



4050 Esplanade Way
Tallahassee, FL 32399-0950
850-488-2786

Ron DeSantis, Governor
Tom Berger, Secretary

ATTACHMENT B – DRAFT CONTRACT

FOR

MyFloridaNet-3

Contract No: DMS-26/27-025

BETWEEN

THE STATE OF FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

AND

<<PARTY NAME>>

TABLE OF CONTENTS

1.	Definitions	3
2.	Term	3
3.	Payments.....	4
4.	Contract Document	5
5.	PUR 1000 (July 22, 2024); General Conditions	5
6.	Contract Administration.....	6
7.	Intellectual Property.....	7
8.	Geographic Location of Data and Services	8
9.	Records Retention	9
10.	Gifts	9
11.	Audits	9
12.	Background Screening Requirements.....	9
13.	Data Security.....	12
14.	Subcontracting.....	13
15.	Performance Deficiencies and Financial Consequences.....	14
16.	Performance Bond.....	15
17.	Warranty.....	16
18.	Accessibility Requirements.....	16
19.	Preferred Price Affidavit Requirement.....	16
20.	Cooperation with the Inspector General.....	16
21.	Specific Appropriation	16
22.	Non-Exclusive Contract	16
23.	Entire Agreement.....	17
24.	Survival	17

CONTRACT EXHIBITS

Exhibit 1: Final Statement of Work

Exhibit 2: Best and Final Offer, including Response to Final Statement of Work

Exhibit 3: PUR 1000 (July 22, 2024),

Exhibit 4: MyFloridaNet-3 Services - Service Level Agreements and Financial Consequences

Exhibit 5: Cost Reply Price Workbook

Exhibit 6: Approved Subcontractor List

Contract

This contract is between the STATE OF FLORIDA, DEPARTMENT OF MANAGEMENT SERVICES (Department), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and <<INSERT CONTRACTOR NAME>> (Contractor); collectively referred to herein as the "Parties".

The Contractor responded to the Department's Solicitation No. DMS – 24/25-260, "MFN-3 Core Services." The Parties enter into this contract in accordance with the terms and conditions of the solicitation <<and subsequent negotiation>>.

The Parties therefore agree as follows:

1. Definitions

The following definitions apply to this Contract. Please see Contract Exhibits for other definitions relevant to this Contract.

- A. Authorized Representative:** Person within Contractor's organization that has the authority to bind the entity on official documents or sign affidavits on behalf of the Contractor's organization and its owner, directors, and officers.
- B. Confidential Information:** Any portion of Contractor's documents, data, or records disclosed relating to its reply that is clearly marked "Confidential" that the Contractor claims are confidential and not subject to disclosure pursuant to chapter 119, Florida statutes, the Florida Constitution, or any other authority.
- C. Contract:** This agreement between the Department and the Contractor consisting of the documents set forth in Section 4.
- D. Customer:** As defined in Rule 60FF-1.002, F.A.C.
- E. Product:** Any deliverable under the Contract, which may include commodities, services, technology or software.
- F. Security Incident:** means actual or an imminent threat of: (I) a violation, whether such violation is accidental or deliberate, of information technology resources, security, policies, or practices; (II) unauthorized access of State of Florida Data; (III) occurrences that compromise the confidentiality, integrity, or availability of State of Florida; or (IV) the unauthorized access to Department systems, networks, connections, APIs, or other services or to accounts that have the ability to access State of Florida Data. An imminent threat refers to a situation in which the Contractor has a factual basis for believing that a specific incident is about to occur.
- G. Subcontractor:** A third-party entity that has executed an agreement with the Contractor, and has been approved by the Department, to perform services that contribute directly to the Contract's Statement of Work. This does not include vendors utilized by the Contractor for the provision, licensing and / or maintenance of commodities such as hardware, software, or off-the-shelf commercial products.
- H. State of Florida Data:** Data collected by, created for, or provided by the Department or Customers under or in furtherance of the Contract.

2. Term

A. Initial Term

The initial term of the Contract will be for seven (7) years. The initial contract term shall begin on <<Contract Start Date>> or on the last date it is signed by all parties, whichever is later, with an end date of June 30th to coincide with the E-rate funding year end.

B. Renewal Term

Upon mutual agreement of both parties, the Department and the Contractor may renew the Contract, in whole or in part, for up to seven (7) years, at the renewal terms specified in this contract or as may be agreed to by both parties. Renewal is contingent upon satisfactory performance and subject to availability of funds.

C. Termination and Transition

In case of termination, as defined in Section 4(c) of the PUR 1000, transition assistance shall be provided by the Contractor as specified in Section 5.2 of, Exhibit 1, Final Statement of Work.

3. Payments

A. Pricing

The Contractor shall adhere to the prices as stated in Contractor's Cost Reply Price Workbook in Exhibit 5.

B. Price Adjustments

- 1) To ensure the Department continues to receive competitive market pricing, at the end of each twelve (12) month period of the Contract the Contractor shall be required to provide benchmark data to the Department that contains the following:
 - a) A comparison of the Department's rates for all services against rates contractually provided to other states, enterprises, and commercial entities for substantially the same or a smaller quantity of services and similar terms as this Contract.
 - b) A comparison of the following on an individual basis:
 - Services and components for each bandwidth speed as defined in the Contractor's Price Workbook.
 - Equipment percentage discount off the Manufacturer's Suggested Retail Price (MSRP) List.
 - Other Network and Telecommunication Services defined in the Contractor's Price Reply Workbook.
- 2) The Parties will, through an Amendment, adjust the Contract rates, pricing, charges and/or discounts, as appropriate, to make the Contract rates comparable to the benchmark's best rates. Rates shall not be increased for the duration of the Contract, regardless of the result of any benchmark.
- 3) Pricing and rate reductions shall not be based on averages; rates shall be compared

and reduced based on benchmark data to be determined and agreed upon by the Parties.

- 4) The Contractor may also reduce rates and pricing outside the process of benchmarking.
- 5) The Contractor will comply with 47 CFR Part 54, including but not limited to not charging schools, school districts, libraries, library consortia, or consortia including any of these entities a price above the lowest corresponding price for supported services.
- 6) The Department reserves the right to further negotiate reductions in pricing for the renewal years.
- 7) The Contractor shall submit invoices for services in detail sufficient for a proper pre-audit and post-audit. The Department reserves the right to request additional documentation. In addition, Contractor shall comply with the terms and conditions set forth in Exhibit 1, Final Statement of Work, Section 2.6 Business Operations - Requirements.

C. Bills for Travel

Bills for travel expenses are not permitted under this Contract.

4. Contract Document

A. Contract Documents & Hierarchy

This Contract sets forth the entire understanding of the parties and consists of the documents listed below which are incorporated herein by reference. In the event that any these documents conflict, the conflict will be resolved in the following order of priority (highest to lowest):

- 1) This Contract document
- 2) Exhibit 1: Final Statement of Work
- 3) Exhibit 3: PUR 1000 (July 22, 2024), which is incorporated by reference and available at: <https://dms-media.ccplatform.net/content/download/2933/file/PUR%201000%20%28General%20Contract%20Conditions%29.pdf>
- 4) Exhibit 4: MyFloridaNet-3 Services - Service Level Agreements and Financial Consequences
- 5) Exhibit 2: Best and Final Offer, including response to Final Statement of Work and the Price Workbook and Performance Measures (Service Level Agreements)

5. PUR 1000 (July 22, 2024); General Conditions

Rule 60A-1.002, Florida Administrative Code (F.A.C.), states that the PUR 1000, General Contract Conditions, apply except where modified by "special conditions." The PUR 1000

(07/22/2024), incorporated by reference and available at: [PUR 1000 \(General Contract Conditions\).pdf](#), is modified by the following:

The following supersedes and replaces in its entirety section 8.g., Limitation of Liability:

Limitation of Liability.

- 1) Except for the Contractor's liability under subsection 8.f., Indemnification, the total liability of the Contractor, including its subcontractors or suppliers, for all claims of any kind for any loss or damage, whether in contract, warranty, tort (including negligence or infringement), strict liability or otherwise, arising out of, connected with, or resulting from the performance or non-performance of this Contract (including purchase orders received under the Contract) or from the manufacture, sale, delivery, installation, technical direction of installation, resale, repair, replacement, licensing or use of any product, hardware, software, or the furnishing of any service, shall not exceed two times the total Contract amount.
- 2) NEITHER PARTY SHALL BE LIABLE FOR SPECIAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES, LOST PROFITS, LOST REVENUE, OR LOST INSTITUTIONAL OPERATING SAVINGS.
- 3) For damages other than those excluded above, the Department's liability is limited to: i) if the damage is the Department's failure to pay amounts due to the Contractor in accordance with the terms of the Contract for work performed under this Contract, then only for such amount due the Contractor pursuant to the terms of the Contract, or 2) for liability for torts, the maximum of the limited waiver of sovereign immunity provided for in section 768.28, F.S.

6. Contract Administration

A. Department Contract Administrator

As of the effective date of the Contract, the Department Contract Administrator is as follows:

<<insert name>>
Departmental
Purchasing
Department of Management
Services Room No. 3357Y
4050 Esplanade Way
Tallahassee, Florida 32399-2500
Telephone: (850) 413-7190
@dms.myflorida.com

In the event that the Department changes the Contract Administrator, the Department will notify the Contractor in writing. Such change does not require a formal written amendment to the Contract.

B. Department Contract Manager

The Department's Contract Manager during the term of this Contract will have the responsibility to ensure performance, monitor deliverables, and ensure payment is only made upon receipt of those deliverables under the Contract. As of the effective date of the Contract, the Contract Manager is as follows:

Lisa Baxter
Contract and Project Management Office
Division of Telecommunications
Suite 180R
Department of Management Services
4030 Esplanade Way
Tallahassee, Florida 32399
Telephone: (850) 921-1459
Lisa.baxter@dms.fl.gov

In the event that the Department changes the Contract Manager, the Department will notify the Contractor in writing. Such changes do not require a formal written amendment to the Contract.

C. Contractor's Point of Contact

<<To be inserted>>

D. Supplier Development

The State of Florida supports its business community by creating opportunities for business enterprises to participate in procurements and contracts. The Department encourages supplier development through certain certifications and provides advocacy, outreach, and networking through regional business events. For additional information, please contact the Office of Supplier Development (OSD) at OSDHelp@dms.fl.gov.

7. Intellectual Property

Contractor shall retain all right, title, and interest in and to all software, platforms, tools, automation frameworks, monitoring systems, orchestration systems, algorithms, scripts, methodologies, and other intellectual property owned by, developed by, or licensed to Contractor (collectively, "Contractor Technology"). Contractor Technology includes any of the following intellectual property owned by, developed by, or licensed to Contractor:

- written source code;
- source code files;
- executable code;
- executable code files;
- data dictionaries;
- data flow diagrams;
- work flow diagrams;
- entity relationship diagrams;
- operational plans, manuals, and guides;
- process and procedures documentation;
- process design documents;
- operational schedules;

- network design documents;
- router configurations;
- configuration management systems;
- provisioning systems;
- analytics and telemetry platforms; and
- security detection tools.

Contractor hereby grants the Department and the State of Florida a perpetual, transferable, sublicensable, irrevocable, royalty-free, non-exclusive license to use, access, reproduce, modify, copy, and distribute any Contractor Technology incorporated into MFN-3, required to operate MFN-3, produced as a result of work or services performed under the Contract, or in any way connected with the Contract. The license granted by this section includes the right of the Department and the State of Florida to:

- operate and use MFN-3 and allow others to do the same;
- operate and use any successor infrastructure or technology to MFN-3 and allow others to do the same;
- maintain configuration artifacts and documentation delivered under the Contract;
- operate MFN-3 during any transition to a successor services provider; and
- use, reproduce, and distribute all deliverables under the Contract.

Upon the Department's request, Contractor shall promptly provide the Department with access to, and copies of, any Contractor Technology subject to the license granted by this section, in any form reasonably necessary to enable the Department or the State of Florida to exercise its rights under such license. Contractor shall not withhold, restrict, or condition such access or delivery.

Contractor represents and warrants that it has obtained, and will maintain, all rights, licenses, consents, and authorizations necessary to grant the license provided under this section. If any third-party technology incorporated into or required for any deliverables under the Contract cannot be licensed to the Department or the State of Florida on the terms provided in this section, Contractor shall disclose that fact in writing to the Department and shall obtain the Department's prior written approval before incorporating such technology into MFN-3.

The license granted by this section and the Contractor's obligations with respect thereto will survive expiration or termination of the Contract.

This section will survive the termination or expiration of the Contract.

8. Geographic Location of Data and Services

Unless otherwise agreed in writing, the Contractor shall not access State of Florida Data from outside of the continental United States. The Contractor shall ensure that all State of Florida Data will at all times reside and be maintained in the continental United States unless otherwise agreed to in writing pursuant to Rule 60GG-4.002, F.A.C. The Contractor shall not allow, through its action or inaction, any State of Florida Data to be sent by any medium, transmitted, or accessed from outside of the continental United States without prior written consent of the Department. The Contractor shall not allow any employee, agent, or subcontractor to access State of Florida Data from outside of the continental United States, nor to send any copies of State of Florida Data outside the continental United States without the prior written consent of the Department.

9. Records Retention

The Contractor shall retain sufficient documentation to substantiate claims for payment under the Contract and all other records, electronic files, papers, and documents that were made in relation to this Contract. Contractor shall retain all documents related to this Contract pursuant to s. 257.36, F.S., Records and Information Management. If Contractor provides E-rate-eligible services and/or equipment pursuant to this Contract, Contractor agrees to comply with all FCC/USAC E-rate document retention rules and regulations.

10. Gifts

The Contractor agrees that it will not offer to give or give any gift to any State of Florida employee. This Contractor will ensure that its subcontractors, if any, will comply with this provision. If Contractor provides E-rate-eligible services and/or equipment pursuant to this Contract, Contractor agrees to comply with all E-rate gift rules, in accordance with 47 C.F.R. §54.503 and FCC/USAC regulations and requirements.

11. Audits

The Department may conduct or have conducted performance and/or compliance audits of any and all areas of the Contractor and/or subcontractors as determined by the Department. The Department may conduct an audit and review all the Contractor's (and subcontractors') data and records that pertain to the Contract Services. To the extent necessary to verify the Contractor's fees and claims for payment under the Contract, the Contractor's agreements or contracts with subcontractors, partners or agents of the Contractor which pertain to this Contract may be inspected by the Department upon fifteen (15) days' notice, during normal working hours, and in accordance with the Contractor's facility access procedures where facility access is required. Release statements from its subcontractors, partners or agents are not required for the Department or its designee to conduct compliance and performance audits on any of the Contractor's contracts which pertain to this Contract. The State's Chief Financial Officer and the Office of the Auditor General also have authority to perform audits and inspections.

12. Background Screening Requirements

A. Background Screening

In addition to any background screening required by the Contractor as a condition of employment, the Contractor warrants that it will conduct a criminal background screening of, or ensure that such a screening is conducted for, each of its employees, subcontractor personnel, independent contractors, leased employees, volunteers, licensees, or other persons, hereinafter referred to as "Person" or "Persons," operating under their direction performing services under the Contract whether or not the Person has access to state of Florida Data, as well as those persons who are not performing services under the Contract but have access, including indirect access, to State of Florida Data, and those who enter the premises and facilities of Customer. "Access" means to review, inspect, access, approach, instruct, communicate with, store data in, retrieve data from, transmit, or otherwise make use of any data, regardless of type, form, or nature of storage or the ability to review, inspect, approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any data, regardless of type, form, or nature of storage. Access to a computer system or network includes local and

remote access.

B. Background Check Required

The Contractor shall not allow any Person to provide services under this Contract, have access to any State of Florida Data, or enter any facility of a Customer until cleared under the standards and procedures provided below. The Contractor agrees that each Person will be screened as a prior condition for performing services, having access to State of Florida Data, or entering the facilities of a Customer. The Contractor is responsible for any and all costs and expenses in obtaining and maintaining the criminal background screening information for each Person described above. The Contractor shall maintain documentation of the screening in the Person's employment file.

The minimum background check process must include a check of the following databases through a law enforcement agency or a Professional Background Screener accredited by the National Association of Professional Background Screeners, the National Committee for Quality Assurance, or a comparable standard:

- Social Security Number Trace; and
- Criminal Records (Federal, State and County criminal felony and misdemeanor, national criminal database for all states which make such data available).

The Contractor agrees that each Person has been screened as a prior condition for performing services under the Contract or having access to State of Florida Data.

C. Disqualifying Offenses

If at any time it is determined that a Person has a criminal misdemeanor or felony record regardless of adjudication (e.g., adjudication withheld, a plea of guilty or nolo contendere, or a guilty verdict) within the last six (6) years from the date of the court's determination for the crimes listed below, or their equivalent in any jurisdiction, the Contractor is required to immediately remove that Person from any position with Access to State of Florida Data or directly performing services under the Contract. The disqualifying offenses are as follows:

- (a) Information technology and network-related crimes;
- (b) Crimes involving dishonesty or false statements; and
- (c) Felony theft.

If the Contractor finds a Disqualifying Offense for a Person within the last six (6) years from the date of the court's disposition, it may obtain information regarding the incident and determine whether that Person should continue providing services under the Contract or have Access to State of Florida Data. The Contractor will consider the following factors only in making the determination: i.) nature and gravity of the offense, ii.) the amount of time that lapsed since the offense, iii.) the rehabilitation efforts of the Person and iv.) relevancy of the offense to the job duties of the Person. If the Contractor determines that the Person should be allowed Access to State of Florida Data,

then Contractor shall maintain all criminal background screening information and the rationale for such Access in the Person's employment file. The Contractor will promptly notify the Department of any determinations made pursuant to this subsection. The Department reserves the right to require removal of any Persons from performing work on the Contract for any reason.

D. Self-Disclosure, Refresh, and Reporting

1) Self-Disclosure

The Contractor shall ensure that all Persons have a responsibility to self-report to the Contractor within three (3) calendar days a Criminal Finding or an updated court disposition of a Criminal Finding. The Contractor shall notify the Department's Contract Manager within 24 hours of all details concerning any Criminal Finding or updated court disposition of such Criminal Finding as reported by a Person. The Contractor shall immediately assess whether to disallow that Person access to any State of Florida Data or from directly performing services under the contract. Additionally, the Contractor shall require that the Person complete an annual certification that they have not received any additional Criminal Findings and shall maintain that certification in the employment file.

2) Refresh Screening

The Contractor shall ensure that all background screening is refreshed every five (5) years from the time initially performed for each Person during the Term of the Contract.

3) Monthly Reporting

The Contractor is required to submit a written report to the Department's Contract Manager within fifteen (15) days from the end of each month listing those Persons who have been screened, those Persons with Criminal Findings who have been removed from performing services or having access to State of Florida Data, and those Persons with Criminal Findings that the Contractor has allowed to provide services or allowed access to State of Florida data through the process described in the subsections above. The monthly report by the Contractor shall at a minimum include the name of the Person, the title of the Person's position, a description of the job, and a description and date of the Criminal Finding and, where applicable, an updated status of the court proceeding or ultimate disposition

E. Department's Ability to Audit Screening Compliance and Inspect Locations

The Department reserves the right to audit the Contractor's background screening process upon two business days prior written notice to the Contractor during the Term of the Contract. The Department shall have the right to inspect the Contractor's work area and/or location upon two business days prior written notice to the Contractor to ensure that access to the State of Florida Data is secure and in compliance with the Contract and all applicable State and Federal rules and

regulations.

13. Data Security

A. Duty to Provide Secure Data

The Contractor will maintain the security of State of Florida data collected by, created for, or provided by the Department or Customers and only use State of Florida Data in furtherance of the Contract. The Contractor shall maintain the confidentiality, integrity, availability, and security of Department Data by, at a minimum:

- (a) Limiting access of State of Florida Data to authorized persons;
- (b) Limiting use of State of Florida Data to the purposes of this Contract;
- (c) Utilizing appropriate physical and technical controls to secure and control access to State of Florida Data, including but not limited to multi-factor authentication, regular access level review, and unusual activity monitoring;
- (d) Encrypting State of Florida Data on any information technology medium, At-Rest, In-Use, or In-Transit; and
- (e) Conducting risk assessments, penetration testing, and vulnerability scans.

The Contractor shall be responsible for ensuring that all third-party entities it contracts with to maintain, store, transport, or process State of Florida Data on its behalf will comply with these Data Security requirements. The Contractor must maintain a list of these third-party entities and make this list available to the Department on request. The Department will remain the owner of all State of Florida Data and any other data made available by the Department or on the Department's behalf to the Contractor or its subcontractors pursuant to this contract. The Contractor shall not possess or assert any lien or other right against or to any State of Florida Data under any circumstances, and does not have the right to use, sell, modify, or transfer State of Florida Data outside the scope of this contract. Violations of the foregoing may result in termination of the contract and potential legal action.

B. Incident Response.

In the event of a confirmed Security Incident involving State of Florida Data, the Contractor shall give notice to the Department within 15 minutes of becoming aware of the Security Incident. The Contractor shall make best efforts to mitigate the impact of Security Incident and preserve State of Florida Data. The Contractor shall keep the Department apprised of any major developments in the response efforts to the Security Incident and respond to Department requests for additional information within 12 hours.

Notification is required regardless of the number of people and accounts or type of Department Data affected. Within 24 hours of becoming aware of a Security Incident, the Contractor shall provide the Department with a description of the following:

- (a) A summary of the facts surrounding the Security Incident.
- (b) The type of information that was compromised.
- (c) The type and number of entities related to State of Florida Data who were, or potentially have been, affected by the Security Incident.
- (d) The estimated fiscal impact of the Security Incident, in the case of a ransomware Security Incident, the details of the ransom demanded.
- (e) The actions taken by the Contractor to protect the State of Florida Data and planned next steps.

The Contractor shall share all available information relevant to the Department. The Contractor shall answer questions and provide additional information as it becomes known. The Contractor shall provide the Department with final documentation of the Security Incident sufficient for the Department to complete an after-action report compliant with section 282.318, F.S., if applicable, including all remedial actions of the Contractor.

If the Contractor becomes aware of occurrences that have the reasonable possibility, but have not yet been confirmed, to be a Security Incident that impacts Confidential Information or Department systems, networks, connections, APIs, or other services, the Contractor shall notify the Department and take appropriate quarantine and containment measures.

Security Incidents caused by the Contractor's actions or negligence will entitle the Department to a credit commensurate with the Department's internal staffing and administrative costs associated with managing the Security Incident as determined by the Department. Regardless of the Contractor's liability for this reimbursement, the Contractor shall provide all support necessary at no cost to return the Department to its pre-incident state, credits equivalent to the time during which the Department's operations were impacted by the Security Incident, and immediately begin implementing additional security measures to prevent future Security Incidents. Such credits will not preclude the Department or the State from recovering other damages it may suffer because of the Security Incident.

- i. Florida Consumer Protection Act and Other. The Contractor is responsible for fulfilling all applicable requirements and notices under section 501.171, F.S., including those that would otherwise be the responsibility of the Department. All draft notices under section 501.171, F.S., shall be provided to the Department at least 3 Business Days prior to release for approval. The notices are deemed approved if the Department does not respond. The Contractor shall provide credit monitoring and recovery services at its own cost for those individuals affected or potentially affected by a Security Incident for a twelve-month period of time following the notification to the affected individuals of the Security Incident. The Contractor will also comply with all HIPAA requirements and any other state and federal rules and regulations regarding security of information, where applicable.

C. Third-Party Attestations

The Contractor shall conduct or have conducted an annual cybersecurity audit or similar third party testing to ensure the Contractor meets industry standards and shall provide the results to the Department. Approved audit or testing certifications include AICPA SOC 2, ISO/IEC 27001, and FedRAMP. All other audit or testing standard must be approved by the Department in writing. The Contractor shall submit this to the Department by December 31st of each Contract year or within 30 calendar days of request.

14. Subcontracting

The Contractor shall be fully responsible for all work performed under this Contract including, but not limited to, all planning, managing, implementing, operating, supporting, and warranting. If the Contractor needs to subcontract for any services with a subcontractor other than the subcontractors specified in this Contract, Exhibit 6 – Approved Subcontractor List, the Contractor shall submit a written request to the Department's Contract Manager. The written request shall include, but is not limited to, the following:

- A. The name, address and other information identifying the subcontractor;
- B. A description of the services to be performed by the subcontractor and why the Service Provider is unable to perform this service;
- C. Time of performance of the identified service;
- D. A description of how the Contractor plans to monitor the subcontractor's performance of the identified services;
- E. Documentation that the subcontractor has all licenses and has satisfied all legal requirements to provide the Services per the Contract and is approved by the Florida Department of State to transact business in the State of Florida;
- F. Documentation that the subcontractor has successfully completed work comparable in scope and specification to that required by the Contract, and is qualified both technically and financially to perform services via a subcontract;
- G. A copy of the written subcontract agreements; and
- H. Acknowledgement from the subcontractor that the subcontractor agrees to comply with all terms and conditions of the Contract. This includes but is not limited to Section 10, Liability and Worker's Compensation Insurance requirements.

All subcontractors must be approved in writing by the Department's Contract Manager before providing any Product.

The Contractor is solely responsible for insuring that the subcontractor performs as specified in the Contract and subcontract. During the term of the Contract, and subject to prior written approval of the Department's Contract Manager (i.e., approval before services are provided by a subcontractor), subcontractors may be substituted or added. The Contractor's use of a subcontractor not specified in this Contract or approved by the Department's Contract Manager as provided above shall constitute a breach of Contract.

15. Performance Deficiencies and Financial Consequences

Service Level Agreements (SLAs) dictate the levels of service delivery for individual services. One, multiple, or recurring violations of a SLA may be considered a breach of the Contract and may result in a suspension or cancellation of CSAB order(s). The Department reserves the right to determine when violation(s) of SLAs constitute a breach of the Contract or will result in a suspension or cancellation of CSAB order(s). The Department's determination of a breach of the Contract or suspension or cancellation of CSAB orders(s) will depend on the number and severity of the SLA violation(s), disruption to service, Contractor's response, and other factors.

In addition to the processes set forth in the Contract, if the Department determines that there is a performance deficiency that requires correction by the Contractor, then the Department will notify the Contractor. The correction must be made within a timeframe specified by the Department. The Contractor must provide the Department with a corrective action plan describing how the Contractor will address all performance deficiencies identified by the Department.

If the corrective action plan is unacceptable to the Department, or implementation of the plan fails to remedy the performance deficiencies, the Department will retain ten percent (10%) of the monthly billed invoice for the month(s) where the remedy was scheduled to be resolved and failed to correct the performance deficiencies. The Department may also suspend or cancel purchase order(s) or may suspend work or terminate the Contract as set forth in Contract section 5. The retainage will be withheld until the Contractor resolves the performance deficiencies. If the performance deficiencies are resolved, the Contractor may invoice the Department for the retained amount. If the Contractor fails to resolve the performance deficiencies, the retained amount will be forfeited in order to compensate the Department for the performance deficiencies, and the Department may suspend or cancel CSAB order(s) or may terminate the Contract as set forth in Contract Section 5.

16. Performance Bond

- A.** Within 30 days of contract execution, Contractor will deliver to the Department's Contract Manager a Performance Bond in the amount of sixty million dollars (\$60,000,000). The bond shall be used to guarantee at least satisfactory performance by the Contractor throughout the term of the Contract.
- B.** No sooner than two years after contract execution, if it is in the best interest of the State of Florida, as determined by the Department, the Contractor's Performance Bond may be reduced for the remainder of the term. This reduction shall require an Amendment to the Contract with the agreement by both parties.
- C.** The Performance Bond shall be maintained throughout the term of the Contract, issued by an acceptable surety company which is licensed to do business in the State of Florida, as determined by the Department, and must name the Department as the beneficiary. The insurer or bonding company shall pay losses suffered by the State directly to the Department.
- D.** The Contractor and insurer or bonding company shall provide the Department prior written notice or immediate notice upon knowledge of any attempt to cancel or to make any other material change in the status, coverage or scope of the Performance Bond, or of the Contractor's failure to pay bond premiums.
- E.** The Department shall not be responsible for any premiums or assessments on or in relation to the Performance Bond.
- F.** The Performance Bond is to protect the Department and the State against any loss sustained through failure of the Contractor's performance in accordance with the Contract. No payments shall be made to the Contractor until the Performance Bond is in place and approved by the Department in writing.
- G.** Within 30 days of contract execution, and by contract execution anniversary each year following, the Contractor shall provide the Department with a surety bond continuation certificate or other acceptable verification that the Performance Bond is valid and has been renewed for an additional year.
- H.** The Performance Bond provided under this Section shall be used solely to the extent necessary to satisfy the damage claims made by the State pursuant to the terms of the Contract. In no event shall the Performance Bond be construed as a penalty bond.

17. Warranty

Contractor warrants that all items and services provided by the Contractor under the Contract shall be free of defective material and workmanship. If there has been a breach of this warranty, the Contractor shall correct the defect at no additional charge in an agreed upon time or within the time specified in the applicable Service Level Agreement.

18. Accessibility Requirements

The Contractor shall comply with section 508 of the Rehabilitation Act of 1973, as amended and 29 U.S.C. s. 794(d), including the regulations set forth under 36 C.F.R. part 1194. Section 282.601(1), F.S., states that "state government shall, when developing, competitively procuring, maintaining, or using electronic information or information technology acquired on or after July 1, 2006, ensure that State employees with disabilities have access to and are provided with information and data comparable to the access and use by State employees who are not individuals with disabilities, unless an undue burden would be imposed on the agency.

The Contractor shall ensure all aspects of the Contract and all Products or services are provided in conformance with 28 Code of Federal Regulations Part 35, Subpart H – Web and Mobile Accessibility.

19. Preferred Price Affidavit Requirement

The Contractor shall submit to the Department, at least annually an affidavit from an authorized representative attesting that the Contractor is in compliance with the preferred pricing provision of Section 3.B. of the Contract.

20. Cooperation with the Inspector General

Pursuant to section 20.055(5), Florida Statutes, the Contractor and any subcontractors understand and will comply with their duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing.

21. Specific Appropriation

The following is the specific State funds from which the State will make payment under the contract in the first year of the contract:

APPROPRIATION LINE ITEM 2973 Special Categories Centrex and SUNCOM payments;
\$420,000,000

The Department is authorized by statute to submit budget amendments in accordance with chapter 216, F.S., to increase Specific Appropriation 2973, in the event that payments for telecommunications services exceed the amount appropriated.

22. Non-Exclusive Contract

Nothing herein is intended to assure the Contractor that it is the only vendor providing these Products to the State, nor does it prohibit the State from procuring these Products from additional vendors during the term of the Contract.

23. Entire Agreement

This Contract constitutes the full and complete Contract of the Parties hereto and supersedes any prior contracts, arrangements and communications, whether oral or written, with respect to the subject matter hereof. Each Party acknowledges that it is entering into the Contract solely on the basis of the representations contained herein, and for its own purposes and not for the benefit of any third party.

24. Survival

Upon the expiration or termination of this Contract, those provisions that expressly provide for survival shall survive in accordance with their terms. In addition, notwithstanding any provision of this Agreement identifying particular provisions as surviving expiration or termination, any other provision that, by its nature or the circumstances of its performance, is intended to or reasonably should survive such expiration or termination shall survive to the extent necessary to give effect to such provision.

SO AGREED:

STATE OF FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

Signature:

Date:

Name (printed):

Title:

CONTRACTOR NAME

Signature:

Date:

Name (printed):

Title: