

MODIFICATION

State of Maine**Master Agreement****Effective Date:** 11/20/14**Expiration Date:** 05/31/19**Master Agreement Description:** CISCO Equipment, Maintenance & Support**Buyer Information**

Justin Franzose 207-624-7337 ext. justin.franzose@maine.gov

Issuer Information

JEFF COTNOIR 207-624-9449 ext. Jeff.Cotnoir@maine.gov

Requestor Information

Jason Box 207-624-9897 ext. jason.j.box@maine.gov

Authorized Departments

ALL

Vendor Information**Vendor Line #:** 1**Vendor ID**

VC1000073721

Vendor Name

PRESIDIO NETWORKED SOLUTIONS

Alias/DBA**Vendor Address Information**5337 MILLENIA LAKES BLVD
STE 300
ORLANDO, FL 01801
US**Vendor Contact Information**

TAMMEY DIMATTEO

407-641-0421 ext.

TDIMATTEO@PRESIDIO.COM

Commodity Information

Vendor Line #: 1

Vendor Name: PRESIDIO NETWORKED SOLUTIONS

Commodity Line #: 1

Commodity Code: 20827

Commodity Description: CISCO Equipment, Maintenance & Support

Commodity Specifications: See attached specifications for CISCO Equipment, Maintenance & Support, Training and Professional Support Services. ALL EQUIPMENT PROCURED THROUGH THIS AGREEMENT MUST BE NEW MANUFACTURE.

Commodity Extended Description:

Quantity	UOM	Unit Price
0.00000		\$0.00
Delivery Days	Free on Board	
0		
Contract Amount	Service Start Date	Service End Date
\$0.00	11/20/14	05/31/19
Catalog Name	Discount	
	0.0000 %	
	Discount Start Date	Discount End Date

Request for Bid

Cisco Network Equipment and Support

(10-24-2014)

The State of Maine is soliciting bids for discount level pricing on Cisco network equipment, Software, SMARTnet Maintenance and Support, Training and Professional Support Services. A 4-year Master Agreement to purchase Cisco Network items will be implemented with the selected vendor and discount level will apply to purchases made during the term of the agreement. The 4-year agreement will span the period from 11-1-2014 to 8-31-2018.

The Master Agreement awarded through this bid may be used by all agencies of the State of Maine. Political subdivisions (towns, counties) and other governmental units within Maine may participate in this contract at the same prices, terms and conditions. Items furnished to these entities will be billed directly to and paid for by the units and the State of Maine assumes no responsibility for those transactions.

Maine educational institutions, such as public school districts, state universities, public colleges, etc. may purchase hardware, software and associated services under this agreement and may receive educational pricing discounts if qualified and offered. Items furnished to educational institutions will be billed directly to and paid for by the educational institutions and the State of Maine assumes no responsibility for those transactions.

The State has hundreds of Cisco routers of various models such as 1921's, 1841's and 2811's. The State expects to procure equipment over the next 4 years. These purchases consist of new/replacement routers, switches, potentially load balancers, etc. such as Cisco 1921-SEC/K9 routers and Cisco Nexus 3172TQ switches, or their evolutionary replacement, with various features. Professional Services purchased under this agreement will be related to planning, configuration and troubleshooting operation of the Cisco network equipment. Training will be related to the Cisco network equipment/software through this agreement.

All equipment procured through this agreement must be **NEW manufacture** and delivered within 10 business days from receipt of an order. All shipping and handling cost for delivery to Augusta, Maine must be included at no additional cost. If Vendor does not confirm to all specifications, the contract may be cancelled immediately.

The selected vendor shall ensure that the State of Maine has a valid Cisco Contract ID number and Cisco Systems CCO logon/user account.

Responding vendors must be a Cisco Premier Certified Partner. It is desired that the partner have a physical office located within 200 miles of Augusta, Maine to facilitate the delivery of consulting/advisory services. Reseller must be able to supply hardware, support services and consulting aid.

Maintenance and Warranty

All qualifying equipment and software purchased through the Master Agreement resulting from this bid must include Cisco's one year warranty. As equipment reaches the end of the one year warranty the State expects the vendor to co-terminate the equipment support service dates for all devices.

Bid Format

Vendors must specify their global discount as a percentage off list price for Cisco's complete line of network equipment. Using their global discount level vendors must calculate the net cost for the representative procurements outlined below. The State does not guarantee these procurements but is using the representative procurements listed below to select the best valued vendor to be awarded future procurements over the 4-year life of the Master Agreement. As Cisco releases new equipment over the 4-year life of the agreement, the State will purchase the applicable latest version of the equipment to perform the operational role required for network functionality. Pricing discounts apply to all purchases over the 4-year term of the agreement.

- Example 1: Fifty (50) Cisco 1921-SEC/K9 routers, Cisco1921/K9 with 2GE, SEC License PAK, 512MB DRAM, 256MB FI, with one year of Hardware Maintenance and SMARTnet support.
- Example 2: Year 2 and 3 Cisco SMARTnet Software Support for 50 1921-SEC/K9 routers, 8x5xNBD coverage from Example-1.
- Example 3: Two Cisco Nexus 3172TQ Switches, part number N3K-C3172TQ-10GT.
- Example 4: Year 2 and 3 Cisco SMARTnet Software and Hardware Support for (2) Cisco Nexus 3172TQ switches from Example-3 p/n CON-SNTP-3172T10T
- Example 5: One day (8 hours) of Certified Cisco Network Professional Consulting Services on-site, travel and other associated costs included, 51 Commerce Drive, Augusta, ME 04333
- Example 6: One day (8 hours) of Certified Cisco Network Professional Consulting Services (from home offices, not on-site at Augusta, ME 04333
- Example 7: One day (8 hours) of Cisco training, on site, travel and other associated costs included, 51 Commerce Drive, Augusta, ME

Vendors must complete and submit the table below.

<u>Item</u>	<u>Cisco Part Number(s)</u>	<u>List Cost</u>	<u>Net Cost</u>	<u>Discount Percentage</u>
Costs for 50 Cisco Routers and support specified in Example 1:	HW- CISCO1921-SEC/K9 Support-CON-SNT-1921SEC	HW- \$1,695/ea Support-\$136/ea	\$52,052.00 Qty 50 w/12 months support	45% off list on HW 20% off list SMARTnet
Cost of two years extended support in Example 2:	CON-SNT-1921SEC	\$272	\$10,880 Qty 50 for 24 Months	20% off list
Costs for Cisco Switches (2) specified in Example 3:	HW-N3K-C3172TQ-10GT Support-CON-SNTP-3172T10T	HW-\$20,000/ea Support-\$1,795/ea	\$24,872 Qty 2 switches and 12 months Support	45% off list on HW 20% off list on SMARTnet
Cost of two years extended switch support in Example 4:	CON-SNTP-3172T10T	\$3,590 /ea	\$5,887.60 Qty 2 switches for 24 months	20% off list
Cost of one day on-site CCNP Services in Example 5:	N/A	N/A	\$1,320	\$165/hr
Cost of one day off-site CCNP Services – Example 6:	N/A	N/A	\$1,320	\$165/hr
Cost of one day Cisco Training, on-site – Example 7:	N/A	N/A	\$1,320	\$165/hr
Total Cost of Above	NA		\$97,651.60	NA

Award will be based on lowest cost for the total of table items above.

Administrative

The winning vendor will enter into a Master Agreement with the State of Maine for a term of four years.

B.V.C.

30 JAN 2018

State of Maine Waiver of Competitive Bidding Request Form

Form Instructions: Please provide the requested information in the white boxes below. This form is to precede all contract requests that are not the direct result of a competitive bid process.

Requesting Department's Contract Administrator:	Jon Richard/Ellen Lee	Office/Division/Program of Contract Administrator:	DAFS → OIT → VMO
Est. Contract Amount:		Contract or RQS Number:	Master Agreement
Proposed Start Date:	9/1/2018	Proposed End Date:	5/31/2019
Vendor/Provider Name, City, State:	Presidio Networked Solutions LLC 12120 Sunset Hills Road - Suite 202 Reston VA 20190		
Short Description of Good or Service:	The State of Maine has standardized on Cisco hardware, software, maintenance, training, and professional services. Presidio was lowest bidder on an RFQ conducted in 2015.		
Please note, for transparency purposes, Waivers of Competitive Bidding will be publicly posted. Public postings are placed on the Division of Procurement Services website for a period of seven consecutive calendar days.		To be completed by the Division of Procurement Services Posting dates on Division of <i>Procurement Services</i> website: From: <u>2/10/2018</u> To: <u>2/16/2018</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 0220180178	
1. Statutory Justification State of Maine statute (5 M.R.S. §1825-B(2)) allows waivers of competitive bidding only for the specific reasons listed below. Please mark the appropriate box (X) next to the justification which applies to this specific request.			
<input type="checkbox"/>	A. The procurement of goods or services by the State for county commissioners pursuant to Title 30-A, section 124, involves the expenditure of \$2,500 or less, and the interests of the State would best be served;		
<input type="checkbox"/>	B. The Director of the Bureau of General Services is authorized by the Governor, or the Governor's designee, to make purchases without competitive bidding because, in the opinion of the Governor or the Governor's designee, an emergency exists that requires the immediate procurement of goods or services;		
<input type="checkbox"/>	<i>If citing the above justification for this Waiver of Competitive Bidding request, please have the requesting Department's Commissioner or Chief Executive (as the Governor's "designee") sign and date on the right.</i>	<i>By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.</i> Signature: Printed Name: _____ Date: _____	
<input checked="" type="checkbox"/>	C. After reasonable investigation by the Director of the Bureau of General Services, it appears that any required unit or item of supply, or brand of that unit or item, is procurable by the State from only one source;		
<input type="checkbox"/>	D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products;		
<input type="checkbox"/>	E. The purchase is part of a cooperative project between the State and the University of Maine System, the Maine Community College System, the Maine Maritime Academy, or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State involving: (1) An activity assisting a state agency and enhancing the ability of the university system, community college system, Maine Maritime Academy, or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State to fulfill its mission of teaching, research, and public service; (2) A sharing of project responsibilities and, when appropriate, costs;		
<input type="checkbox"/>	<i>If citing the above justification for this sole source request, please note that the specific approval of the Governor's Office is required, in accordance with Executive Order 26 FY 11/12, "An Order to Enhance Competitive Bidding". The approval must be documented on DAFS/BGS/Division of Procurement Services "GOVCOOP" form, found here: http://www.maine.gov/purchases/info/forms/govcoop.doc.</i>		
<input type="checkbox"/>	F. The procurement of goods or services involves expenditures of \$10,000 or less, in which case the Director of the Bureau of General Services may accept oral proposals or bids;		
<input type="checkbox"/>	G. The procurement of goods or services involves expenditures of \$10,000 or less, and procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need.		

State of Maine Waiver of Competitive Bidding Request Form

If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:

Please note that the following four points below (#2 through 5) all require a response.

2. Description of Specific Need

Please identify, and fully describe, the specific problem, requirement, or need the resulting non-competitive contract would address and which makes the goods or services necessary. Explain how the requesting Department determined that the goods or services are critical and/or essential to agency responsibilities or operations.

Our current Master Agreement (MA) with Presidio, our 3rd party value-added reseller of Cisco equipment (as well as training, maintenance and professional services) – expires August 31, 2018. OIT has initiated a project to update, upgrade and standardize all OIT managed network equipment, statewide, using Cisco equipment. OIT-Network Services and Presidio have been working very closely together to establish standard equipment configurations at facilities depending on the size of the location and have been working on Statements of Work to facilitate the surveying and deployment of this equipment.

- We've recently purchased \$11M in new Cisco Hardware (BOM1) through this contract.
- We've completed multiple rounds of review on the Presidio Site-Survey-SOW (\$138,664.80) which we intend on awarding under the current Master Agreement as this work would conclude before the MA's termination date. (SOW1)
- However, we can't complete the final phase of the above project (SOW2)
 - While the work for this final phase could start before the MA's termination date – It would not conclude before that MA-Contract-End-Date.
 - OIT feels that continuity of planning, and execution of this large project is very important to its overall success. We have had a very strong relationship with Presidio and they offered us significant discounts on the equipment, far exceeding the discount in the MA, and we expect them to provide solid project management (alongside the state's PM) and installation services as we execute the deployment plan.
 - Presidio is holding the \$11M equipment inventory in their warehouse.

OIT looked at using the current Cisco NASPO agreement which expires 5/31/2019, but utilizing this agreement would increase SoM costs by 3%.

Taking into consideration the expiration date of the NASPO agreement which also is the date at which the COP money must be spent, – we are requesting that the Presidio Master Agreement be extended to co-term to May 31, 2019 (i.e. a 9-month extension) to accomplish the Network Modernization Project Phase II – deployment.

3. Availability of other Public Resources

Please explain how the requesting Department concluded that sufficient staffing, resources, or expertise is not available within the State of Maine's government, or other governmental entities (local, other state, or federal agencies) external to the requesting Department, which would be able to address the identified need more efficiently and effectively than the identified vendor.

This (utilizing other resources) was already extensively researched and discussed and was deemed unfeasible for the following reasons:

- These Network Upgrades take highly-technical-expertise and resources;
- Are geographically and logistically challenging (380 sites across the large geographic state we call Maine);
- And lastly, compounded by our tight timeline as constrained by our \$21M COP funding model that ends on June 2018.

4. Cost

Since a waiver of competitive bidding is being requested for this procurement, please explain how the requesting Department concluded the negotiated costs, fees, or rates are **fair and reasonable**.

State of Maine Waiver of Competitive Bidding Request Form

Network Services has worked closely with Presidio to negotiate the cost of deployment by breaking down sites by size. The proposed cost for the SOW for deployment of new Cisco equipment for all 380 sites is \$1,718,882.0. As reviewed by SOM, the site-size determined the cost to remediate each of the 380 sites. The breakdown agreed to by Presidio is as follows:

- Tiny Sites - \$679.32 per site
- Small Sites - \$863.82 per site
- Medium Sites- \$2,764.24 per site
- Large Sites- \$5,330.82 per site
- X-Large Sites- \$7,305.57per site
- Jumbo Sites- \$13,346.82 per site
- Correctional Facilities- \$11,024.07 per site

5. Future Competition

Please describe potential opportunities which may be available to foster competition for these goods or services in the future.

It is expected that an RFQ would be published in March of 2019 with an effective date of June 1, 2019 for all Cisco services.

Please note that only one of the two points below ("Uniqueness" or "Timeframe") requires a response. Requesting Departments are not required to respond to both points.

6. Uniqueness

Please explain if the goods or services required are unique to a specific vendor. Describe the unique qualifications, abilities, and/or expertise of the vendor and how those particular unique factors address the specific need identified above. If the vendor has unique equipment, facilities, or proprietary data, also explain the necessity of these particular unique assets.

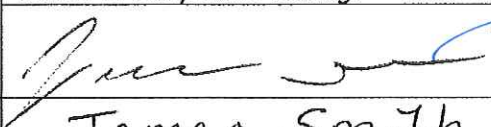
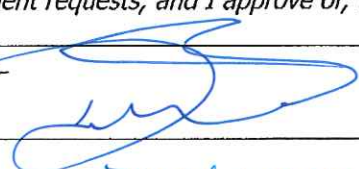
7. Timeframe (Complete only if B. is the Statutory Justification marked on Page 1)

Please explain if time is of the essence and an emergency exists which requires the immediate procurement of goods or services. Describe the nature of this emergency, provide the date by which the goods or services must be delivered, and explain how that date was determined and its significance (i.e. impact if delayed beyond this date). Also, provide information as to how it was determined this vendor is the best option to address this time-sensitive procurement.

State of Maine Waiver of Competitive Bidding Request Form

Under the current Master Agreement – Presidio has already gone through a rigorous vendor selection process. They were also a critical partner in our prior Core Network Upgrade and have proven their ability to deliver and now uniquely understand this critical infrastructure that enables the SOM network running smoothly. The Core Network Upgrade received extensive positive-feedback from our SOM constituents as being a successfully executed project of critical importance.

Reiterating the above – we're already moving forward with an \$11M BOM and a \$138K Phase 1 SOW, but need to ensure we have enough time (contractually) to successfully conclude our final, phase (SOW 2).

Signature of requesting Department's Commissioner or Chief Executive (or designee within the Commissioner's Office):	<i>By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.</i>
Printed Name:	 James Smith
Date:	 David Whitt 1-30-2018 02-07-18

GENERAL TERMS AND CONDITIONS OF STATE OF MAINE BUYER PURCHASE ORDER

1. WARRANTY: Contractor warrants:

- a. That all articles and services to be supplied by it under this agreement are fit and sufficient for the purpose intended, and
- b. That all articles and services covered by this contract will conform to the specifications, drawing samples, symbols or other description specified by the Division, and
- c. That such articles are merchantable, good quality, and free from defects whether patent or latent in material and workmanship, and
- d. That all workmanship, materials, and articles to be provided are of the best grade and quality, and
- e. That it has good and clear title to all articles to be supplied by it and the same are free and clear from all liens, encumbrances and security interest.

Neither the final certificate of payment nor any provision herein, nor partial nor entire use of the articles provided shall constitute an acceptance of work not done in accordance with this agreement or relieve the Contractor liability in respect of any warranties or responsibility for faulty material or workmanship. The Contractor shall remedy any defects in the work and pay any damage to other work resulting therefrom, which shall appear within 1 year from the date of final acceptance of the work provided hereunder. The Division of Purchases shall give written notice of observed defects with reasonable promptness.

2. TAXES: Contractor agrees that, unless otherwise indicated in the order, the prices herein do not include federal, state or local sales, or use tax from which an exemption is available for purposes of this order. Contractor agrees to accept and use tax exemption certificates when supplied by the Division as applicable. In case it shall ever be determined that any tax included in the prices herein was not required to be paid by Contractor, Contractor agrees to notify the Division and to make prompt application for the refund thereof, to take all proper steps to procure the same and when received to pay the same to the Division.

3. PACKING AND SHIPMENT: Deliveries shall be made as specified without charge for boxing, carting or storage, unless otherwise specified. Articles shall be suitably packed to secure lowest transportation cost and to conform to the requirements of common carriers and any applicable specifications. Order numbers and symbols must be plainly marked on all invoices, packages, bills of lading and shipping orders. Bill of lading should accompany each invoice. Count or weight shall be final and conclusive on shipments not accompanied by packing lists.

4. DELIVERY: Delivery should be strictly in accordance with delivery schedule. If Contractor's deliveries fail to meet such schedule, The Division, without limiting its other remedies, may direct expedited routing and the difference between the expedited routing and the order routing costs shall be paid by the Contractor. Articles fabricated beyond the Division's releases are at Contractor's risk. Contractor shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet delivery schedule, and, unless otherwise specified herein, no deliveries shall be made in advance of the Division's delivery schedule. Neither party shall be liable for excess costs of deliveries or defaults due to the causes beyond its control and without its fault or negligence, provided, however, that when the Contractor has reason to believe that the deliveries will not be made as scheduled, written notice setting forth the cause of the anticipated delay will be given immediately to the Division. If the Contractor's delay or default is caused by the delay or default of a subcontractor, such delay or default shall be excusable only if it arose out of causes beyond the control of both Contractor and subcontractor and without fault of negligence or either of them and the articles or services to be furnished were not obtainable from other sources in sufficient time to permit Contractor to meet the required delivery schedule.

5. INSPECTION: All articles and work will be subject to final inspection and approval after delivery, notwithstanding prior payment, it being expressly agreed that payment will not constitute final acceptance. Division of Purchases at its option may either reject any article or work not in conformity with the requirements and terms of this order, or re-work the same at Contractor's expense. The Division may reject the entire shipment where it consists of a quantity of similar articles and sample inspection discloses that ten (10%) percent of the articles inspected are defective, unless Contractor agrees to reimburse the Division for the cost of a complete inspection of the articles included in such shipment. Rejected material may be returned at Contractor's risk and expense at the full invoice price plus applicable incoming transportation charges, if any. No replacement of defective articles of work shall be made unless specified by the Division.

GENERAL TERMS AND CONDITIONS OF STATE OF MAINE BUYER PURCHASE ORDER

6. **INVOICE:** The original and duplicate invoices covering each and every shipment made against this order showing purchase order number, vendor number and other essential particulars, must be forwarded promptly to the ordering agency concerned by the vendor to whom the order is issued. Delays in receiving invoice and also errors and omissions on statements will be considered just cause for withholding settlement without losing discount privileges. All accounts are to be carried in the name of the agency or institution receiving the goods, and not in the name of the Division of Purchases.

7. **ALTERATIONS:** The Division reserves the right to increase or decrease all or any portion of the work and the articles required by the bidding documents or this agreements, or to eliminate all or any portion of such work or articles or to change delivery date hereon without invalidating this agreement. All such alterations shall be in writing. If any such alterations are made, the contract amount or amounts shall be adjusted accordingly. In no event shall Contractor fail or refuse to continue the performance of the work in providing of articles under this agreement because of the inability of the parties to agree on an adjustment or adjustments.

8. **DEFAULT:** The Division may terminate the whole or any part of this agreement in any one of the following circumstances:

- a. The Contractor fails to make delivery of articles, or to perform services within the time or times specified herein, or
- b. If Contractor fails to deliver specified materials or services, or
- c. If Contractor fails to perform any of the provisions of this agreement, or
- d. If Contractor so fails to make progress as to endanger the performance of this agreement in accordance with its terms, or
- e. If Contractor is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors or if a receiver is appointed on account of its insolvency.

In the event that the Division terminates this agreement in whole or in part pursuant to this paragraph, the Division may procure (articles and services similar to those so terminated) upon such terms and in such manner as the Division deems appropriate, and Contractor shall be liable to the Division for any excess cost of such similar articles or services.

9. **COMPLIANCE WITH APPLICABLE LAWS:** Contractor agrees that, in the performance hereof, it will comply with applicable laws, including, but not limited to statutes, rules, regulations or orders of the United States Government or of any state or political subdivision(s) thereof, and the same shall be deemed incorporated herein by reference. Awarding agency requirements and regulations pertaining to copyrights and rights in data. Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions. Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act, (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000). Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

10. **INTERPRETATION:** This agreement shall be governed by the laws of the State of Maine as to interpretation and performance.

11. **DISPUTES:** The Division will decide any and all questions which may arise as to the quality and acceptability of articles provided and installation of such articles, and as to the manner of performance and rate of progress under this contract. The Division will decide all questions, which may arise as to the interpretation of the terms of this agreement and the fulfillment of this agreement on the part of the contractor.

12. **ASSIGNMENT:** None of the sums due or to become due nor any of the work to be performed under this order shall be assigned nor shall Contractor subcontract for completed or substantially completed articles called for by this order without the Division's prior written consent. No subcontract or transfer of agreement shall in any case release the Contractor of its obligations and liabilities under this agreement.

GENERAL TERMS AND CONDITIONS OF STATE OF MAINE BUYER PURCHASE ORDER

13. **HOLD HARMLESS:** The Contractor agrees to indemnify, defend and save harmless the Bureau of General Services, its divisions, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material men, laborers and other persons, firm or corporation furnishing or supplying work, services, articles, or supplies in connection with the performance of this agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this agreement.

14. **SOLICITATION:** The Contractor warrants that it has not employed or written any company or person, other than a bona fide employee working solely for the contractor to solicit or secure this agreement, and it has not paid, or agreed to pay any company, or person, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this agreement. For breach or violation of this warranty, the Division shall have the absolute right to annul this agreement or, in its discretion, to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

15. **WAIVER:** The failure of the Division to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this order or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant or condition or the future exercise of such right, but the obligation of contractor with respect to such future performance shall continue in full force and effect.

16. **MSDS:** All manufacturers, importers, suppliers, or distributors of hazardous chemicals doing business in this State must provide a copy of the current material safety data sheet (MSDS) for any hazardous chemical to their direct purchasers of that chemical.

17. **COMPETITION:** By accepting this Purchase Order, Contractor agrees that no collusion or other restraint of free competitive bidding, either directly or indirectly, has occurred in connection with this award by the Division of Purchases.