become the property of the State, regardless of whether CDS rejects any or all of the proposals. The proposals shall not be returned to bidders, except as specified in this RFP.

1.11 Clarifications and Releases

CDS may, but is not required to, request a bidder to clarify in writing any and all aspects of a proposal; however, bidders will not be allowed to alter or amend their proposals through the clarification process. CDS reserves the right to contact and to discuss a bidder's performance with the bidder's other clients and former clients.

1.12 Proposal Evaluation and Award

All proposals submitted shall be evaluated in accordance with the requirements set forth in Section 5 of this RFP. Any Agreement resulting from this RFP and the subsequent evaluation process shall not necessarily be awarded to the bidder with the lowest price on an individual option basis. Instead, the Agreement shall be awarded to the compliant bidder who has accumulated the most points in accordance with the evaluation criteria outlined in Section 5.

This RFP as well as the successful bidder's response to this RFP, together with all addenda and clarifications shall become part of the contractual obligation and shall be incorporated by reference into the ensuing Agreement with the successful bidder.

1.13 Gratuities

The laws of Maine provide that it is a felony to offer, promise, or give anything of value or benefit to a State employee with the intent to influence that employee's acts, opinion, judgment, or exercise of discretion with respect to that employee's duties. Evidence of violations of this statute will be reported to the appropriate prosecuting attorney.

1.14 Conflicts Between Terms

CDS reserves the right to accept or reject any exception taken by a bidder to the terms and conditions of this RFP. Should a successful bidder take exception to the terms and conditions required by the State, the bidder's exceptions may be rejected and the entire proposal declared non-responsive. These exceptions should be noted conspicuously and noted as exceptions to the RFP. CDS may elect to negotiate with the successful bidder regarding Agreement terms that do not materially alter the substantive requirements of this RFP.

1.15 Maine Statutes and Rules

Maine Department of Administration and Financial Services, Division of Purchases Rules, Chapter 110, sets forth procedures for State of Maine procurement under which this RFP is issued. The terms and conditions of this RFP and the resulting Agreement(s) or activities based upon this RFP shall be construed in accordance with the laws of Maine.

1.16 Costs of Preparation of Proposal

No payments shall be made to cover direct, indirect or associated costs incurred by a prospective or successful bidder in the preparation of its proposal(s) in response to this RFP or any other submission made under this RFP.

1.17 News Release

News releases or other materials made available to the public, a bidder's clients, or potential clients pertaining to this procurement or any part of the proposal shall not be made without the prior written approval of CDS.

2. SCOPE OF SERVICES

2.1 Summary

The work as it is defined below will become part of the contract resulting from this procurement, and it will be the responsibility of the successful bidder to ensure that it is performed to completion in accordance with the terms and conditions of the contract.

The bidder must provide a solution for the complete transfer and implementation of a replacement system for the existing student information system known as CASE-E. Services are to include, but not be limited to, analysis, design, development, testing, training and implementation.

The high-level goals of this system are to:

- a) Enable users at every level to interact with child data – empowering them to track, trend, analyze, interpret and act quickly, without special data processing;
- b) Increase the speed, agility, flexibility, and responsiveness to provide current and future internal, state, and federal data reporting requirements;
- c) Create a platform to interact directly with other existing Maine Department of Education systems and future systems;
- d) Create a system that allows CDS to be efficient and streamlined – easy access to data, ability to create own reports, intuitive and streamlined navigation;
- e) Have enhanced and robust scheduling and time reporting functionality for internal and external service providers; and
- f) Create, track and print Individualized Family Service Plan (IFSP's) and Individualized Education Program (IEP's) and related documents.

The system is to be installed and hosted remotely either by the bidder or a third party that the bidder subcontracts. The successful bidder is responsible for the installation and configuration of all software and utilities necessary for a fully operational system. The successful bidder will be responsible for all installation, training and conversion services for CDS. The successful bidder will be responsible for all hardware purchases.

2.2 Technical and Functional Requirements

2.2.1 Hardware and Software Requirements

The eCIMS shall be a web-based browser-based solution compatible with standard Microsoft Windows and Apple Mac operating system browsers. Bidders may offer an existing commercial off-the-shelf (COTS) product.

Identify and describe in detail the hardware and software necessary to install, run, and support the system being proposed including testing and/or training environments. The architecture design should include but not be limited to a narrative and pictorial description of the: web layer, middleware layer, database layer, storage, network and security.

If any component of the proposed system is not compatible with the development and operating environments documented in Section 2.2 of this RFP, the bidder must indicate what additional tools and equipment will be required and include an estimate for the procurement, installation, and support of these tools and equipment. In the event the provider cannot guarantee a (insert date) implementation date, a proposed implementation date is required. CDS is under no obligation to consider a proposal that does not comply with section 4.2.1.2, but may do so at its discretion based on the number and quality of responses.

The system will be hosted remotely with the successful bidder. The State of Maine's Remote Hosting Policy can be viewed at <http://maine.gov/oit/policies/Remote-Hosting-Policy.htm>.

Any proposed solution must comply with all relevant policy (www.maine.gov/oit/policies) and architecture (www.maine.gov/oit/architecture) specifications. However, any policy or architecture specification that pertains exclusively to local hosting, and is therefore not applicable to remote hosting, may be waived at the discretion of the Chief Information Officer (CIO). Bidders are responsible for detailing specific exemptions they may seek as part of their remote hosting proposals. Bidders are strongly encouraged to be as specific as possible in seeking such exemptions, and in all such cases, the decision of the CIO shall be final and binding.

The successful bidder must include in the RFP proposal all relevant software licenses and agreements. Further, the successful bidder must work under the supervision of State personnel to perform all required testing in support of the Deployment Certification (see Section 2.4) of the proposed solution.

Item #	Requirement
1	Provide a web-based childhood intervention and management system that may be accessed without the need to install client software. For the purposes of this RFP ActiveX browser components and software plug-ins (e.g., Adobe Reader) are not considered client software for this requirement.
2	Database Server. Integrate with the Maine Department of Education data systems Microsoft SQL Server databases.
3	Client Workstations. Accommodate users accessing the system using either laptop or desktop hardware running current supported versions of Microsoft operating system, Apple operating system, Microsoft Office and Internet Explorer and supported versions of Apple Safari and current supported versions of Chrome (PC and Apple).
4	Network Services. Accommodate users with a minimum 56kBps-based Internet connection.
5	Data Integrity and Validity. Provide the ability to check data integrity and validity via various cross-referencing field verification checks.
6	Reduce Redundant Data Entry. Provide the ability to reduce redundant and irrelevant data entry and use forced choice entry techniques where applicable.

7	Microsoft Office Compatibility. Provide the ability to utilize Microsoft Office 2000 and its evolutionary replacement for spreadsheets, narratives, summaries, and face sheets (detailed history documents).
8	Demonstrate an application architecture and design consistent with current industry best practices and integrate with the current Maine Department of Education infrastructure. The database shall be scalable, hardware independent and support cross platform application operations.
9	Provide software assurance guarantees.
10	Provide an established process for migrating to new software releases.

2.2.2 Security Requirements

The successful bidder will be responsible for ensuring that the solution is thoroughly tested in accordance with the Deployment Certification Policy and undergo all relevant FERPA, HIPPA, and Personal Identifiable Information (PII) certifications through an independent third party assessment. The Deployment Certification Policy tests are available at (<http://maine.gov/oit/policies/Application-Deployment-Certification.htm>)

The successful bidder will be responsible for supporting the OIT Deployment Certification process. If test results demonstrate deficiencies with the software, the Provider will rectify the deficiencies to the satisfaction of CDS. The system must pass OIT Deployment Certification before the solution can be implemented within the Production Environment.

Item #	Requirement
1	Provide the ability for web pages to be accessible directly or via a link from the Maine.gov portal.
2	Provide the ability to timeout a user's screen with automatic timer for security.
3	Provide the capability of mass security updates.
4	Provide for the use of Secure Sockets Layer (SSL) encryption initially and Transport Layer Security (TLS) or other forms of comparable Advanced Encryption Standard (AES) encryption, for all transfer of individually identifiable data between client and server.
5	Provide the ability to do mass updates to groups of users as needed.
6	Use a consistent security model throughout.
7	Provide the capability to log into the system.
8	Require the user's user name and password to log into the system.
9	Mask the password with asterisks as the user types in the password.
10	Provide the capability to limit the number of log on failed attempts to three and then direct the user to a page indicating that log on failed.
11	Provide the ability to restrict access and record all failed and successful security contacts.
12	Require the user to enter a new password if the old password has expired.
13	Provide the capability to notify the user if the user name or password is not valid.
14	Have the ability to build individual security profiles that users would be associated with, rather than each individual having its own set of permissions.
15	Provide the capability to add, change, or delete roles.
16	Provide the capability to associate roles with a user.

17	Provide the capability to assign a role to an application area using a security setting of: <ul style="list-style-type: none"> • No access (NA); • Read only (R); • Edit/Read (ER); • Edit/Add/Read (EAR); and • Edit/Add/Read/Delete (EARD).
18	Provide the capability of the System Administrator role to add, change, delete page controls (i.e. fields, checkboxes, approval buttons, etc.) for each page.
19	Provide the ability to copy a role and its defined access rights.
20	Provide the ability for non-CDS users to access the system based on their rights and roles. Examples of non-CDS users are, but not limited to: contracted services providers, child parents and/or guardians, auditors, State and local administrators.
21	Provide the capability to define the SMTP (Simple Message Transport Protocol) server user account and password that shall be used for email notifications.
22	Provide the capability for users to control who has access to results of queries.
23	Provide the ability to maintain an audit trail of transactions made in the eCMIS, identifying who made the change, the type of change made, and the date / time the change was made. This shall be accomplished for adds, deletes and edits. This shall include all security maintenance transactions. Both a before and after image of data changes shall be captured in order to record the specific data elements that were modified.

2.2.3 Data Migration and Integration Requirements

The eCMIS shall provide the capability to migrate data from the existing legacy CDS system and integrate with the Education Data Warehouse and other external data sources. The successful bidder will analyze current database tables and data elements within the legacy CDS system and will create a Migration Plan that is aimed at migrating required data elements to the proposed system. The Migration Plan will also include a plan for populating required data elements that will not be addressed by the migration of data from the legacy CDS system. Unless specified otherwise within the Migration Plan, the successful bidder will be required to provide all tools, equipment, materials, and resources necessary to effectively perform the required work tasks.

Item #	Requirement
1	Provide the ability to migrate data from the legacy CDS CASE-E system (Microsoft SQL Server 2005 backend).
2	Provide the ability to migrate data from the CDS Microsoft Dynamics GP (Great Plains Software) Version 2010 and PeakKnowlede software financial systems.
3	Provide the ability for the eCMIS to receive and display data from disparate internal and external data sources.
4	Provide the ability to receive and store the State Student Identifier from Infinite Campus State Edition.

2.2.4 eCMIS Requirements

Item #	Requirement
1	Provide the ability to collect all child mailing address fields.

2	Provide the ability for users to view list of Active Child Development Regional sites (cost centers) they serve.
3	Provide the ability for users to view list of Children in a "site" and their identification information.
4	Provide the ability to collect all child details (information identifying the child).
5	Provide the ability to log activity details regarding the child.
6	Provide the ability to collect parent details (names and addresses of parents and guardians).
7	Provide the ability to collect address details (residence address of child and guardians)
8	Provide the ability to collect CDS details (information of case manager assigned to a child, Part C or Part B Eligibility Determination date etc.).
9	Provide the ability to list intake referrals received for a child.
10	Provide the ability to collect intake referral details (referred by, date, reason, etc.).
11	Provide the ability to list screenings done for a child.
12	Provide the ability to collect screening details (method, cost, notes etc.).
13	Provide the ability to collect screener details (screening type, provider etc.).
14	Provide the ability to collect list of evaluations done for a child.
15	Provide the ability to list evaluators and their information.
16	Provide the ability to collect evaluation details (evaluation method, cost, date etc.).
17	Provide the ability to list team meetings held for a child's case.
18	Provide the ability to list participants in a meeting for a child's case.
19	Provide the ability to collect details of a meeting held for a child's case (reason for meeting, recommendations, follow-up date etc.).
20	Provide the ability to list plans written for a child (e.g., plan date, close date, amendment start date, amendment end date, type of plan, etc.).
21	Provide the ability to collect details of a plan (e.g., close date, close reason, plan type (IFSP or IEP)).
22	Provide the ability to collect progress reports (list of progress reports for a plan for a child. (e.g., report number, due date, date received, comments, notes etc.).
23	Provide the ability to collect plan services (list of services for a plan for a child – e.g., name of service, provider name, start date, end date, frequency-intensity etc.).
24	Provide the ability to collect service details (details of a service listed in the plan for a child – e.g., billing code, cost per hour etc.).
25	Provide the ability for designated users to be able to view for a child, the list of services and the respective pay sources.
26	Provide the ability to collect insurance (list of insurances listed for the child – e.g., insurance name, insurance type, policy number, eligibility date etc.).
27	Provide the ability to collect insurance details (details of each insurance listed on the child's record – e.g., policy holder first name, last name, eligibility date, expiration date etc.).
28	Provide the ability to collect insurance periods (e.g., period start, period end).

29	Provide the ability to view list of providers associated with the site (e.g., provider ID, provider name, If provider is an agency or not, office or agency name).
30	Provide the ability to enter the contact details for CDS Staff. (e.g., case manager ID, last name, first name, email, active/inactive, certification type, certification end date etc.).
31	Provide the ability to collect provider addresses (address of a provider associated with the site (cost center)).
32	Provide the ability to collect details of a provider associated with the site (cost center) (e.g., Federal Tax ID, Medicaid #, provider type etc.).
33	Provide the ability to collect provider calling information (e.g., phone number, email etc.).
34	Provide the ability to list all contracts associated with all sites (e.g., contract ID, site name, contract name etc.).
35	Provide the ability to collect details of contract service rates (e.g., dollars/unit, specialty, start date, end date etc.).
36	Provide the ability to collect contract evaluation rates (details of contracts that conduct evaluations – e.g., evaluation type, dollars/unit, start date, end date etc.).
37	Provide the ability to collect contract team rates (details of contracts that provide members for team meetings – e.g., team type, specialty, dollars/unit, start date, end date etc.).
38	Provide the ability to collect contract screening rates (details of contracts that conduct screenings – e.g., screening type, specialty, dollars/unit, start date, end date, etc.).
39	Provide the ability to collect details of contract providers by site (e.g., provider name, office or agency name, etc.).
40	Provide the ability to collect details of a contract (e.g., start date, end date, address, contract administrator details, contracted provider information, etc.).
41	Provide the ability to collect details of contracted providers by site (e.g., name of contracted provider, site(s) they are associated with).
42	Provide the ability to collect details of CDS Employees by site (e.g., name of CDS employee, site they are associated with).
43	Provide the ability to enter details of the contract of a provider (e.g., contract start date, contract end date, site servicing etc.).
44	Provide the ability to collect details of a contract invoice (e.g., invoice ID, invoice number, status, etc.).
45	Provide the ability to view list of saved queries so they can be reused at later times.
46	Provide the ability for the user, based on their level of access, to do an Ad-hoc query by checking few or all fields from a list of fields (e.g., number of screenings, evaluations called, evaluations scheduled, evaluations, evaluation reports, etc.).
47	Provide the ability for contract providers to enter child related notes into the system.
48	Provide the ability for direct service staff to enter child related notes into the system.
49	Provide the ability to auto populate information across the entire system. Users should not have to enter the same information twice.
50	Provide the ability for designated users to enter an IFSP plan and related documents for a child.

51	Provide the ability for designated users to enter an IEP plan and related documents for a child.
52	Provide the ability for designated users to work on concurrent plans at the same time for a given child with only one plan in active state.
53	Provide the ability to transfer a child and pertaining information from one site to another.
54	Provide the ability to identify and manage the workflow for onboarding a child into the CDS program (e.g., referral, screening, evaluation, plan development, etc.).
55	Provide the ability to copy a child's plan.
56	Provide the ability to do global updates to staff or contract service providers.
57	Provide the ability to identify the amount of co-pay applied using State defined rules.
58	Provide the ability to identify the amount of services co-pay applied using State defined rules.
59	Provide the ability to set provider rates based on authorized level of services.
60	Provide the ability to input MaineCare or third-party rates and apply limitations for services not to exceed those rates.
61	Provide the ability to maintain information that allow services to be manually or automatically priced according to State defined rates and effective dates.
62	Provide the ability to restrict payment for services as defined by child plan or State policy.

2.2.5 Accounts Payable Requirements

Item #	Requirement
1	Provide the ability to communicate with Microsoft Dynamics GP Version 2010 (Great Plains Accounting Software) and PeakKnowledge financial software.
2	Provide the ability for CDS direct service employees to create invoices for the services to the children.
3	Provide the ability for contract providers to create invoices for the services to the children.
4	Provide the ability for parents of the child to fill travel reimbursement form on the system.
5	Provide the ability for A/P staff to access the history of invoices billed by provider and by child.
6	Provide the ability for validation to ensure consistent data entry.
7	Provide the ability for A/P to communicate with A/R portion of the system.
8	Provide the ability for the same data to populate across the entire system. In other words, no double entry of data.
9	Provide the ability for A/P staff to pick any child and enter all A/P related information pertaining to that child's case.
10	Provide the ability to streamline contracts/rates with consistent description.
11	Provide the ability for details of invoices paid to be available in the system. Invoices processing occurs within Microsoft Dynamics GP.
12	Provide the ability for CDS direct service employees to complete the 'employee mileage

	reimbursement' form on the system.
13	Provide the ability for site level employees to fill in the invoices for administrative bills at the site level on the system, if they are intended for a specific child (e.g., assistive technology).
14	Provide the ability for A/P processors to enter the provider invoices onto the system.
15	Provide the ability for A/P processors to search for any child.
16	Provide the ability for A/P processors to view all child history.
17	Provide the ability for A/P processors to look up a provider's name and view a list of all children the provider is associated with.
18	Provide the ability for services invoiced for the child to align with the child's plan and raise flags if there are discrepancies.
19	Provide the ability to view by status all invoices processed.
20	Provide the ability for site directors to have access to all child A/P information associated with their site.

2.2.6 Accounts Receivable Requirements

Item #	Requirement
1	Provide the ability for the accounts receivable (A/R) module of the system to communicate with Microsoft Dynamics GP Version 2010 (Great Plains Accounting Software) and PeakKnowledge software.
2	Provide the ability for CDS to invoice the commercial insurance electronically.
3	Provide the ability for the system to check if the child is eligible for MaineCare.
4	Provide the ability for the system to invoice MaineCare for services provided to the child.
5	Provide the ability for the system to receive the electronic remittance advice file from MaineCare once the invoices are processed.
6	Provide the ability for the system to allow CDS to create an invoice for commercial insurance and print CMS1500.
7	Provide the ability for the accounts receivable specialist to identify the account the invoices will be paid from.
8	Provide the ability for accounts receivable staff to keep track of the cost absorbed by CDS if MaineCare or commercial insurance cannot be billed for a service.
9	Provide the ability for the system to process the file that comes from MaineCare after MaineCare processes the invoices, and send it to Microsoft Dynamics GP and PeakKnowledge software.
10	Provide the ability for the system to separate and bucket invoices into MaineCare, commercial and CDS pay.
11	Provide the ability for the new system to communicate with the current accounts receivable software and transfer over the child information so accounts receivable does not have to reenter it in the accounts receivable software again.

2.2.7 Reporting Requirements

Item #	Requirement
1	Part C State Performance Plan indicators 1, 2, 3, 5,6,7,8 (ABC).
2	Part B State Performance Plan indicators 6, 7, 11, 12.
3	General supervision. (Relates to all OSEP indicators but particularly 9-13, Part C and Part B(619) 15-20.
4	Child Outcome summary report Individual and OSEP aggregate.
5	Provide the ability for CDS staff to create, run, print and save ad-hoc queries and reports.
6	Provide the ability to create mailing labels.
7	Provide the ability to create the Annual Child Count Report.

2.2.8 Data Exporting and Interface Requirements

Item #	Requirement
1	Provide the ability to export data in a variety of standard formats (e.g., xls, csv, xml, txt, rtf, pdf) that can be integrated with other data systems.
2	Provide the ability for CDS users to export data in a variety of standard formats (e.g., xls, csv, xml, txt, rtf, pdf) that can be integrated with other information available at the CDS level. Security requirements shall certify that CDS staff only has access to the appropriate data.
3	Provide the ability to import and export data to and from third party software.
4	Provide the ability to support data integration and data sharing with State and third-party applications using industry standard protocols.
5	Provide the ability to receive, accept, store and/or modify data from a variety of possible sources, such as scanning, keyboard entry, archived records, and external sources such as the Web.
6	Provide the ability to store specified export routines for later use and modification.
7	Provide the ability to import and store the unique State Student Identifier from Infinite Campus State Edition.
8	Provide the ability to export child identifying data in .csv format to Infinite Campus State Edition to retrieve or create State Student Identifiers.
9	Provide the ability to import and export financial data to Microsoft Dynamics GP and PeakKnowlege accounting software.
10	Provide the ability to export eCIMS data tables in flat file format to the Statewide Longitudinal Data System (Microsoft SQL Server backend).

2.2.9 Training and Documentation Requirements

CDS will require training and support to CDS personnel and other stakeholders to ensure successful implementation and utilization of the eCIMS.

Item #	Requirement
1	Provide up to two weeks of system administration training to CDS personnel. The training should include at a minimum: <ul style="list-style-type: none"> • Managing security and user access; • Maintaining and supporting the eCIMS; • Creating, publishing and managing content; • Creating and managing workflow processes; • Exporting and importing data; and • Maintaining and updating training and online help documentation.
2	Provide up to four weeks of end-user/stakeholder training utilizing: instructor-led classes, live web classes, and recorded web classes. Training should include at a minimum: <ul style="list-style-type: none"> • Using/navigating the eCIMS by; <ul style="list-style-type: none"> ○ State-level employees; ○ Site directors and employees; ○ CDS direct service employees; ○ Contract providers; and ○ Parents/Guardians.
3	Provide context-sensitive online help for system administration users and end-users.
4	Provide electronic copies of all system administration and end-user training materials in Word and PDF formats.
5	Provide the ability to meet the State of Maine standards for technical and program documentation.
6	Provide to CDS electronic copies of all necessary documentation to facilitate ongoing maintenance of the system after implementation.
7	Provide to CDS attendee lists for all on-site and online training sessions.

2.3 Data Standards

2.3.1 Maine Department of Education Data Standards

The bidder shall make every effort to adhere to or crosswalk to Maine Department of Education data standards for identifying children and staff/providers in the eCMIS. The links below are current and are subject to change.

<http://www.maine.gov/education/medms/Schemas/StudentDataDictionary08102010.htm>

<http://www.maine.gov/education/medms/standards/index.htm>

2.3.2 Common Education Data Standards (CEDS)

The bidder should make every effort to align with CEDS early learning data standards. This will facilitate the alignment of CDS data with K-12 data systems and Statewide Longitudinal Data System.

2.4 System Certification

The system will undergo a full certification process as outline by the State of Maine, Office of Information Technology. The process will follow the policies and procedures that are published at time of certification. The links listed below are current and are

subject to change.

http://www.maine.gov/oit/policies/OIT_App_Deployment_Certification_Guidelines.htm
<http://www.maine.gov/oit/policies/AppDeployCert.htm>

2.5 Security, Confidentiality and Auditing

The bidder shall deliver systems and services that are compliant the Health Insurance Portability and Accountability Act (HIPAA) and Family Educational Rights and Privacy Act (FERPA).

In addition, the bidder will ensure compliance with all HIPAA/FERPA requirements across all systems and services related to this procurement, including transaction, common identified, and privacy and security standards, by the effective date of those rules and regulations. The bidder will comply with the rules and regulations, and will implement these rules and regulations so as to achieve consistency in data collection, validation, storage, retrieval, and consolidation with all CDS's programs.

To the extent the bidder is considered a Business Associate under HIPAA; the bidder shall execute and deliver in form acceptable to CDS a Business Associates agreement (BA agreement). The terms of the BA agreement shall be incorporated into the Agreement by reference. CDS shall have recourse to such remedies as are provided for in the Agreement for breach of contract, in the event the bidder either fails to execute and deliver such BA agreement to CDS or fails to adhere to the terms of the BA agreement.

2.6 Application Software and System Components

The successful bidder will provide, house, install, configure, and customize all application software and system components necessary to satisfy the requirements specified within this RFP. All associated licenses, including a copy of the agreements, will be provided by the successful bidder. CDS and CDS staff will participate in all aspects of the stated tasks as appropriate, for the purposes of knowledge transfer. As part of this knowledge transfer, the successful bidder will provide written installation and configuration documentation for the application software and system components.

2.7 Ownership and Termination or Bankruptcy

2.7.1 Owned Software

Unless otherwise indicated, The State of Maine will retain all ownership of any documentation, source code, and all other work completed at the time of termination. This shall include the return of data in a readable format by an approved application. Transfer will be made at no additional cost to the state.

2.7.2 Licensed Software

Unless otherwise indicated, The State of Maine will retain all ownership of any documentation and all other work completed at the time of termination. This shall include the return of data in a readable format by an approved application. Transfer will

be made at no additional cost to the state.

Each deliverable shall follow the methodology as if it was an independent project.

2.8 Project Management and Implementation Plan

2.8.1 Project Management

The successful bidder will be required to utilize a formalized approach to project management which, at a minimum, will be compliant with the Project Management Institute (PMI).

2.8.2 Project Manager

The successful bidder will be required to assign an experienced project manager to the project. It is required that the successful bidder's Project Manager be knowledgeable with the bidder's proposed solution. It is desired that the successful bidder's Project Manager be PMP certified. The successful bidder's Project Manager will be responsible for the successful completion of all work tasks as defined within the project work plan and will work under the direction of the state's Project Manager.

2.8.3 Project Management and Implementation (Work Plan)

The Bidder must structure and follow a project management approach for planning, organizing, and managing the staff and activities throughout the life of the project. The Bidder's project management approach must facilitate open and timely communication with the State and a strong working relationship to achieve the overall goal of completed system design performance that meets or exceeds user needs on time and within budget.

The successful bidder's Project Manager will be required to maintain a detailed project work plan, with content to be approved by the State Project Manager, through the full term of the contract. The successful bidder's Project Manager will be required to submit an updated work plan to the State's Project Manager on a date and time that will be determined during contract negotiations. The work plan will be incorporated into the contract between the state and the successful bidder and will be made a part thereof. The work plan will be created and maintained with an automated project management tool (e.g. Microsoft Project) and will include appropriate detail to provide project status, dependencies and risk/mitigations.

The project work plan will be updated and submitted to the state's Project Manager on a bi-weekly basis or at an alternative period of time that is formally specified and agreed to in writing by the state's Project Manager.

2.8.4 Software Development Environments

An Environment is defined as a collection of hardware, software, network communications, and procedures that work together to provide a discrete type of computer service. An environment has unique features and characteristics that dictate how they are administered.

The successful bidder shall provide at minimum 3 development environments through the project lifecycle. They are:

- User Acceptance
- Training
- Production

2.8.5 Quality Management and Assurance

Project Quality Management ensures that the project satisfies the needs for which it was undertaken.

The successful bidder must develop a plan for the overall system and user acceptance testing.

Prior to moving the solution to the Production Environment, the successful bidder will test all aspects of the solution in accordance with the State's Deployment Certification Policy for Major Application Projects. The successful bidder in cooperation with the state will create a test plan to accomplish application and system performance testing, network performance testing, security & vulnerability assessment and penetration testing, and all other types of testing in accordance with providing and operating a fully certified system. The Bidder is responsible for and must certify their system to be fully secure for all work provided under this procurement.

The successful bidder will be responsible for scheduling and coordinating all testing activities to ensure that each of the tests are prepared for and performed in accordance with the test plan. The successful bidder will appropriately train state personnel as appropriate to participate in the testing effort. Unless specified otherwise within the test plan, the successful bidder will be required to provide all tools, testing materials, and resources necessary to effectively perform the required tests.

2.8.6 Training

The bidder will be required to provide a training plan. The training plan will be reviewed and approved in accordance with the Deliverable Submission and Review procedure defined within Section 5. The successful bidder will be responsible for scheduling, coordinating, and delivering all training in accordance with the plan.

2.8.7 Implementation

The successful bidder will implement the solution within a production environment. The successful bidder will be required to create a plan to accomplish the implementation.

The successful bidder will be required to perform an application and network performance test, and a security and vulnerability assessment and penetration test within the production environment before the application goes live to assure that issues raised during the testing phase have been resolved and that no new issues have been introduced.

The successful bidder will be responsible for scheduling and coordinating all activities to ensure that the implementation is performed in accordance with the plan. Additionally, the successful bidder will be responsible for providing all technical and functional documentation that will be required to assist the state in using and supporting the implemented solution.

2.9 Technical Support

The Bidder will provide a system user focused Help Desk function. The mission of the Help Desk will be to answer questions and address concerns of users to ensure that future interactions with the members and community will be successful.

2.9.1 Support and Maintenance

The successful bidder will provide support and maintenance for the solution to begin immediately after receiving the State of Maine's official acceptance of the implemented solution.

As part of the support, the successful bidder will address all questions and reported problems related to the technical and functional operation of the system. The successful bidder must provide toll-free telephone support during regular business hours: 7:00 a.m. to 6:00 p.m. local time (Augusta). A qualified technician will respond via phone to address all calls in accordance with the importance and criticality of the question being asked and/or the problem being reported. The successful bidder will agree to provide on-site technical support within one business day for problems that cannot be resolved via telephone.

2.9.2 Documentation

Documentation will include any standard product documentation and documentation of additional configuration and customization required by the RFP. All documentation will be provided in accordance with the terms and conditions specified within this RFP.

2.10 Change Management

The successful bidder's Project Manager will be required to formally document and track all changes to the functional design, technical design, and/or to approved deliverables. For each potential change, the successful bidder's Project Manager will work closely with the state's Project Manager to define and document the change, its benefits, and if necessary, its impact to the project schedule and budget. No work associated with a documented change will begin without first receiving written authorization from the state's Project Manager. The bidder shall deliver release notes which will describe the scope and impact of each change that will occur to the application prior to approval by CDS.

2.11 Risk and Issue Management

2.11.1 Issue Management

The successful bidder's Project Manager will be required to formally document and track all issues that threaten the project schedule and budget. For each issue identified, the successful bidder's Project Manager will work closely with the state's Project Manager to clearly document the issue. At a minimum, the resulting document must clearly reflect the details related to the issue, the potential impact to the project schedule and budget if the issue is not resolved, options and a recommendation for resolving the issue, a date by which the issue must be resolved, the entity responsible for resolving the issue, and the final approved resolution.

2.11.2 Risk Management

The successful bidder's Project Manager will be required to formally document and track project risks and mitigation strategies throughout the life of the project. In the early stages of the project, the successful bidder's Project Manager will be required to provide a risk management plan that will include but not be limited to the following for all project risks:

- Description of the identified risk
- Description of the potential impact to the project
- Impact rating (e.g. High, Medium, Low)
- Likelihood of occurrence (e.g. High, Medium, Low)
- Description of risk mitigation plan
- Approved mitigation plan

The risk management plan will clearly indicate the priority for addressing the risks defined. The successful bidder will be required to provide the initial risk management plan within the initial work plan. From that point forward, the successful bidder's Project Manager will be required to present an updated risk management plan on a periodic basis throughout the life of the project. The timeline for delivering an updated risk management plan will be defined in writing and approved by the state's Project Manager immediately after delivery of the initial risk management plan.

2.12 Warranty

The bidder must provide a warranty for services performed of at least one year on the system and all products provided by the bidder. The warranty period begins when CDS has accepted the delivery of the system, and shall cover the diagnosis and fixing of all system features and functions that do not operate as stated in this RFP and in the bidder's documentation.

The bidder must also provide a warranty that the software used to implement the system proposed is bug free for a period of one year after the product is delivered in final form or until CDS enters into an Agreement with another vendor for further modifications of the

software, whichever is shorter. This means that once the software is delivered, the bidder must be willing to fix, at no charge to CDS, any faults the software may exhibit for a period of one year.

The warranty will encompass correction of defective software, functionality, and procedures that were considered to be within the scope of this procurement at no additional cost to the state.

System acceptance of the solution will occur following system implementation and Bidder's demonstration that the system successfully provides all the functionality required by CDS; the system meets or exceeds the performance standards in the contract; the system meets HIPAA and FERPA requirements.

3. KEY RFP EVENTS

3.1 Timeline of Key RFP Events

Event Name	Event Date and Time
Bidders' Conference	November 20, 2013 at 1:30pm, local time
Due Date for Receipt of Written Questions	November 22, 2013 at 5:00pm, local time
Due Date for Receipt of Proposals	December 17, 2013 at 2:00pm, local time
Estimated Contract Start Date (subject to change)	March 1, 2014

3.2 Bidders Conference

CDS will sponsor a Bidders' Conference concerning this RFP beginning at the date and time shown in the timeline above. The Bidders' Conference will be held in Room 500, 5th Floor, Burton M. Cross State Office Building, 111 Sewall Street, Augusta, ME 04333.

The purpose of the Bidders' Conference is to answer and/or field questions, clarify for potential Bidders any aspect of the RFP requirements that may be necessary and provide supplemental information to assist potential Bidders in submitting responses to the RFP. Although attendance at the Bidders' Conference is not mandatory, it is *strongly encouraged* that interested Bidders attend.

3.3 Questions

3.3.1 General Instructions

- a. It is the responsibility of each Bidder to examine the entire RFP and to seek clarification in writing if the Bidder does not understand any information or instructions.
- b. Questions regarding the RFP must be submitted in writing and received by the RFP Coordinator listed on the cover page of this RFP document as soon as possible but no later than the date and time specified in the timeline above.
- c. Questions may be submitted by e-mail. CDS assumes no liability for assuring accurate/complete e-mail transmission and receipt.
- d. Include a heading with the RFP Number and Title. Be sure to refer to the page number and paragraph within this RFP relevant to the question presented for clarification, if applicable.

3.3.2 Summary of Questions and Answers

Responses to all substantive and relevant questions will be compiled in writing and distributed to all registered, interested persons by e-mail no later than seven (7) calendar days prior to the proposal due date. Only those answers issued in writing by the RFP Coordinator will be considered binding. CDS reserves the right to answer or not answer any question received.

3.4 Submitting the Proposal

3.4.1 Proposals due: Proposals must be received no later than 2:00 p.m. local time, on the date listed in the timeline above, at which point they will be opened. Proposals received after the 2:00 p.m. deadline will be rejected without exception.

3.4.2 Mailing/Delivery Instructions

PLEASE NOTE: The proposals are not to be submitted to the RFP Coordinator at the requesting Department. The official delivery site is the State of Maine Division of Purchases (address shown below).

- a. Only proposals received at the official delivery site prior to the stated deadline will be considered. Bidders submitting proposals are responsible for allowing adequate time for delivery. Proposals received after the 2:00 p.m. deadline will be rejected without exception. Postmarks do not count and fax or electronic mail transmissions of proposals are not permitted unless expressly stated in this RFP. Any method of hardcopy delivery is acceptable, such as US Mail, in-person delivery by Bidder, or use of private courier services.
- b. The "Official Proposal" containing the signed, original response to this RFP and Ten (10) paper copies, as well as one copy in electronic format using Microsoft Word shall be delivered in sealed package(s) no later than 2:00 pm on December 17, 2013. The Technical Proposals and general information shall be sealed in one envelope and one (1) copy of the Cost Proposal shall be sealed in a separate envelope. The entire package, containing all required response forms and other required information should be submitted together.
- c. Address each package as follows (and be sure to include the Bidder's full business name and address as well as the RFP number and title):

Bidder Name/Return Address

Division of Purchases
Burton M. Cross Building, 4th Floor
111 Sewall Street
9 State House Station
Augusta ME 04333-0009

Re: RFP 201390603

4. PROPOSAL SUBMISSION REQUIREMENTS

This section contains instructions for Bidders to use in preparing their proposals. The Bidder's proposal must follow the outline used below, including the numbering and section and subsection headings as they appear here. Failure to use the outline specified in this section or to respond to all questions and instructions throughout this document may result in the proposal being disqualified as non-responsive or receiving a reduced score. CDS and its evaluation team for this RFP have sole discretion to determine whether a variance from the RFP specifications should result in either disqualification or reduction in scoring of a proposal. Rephrasing of the content provided in this RFP will, at best, be considered minimally responsive. CDS seeks detailed yet succinct responses that demonstrate the Bidder's experience and ability to perform the requirements specified throughout this document.

4.1 Proposal Format

1. For clarity, the proposal should be typed or printed. Proposals should be single-spaced with 1" margins on white 8 ½" x 11" paper using a font no smaller than 12 point Times New Roman or similar.
2. All pages should be numbered consecutively beginning with number 1 on the first page of the narrative (this does not include the cover page or table of contents pages) through to the end, including all forms and attachments. For clarity, the Bidder's name should appear on every page, including Attachments. Each Attachment must reference the section or subsection number to which it corresponds.
3. Bidders are asked to be brief and to respond to each question and instruction listed in the "Proposal Submission Requirements" section of this RFP. Number each response in the proposal to correspond to the relevant requirement or instruction of the RFP.
4. Additional materials beyond those specified in the RFP will not be considered part of the proposal and will not be evaluated.
5. Include any forms provided in the application package or reproduce those forms as closely as possible. All information should be presented in the same order and format as described in the RFP.
6. It is the responsibility of the Bidder to provide all information requested in the RFP package at the time of submission. Failure to provide information requested in this RFP may, at the discretion of CDS's evaluation review team, result in a lower rating for the incomplete sections and may result in the proposal being disqualified for consideration.

4.2 Proposal Contents

4.2.1 Cover Letter

Provide a cover letter to the proposal that includes the following:

4.2.1.1 Name and Address

Provide the name and address of the prime bidder. Names and addresses of all subcontracted providers must also be included.

4.2.1.2 Guarantee

Provide a statement guaranteeing that the bidder can and will meet the <date>, implementation date for the project.

4.2.1.3 Signature

Provide a signature and title, in the cover letter, of the person empowered to bind the prime bidder.

4.2.2 Bidder Qualifications

4.2.2.1 Description of the Organization

Present a detailed statement of qualifications and summary of relevant experience. If subcontractors are to be used, provide a list that specifies the name, address, phone number, contact person, and a brief description of the subcontractors' organizational capacity and qualifications.

4.2.2.2 Organizational Description and Qualifications

Location of the corporate headquarters - Also, describe the current or proposed location where services will be provided or from which the contract will be managed.

4.2.2.3 Organizational Experience

Briefly describe the history of the Bidder's organization, especially regarding skills pertinent to the specific work required by the RFP and any special or unique characteristics of the organization which would make it especially qualified to perform the required work activities. Include similar information for any subcontractors.

4.2.2.4 Description of Experience with Similar Projects

- a. Provide a description of three projects that occurred within the past five years which reflect experience and expertise needed in performing the functions described in the "Scope of Services" portion of this RFP. For each of the three examples provided, a contact person from the client organization involved should be listed, along with that person's telephone number. Please note that contract history with the State of Maine, whether positive or negative, may be considered in rating proposals even if not provided by the Bidder.
- b. If the Bidder has not provided similar services, note this, and describe experience with projects that highlight the Bidder's general capabilities.
- c. If the bidder is proposing a Commercial Off-the-Shelf (COTS) package provide a detailed narrative of the Bidder's experience with the offered product and/or experience in the last three years providing application services remotely to customers.

4.2.2.5 Knowledge of the Individuals with Disabilities Education Act (IDEA)

Provide a summary of any work experience in either Part B or Part C of the Individuals with Disabilities Education Act.

4.2.2.6 Project Commitment

Describe the current project commitment, and the total number of full-time employees being dedicated to this project.

4.2.2.7 Bidder Staff Qualifications

The bidder must commit dedicated, skilled personnel to CDS to provide professional services. CDS shall retain the right to reject any of the Provider's employees whose qualifications, in the reasonable, good faith judgment of CDS, do not meet the standards established by CDS as necessary for the performance of the Agreement. During the course of the Agreement, CDS reserves the right to require the Provider to reassign or otherwise remove any Provider employees found unacceptable by CDS. The bidder must provide a completed list of qualified employees and/or subcontractors who will work on this project, and an outline of the structure of the team and the names of specific key employees that will be assigned to work on this project. Bidder staff qualifications must be completed and submitted with the proposal. Failure to do so will result in a bidder losing points in the scoring process.

4.2.2.8 Client References

Provide a comprehensive list of clients, including contact information, for whom the bidder has provided similar services within the last three (3) years; include the dates when services were provided. CDS may contact clients from the list as references for the bidder.

4.2.2.9 Financial Responsibility

Provide financial documentation as evidence of adequate financial stability. In the event a bidder is either substantially or wholly owned by another corporate entity, the bidder must also include the most recent detailed financial report of the parent organization and a statement that the parent organization will unconditionally guarantee performance by the bidder on each and every term, covenant, and condition of such Agreement as may be executed by the parties. Any proposed subcontractors, whose percentage of work to be performed (measured as percentage of total Agreement price) equals or exceeds 20 percent, must submit the required information also.

4.2.2.10 Financial Stability

One of two responses is required in this subsection, depending upon whether the firm is publicly held (Section 4.2.2.10.1) or not (Section 4.2.2.10.2). Additionally, all proposals must include a response to the requirements of Section 4.2.2.10.3.

4.2.2.10.1 Publicly Held

If the bidder is a publicly held corporation, enclose a copy of the corporation's most recent audited financial reports and financial statements and the name, address and telephone number of a responsible representative of the bidder's principal financial or banking organization. The bidder must also disclose any and all judgments, pending or expected litigation, or other real or potential financial reversals that might materially affect the viability or stability of the organization; or warrant that

no such condition is known to exist.

4.2.2.10.2 Not Publicly Held

If the bidder is not a publicly held corporation, the bidder may either comply with the preceding subsection or:

- a. Describe the organization, including size, longevity, client base, areas of specialization and expertise, and any other pertinent information in such a manner that the Evaluation Committee may reasonably formulate a determination about the stability and financial strength of the organization;
- b. Provide a banking reference;
- c. If available, provide a complete Dunn and Bradstreet credit report dated not more than thirty (30) days prior to the proposal submission; and
- d. Disclose any and all judgments, pending or expected litigation, or other real or potential financial reversals that might materially affect the viability or stability of the bidding organization; or warrant that no such condition is known to exist.

4.2.2.10.3 Change in Ownership

If any change in ownership or control of the company is anticipated during the twelve (12) months following the proposal due date, describe the circumstances of such change and indicate when the change will likely occur.

4.2.3 Proposed Services

Submit a technical proposal explaining how the bidder will meet all requirements detailed in Section 2 of this RFP. Proposed solutions must be correlated, by number, to the appropriate sections outlined in Section 2. Give particular attention to describing the methods and resources you will use and how you will accomplish the tasks involved. If subcontractors are involved, clearly identify the work each will perform.

4.2.4 Work Plans and Timelines

Provide a description of how the bidder plans to interact with CDS staff and bidder requirements of CDS. The bidder will submit a Project Work Plan that clearly reflects how the work outlined within Section 2, Technical and Functional Requirements, will be accomplished. The Project Work Plan should identify full implementation of the proposed solution to be complete on or before December 31, 2013. It is the expectation that by December 31, 2013 all CDS staff will be fully trained and using the implemented solution. In support of the Project Work Plan, the bidder will include a narrative description explaining in detail the approach that will be taken to perform all work as reflected within the Project Work Plan. Deliverables and project milestones must be clearly highlighted within the description that is provided. The various roles and responsibilities of the primary bidder and all other parties including the State must be clearly identified and articulated.

When preparing the Project Work Plan, please take into account the following assumption. Allow 38-52 work days after code freeze for Maine OIT Deployment Certification testing related to the technical architecture.

4.2.5 Project Work Plan

Provide a work plan outlining the steps being taken in each category:

- Design, Development, Implementation, Acceptance Testing and Production Cutover and Stabilization

The work plan must include:

- The steps required;
- Detailed descriptions of the deliverables in each step;
- The level of effort for each deliverable;
- Proposed time frames;
- Bidder staff requirements;
- CDS staff requirements including skill levels required, and time commitments to accomplish a successful implementation of the system, including conversion of CDS data, customizations, testing and go-live needed to meet CDS business needs; and
- How the bidder will provide the necessary interaction with CDS staff to help modify workflows around the proposed system and define and implement required enhancements.

4.3 Cost Proposal

4.3.1 General Instructions

- a. The Bidder must submit a cost proposal that covers the entire period of the contract, including any optional renewal periods. Please use the expected contract start date of March 1, 2014 and an end date of December 31, 2017 in preparing this section.
- b. The cost proposal shall include the costs necessary for the Bidder to fully comply with the contract terms and conditions and RFP requirements.
- c. Failure to provide the requested information and to follow the required cost proposal format provided in Appendix B may result in the exclusion of the proposal from consideration, at the discretion of CDS.
- d. No costs related to the preparation of the proposal for this RFP or to the negotiation of the contract with CDS may be included in the proposal. Only costs to be incurred after the contract effective date that are specifically related to the implementation or operation of contracted services may be included.

4.4 Economic Impact within the State of Maine

In addition to all other information requested within this RFP, each Bidder must dedicate a section of its proposal to describing the Bidder's economic impact upon and within the

State of Maine. The use of economic impact in making contract award decisions is required in accordance with Executive Order 2012-004, which states that certain service contracts "...advertised for competitive bid shall include scoring criteria evaluating the responding Bidder's economic impact on the Maine economy and State revenues."

For the purposes of this RFP, the term "economic impact" shall be defined as any activity that is directly performed by or related to the Bidder and has a direct and positive impact on the Maine economy and public revenues within the State of Maine. Examples may include, but are not limited to, employment of Maine residents, subcontracting/partnering with Maine businesses, payment of State and Local taxes (such as corporate, sales, or property taxes), and the payment of State licensing fees for the Bidder's business operations.

To complete the "economic impact" section of the Bidder's proposal, the Bidder shall include no more than one page of typed text, describing the Bidder's current, recent, or projected economic impact with the State of Maine, as defined above. The Bidder may include all details and information that it finds to be most relevant for this section.

4.5 Proposal Organization

To ensure consistency of presentation, to ensure that CDS personnel can easily find required information, and to ensure that all requirements have been addressed CDS requests that proposals be organized as follows:

- a. Cover Letter as described in Section 4.2.1,
- b. Bidder Qualifications as outlined in Section 4.2.2,
- c. Technical Proposal as outlined in Section 4.2.3,
- d. Work Plan and Timelines as outlined in Section 4.2.4,
- e. Cost Proposal as outlined in Section 4.3 in separate sealed envelope (Appendix A –Cost Proposal Form).

5. PROPOSAL EVALUATION AND SELECTION

Evaluation of the submitted proposals shall be accomplished as follows:

5.1 Proposal Evaluation Process

1. An evaluation team, comprised of qualified reviewers, will judge the merits of the proposals received in accordance with the criteria defined in the RFP, and in accordance with the most advantageous cost and economic impact considerations (where applicable) for the State.
2. Officials responsible for making decisions on the selection of a contractor shall ensure that the selection process accords equal opportunity and appropriate consideration to all who are capable of meeting the specifications. The goals of the evaluation process are to ensure fairness and objectivity in review of the proposals and to ensure that the contract is awarded to the Bidder whose proposal best satisfies the criteria of the RFP at a reasonable/competitive cost.
3. CDS reserves the right to communicate and/or schedule interviews/presentations with Bidders if needed to obtain clarification of information contained in the proposals received, and the Department may revise the scores assigned in the initial evaluation to reflect those communications and/or interviews/presentations. Interviews/presentations are not required, and changes to proposals will not be permitted during any interview/presentation process. Therefore, Bidders should submit proposals that present their costs and other requested information as clearly and completely as possible.

5.2 Evaluation of Proposals

The Evaluation Committee shall be under no obligation to contact bidders for clarification of proposals, but shall reserve the right to do so at any time prior to Agreement award.

. Each proposal will be evaluated on the basis of the categories below. A point score will be established for each response in each category. Based on the results of the evaluation, the proposals determined to be most advantageous to CDS, taking into account all of the evaluation factors, will be selected by CDS.

Scoring Weights

Scoring Weights: The score will be based on a 100 point scale and will measure the degree to which each proposal meets the following criteria.

- | | |
|---|-------------------------------|
| 1. Bidder Qualifications: | Total Possible: 30 pts |
| <ul style="list-style-type: none">• Includes all elements addressed above in Section 4.2.1 and 4.2.2 | |
| 2. Proposed Services | Total Possible: 40 pts |
| <ul style="list-style-type: none">• Includes all elements addressed above in Sections 4.2.3, 4.2.4, and 4.2.5 | |

3. Cost Proposal

Total Possible: 25 pts

- Includes all elements addressed above in Sections 4.3

4. Economic Impact within the State of Maine

Total Possible: 5 pts

- Includes all elements addressed above in Sections 4.4

5.3 Test and Evaluation

At the option of the Evaluation Committee, a test and evaluation (T&E) may be conducted

One or more of the bidders who achieve the highest score (the finalists) may be required:

1. To provide a live demonstration of its proposed solution, preferably in an educational setting;
2. To make its solution available to a CDS designated team who will conduct a series of hands-on tests to evaluate functional capabilities as pertain to the goals of this RFP; or
3. Both 1 and 2.

The need, if any, for this Test and Evaluation (T&E) stage will be determined by the Evaluation Committee after completing the evaluation of proposals specified in Section 4.2 of this RFP. For this stage of the evaluation and at short notice (perhaps as soon as 3 business days), each finalist must be prepared to make its proposed solution available to the Evaluation Committee at a bidder site agreed upon by the bidder and CDS. During this T&E period, the bidder's proposed project manager and other senior staff must make any requested presentation.

If this T&E stage is conducted, the Evaluation Committee will further assess and validate the functionality and effectiveness of each finalist's proposal through bidder demonstrations, CDS hands-on tests or both. This assessment and validation may result in changes to the scores of a finalist's proposal by the Evaluation Committee.

5.4 Final Scoring

The finalist who achieves the highest score – that is whose proposal reflects the best value offer to CDS - will be awarded the Agreement subject to successful Agreement negotiations and required Agreement approvals.

5.4.1 Scoring

1. **Scoring Process:** The review team will use a consensus approach to evaluate the bids. Members of the review team will not score the proposals individually but instead will arrive at a consensus as to assignment of points on each category of each proposal. The contract award(s) will be made to the Bidder(s) receiving the highest number of evaluation points, based upon the proposals' satisfaction of the criteria established in the RFP. The Economic Impact section will also be scored using a consensus approach, with the highest number of evaluation points being assigned to the Bidder(s)

with the most economic impact, actual or feasible, as determined by the evaluation team. The Cost section will be scored according to a mathematical formula described below.

- 2. Scoring the Cost Proposal:** The total cost proposed for conducting all the functions specified in this RFP will be assigned a score according to a mathematical formula. The lowest bid will be awarded 25 points. Proposals with higher bids values will be awarded proportionately fewer points calculated in comparison with the lowest bid. The scoring formula is:
(lowest submitted cost proposal / cost of proposal being scored) x 25 = pro-rated score

No Best and Final Offers: The State of Maine will not seek a best and final offer (BAFO) from any bidder in this procurement process. All Bidders are expected to provide their best value pricing with the submission of their cost proposal.

3. Negotiations

CDS reserves the right to negotiate with the successful Bidder to finalize a contract at the same rate or cost of service as presented in the selected proposal. Such negotiations may not significantly vary the content, nature or requirements of the proposal or CDS's Request for Proposals to an extent that may affect the price of goods or services requested. CDS reserves the right to terminate contract negotiations with a selected respondent who submits a proposed contract significantly different from the proposal they submitted in response to the advertised RFP. In the event that an acceptable contract cannot be negotiated with the highest ranked Bidder, CDS may withdraw its award and negotiate with the next-highest ranked Bidder, and so on, until an acceptable contract has been finalized. Alternatively, CDS may cancel the RFP, at its sole discretion.

5.4.2 Selection and Award

- a) The final decision regarding the award of the contract will be made by representatives of CDS subject to approval by the State Purchases Review Committee.
- b) Notification of contractor selection or non-selection will be made in writing by CDS.
- c) Issuance of this RFP in no way constitutes a commitment by the State of Maine to award a contract, to pay costs incurred in the preparation of a response to this request, or to pay costs incurred in procuring or contracting for services, supplies, physical space, personnel or any other costs incurred by the Bidder.
- d) CDS reserves the right to reject any and all proposals or to make multiple awards.

5.4.3 Appeal of Contract Awards

Any person aggrieved by the award decision that results from this RFP may appeal the decision to the Director of the Bureau of General Services in the manner prescribed in 5 MRSA § 1825-E and 18-554 Code of Maine Rules, Chapter 120 (found here:

<http://www.maine.gov/purchases/policies/120.shtml>). The appeal must be in writing and filed with the Director of the Bureau of General Services, 9 State House Station, Augusta, Maine, 04333-0009 within 15 calendar days of receipt of notification of contract award.

If this RFP results in the creation of a pre-qualified or pre-approved list of vendors, then the appeal procedures mentioned above are available upon the original determination of that vendor list, but not during subsequent competitive procedures involving only the pre-qualified or pre-approved list participants.

6. CONTRACT ADMINISTRATION AND CONDITIONS

6.1 Contract Document

1. The successful Bidder will be required to execute a contract in the form of a State of Maine Agreement to Purchase Services (BP54-IT) (see Appendix D).

The complete set of standard BP54-IT contract documents may be found on the Division of Purchases website at the following link:

<http://www.maine.gov/purchases/info/forms/BP54.doc>

Other forms and contract documents commonly used by the State can be found on the Division of Purchases website at the following link:

<http://www.maine.gov/purchases/info/forms.shtml>

2. Allocation of funds is final upon successful negotiation and execution of the contract, subject to the review and approval of the State Purchases Review Committee. Contracts are not considered fully executed and valid until approved by the State Purchases Review Committee and funds are encumbered. No contract will be approved based on an RFP which has an effective date less than fourteen (14) calendar days after award notification to Bidders. (Referenced in the regulations of CDS of Administrative and Financial Services, Chapter 110, § 3(B)(i):

<http://www.maine.gov/purchases/policies/110.shtml>

This provision means that a contract cannot be effective until at least 14 days after award notification.

3. CDS estimates having a contract in place by March 1, 2014. The State recognizes, however, that the actual contract effective date depends upon completion of the RFP process, date of formal award notification, length of contract negotiation, and preparation and approval by the State Purchases Review Committee. Any appeals to CDS's award decision(s) may further postpone the actual contract effective date, depending upon the outcome. The contract effective date may need to be adjusted, if necessary, to comply with mandated requirements.
4. In providing services and performing under the contract, the successful Bidder shall act independently and not as an agent of the State of Maine.

6.2 Standard State Agreement Provisions

1. Agreement Administration
 - a. Following the award, an Agreement Administrator from CDS will be appointed to assist with the development and administration of the contract and to act as administrator

during the entire contract period. CDS staff will be available after the award to consult with the successful Bidder in the finalization of the contract.

- b. In the event that an acceptable contract cannot be negotiated with the highest ranked Bidder, CDS may withdraw its award and negotiate with the next-highest ranked Bidder, and so on, until an acceptable contract has been finalized. Alternatively, CDS may cancel the RFP, at its sole discretion.

2. Payments and Other Provisions

The State anticipates paying the Contractor on the basis of net 30 payment terms, upon the receipt of an accurate and acceptable invoice. An invoice will be considered accurate and acceptable if it contains a reference to the State of Maine contract number, contains correct pricing information relative to the contract, and provides any required supporting documents, as applicable, and any other specific and agreed-upon requirements listed within the contract that results from this RFP.

7. LIST OF RFP APPENDICES AND RELATED DOCUMENTS

Appendix A – Cost Proposal Form

Appendix B – Supporting Policy Documents

Appendix C – Acronyms

Appendix D – Standard Agreement

7.1 Appendix A - Cost Proposal Form

All costs necessary for implementing and running the proposed system must be identified.

COST PROPOSAL <u>PROJECT COST</u>	Proposed	Bidders may insert additional columns as needed	Total						
	Deliverable #								
Project Initiation									\$0.00
Planning and Design									\$0.00
Development and Testing									\$0.00
Rollout and Training									\$0.00
Production Cutover/Stabilization									\$0.00
Total	\$0.00	\$0.00							

Software Licenses

Grand Total

Annual License, Maintenance &
Support Costs (includes training)

Software Costs (list details)

Hosting Costs

Signature

7.2 Appendix B - Supporting Policy Documents

FERPA can be found at the following website:

<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

HIPAA can be found at the following website:

<http://www.hhs.gov/ocr/hipaa/>

Individuals with Disabilities Education Act (IDEA)

<http://idea.ed.gov/>

Maine Revised Statutes Annotated Title 20-A: Education can be found at the following website:

<http://janus.state.me.us/legis/statutes/20-A/title20-Ach0sec0.html>

Maine Web Accessibility Policy can be found at the following website:

<http://www.maine.gov/oit/accessibility/policy/webpolicy.htm>

Maine Web Standards can be found at the following website:

http://www.maine.gov/oit/accessibility/policy/acc_webstandards.html

The State of Maine Information Technology Security Policy can be found at:

<http://www.maine.gov/oit/policies/SecurityPolicy.htm>

The State of Maine's Remote Hosting Policy can be found at:

<http://maine.gov/oit/policies/Remote-Hosting-Policy.htm>

Architecture Compliance Policy can be found at the following website:

<http://www.maine.gov/oit/policies/ArchitectureCompliancePolicy.html>

Deployment Certification Policy for Major Application Projects can be found at the following website:

<http://maine.gov/oit/policies/Application-Deployment-Certification.htm>

Appendix C - Acronyms

Acronym	Description
AES	Advanced Encryption Standard
CDS	Child Development Services
COTS	Commercial Off the Shelf
CEDS	Common Education Data Standards
eCIMS	Early Childhood Intervention Management System
FAPE	Free Appropriate Public Education
FERPA	Family Educational Rights and Privacy Act
FOAA	State of Maine Freedom of Access Act
HIPPA	Health Insurance Portability and Accountability Act
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Program
IFSP	Individualized Family Service Plan
MDOE	Maine Department of Education
MEDMS	Maine Education Data Management System
OIT	State Office of Information Technology
PII	Personally Identifiable Information
RFP	Request For Proposal
SLDS	Statewide Longitudinal Data System
SAU	School Administrative Unit
SIS	Student Information System
SSL	Secure Sockets Layer
TLS	Transport Layer Security

7.3 Appendix D – Standard Agreement

AdvantageME CT No:

STATE OF MAINE
DEPARTMENT OF _____
Agreement to Purchase Services

THIS AGREEMENT, made this _____ day of _____, _____, is by and between the State of Maine, _____, hereinafter called "Department," and _____, located at _____, telephone number _____, hereinafter called "Provider", for the period of _____ to _____.

The AdvantageME Vendor/Customer number of the Provider is _____

WITNESSETH, that for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by CDS, the Provider hereby agrees with CDS to furnish all qualified personnel, facilities, materials and services and in consultation with CDS, to perform the services, study or projects described in Rider A, and under the terms of this Agreement. The following riders are hereby incorporated into this Agreement and made part of it by reference:

- Rider A - Specifications of Work to be Performed
- Rider B-IT - Payment and Other Provisions
- Rider C – Exceptions to Rider B-IT
- Rider D/E/F – At Department’s Discretion
- Rider G – Identification of Country in Which Contracted Work will be Performed

WITNESSETH, that this contract is consistent with Executive Order 17 FY 08/09 or a superseding Executive Order, and complies with its requirements.

IN WITNESS WHEREOF, CDS and the Provider, by their representatives duly authorized, have executed this agreement in _____ original copies.

DEPARTMENT OF _____

By: _____

and

By: _____

Name and Title, Provider Representative

Total Agreement Amount: \$ _____

Approved: _____
Chair, State Purchases Review Committee
BP54 (Rev 9/07) – (Rev Rider B-IT 7/15/09)

RIDER A
SPECIFICATIONS OF WORK TO BE PERFORMED

RIDER B-IT

METHOD OF PAYMENT AND OTHER PROVISIONS

1. **AGREEMENT AMOUNT** \$ _____

2. **INVOICES AND PAYMENTS** CDS will pay the Provider as follows:

Invoices for payment, submitted on forms approved by CDS, shall be submitted to the Agreement Administrator. Invoices shall contain sufficient detail to allow proper cost allocation and shall be accompanied by supporting documentation. No invoice will be processed for payment until approved by the Agreement Administrator. All invoices require the following:

- A. All invoices must include the Vendor Code number assigned when registering as a vendor with the State of Maine. This number appears on all Contracts and Purchase Orders and can be acquired from the agency contact.
- B. All invoices must include the Bidder's Federal ID Number.
- C. All invoices must include either the Purchase Order number or the Contract number relating to the commodities/services provided.
- D. In cases where hourly rates of contracted resources are concerned, invoices must contain a copy or copies of time sheets associated with that invoice. Time sheets will need to be reviewed and approved by the State's contract administrator.

Payments are subject to the Provider's compliance with all items set forth in this Agreement. CDS will pay the Provider within thirty (30) days following the receipt of an approved invoice.

CDS may withhold a Retainage for project-based services in the following manner:

- The allowable payment amount from each project milestone payment will be multiplied by ten (10) percent, giving the amount that will be withheld from payment. Ninety (90) percent of the allowable project milestone payment amount will be paid to the Provider.
- The Retainage will be held by CDS until the end of the warranty period.

The charges described in this Agreement are the only charges to be levied by the Provider for the products and services to be delivered by it. There are no other charges to be made by the Provider to CDS, unless they are performed in accordance with the provisions of Section 5, Changes in the Work. The Provider shall maintain documentation for all charges against CDS under this Agreement.

3. **INDEPENDENT CAPACITY** In the performance of this Agreement, the

Provider shall act in the capacity of an independent contractor and not as an employee or agent of the State.

4. AGREEMENT ADMINISTRATOR The Agreement Administrator is CDS's representative for this Agreement. S/he is the single authority to act on behalf of CDS for this Agreement. S/he shall approve all invoices for payment. S/he shall make decisions on all claims of the Provider. The Provider shall address all contract correspondence and invoices to the Agreement Administrator. The following person is the Agreement Administrator for this Agreement:

Name: _____
Title: _____
Address: _____
Telephone: _____
E-mail address: _____

The following individual is designated as the Program Administrator for this Agreement and shall be responsible for oversight of the programmatic aspects of this Agreement. All project status reports, day to day operational issues and project program material and issues shall be directed to this individual.

Name: _____
Title: _____
Address: _____
Telephone: _____
E-mail address: _____

5. CHANGES IN THE WORK CDS may order changes in the work, the Agreement Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment signed by both parties and approved by the State Purchases Review Committee. Said amendment must be effective prior to the execution of the changed work.

6. SUBCONTRACTORS The Provider may not enter into any subcontract for the work to be performed under this Agreement without the express written consent of CDS. This provision shall not apply to contracts of employment between the Provider and its employees.

The Provider is solely responsible for the performance of work under this Agreement. The approval of CDS for the Provider to subcontract for work under this Agreement shall not relieve the Provider in any way of its responsibility for performance of the work.

All Subcontractors shall be bound by the terms and conditions set forth in this Agreement. The Provider shall give the State immediate notice in writing of any legal action or suit filed, and prompt notice of any claim made against the Provider by any Subcontractor, which may result in litigation related in any way to this Agreement, or which may affect the performance of duties under this Agreement. The Provider shall indemnify and hold harmless CDS from and against any such claim, loss, damage, or liability as set forth in Section 16, State held Harmless.

7. SUBLETTING, ASSIGNMENT OR TRANSFER The Provider shall not sublet, sell, transfer, assign, or otherwise dispose of this Agreement, or any portion thereof, or of its right, title, or interest therein, without the written approval of CDS. Such approval shall not in any case relieve the Provider of its responsibility for performance of work under this Agreement.

8. EQUAL EMPLOYMENT OPPORTUNITY During the performance of this Agreement, the Provider certifies as follows:

1. The Provider shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a *bona fide* occupational qualification. The Provider shall take affirmative action to ensure that applicants are employed, and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Provider agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2. The Provider shall, in all solicitations or advertising for employees placed by, or on behalf of, the Provider, relating to this Agreement, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

3. The Provider shall send to each labor union, or representative of the workers, with which it has a collective bargaining agreement, or other agreement or understanding, whereby it is furnished with labor for the performance of this Agreement, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Provider's commitment under this section, and shall post copies of the notice in conspicuous places, available to employees and applicants for employment.

4. The Provider shall inform the contracting Department's Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights, etc.) against itself by any individual, as well as any lawsuit regarding alleged discriminatory practice.

5. The Provider shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment, and in the provision of service, to include accessibility and reasonable accommodations for employees and clients.

6. Contractors and Subcontractors with contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs.

7. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each Subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

9. EMPLOYMENT AND PERSONNEL The Provider shall not engage any person in the employ of any State Department or Agency in a position that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. The Provider shall not engage on a full-time, part-time, or any other basis, during the period of this Agreement, any personnel who are, or have been, at any time during the period of this Agreement, in the employ of any State Department or Agency, except regularly retired employees, without the written consent of the State Purchases Review Committee. Further, the Provider shall not engage on this project on a full-time, part-time, or any other basis, during the period of this Agreement, any retired employee of CDS, who has not been retired for at least one year, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement, so that such provisions shall be binding upon each Subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

10. STATE EMPLOYEES NOT TO BENEFIT No individual employed by the State at the time this Agreement is executed, or any time thereafter, shall be admitted to any share or part of this Agreement, or to any benefit that might arise there from, directly or indirectly, that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. No other individual employed by the State at the time this Agreement is executed, or any time thereafter, shall be admitted to any share or part of this Agreement, or to any benefit that might arise there from, directly or indirectly, due to his employment by, or financial interest in, the Provider, or any affiliate of the Provider, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each Subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

11. NO SOLICITATION The Provider certifies that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Agreement, and that it has not paid, or agreed to pay, any company or person, other than a *bona fide* employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from, the award of this Agreement. For breach or violation of this provision, CDS shall have the right to terminate this Agreement without liability or, at its discretion, to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

12. ACCOUNTING, RECORDS, AND AUDIT

1. The Provider shall maintain all books, documents, payrolls, papers, accounting records, and other evidence pertaining to this Agreement, including interim reports and working papers, and make such materials available at its offices at all reasonable times during the period of this Agreement, and for a period of five (5) years following termination or expiration of the Agreement. If any litigation, claim or audit is started before the expiration of the 5-year period, the records must be retained until all litigation, claims or audit findings involving the agreement have been resolved.

2. Unless CDS specifies in writing a shorter period of time, the Provider agrees to preserve and make available all documents and records pertaining to this Agreement for a period of five (5) years from the date of termination of this Agreement.

3. Records involving matters in litigation shall be kept for one year following the termination of litigation, including all appeals.

4. Authorized Federal and State representatives shall have access to, and the right to examine, all pertinent documents and records during the five-year post-Agreement period. During the five-year post-Agreement period, delivery of, and access to, all pertinent documents and records will be at no cost to CDS.

5. The Provider shall be liable for any State or Federal audit exceptions, if applicable, that arise out of any action, inaction, or negligence by the Provider. In the event of an audit exception for which the Provider is liable, the Provider shall have thirty (30) days to remedy that exception. If the Provider fails to remedy that exception within this time period, the Provider shall immediately return to CDS all payments made under this Agreement which have been disallowed in the audit exception.

6. Authorized State and Federal representatives shall at all reasonable times have the right to enter the premises, or such other places, where duties under this Agreement are being performed, to inspect, monitor, or otherwise evaluate, the work being performed. All inspections and evaluations shall be performed in such a manner that will not compromise the work unreasonably.

7. **ACCESS TO PUBLIC RECORDS** As a condition of accepting a contract for services under this section, a contractor must agree to treat all records, other than proprietary information, relating to personal services work performed under the contract as public records under the freedom of access laws to the same extent as if the work were performed directly by CDS or agency. For the purposes of this subsection, "proprietary information" means information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the contractor and would make available information not otherwise publicly available. Information relating to wages and benefits of the employees performing the personal services work under the contract and information concerning employee and contract oversight and accountability procedures and systems are not proprietary information. The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this

Agreement and make such materials available at its offices at all reasonable times during the period of this Agreement and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by CDS or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested. This subsection applies to contracts, contract extensions and contract amendments executed on or after October 1, 2009.

13. TERMINATION The performance of work under this Agreement may be terminated by CDS in whole or in part, whenever, for any reason the Agreement Administrator shall determine that such termination is in the best interests of CDS. Any such termination shall be effected by the delivery to the Provider of a Notice of Termination specifying the extent to which the performance of work under this Agreement is terminated, and the date on which such termination becomes effective. The Agreement shall be equitably adjusted to compensate for such termination and modified accordingly.

Upon receipt of the Notice of Termination, the Provider shall:

1. Stop work under this Agreement on the date and to the extent specified in the Notice of Termination;
2. Take such action as may be necessary, or as the Agreement Administrator may direct, for the protection and preservation of the property, information, and data related to this Agreement, which is in the possession of the Provider, and in which CDS has, or may acquire, an interest;
3. Terminate all orders to the extent that they relate to the performance of the work terminated by the Notice of Termination;
4. Assign to CDS in the manner, and to the extent directed by the Agreement Administrator, all of the rights, titles, and interests of the Provider under the orders so terminated, in which case CDS shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders;
5. With the approval of the Agreement Administrator, settle all outstanding liabilities and claims, arising out of such termination of orders, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this Agreement;
6. Transfer title to CDS (to the extent that title has not already been transferred) and deliver in the manner, at the times, and to the extent directed by the Agreement Administrator, equipment and products purchased pursuant to this Agreement, and all files, source code, data manuals, or other documentation, in any form, that relate to all the work completed, or in progress, prior to the Notice of Termination;
7. Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination; and
8. Proceed immediately with the performance of the preceding obligations, notwithstanding any delay in determining or adjusting the amount of any compensation under this section.

Notwithstanding the above, nothing herein shall limit the right of CDS to pursue any other legal remedies against the Provider.

14. GOVERNMENTAL REQUIREMENTS The Provider shall comply with all applicable governmental ordinances, laws, and regulations.

15. GOVERNING LAW This Agreement shall be governed by, interpreted, and enforced in accordance with the laws, statutes, and regulations of the State of Maine, without regard to conflicts of law provisions. The provisions of the United Nations Convention on Contracts for the International Sale of Goods and of the Uniform Computer Information Transactions Act shall not apply to this Agreement. Any legal proceeding against CDS regarding this Agreement shall be brought in the State of Maine in a court of competent jurisdiction.

16. STATE HELD HARMLESS The Provider shall indemnify and hold harmless CDS and its officers, agents, and employees from and against any and all claims, liabilities, and costs, including reasonable attorney fees, for any or all injuries to persons or property or claims for money damages, including claims for violation of intellectual property rights, arising from the negligent acts or omissions of the Provider, its employees or agents, officers or Subcontractors in the performance of work under this Agreement; provided, however, the Provider shall not be liable for claims arising out of the negligent acts or omissions of CDS, or for actions taken in reasonable reliance on written instructions of CDS.

17. LIMITATION OF LIABILITY The Provider's liability for damages sustained by CDS as the result of Provider's default or acts or omissions in the performance of work under this Agreement, whether such damages arise out of breach, negligence, misrepresentation, or otherwise, shall be no greater than:

1. Damages for violation or infringement of any copyright or trademark;
2. Damages for bodily injury (including death) to persons, and damages for physical injury to tangible personal property or real property; and
3. The amount of any other actual direct damages up to the greater of \$500,000 or three times the value of the Product or Service that is the subject of the claim, up to a maximum of \$25,000,000. For example, if the Product or Service that is the subject of the claim was valued at \$15,000,000, then the Provider would be liable for no more than \$25,000,000. For purposes of this subsection, the term "Product" would typically include the following, but not be limited to, Materials, Source Code, Machine Code, and Licenses.

Notwithstanding the above, Provider shall not be liable for any indirect or consequential damages.

18. NOTICE OF CLAIMS The Provider shall give the Agreement Administrator immediate notice in writing of any legal action or suit filed related in any way to this Agreement, or which may affect the performance of duties under this Agreement, and prompt notice of any claim made against the Provider by any Subcontractor, which may result in litigation related in any way to this Agreement, or which may affect the performance of duties under this Agreement.

19. APPROVAL This Agreement must be approved by the State Controller and the State Purchases Review Committee before it can be considered a valid enforceable document.

20. INSURANCE REQUIREMENTS The Provider shall procure and maintain, for the duration of the Agreement, insurance against claims for injuries to persons, or damages to property, which may arise from, or in connection with, the fulfillment of this Agreement by the Provider, its agents, representatives, employees, or Subcontractors.

1. **Minimum Coverage**

1. Commercial general liability (including products, completed operations, and broad-form contractual): \$1,000,000 per occurrence;
2. Workers' Compensation and employer's liability: as required by law;
3. Professional liability: \$1,000,000; and
4. Property (including contents coverage for all records maintained pursuant to this Agreement): \$1,000,000 per occurrence.

2. **Other Provisions** Unless explicitly waived by CDS, the insurance policies should contain, or be endorsed to contain, the following provisions:

1. The Provider's insurance coverage shall be the primary insurance. Any insurance or self-insurance maintained by CDS for its officers, agents, and employees shall be in excess of the Provider's insurance and shall not contribute to it.
2. The Provider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
3. The Provider shall furnish CDS with certificates of insurance and with those endorsements, if any, effecting coverage required by these Insurance Requirements. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by CDS before this Agreement commences. CDS reserves the right to require complete, certified copies of all required insurance policies at any time.

4. All policies should contain a revised cancellation clause allowing thirty (30) days notice to CDS in the event of cancellation for any reason including nonpayment.

21. NON-APPROPRIATION Notwithstanding any other provision of this Agreement, if CDS does not receive sufficient funds to pay for the work to be performed under this Agreement, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Agreement.

22. SEVERABILITY The invalidity or unenforceability of any particular provision, or part thereof, of this Agreement shall not affect the remainder of said provision, or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

23. INTEGRATION All terms of this Agreement are to be interpreted in such a way as to be consistent at all times with the terms of Rider B-IT (except for expressed exceptions to Rider B-IT included in Rider C), followed in precedence by Rider A, and any remaining Riders in alphabetical order.

24. FORCE MAJEURE Either party may be excused from the performance of an obligation under this Agreement in the event that performance of that obligation by a party is prevented by an act of God, act of war, riot, fire, explosion, flood, or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, strike or labor dispute, provided that any such event, and the delay caused thereby, is beyond the control of, and could not reasonably be avoided by that party. Upon the occurrence of an event of force majeure, the time period for performance of the obligation excused under this section shall be extended by the period of the excused delay, together with a reasonable period, to reinstate compliance with the terms of this Agreement.

25. SET-OFF RIGHTS The State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any monies due to the Provider under this Agreement, up to any amounts due and owing to the State with regard to this Agreement, any other Agreement with any State department or agency, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

26. INTERPRETATION OF THE AGREEMENT

1. **Reliance on Policy Determinations** CDS shall determine all program policy. The Provider may, from time to time, request CDS to make policy determinations, or to issue operating guidelines required for the proper performance of this Agreement, and the Agreement Administrator shall respond in writing in a timely manner. The Provider shall be entitled to rely upon, and act in accordance with, such written policy determinations and operating guidelines, unless subsequently amended, modified, or changed in writing by CDS, and shall incur no liability in doing so unless the

Provider acts negligently, maliciously, fraudulently, or in bad faith. Nothing contained in this Agreement, or in any agreement, determination, operating guideline, or other communication from CDS shall relieve the Provider of its obligation to keep itself informed of applicable State and Federal laws, regulations, policies, procedure, and guidelines, to be in complete compliance and conformity therewith.

2. **Titles Not Controlling** Titles of sections and paragraphs used in this Agreement are for the purpose of facilitating ease of reference only and shall not be construed to imply a contractual construction of the language.

3. **No Rule of Construction** This is a negotiated Agreement and no rule of construction shall apply that construes ambiguous or unclear language in favor of or against any party.

27. **PERIOD OF WORK** Work under this Agreement shall begin no sooner than the date on which this Agreement has been fully executed by the parties and approved by the Controller and the State Purchases Review Committee. Unless terminated earlier, this Agreement shall expire on the date set out on the first page of this Agreement, or at the completion and acceptance of all specified tasks, and delivery of all contracted products and services as defined in this Agreement, including performance of any warranty and/or maintenance agreements, whichever is the later date.

28. **NOTICES** All notices under this Agreement shall be deemed duly given: 1) upon delivery, if delivered by hand against receipt, or 2) five (5) business days following posting, if sent by registered or certified mail, return receipt requested. Either party may change its address for notification purposes by giving written notice of the change and setting forth the new address and an effective date.

29. **ADVERTISING AND PUBLICATIONS** The Provider shall not publish any statement, news release, or advertisement pertaining to this Agreement without the prior written approval of the Agreement Administrator. Should this Agreement be funded, in whole or in part, by Federal funds, then in compliance with the Steven's Amendment, it will be clearly stated when issuing statements, press releases, requests for proposals, bid solicitations, and other documents: (1) the percentage of the total cost that was financed with Federal moneys; and (2) the dollar amount of Federal funds.

30. **CONFLICT OF INTEREST** The Provider certifies that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of its services hereunder. The Provider further certifies that in the performance of this Agreement, no person having any such known interests shall be employed.

31. **LOBBYING**

1. **Public Funds** No Federal or State-appropriated funds shall be expended by the Provider for influencing, or attempting to influence, an officer or employee of any agency, a member of Congress or State Legislature, an officer or employee of Congress or State Legislature, or an employee of a member of Congress or State Legislature, in connection with any of the following covered actions: the awarding of any agreement; the making of any grant; the entering into of any cooperative agreement; or the extension, continuation, renewal, amendment, or modification of any agreement, grant, or cooperative agreement. Signing this Agreement fulfills the

requirement that Providers receiving over \$100,000 in Federal or State funds file with CDS on this provision.

2. **Federal Certification** Section 1352 of Title 31 of the US Code requires that funds appropriated to a Federal agency be subject to a requirement that any Federal Provider or grantee (such as CDS) certifies that no Federal funds will be used to lobby or influence a Federal officer or member of Congress.

The certification CDS has been required to sign provides that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including sub-agreements, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall verify and disclose accordingly. The certification also requires the completion of Federal lobbying reports and the imposition of a civil penalty of \$10,000 to \$100,000 for failing to make a required report. As a sub-recipient, the Provider understands and agrees to the Federal requirements for certification and disclosure.

3. **Other Funds** If any non-Federal or State funds have been or will be paid to any person in connection with any of the covered actions in this section, the Provider shall complete and submit a "Disclosure of Lobbying Activities" form to CDS.

32. PROVIDER PERSONNEL

1. The parties recognize that the primary value of the Provider to CDS derives directly from its Key Personnel assigned in the performance of this Agreement. Key Personnel are deemed to be those individuals whose résumés were offered by the Provider in the Proposal. Therefore, the parties agree that said Key Personnel shall be assigned in accordance with the time frames in the most recent mutually agreed upon project schedule and work plan, and that no re-deployment or replacement of any Key Personnel may be made without the prior written consent of the Agreement Administrator. Replacement of such personnel, if approved, shall be with personnel of equal or greater abilities and qualifications.

2. CDS shall retain the right to reject any of the Provider's employees whose abilities and qualifications, in CDS's judgment, are not appropriate for the performance of this Agreement. In considering the Provider's employees' abilities and qualifications, CDS shall act reasonably and in good faith.

3. During the course of this Agreement, CDS reserves the right to require the Provider to reassign or otherwise remove any of its employees found unacceptable by CDS. In considering the Provider's employees' acceptability, CDS shall act reasonably and in good faith.

4. In signing this Agreement, the Provider certifies to the best of its knowledge and belief that it, and all persons associated with this Agreement, including any Subcontractors, including persons or corporations who have critical influence on or control over this Agreement, are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal or State department or agency.

5. During the course of this Agreement, CDS reserves the right to require a background check on any of the Provider's personnel (employees and Subcontractors) that are in any way involved in the performance of this Agreement.

33. STATE PROPERTY The Provider shall be responsible for the proper custody and care of any Department or State owned property furnished for the Provider's use in connection with the performance of this Agreement, and the Provider will reimburse CDS for its loss or damage, normal wear and tear excepted.

34. PATENT, COPYRIGHT, AND OTHER PROPRIETARY RIGHTS

1. The Provider certifies that all services, equipment, software, supplies, and any other products provided under this Agreement do not, and will not, infringe upon or violate any patent, copyright, trade secret, or any other proprietary right of any third party. In the event of any claim by a third party against CDS, CDS shall promptly notify the Provider and the Provider, at its expense, shall defend, indemnify, and hold harmless CDS against any loss, cost, expense, or liability arising out of such claim, including reasonable attorney fees.

2. The Provider may not publish or copyright any data without the prior approval of CDS. The State and the Federal Government, if applicable, shall have the right to publish, duplicate, use, and disclose all such data in any manner, and for any purpose whatsoever, and may authorize others to do so.

35. PRODUCT WARRANTY The Provider expressly warrants its products and services for one full year from their final written acceptance by CDS. The responsibility of the Provider with respect to this warranty is limited to correcting deficiencies in any deliverable using all the diligence and dispatch at its command, at no additional cost to CDS. The Provider is also responsible for correcting and/or updating any documentation affected by any operational support performed under this warranty provision.

36. OPPORTUNITY TO CURE The Agreement Administrator may notify the Provider in writing about CDS's concerns regarding the quality or timeliness of a deliverable. Within five (5) business days of receipt of such a notice, the Provider shall submit a corrective action plan, which may include the commitment of additional Provider resources, to remedy the deliverable to the satisfaction of the Agreement Administrator, without affecting other project schedules. CDS's exercise of its rights under this provision shall be not be construed as a waiver of CDS's right to terminate this Agreement pursuant to Section 13, Termination.

37. COVER If, in the reasonable judgment of the Agreement Administrator, a breach or default by the Provider is not so substantial as to require termination, and reasonable efforts to induce the Provider to cure the breach or default are unavailing, and the breach or default is capable of being cured by CDS or by another contractor without unduly interfering with the continued performance by the Provider, then CDS may provide or procure the services necessary to cure the breach or default, in which event CDS shall withhold from future payments to the Provider the reasonable costs of such services.

38. ACCESSIBILITY All IT products must be accessible to persons with disabilities, and must comply with the State Accessibility Policy and the Americans with Disabilities Act. All IT applications must comply with the Computer Application Program Accessibility

Standard (Maine.gov/oit/accessiblesoftware). All IT applications and contents delivered through web browsers must comply with the Website Standards (Maine.Gov/oit/webstandard) and the Website Accessibility Policy (Maine.Gov/oit/accessibleweb).

39. STATE IT POLICIES All IT products and services delivered as part of this Agreement must conform to the State IT Policies, Standards, and Procedures (Maine.Gov/oit/oitpolicies) effective at the time this Agreement is executed

40. CONFIDENTIALITY

1. All materials and information given to the Provider by CDS, or acquired by the Provider on behalf of CDS, whether in verbal, written, electronic, or any other format, shall be regarded as confidential information.
2. In conformance with applicable Federal and State statutes, regulations, and ethical standards, the Provider and CDS shall take all necessary steps to protect confidential information regarding all persons served by CDS, including the proper care, custody, use, and preservation of records, papers, files, communications, and any such items that may reveal confidential information about persons served by CDS, or whose information is utilized in order to accomplish the purposes of this Agreement.
3. In the event of a breach of this confidentiality provision, the Provider shall notify the Agreement Administrator immediately.
4. The Provider shall comply with the Maine Public Law, Title 10, Chapter 210-B (Notice of Risk to Personal Data Act).

41. OWNERSHIP

1. All data (including Geographical Information Systems data), notebooks, plans, working papers and other works produced, and equipment and products purchased in the performance of this Agreement are the property of CDS, or the joint property of CDS and the Federal Government, if Federal funds are involved. The State (and the Federal Government, if Federal funds are involved) shall have unlimited rights to use, disclose, duplicate, or publish for any purpose whatsoever all information and data developed, derived, documented, or furnished by the Provider under this Agreement, or equipment and products purchased pursuant to this Agreement. The Provider shall furnish such information and data, upon the request of CDS, in accordance with applicable Federal and State laws.
2. Upon termination of this Agreement for any reason, or upon request of CDS, the Provider agrees to convey to CDS good titles to purchased items free and clear of all liens, pledges, mortgages, encumbrances, or other security interests.

42. CUSTOM SOFTWARE For all custom software furnished by the Provider as part of this agreement, the following terms and conditions shall apply:

1. CDS shall own all custom software. CDS shall grant all appropriate Federal and State agencies a royalty-free, non-exclusive, and irrevocable license to reproduce,

modify, publish, or otherwise use, and to authorize others to do so, all custom software. Such custom software shall include, but not be limited to, all source, object and executable code, operating system instructions for execution, data files, user and operational/administrative documentation, and all associated administrative, maintenance, and test software that are relevant to this Agreement.

2. A fundamental obligation of the Provider is the delivery to CDS of all ownership rights to the complete system, free of any claim or retention of rights thereto by the Provider. The Provider acknowledges that this system shall henceforth remain the sole and exclusive property of CDS, and the Provider shall not use or describe such software and materials without the written permission of CDS. This obligation to transfer all ownership rights to CDS on the part of the Provider is not subject to any limitation in any respect.

43. OFF-THE-SHELF (OTS) SOFTWARE For all OTS software purchased by the Provider as part of this Agreement, the following terms and conditions shall apply.

1. This Agreement grants to CDS a non-exclusive and non-transferable license to use the OTS software and related documentation for its business purposes. CDS agrees that the Provider may, at its own expense, periodically inspect the computer site in order to audit the OTS software supplied by the Provider, installed at CDS's site, at mutually agreed upon times. In the event that a separate license agreement accompanies the OTS software, then the terms of that separate license agreement supersede the above license granted for that OTS software.

2. This Agreement does not transfer to CDS the title to any intellectual property contained in any OTS software. CDS will not decompile or disassemble any OTS software provided under this Agreement, or modify any OTS software that bears the copyright notice of a third party. CDS will make and maintain no more than one archival copy (for back-up purpose) of each OTS software, and each copy will contain all legends and notices, and will be subject to the same conditions and restrictions as the original.

3. If the CPU on which any OTS software is licensed becomes temporarily unavailable, use of such OTS software may be temporarily transferred to an alternative CPU until the original CPU becomes available.

44. SOFTWARE AS SERVICE When the software is fully owned, hosted, and operated by the Provider, and CDS uses said software remotely over the Internet, the following terms and conditions shall apply:

1. The Provider, as depositor, shall enter into an escrow contract, upon terms acceptable to CDS, with a recognized software Escrow Agent. The escrow contract must provide for CDS to be an additional party/beneficiary. The Provider shall deposit with the Escrow Agent the software, all relevant documentation, and all of CDS's data, and all updates thereof (the "Deposit Materials"), in electronic format. Deposits will occur no less frequently than once a month.

2. The escrow contract shall provide for the retention, administration, and controlled access of the Deposit Materials, and the release of the Deposit Materials to CDS, upon receipt of a joint written instruction from CDS and the Provider, or upon

receipt of written notice from CDS that:

- a. The Provider has failed to carry out its obligations set forth in the this Agreement; or
 - b. A final, non-appealable judicial determination that the Provider has failed to continue to do business in the ordinary course; or
 - c. The Provider has filed a voluntary petition in bankruptcy, or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, or becomes subject to an involuntary petition in bankruptcy, which petition or proceeding is not dismissed or unstayed within sixty (60) days from the date of filing; or
 - d. The Provider is in material breach of its maintenance and support obligations and has failed to cure such breach within thirty (30) days from the date of receipt by the Provider of written notice of such breach; or
 - e. A condition has occurred that materially and adversely impacts the Provider's ability to support the software and the Provider has failed to cure such condition within thirty (30) days from the date of receipt by the Provider of written notice of such condition.
3. The Provider is responsible for all fees to be paid to the Escrow Agent.
 4. The Escrow Agent may resign by providing advance written notice to both CDS and the Provider at least thirty (30) calendar days prior to the date of resignation. In such an event, it is the obligation of the Provider to establish a new escrow account with a new Escrow Agent.

45. PRICE PROTECTION

1. The Provider shall ensure that all prices, terms, and warranties included in this Agreement are comparable to, or better than, the equivalent terms being offered by the Provider to any present customer meeting the same qualifications or requirements as CDS. If, during the term of this Agreement, the Provider enters into agreement(s) that provide more favorable terms to other comparable customer(s), the Provider shall provide the same terms to CDS.
2. If Federal funding is used for the acquisition of products and/or services under this Agreement, interest cannot be paid under any installment purchase or lease-purchase agreement entered into as a part of this Agreement.

OR

45. THIS ITEM IS INTENTIONALLY LEFT BLANK

46. IRREVOCABLE LETTER OF CREDIT In order to assure the Provider's faithful adherence to the terms and conditions of this Agreement, the Provider shall submit an irrevocable letter of credit, acceptable to CDS, that is payable on demand. This letter of credit will be procured at the expense of the Provider, naming CDS as the beneficiary, in the entire

Agreement amount. In lieu of this requirement, CDS will accept a commitment letter from a recognized financial institution or investment fund stating that the Provider has sufficient capital to fund the obligations, and has legally committed such capital to fund the obligations, in accordance with this Agreement. The letter of credit, or the equivalent commitment letter, shall specifically refer to this Agreement, and shall bind the parties to all the terms and conditions of this Agreement. The Provider shall have fifteen (15) calendar days from the date of execution of this Agreement to furnish the letter of credit or the equivalent commitment letter. Should the Provider fail to comply with this section, then CDS shall have the right to terminate this Agreement without liability.

OR

46. THIS ITEM IS INTENTIONALLY LEFT BLANK

47. ENTIRE AGREEMENT This document contains the entire Agreement of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to this Agreement that any implied waiver occurred between the parties which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of this Agreement, or to exercise an option or election under this Agreement, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option, or election, but the same shall continue in full force and effect. Use of one remedy shall not waive CDS's right to use other remedies. Failure of CDS to use a particular remedy for any breach shall not be deemed as a waiver for any subsequent breach. No waiver by any party of any one or more of its rights or remedies under this Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedies under this Agreement.

RIDER G
IDENTIFICATION OF COUNTRY
IN WHICH CONTRACTED WORK WILL BE PERFORMED

Please identify the country in which the services purchased through this contract will be performed:

United States. Please identify state: _____

Other. Please identify country: _____

Notification of Changes to the Information

The Provider agrees to notify the Division of Purchases of any changes to the information provided above.