

- A. supporting the marketing and management of the Contract,
- B. facilitating dispute resolution between Successful Respondent and Customers, and
- C. advising DIR of Successful Respondent's performance under the Contract.

## 9.2 Reporting and Administrative Fees

### 9.2.1 Reporting Responsibility

- A. Each month, Successful Respondent shall report all products and services purchased under the Contract. Successful Respondent shall file monthly reports to include monthly sales reports, subcontract reports, and pay the DIR Administrative Fees in accordance with the due dates specified in this Section.
- B. DIR shall have the right to verify required reports and to take any actions necessary to enforce its rights under this Section, including but not limited to, Compliance Checks of Successful Respondent's applicable Contract books. Successful Respondent will provide all required documentation at no cost.

### 9.2.2 Detailed Monthly Report

- A. Using the Vendor Sales Report (VSR) portal, Successful Respondent shall provide DIR with a monthly report in the format required by DIR detailing sales activity under the Contract for the previous month period. This included months in which there are no sales. Reports may be submitted between the first (1st) and the fifteenth (15th) of each month and are due no later than the fifteenth (15th) calendar day of the month following the month of the sale. If the 15th calendar day falls on a weekend or state or federal holiday, the report shall be due on the next business day. Per transaction, the monthly report shall include, at a minimum,: the detailed sales for the period, Customer name, invoice date, invoice number, description, quantity, MSRP or List Price, unit price, extended price, Customer Purchase Order number, contact name, Customer's complete billing address, the estimated DIR Administrative Fee for the reporting period, subcontractor name, EPEAT designation (if applicable), configuration (if applicable), contract discount percentage, actual discount percentage, negotiated contract price (if fixed price is offered instead of discount off of MSRP), and other information as required by DIR. Each report must contain all information listed above per transaction or the report will be rejected and returned to Successful Respondent for correction in accordance with this Section.
- B. Successful Respondent shall report in a manner required by DIR which is subject to change dependent upon DIR's business needs. Failure to do so may result in Contract termination.

### 9.2.3 Historically Underutilized Businesses Subcontract Reports

- A. Successful Respondent shall electronically provide each Customer with their relevant Historically Underutilized Business Subcontracting Report, pursuant to the Contract, as required by Chapter 2161, Texas Government Code. Reports shall also be submitted to DIR.
- B. Reports shall be due in accordance with the CPA rules.

#### 9.2.4 DIR Administrative Fee

- A. The DIR Administrative Fee shall be paid by Successful Respondent to DIR to defray the DIR costs of negotiating, executing, and administering the Contract. The maximum administrative fee is set by the Texas Legislature in the biennial General Appropriations Act. DIR will review monthly sales reports, close the sales period, and notify Successful Respondent of the amount of the DIR Administrative Fee no later than the fourteenth (14th) calendar day of the month following the date of the reported sale. Successful Respondent shall pay the amount of the DIR Administrative Fee by the twenty-fifth (25th) calendar day of the second month following the date of the reported sale. For example, Successful Respondent reports January sales no later than February 15th; DIR closes January sales and notifies Successful Respondent of the amount of the DIR Administrative Fee by March 14th; Successful Respondent submits payment of the DIR Administrative Fee for January sales by March 25th.
- B. DIR may change the amount of the DIR Administrative Fee upon thirty (30) calendar days written notice to Successful Respondent without the need for an amendment to the Contract.
- C. To preserve the DIR Administrative Fee in place at the time of the sale of product or service, the calculation of the DIR Administrative Fee is based on the Purchase Order date for each sale.
- D. Successful Respondent shall reference the Contract number, reporting period, and DIR Administrative Fee amount on any remittance instruments.

#### 9.2.5 Accurate and Timely Submission of Reports

- A. Successful Respondent shall submit reports and DIR Administrative Fee payments accurately and timely in accordance with the due dates specified in this Section. Successful Respondent shall correct any inaccurate reports or DIR Administrative Fee payments within three (3) business days upon written notification by DIR. Successful Respondent shall deliver any late reports or late DIR Administrative Fee payments within three (3) business days upon written notification by DIR. If Successful Respondent is unable to correct inaccurate reports or DIR Administrative Fee payments or deliver late reports and DIR Administrative Fee payments within three (3) business days, Successful Respondent shall contact DIR and provide a corrective plan of action, including the timeline for completion of correction. The corrective plan of action shall be subject to DIR approval.
- B. Should Successful Respondent fail to correct inaccurate reports or cure the delay in timely and accurate delivery of reports and payments within the corrective plan of action timeline, DIR reserves the right at DIR's expense to require an independent third-party audit of Successful Respondent's records as specified in Section [9.3 Records and Audit](#). DIR will select the auditor (and all payments to auditor will require DIR approval).
- C. Failure to timely submit three (3) reports or DIR Administrative Fee payments within any rolling twelve (12) month period may, at DIR's discretion, result in the addition of late fees of \$100/day for each day the report or payment is due (up to \$1000/month) or suspension or termination of Successful Respondent's Contract.



### 9.3 Records and Audit

- A. Acceptance of funds under the Contract by Successful Respondent acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Successful Respondent further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. Successful Respondent shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Successful Respondent and the requirement to cooperate is included in any subcontract it awards pertaining to the Contract. Under the direction of the Legislative Audit Committee, a vendor that is the subject of an audit or investigation by the State Auditor's Office must provide the State Auditor's Office with access to any information the State Auditor's Office considers relevant to the investigation or audit.
- B. Successful Respondent shall maintain adequate records to establish compliance with the Contract until the later of a period of seven (7) years after termination of the Contract or until full, final and unappealable resolution of all Compliance Check or litigation issues that arise under the Contract, whichever is later. Such records shall include per transaction: Customer name, invoice date, invoice number, description, quantity, MSRP or List Price, unit price, extended price, Customer Purchase Order number, contact name, Customer's complete billing address, the calculations supporting each administrative fee owed DIR under the Contract, Historically Underutilized Businesses Subcontracting reports, and such other documentation as DIR may request.
- C. Successful Respondent shall grant access to all paper and electronic records, books, documents, accounting procedures, practices, customer records including but not limited to contracts, agreements, purchase orders and statements of work, and any other items relevant to the performance of the Contract to the DIR Internal Audit department or DIR Contract Management staff, including the Compliance Checks designated by the DIR Internal Audit department, DIR Contract Management staff, the State Auditor's Office, and of the United States, and such other persons or entities designated by DIR for the purposes of inspecting, Compliance Checking, and/or copying such books and records.
- D. Successful Respondent shall provide copies and printouts requested by DIR without charge. DIR shall use best efforts to provide Successful Respondent ten (10) business days' notice prior to inspecting, Compliance Checking, and/or copying Successful Respondent's records. Successful Respondent's records, whether paper or electronic, shall be made available during regular office hours. Successful Respondent personnel familiar with Successful Respondent's books and records shall be available to the DIR Internal Audit department, or DIR Contract Management staff and designees as needed. Successful Respondent shall provide adequate office space to DIR staff during the performance of Compliance Check. If Successful Respondent is found to be responsible for inaccurate reports, DIR may invoice for the reasonable costs of the audit, which Successful Respondent must pay within thirty (30) calendar days of receipt.

- E. For procuring State Agencies whose payments are processed by the CPA, the volume of payments made to Successful Respondent through the CPA and the administrative fee based thereon shall be presumed correct unless Successful Respondent can demonstrate to DIR's satisfaction that Successful Respondent's calculation of DIR's administrative fee is correct.

#### **9.4 Contract Administration Notification**

- A. Prior to execution of the Contract, Successful Respondent shall provide DIR with written notification of the following:
  - i) Successful Respondent Contract Manager's name and contact information,
  - ii) Successful Respondent sales representative name and contact information, and
  - iii) name and contact information of Successful Respondent personnel responsible for submitting reports and payment of DIR Administrative Fees.
- B. Upon execution of the Contract, DIR shall provide Successful Respondent with written notification of the DIR Contract Manager's name and contact information.

### **10 SUCCESSFUL RESPONDENT RESPONSIBILITIES**

#### **10.1 Indemnification**

##### **10.1.1 Indemnities by Successful Respondent**

- A. Successful Respondent shall defend, indemnify, and hold harmless DIR, the State of Texas, and Customers, AND/OR THEIR OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, SUCCESSORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, resulting from, or related to:
  - i) any acts or omissions of Successful Respondent, its employees, or Third Party Providers in or in connection with the execution or performance of the Contract and any Purchase Orders issued under the Contract;
  - ii) any and all third party claims involving infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights (an "Infringement") in or in connection with the execution or performance of the Contract and any Purchase Orders issued under the Contract;
  - iii) any breach, disclosure, or exposure of data or information of or regarding DIR or any Customer that is provided to or obtained by Successful Respondent in connection with the Contract, including DIR data, Customer data, confidential information of DIR or Customer, any personal identifying information, or any other protected or regulated data by Successful Respondent, its employees, representatives, agents, or subcontractors in or in connection with the execution or performance of the Contract and any Purchase Orders issued under the Contract; and
  - iv) tax liability, unemployment insurance or workers' compensation or expectations of benefits by Successful Respondent, its employees, representatives, agents, or subcontractors in or in connection with the execution or performance of the Contract and any Purchase Orders issued under the Contract.
- B. THE DEFENSE SHALL BE COORDINATED BY SUCCESSFUL RESPONDENT WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED



DEFENDANTS IN ANY LAWSUIT AND SUCCESSFUL RESPONDENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. FOR NON-STATE AGENCY CUSTOMERS, THE DEFENSE SHALL BE COORDINATED BY CUSTOMER'S LEGAL COUNSEL. SUCCESSFUL RESPONDENT AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER AND TO DIR OF ANY SUCH CLAIM.

#### 10.1.2 Infringements

If Successful Respondent becomes aware of an actual or potential claim of an Infringement, or Customer provides Successful Respondent with notice of an actual or potential claim of an Infringement, Successful Respondent may (or in the case of an injunction against Customer, shall), at Successful Respondent's sole expense: (i) procure for Customer the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that Customer's use is non-infringing.

#### 10.2 Property Damage

IN THE EVENT OF LOSS, DAMAGE, OR DESTRUCTION OF ANY PROPERTY OF CUSTOMER OR THE STATE DUE TO THE NEGLIGENCE, MISCONDUCT, WRONGFUL ACT OR OMISSION ON THE PART OF SUCCESSFUL RESPONDENT, ITS EMPLOYEES, AGENTS, REPRESENTATIVES, OR SUBCONTRACTORS, SUCCESSFUL RESPONDENT SHALL PAY THE FULL COST OF EITHER REPAIR, RECONSTRUCTION, OR REPLACEMENT OF THE PROPERTY, AT THE CUSTOMER'S SOLE ELECTION. SUCH COST SHALL BE DETERMINED BY THE CUSTOMER AND SHALL BE DUE AND PAYABLE BY SUCCESSFUL RESPONDENT NINETY (90) CALENDAR DAYS AFTER THE DATE OF SUCCESSFUL RESPONDENT'S RECEIPT FROM THE CUSTOMER OF A WRITTEN NOTICE OF THE AMOUNT DUE.

#### 10.3 Taxes/Worker's Compensation/Unemployment Insurance

Successful Respondent agrees and acknowledges that during the existence of the Contract, Successful Respondent shall be entirely responsible for the liability and payment of Successful Respondent's and its employees' taxes of whatever kind, arising out of the performances in the Contract. Successful Respondent agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and workers' compensation. Successful Respondent agrees and acknowledges that Successful Respondent and its employees, representatives, agents, and subcontractors shall not be entitled to any state benefit or benefit of another governmental entity Customer. Customer, DIR, and/or the State shall not be liable to Successful Respondent, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or workers' compensation or any benefit available to a state employee or employee of another governmental entity Customer.

#### 10.4 Successful Respondent Certifications

- A. Successful Respondent represents and warrants that, in accordance with Section 2155.005, Texas Government Code, neither Successful Respondent nor the firm, corporation, partnership, or institution represented by Successful Respondent, or anyone acting for such a firm, corporation or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws, or (2) communicated directly or indirectly the contents of this Response to any competitor or any other person engaged in the same line of business as Successful Respondent.
- B. Successful Respondent hereby certifies, represents, and warrants, on behalf of Successful Respondent that:
- i) it has not given, offered to give, and do not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract;
  - ii) it is not currently delinquent in the payment of any franchise tax owed the State and is not ineligible to receive payment under Section 231.006, Texas Family Code, and acknowledge the Contract may be terminated and payment withheld if this certification is inaccurate;
  - iii) neither it, nor anyone acting for it, has violated the antitrust laws of the United States or the State, nor communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage;
  - iv) it has not received payment from DIR or any of its employees for participating in the preparation of the Contract;
  - v) under Section 2155.004, Texas Government Code, the individual or business entity named in the Contract is not ineligible to receive the Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate;
  - vi) to the best of its knowledge and belief, there are no suits or proceedings pending or threatened against or affecting Successful Respondent, which if determined adversely to Successful Respondent, will have a material adverse effect on the ability to fulfill its obligations under the Contract;
  - vii) Successful Respondent and its principals are not suspended or debarred from doing business with the federal government as listed in the System for Award Management (SAM) maintained by the General Services Administration, nor is Successful Respondent subject to any Federal Executive Orders issued banning certain entities or countries.
  - viii) as of the Effective Date, it is not listed in any of the Divestment Statute Lists published on the Texas State Comptroller's website (<https://comptroller.texas.gov/purchasing/publications/divestment.php>);
  - ix) in the performance of the Contract, Successful Respondent shall purchase products and materials produced in the State of Texas when available at the price and time comparable to products and materials produced outside the state, to the extent that such is required under Section 2155.4441, Texas Government Code;



- x) all equipment and materials to be used in fulfilling the requirements of the Contract are of high-quality and consistent with or better than applicable industry standards, if any. All works and services performed pursuant to the Contract shall be of high professional quality and workmanship and according consistent with or better than applicable industry standards, if any;
- xi) to the extent Successful Respondent owes any debt including, but not limited to, delinquent taxes, delinquent student loans, and child support owed to the State of Texas, any payments or other amounts Successful Respondent is otherwise owed under the Contract may be applied toward any debt Successful Respondent owes the State of Texas until the debt is paid in full;
- xii) it is in compliance Section 669.003, Texas Government Code, relating to contracting with executive head of a state agency;
- xiii) the provision of goods and services or other performance under the Contract will not constitute an actual or potential conflict of interest and certify that Successful Respondent will not reasonably create the appearance of impropriety, and, if these facts change during the course of the Contract, certify Successful Respondent shall disclose the actual or potential conflict of interest and any circumstances that create the appearance of impropriety;
- xiv) under Section 2155.006 and Section 2261.053, Texas Government Code, it is not ineligible to receive the Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate;
- xv) it has complied with the Section 556.0055, Texas Government Code, restriction on lobbying expenditures. In addition, Successful Respondent acknowledges the applicability of Section 2155.444 and Section 2155.4441, Texas Government Code, in fulfilling the terms of the Contract;
- xvi) Customer's payment and their receipt of appropriated or other funds under this Agreement are not prohibited by Section 556.005 or Section 556.008, Texas Government Code;
- xvii) in accordance with Section 2271.002, Texas Government Code, by signature hereon, Successful Respondent does not boycott Israel and will not boycott Israel during the term of the Contract;
- xviii) in accordance with Section 2155.0061, Texas Government Code, the individual or business entity named in the Contract is not ineligible to receive the Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate;
- xix) in accordance with Section 2252.152, Texas Government Code, it is not identified on a list prepared and maintained under Section 2270.0201 (previously 806.051) or Section 2252.153, Texas Government Code;
- xx) if Successful Respondent is required to make a verification pursuant to Section 2274.002, Texas Government Code, Successful Respondent verifies that it does not boycott energy companies and will not boycott energy companies during the term of the Contract;
- xxi) if Successful Respondent is required to make a verification pursuant to Section 2274.002, Texas Government Code, Successful Respondent verifies that it (A) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (B) will not discriminate during the term of the contract against a firearm entity or firearm trade association;

- xxii) under Section 161.0085, Texas Health and Safety Code, Successful Respondent is not ineligible to receive the Contract;
  - xxiii) if Successful Respondent is required to make a certification pursuant to Section 2274.0101, Texas Government Code, (A) Successful Respondent, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of Successful Respondent, is not owned by or the majority of stock or other ownership interest of Respondent is not held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a country designated by the Governor as a threat to critical infrastructure; (B) Successful Respondent, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of Successful Respondent, is not owned by or the majority of stock or other ownership interest of Successful Respondent is not held or controlled by a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a country designated by the Governor as a threat to critical infrastructure; and (C) Successful Respondent, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of Successful Respondent, is not headquartered in China, Iran, North Korea, Russia, or a country designated by the Governor as a threat to critical infrastructure;
  - xxiv) if the services to be provided under a Purchase Order include cloud computing services, Successful Respondent shall comply with the requirements of the Texas Risk and Authorization Management Program (“TX-RAMP”), as provided by 1 TAC §§ 202.27 and 202.77, and the TX-RAMP Program Manual (“Program Manual”). Successful Respondent shall maintain program compliance and certification throughout the term of such Purchase Order, including providing all quarterly and ongoing documentation required by the Program Manual and any other continuous monitoring documentation or artifacts required by the Customer issuing such Purchase Order. Upon request from DIR or the Customer issuing such Purchase Order, Successful Respondent shall provide all documents and information necessary to demonstrate Successful Respondent’s compliance with TX-RAMP; and
  - xxv) all information provided by Successful Respondent is current, accurate, and complete.
- C. During the term of the Contract, Successful Respondent shall promptly disclose to DIR all changes that occur to the foregoing certifications, representations, and warranties. Successful Respondent covenants to fully cooperate in the development and execution of resulting documentation necessary to maintain an accurate record of the certifications, representations, and warranties and any changes thereto.
- D. In addition, Successful Respondent understands and agrees that if Successful Respondent responds to certain Customer pricing requests, then, in order to contract with the Customer, Successful Respondent may be required to comply with additional terms and conditions or certifications that an individual customer may require due to state and federal law (e.g., privacy and security requirements).

### **10.5 Ability to Conduct Business in Texas**

Successful Respondent shall be authorized and validly existing under the laws of its state of organization and shall be authorized to do business in the State of Texas in accordance with Texas Business Organization Code, Title 1, Chapter 9. Upon request by DIR, Successful Respondent shall provide all



documents and other information necessary to establish Successful Respondent's authorization to do business in the State of Texas and the validity of Successful Respondent's existence under the laws of its state of organization.

#### **10.6 Equal Opportunity Compliance**

Successful Respondent agrees to abide by all applicable laws, regulations, and executive orders pertaining to equal employment opportunity, including federal laws and the laws of the State of Texas in which its primary place of business is located. In accordance with such laws, regulations, and executive orders, Successful Respondent agrees that no person in the United States shall, on the grounds of race, color, religion, national origin, sex, age, veteran status or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed by Successful Respondent under the Contract. If Successful Respondent is found to be not in compliance with these requirements during the term of the Contract, Successful Respondent agrees to take appropriate steps to correct these deficiencies. Upon request, Successful Respondent will furnish information regarding its nondiscriminatory hiring and promotion policies, as well as specific information on the composition of its principals and staff, including the identification of minorities and women in management or other positions with discretionary or decision-making authority.

#### **10.7 Use of Subcontractors**

If Successful Respondent uses any subcontractors in the performance of the Contract, Successful Respondent must make a good faith effort in the submission of its HUB Subcontracting Plan (HSP) in accordance with the State's Policy on Utilization of Historically Underutilized Businesses (HUB). A revised HSP approved by DIR's HUB Office shall be required before Successful Respondent can engage additional subcontractors in the performance of the Contract. A revised HSP approved by DIR's HUB Office shall be required before Successful Respondent can remove subcontractors currently engaged in the performance of the Contract. Successful Respondent shall remain solely responsible for the performance of its obligations under the Contract.

#### **10.8 Responsibility for Actions**

- A. Successful Respondent is solely responsible for its actions and those of its agents, employees, or subcontractors, and agrees that neither Successful Respondent nor any of the foregoing has any authority to act or speak on behalf of DIR or the State.
- B. Successful Respondent, for itself and on behalf of its subcontractors, shall report to the DIR Contract Manager within five (5) business days any change to the information contained in the Certification Statement of **Exhibit A** of the RFO or Section 10.4, Successful Respondent Certifications of this Appendix A to the Contract. Successful Respondent covenants to fully cooperate with DIR to update and amend the Contract to accurately disclose employment of current or former State employees and their relatives and/or the status of conflicts of interest.

#### **10.9 Confidentiality**

- A. Successful Respondent acknowledges that DIR and Customers that are governmental bodies as defined by Section 552.003, Texas Government Code, are subject to the Texas Public Information Act. Successful Respondent also acknowledges that DIR and Customers that are state agencies will comply with the Public Information Act, and with all opinions of the Texas Attorney General's office concerning this Act.

- B. Under the terms of the Contract, DIR may provide Successful Respondent with information related to Customers. Successful Respondent shall not re-sell or otherwise distribute or release Customer information to any party in any manner.

#### **10.10 Security of Premises, Equipment, Data and Personnel**

- A. Successful Respondent or Third-Party Providers may, from time to time during the performance of the Contract, have access to the personnel, premises, equipment, and other property, including data, information, files, and materials belonging to a Customer. Successful Respondent and Third-Party Providers shall preserve the safety, security, and the integrity of such personnel, premises, equipment, and other property, including data, information, files, and materials belonging to Customer, in accordance with the instruction of Customer and to the degree in which Successful Respondent or such Third-Party Provider protects its own information. Successful Respondent shall be responsible for damage to Customer's equipment, workplace, and its contents when such damage is caused by Successful Respondent or a Third-Party Provider. If Successful Respondent or Third-Party Provider fails to comply with Customer's security requirements, then Customer may immediately terminate the Purchase Order and related Service Agreement.
- B. If a Purchase Order is subject to Section 2054.138, Texas Government Code, Successful Respondent shall meet the security controls required by such Purchase Order, and shall periodically provide to the Customer evidence that Successful Respondent meets such required security controls.

#### **10.11 Background and/or Criminal History Investigation**

Prior to commencement of any services, background and/or criminal history investigation of Successful Respondent's employees and Third-Party Providers who will be providing services to the Customer under the Contract may be performed by the Customer or the Customer may require that Successful Respondent conduct such background checks. Should any employee or Third-Party Provider of Successful Respondent who will be providing services to the Customer under the Contract not be acceptable to the Customer as a result of the background and/or criminal history check, then Customer may immediately terminate its Purchase Order and related Service Agreement or request replacement of the employee or Third-Party Provider in question.

#### **10.12 Limitation of Liability**

- A. For any claim or cause of action arising under or related to the Contract, to the extent permitted by the Constitution and the laws of the State, none of the parties shall be liable to the other for punitive, special, or consequential damages, even if it is advised of the possibility of such damages.
- B. Successful Respondent and a Customer may include in a Purchase Order a term limiting Successful Respondent's liability for damages in any claim or cause of action arising under or related to such Purchase Order; provided that any such term may not limit Successful Respondent's liability below two-times the total value of the Purchase Order. Such value includes all amounts paid and amounts to be paid over the life of the Purchase Order to Successful Respondent by such Customer as described in the Purchase Order.
- C. Notwithstanding the foregoing or anything to the contrary herein, any limitation of Successful Respondent's liability contained herein or in a Purchase Order shall not apply to: claims of bodily



injury; violation of intellectual property rights including but not limited to patent, trademark, or copyright infringement; indemnification requirements under the Contract; and violation of State or Federal law including but not limited to disclosures of confidential information and any penalty of any kind lawfully assessed as a result of such violation.

#### **10.13 Overcharges**

Successful Respondent hereby assigns to DIR any and all of its claims for overcharges associated with the Contract which arise under the antitrust laws of the United States, 15 U.S.C.A. Section 1, et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. and Comm. Code Section 15.01, et seq.

#### **10.14 Prohibited Conduct**

Successful Respondent represents and warrants that, to the best of its knowledge as of the date of this certification, neither Successful Respondent nor any subcontractor, firm, corporation, partnership, or institution represented by Successful Respondent, nor anyone acting for Successful Respondent or such subcontractor, firm, corporation or institution has: (1) violated the antitrust laws of the State of Texas under Texas Business & Commerce Code, Chapter 15, or the federal antitrust laws; or (2) communicated its response to the RFO directly or indirectly to any competitor or any other person engaged in such line of business during the procurement for the Contract.

#### **10.15 Required Insurance Coverage**

- A. As a condition of the Contract, Successful Respondent shall provide the listed insurance coverage within five (5) business days of execution of the Contract if Successful Respondent is awarded services which require that Successful Respondent's employees perform work at any Customer premises or use vehicles to conduct work on behalf of Customers. In addition, when engaged by a Customer to provide services on Customer premises, Successful Respondent shall, at its own expense, secure and maintain the insurance coverage specified herein, and shall provide proof of such insurance coverage to such Customer within five (5) business days following the execution of the Purchase Order. Successful Respondent may not begin performance under the Contract and/or a Purchase Order until such proof of insurance coverage is provided to, and approved by, DIR and the Customer. If Successful Respondent's services under the Contract will not require Successful Respondent to perform work on Customer premises, or to use vehicles (whether owned or otherwise) to conduct work on behalf of Customers, Successful Respondent may certify to the foregoing facts, and agree to provide notice and the required insurance if the foregoing facts change. The certification and agreement must be provided by executing the Certification of Off-Premise Customer Services in the form provided by DIR, which shall serve to meet the insurance requirements.
- B. All required insurance must be issued by companies that have an A rating and a minimum Financial Size Category Class of VII from AM Best, and are licensed in the State of Texas and authorized to provide the corresponding coverage. The Customer and DIR will be named as additional insureds on all required coverage. Required coverage must remain in effect through the term of the Contract and each Purchase Order issued to Successful Respondent thereunder. The minimum acceptable insurance provisions are as follows:

### 10.15.1 Commercial General Liability

Commercial General Liability must include \$1,000,000.00 per occurrence for Bodily Injury and Property Damage with a separate aggregate limit of \$2,000,000.00; Medical Expenses per person of \$5,000.00; Personal Injury and Advertising Liability of \$1,000,000.00; Products/Completed Operations aggregate Limit of \$2,000,000.00 and Damage to Premises Rented: \$50,000.00. Agencies may require additional Umbrella/Excess Liability insurance. The policy shall contain the following provisions:

- A. Blanket contractual liability coverage for liability assumed under the Contract;
- B. Independent Contractor coverage;
- C. State of Texas, DIR, and Customer listed as an additional insured; and
- D. Waiver of Subrogation.

### 10.15.2 Workers' Compensation Insurance

Workers' Compensation Insurance and Employers' Liability coverage must include limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Title 5, Subtitle A, Texas Labor Code) and minimum policy limits for Employers' Liability of \$1,000,000 per accident, \$1,000,000 disease PER EMPLOYEE and \$1,000,000 per disease POLICY LIMIT.

### 10.15.3 Business Automobile Liability Insurance

Business Automobile Liability Insurance must cover all owned, non-owned, and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. The policy shall contain the following endorsements in favor of DIR and/or Customer:

- A. Waiver of subrogation;
- B. Additional insured.

## 10.16 Use of State Property

Successful Respondent is prohibited from using a Customer's equipment, location, or any other resources of a Customer, DIR, or the State of Texas for any purpose other than performing services under this Agreement. For this purpose, equipment includes, but is not limited to, copy machines, computers and telephones using State of Texas long distance services. Any charges incurred by Successful Respondent using a Customer's equipment for any purpose other than performing services under this Agreement must be fully reimbursed by Successful Respondent to such Customer immediately upon demand by such Customer. Such use shall constitute breach of contract and may result in termination of the Contract, the Purchase Order, and other remedies available to DIR and Customer under the Contract and applicable law.

## 10.17 Immigration

- A. Successful Respondent shall comply with all requirements related to federal immigration laws and regulations, to include but not be limited to, the Immigration and Reform Act of 1986, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") and the Immigration Act of 1990 (8 U.S.C.1101, et seq.) regarding employment verification and retention of verification forms for any individual(s) who will perform any labor or services under the Contract.
- B. Pursuant to Chapter 673, Texas Government Code, Successful Respondent shall, as a condition of the Contract, also comply with the United States Department of Homeland Security's E-Verify system to determine the eligibility of:



- i) all persons 1) to whom the E-Verify system applies, and 2) who are hired by Successful Respondent during the term of the Contract to perform duties within Texas; and
  - ii) all subcontractors' employees 1) to whom the E-Verify system applies, and 2) who are hired by the subcontractor during the term of the Contract and assigned by the subcontractor to perform work pursuant to the Contract.
- C. Successful Respondent shall require its subcontractors to comply with the requirements of this Section and Successful Respondent is responsible for the compliance of its subcontractors. Nothing herein is intended to exclude compliance by Successful Respondent and its subcontractors with all other relevant federal immigration statutes and regulations promulgated pursuant thereto.

#### **10.18 Public Disclosure**

No public disclosures or news releases pertaining to the Contract shall be made by Successful Respondent without prior written approval of DIR.

#### **10.19 Product and/or Services Substitutions**

Substitutions are not permitted without the prior written consent of DIR or Customer.

#### **10.20 Secure Erasure of Hard Disk Managed Services Products and/or Services**

Successful Respondent agrees that all managed service products and/or services equipped with hard disk drives (e.g., computers, telephones, printers, fax machines, scanners, multifunction devices) shall have the capability to securely erase, destroy, or render unreadable data written to the hard drive prior to final disposition of such managed service products and/or services, either at the end of the managed service product and/or services' useful life or at the end of the Customer's managed service product and/or services' useful life or the end of the related Purchase Order for such products and/or services, in accordance with 1 TAC 202 or NIST 800-88.

#### **10.21 Deceptive Trade Practices; Unfair Business Practices**

- A. Successful Respondent represents and warrants that neither Successful Respondent nor any of its subcontractors has been (i) found liable in any administrative hearing, litigation or other proceeding of Deceptive Trade Practices violations as defined under Chapter 17, Texas Business & Commerce Code, or (ii) has outstanding allegations of any Deceptive Trade Practice pending in any administrative hearing, litigation or other proceeding.
- B. Successful Respondent certifies that it has no officers who have served as officers of other entities who (i) have been found liable in any administrative hearing, litigation or other proceeding of Deceptive Trade Practices violations or (ii) have outstanding allegations of any Deceptive Trade Practice pending in any administrative hearing, litigation or other proceeding.

#### **10.22 Drug Free Workplace Policy**

Successful Respondent shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (41 U.S.C. §§8101-8106) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (Financial Assistance), issued by the Office of Management and Budget (2 C.F.R. Part 280, Subpart F182) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

### **10.23 Public Information**

- A. Pursuant to Section 2252.907, Texas Government Code, Successful Respondent is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.
- B. Each State government entity should supplement the provision set forth in Section A, above, with the additional terms agreed upon by the parties regarding the specific format by which Successful Respondent is required to make the information accessible by the public.
- C. Successful Respondent represents and warrants that it will comply with the requirements of Section 552.372(a), Texas Government Code, where applicable. Except as provided by Section 552.374(c), Texas Government Code, the requirements of Subsection J, Chapter 552, Texas Government Code, may apply to the Contract or certain Purchase Orders, and Successful Respondent agrees that the Contract or such Purchase Orders can be terminated if Successful Respondent knowingly or intentionally fails to comply with a requirement of that subchapter.

### **10.24 Successful Respondent Reporting Requirements**

Successful Respondent shall comply with Subtitle C, Title 5, Business & Commerce Code, Chapter 109, requiring computer technicians to report images of child pornography.

### **10.25 Cybersecurity Training**

In accordance with Section 2054.5192, Texas Government Code, for any contract with a state agency or institution of higher education, if Successful Respondent, or a subcontractor, officer, or employee of Successful Respondent, will have access to a state computer system or database, then Successful Respondent shall ensure that such officer, employee, or subcontractor shall complete a cybersecurity training program certified under Section 2054.519, Texas Government Code, as selected by Customer state agency or institution of higher education. The cybersecurity training program must be completed by such officer, employee, or subcontractor during the term of the Contract and during any renewal period. Successful Respondent shall verify to the Customer state agency or institution of higher education completion of the program by each such officer, employee, or subcontractor.

## **11 CONTRACT ENFORCEMENT**

### **11.1 Enforcement of Contract and Dispute Resolution**

- A. Successful Respondent and DIR agree to the following: (i) a party's failure to require strict performance of any provision of the Contract shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision, (ii) for disputes not resolved in the normal course of business, the dispute resolution process provided for in Chapter 2260, Texas Government Code, shall be used, (iii) except as provided in Sec. 2251.051 Texas Government Code, Successful Respondent shall continue performance while the dispute is being resolved, and (iv) actions or proceedings arising from the Contract shall be heard in a state court of competent jurisdiction in Travis County, Texas.
- B. Disputes arising between a Customer and Successful Respondent shall be resolved in accordance with the dispute resolution process of the Customer that is not inconsistent with the above. DIR shall not be a party to any such dispute unless DIR, Customer, and Successful Respondent agree in writing.



- C. State agencies are required by rule (34 TAC §20.108(b)) to report vendor performance through the Vendor Performance Tracking System (VPTS) on every purchase over \$25,000.00.

## 11.2 Termination

### 11.2.1 Termination for Non-Appropriation

#### 11.2.1.1 Termination for Non-Appropriation by Customer

Customers may terminate Purchase Orders if funds sufficient to pay its obligations under the Contract are not appropriated: i) by the governing body on behalf of local governments; ii) by the Texas legislature on behalf of state agencies; or iii) by budget execution authority provisioned to the Governor or the Legislative Budget Board as provided in Chapter 317, Texas Government Code. In the event of non-appropriation, Successful Respondent will be provided ten (10) calendar days written notice of intent to terminate. In the event of such termination, Customer will not be in default or breach under the Purchase Order or the Contract, nor shall it be liable for any further payments ordinarily due under the Contract, nor shall it be liable for any damages or any other amounts which are caused by or associated with such termination.

#### 11.2.1.2 Termination for Non-Appropriation by DIR

DIR may terminate the Contract if funds sufficient to pay its obligations under the Contract are not appropriated: by the i) Texas legislature or ii) by budget execution authority provisioned to the Governor or the Legislative Budget Board as provided in Chapter 317, Texas Government Code. In the event of non-appropriation, Successful Respondent will be provided thirty (30) calendar days written notice of intent to terminate. In the event of such termination, DIR will not be in default or breach under the Contract, nor shall it be liable for any further payments ordinarily due under the Contract, nor shall it be liable for any damages or any other amounts which are caused by or associated with such termination.

### 11.2.2 Absolute Right

DIR shall have the absolute right to terminate the Contract without recourse in the event that: i) Successful Respondent becomes listed on the prohibited vendors list authorized by Executive Order #13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control; ii) Successful Respondent becomes suspended or debarred from doing business with the federal government as listed in the System for Award Management (SAM) maintained by the General Services Administration; or (iii) Successful Respondent is found by DIR to be ineligible to hold the Contract under Subsection (b) of Section 2155.006, Texas Government Code. Successful Respondent shall be provided written notice in accordance with Section 14.1, Notices, of intent to terminate.

### 11.2.3 Termination for Convenience

DIR may terminate the Contract, in whole or in part, by giving the other party thirty (30) calendar days' written notice. A Customer may terminate a Purchase Order by giving the other party thirty (30) calendar days' written notice.

## 11.2.4 Termination for Cause

### 11.2.4.1 Contract

Either DIR or Successful Respondent may issue a written notice of default to the other upon the occurrence of a material breach of any covenant, certification, representation, warranty, or provision of the Contract, upon the following preconditions: first, the parties must comply with the requirements of Chapter 2260, Texas Government Code in an attempt to resolve a dispute; second, after complying with Chapter 2260, Texas Government Code, and the dispute remains unresolved, then the non-defaulting party shall give the defaulting party thirty (30) calendar days from receipt of notice to cure said default. If the defaulting party fails to cure said default within the timeframe allowed, the non-defaulting party may, at its option and in addition to any other remedies it may have available, cancel and terminate the Contract. Customers purchasing products or services under the Contract have no power to terminate the Contract for default.

### 11.2.4.2 Purchase Order

Customer or Successful Respondent may terminate a Purchase Order or other contractual document or relationship upon the occurrence of a material breach of any term or condition: (i) of the Contract, or (ii) included in the Purchase Order or other contractual document or relationship, upon the following preconditions: first, the parties must comply with the requirements of Chapter 2260, Texas Government Code, in an attempt to resolve a dispute; second, after complying with Chapter 2260, Texas Government Code, and the dispute remains unresolved, then the non-defaulting party shall give the defaulting party thirty (30) calendar days from receipt of notice to cure said default. If the defaulting party fails to cure said default within the timeframe allowed, the non-defaulting party may, at its option and in addition to any other remedies it may have available, cancel and terminate the Purchase Order. Customer may immediately suspend or terminate a Purchase Order without advance notice in the event Successful Respondent fails to comply with confidentiality, privacy, security requirements, environmental, or safety laws or regulations, if such non-compliance relates or may relate to vendor provision of goods or services to the Customer.

## 11.2.5 Immediate Termination or Suspension

DIR may immediately suspend or terminate the Contract without advance notice if DIR receives notice or knowledge of potentially criminal violations by Successful Respondent (whether or not such potential violations directly impact the provision of goods or services under the Contract). In such case, Successful Respondent may be held ineligible to receive further business or payment but may be responsible for winding down or transition expenses incurred by Customer. DIR or Customer will use reasonable efforts to provide notice (to the extent allowed by law) to Successful Respondent within five (5) business days after the suspension or termination. Successful Respondent may provide a response and request an opportunity to present its position. DIR or Customer will review Successful Respondent's presentation but is under no obligation to provide formal response.



#### 11.2.6 Customer Rights Under Termination

In the event the Contract expires or is terminated for any reason, a Customer shall retain its rights under the Contract and any Purchase Order issued prior to the termination or expiration of the Contract. The Purchase Order survives the expiration or termination of the Contract in accordance with Section 4.5.

#### 11.2.7 Successful Respondent Rights Under Termination

In the event a Purchase Order expires or is terminated, a Customer shall pay all amounts due for products or services ordered prior to the effective expiration or termination date and ultimately accepted.

### 11.3 Force Majeure

DIR, Customer, or Successful Respondent may be excused from performance under the Contract or a Purchase Order for any period when performance is prevented as the result of an act of God, strike, war, civil disturbance, epidemic, or court order (each such event, an “Event of Force Majeure”), provided that the party experiencing such Event of Force Majeure has prudently and promptly acted to take any and all steps that are within the party’s control to ensure performance and to shorten the duration or impact of the Event of Force Majeure. The party suffering an Event of Force Majeure shall provide notice of the event to the other parties when commercially reasonable. Subject to this Section, such non-performance shall not be deemed a default or a ground for termination. However, a Customer may terminate a Purchase Order if it is determined by such Customer that Successful Respondent will not be able to deliver services in a timely manner to meet the business needs of such Customer.

## 12 NON-SOLICITATION OF STATE EMPLOYEES

Successful Respondent shall not solicit, directly or indirectly, any employee of DIR who is associated with the Contract for a period of ninety (90) calendar days following the expiration or termination of the Contract. Further, Successful Respondent shall not solicit, directly or indirectly, any employee of a Customer who is associated with a Purchase Order for a period of ninety (90) calendar days following the expiration or termination of such Purchase Order.

## 13 WARRANTY

Customers may provide written notice to Successful Respondent of errors, inaccuracies, or other deficiencies in products or services provided by Successful Respondent under a Purchase Order within thirty (30) calendar days or receipt of an invoice for such products or services. Successful Respondent shall correct such error, inaccuracy, or other deficiency at no additional cost to Customer.

## **14 NOTIFICATION**

### **14.1 Notices**

All notices, demands, designations, certificates, requests, offers, consents, approvals, and other instruments given pursuant to the Contract shall be in writing and shall be validly given on: (i) the date of delivery if delivered by email, facsimile transmission, mailed by registered or certified mail, or hand delivered, or (ii) three (3) business days after being mailed via United States Postal Service. All notices under the Contract shall be sent to a party at the respective address indicated in the Contract or to such other address as such party shall have notified the other party in writing.

### **14.2 Handling of Written Complaints**

In addition to other remedies contained in the Contract, a person contracting with DIR may direct their written complaints to the following office:

Public Information Office  
Department of Information Resources  
Attn: Public Information Officer  
300 W. 15th Street, Suite 1300  
Austin, Texas 78701  
(512) 475-4759, facsimile

## **15 CAPTIONS**

The captions contained in the Contract, Appendices, and its Exhibits are intended for convenience and reference purposes only and shall in no way be deemed to define or limit any provision thereof.

**<END OF APPENDIX A>**





# HUB Subcontracting Plan (HSP)

## QUICK CHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

- If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:
  - Section 1 - Respondent and Requisition Information
  - Section 2 a. - Yes, I will be subcontracting portions of the contract.
  - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors.
  - Section 2 c. - Yes
  - Section 4 - Affirmation
  - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract in place for more than five (5) years meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:
  - Section 1 - Respondent and Requisition Information
  - Section 2 a. - Yes, I will be subcontracting portions of the contract.
  - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
  - Section 2 c. - No
  - Section 2 d. - Yes
  - Section 4 - Affirmation
  - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract in place for more than five (5) years does not meet or exceed the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:
  - Section 1 - Respondent and Requisition Information
  - Section 2 a. - Yes, I will be subcontracting portions of the contract.
  - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
  - Section 2 c. - No
  - Section 2 d. - No
  - Section 4 - Affirmation
  - GFE Method B (Attachment B) - Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2 b.
- If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources (i.e., employees, supplies, materials and/or equipment), complete:
  - Section 1 - Respondent and Requisition Information
  - Section 2 a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources.
  - Section 3 - Self Performing Justification
  - Section 4 - Affirmation

**\*Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service, to include under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.



# HUB Subcontracting Plan (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

**NOTE:** Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.284 are:

- **11.2 percent for heavy construction other than building contracts,**
- **21.1 percent for all building construction, including general contractors and operative builders' contracts,**
- **32.9 percent for all special trade construction contracts,**
- **23.7 percent for professional services contracts,**
- **26.0 percent for all other services contracts, and**
- **21.1 percent for commodities contracts.**

**- - Agency Special Instructions/Additional Requirements - -**

*In accordance with 34 TAC §20.285(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent **does not** have a **continuous contract\*** in place for **more than five (5) years** shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.*

**SECTION 1: RESPONDENT AND REQUISITION INFORMATION**

a. Respondent (Company) Name: COMPU-DATA International, LLC State of Texas VID #: 12238581784  
 Point of Contact: Juan J. Celaya Phone #: 281.292.1333 x:301  
 E-mail Address: txdir@cdlac.com Fax #: 281.966.1598

b. Is your company a State of Texas certified HUB?  - Yes  - No

c. Requisition #: DIR-TSO-TMP-419 Bid Open Date: 12-12-2018  
(mm/dd/yyyy)



Enter your company's name here: COMPU-DATA International, LLC Requisition #: DIR-TSO-TMP-419

**SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS**

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, **including contracted staffing, goods and services will be subcontracted**. Note: In accordance with 34 TAC §20.282, a "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

- a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:
- *Yes*, I will be subcontracting portions of the contract. (If *Yes*, complete Item b of this SECTION and continue to Item c of this SECTION.)
  - *No*, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods and services. (If *No*, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <b>do not</b> have a <b>continuous contract*</b> in place for <b>more than five (5) years</b> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <b>continuous contract*</b> in place for <b>more than five (5) years</b> .	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>.)

- c. Check the appropriate box (Yes or No) that indicates whether you will be using **only** Texas certified HUBs to perform **all** of the subcontracting opportunities you listed in SECTION 2, Item b.
- *Yes* (If *Yes*, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
  - *No* (If *No*, continue to Item d, of this SECTION.)

- d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract **with Texas certified HUBs** with which you **do not** have a **continuous contract\*** in place with for **more than five (5) years**, **meets or exceeds** the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements."
- *Yes* (If *Yes*, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
  - *No* (If *No*, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed.)

**\*Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: COMPU-DATA International, LLC

Requisition #: DIR-TSO-TMP-419

**SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)**

This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <u>do not</u> have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

**\*Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.



Enter your company's name here: COMPU-DATA International, LLCRequisition #: DIR JSO TRM 419

**SECTION 3: SELF PERFORMING JUSTIFICATION** (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.) If you responded "No" to SECTION 2, Item a, in the space provided below **explain how** your company will perform the entire contract with its own employees, supplies, materials and/or equipment.

COMPU-DATA International has been successful in offering multiple DIR Contracts over the past 10+ years. COMPU-DATA does have the resources and ability to ensure the successful performance of this contract in its entirety.

**SECTION 4: AFFIRMATION**

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature on file

Signature

Juan J. Celaya

Printed Name

President & CEO

Title

03/24/2022Date  
(mm/dd/yyyy)

**Reminder:**

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.





# HSP Good Faith Effort - Method B (Attachment B)

Rev. 2/17

Enter your company's name here: <u>COMPU-DATA International, LLC</u>	Requisition #: <u>DIR-TSO-TMP-419</u>
--	---------------------------------------

**IMPORTANT:** If you responded "No" to SECTION 2, Items c and d of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed in SECTION 2, Item b of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

## SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: \_\_\_\_\_ Description: \_\_\_\_\_

## SECTION B-2: MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in SECTION B-1, constitutes a good faith effort to subcontract with a Texas certified HUB towards that **specific** portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

- Yes (If *Yes*, continue to SECTION B-4.)
- No / Not Applicable (If *No* or *Not Applicable*, continue to SECTION B-3 and SECTION B-4.)

## SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you **MUST** comply with items **a, b, c and d**, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/HUBSubcontractingOpportunityNotificationForm.pdf>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.

- a. Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs **at least seven (7) working days** to respond to the notice prior to you submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.
- b. List the **three (3) Texas certified HUBs** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Texas Vendor Identification (VID) Number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	Texas VID <small>(Do not enter Social Security Numbers.)</small>	Date Notice Sent <small>(mm/dd/yyyy)</small>	Did the HUB Respond?
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

- c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to **two (2)** or more trade organizations or development centers in **Texas** to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers **at least seven (7) working days** prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>.

- d. List **two (2) trade organizations or development centers** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent <small>(mm/dd/yyyy)</small>	Was the Notice Accepted?
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No



# HSP Good Faith Effort - Method B (Attachment B) Cont.

Rev. 2/17

Enter your company's name here: <u>COMPU-DATA International, LLC</u>	Requisition #: <u>DIR-TSO-TMP-419</u>
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**SECTION B-4: SUBCONTRACTOR SELECTION**

Enter the item number and description of the subcontracting opportunity you listed in **SECTION 2, Item b**, of the completed HSP form for which you are completing the attachment.

a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: \_\_\_\_\_ Description: \_\_\_\_\_

b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in **SECTION B-1**. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in **SECTION B-1** is **not** a Texas certified HUB, provide **written** justification for your selection process (attach additional page if necessary):

**REMINDER:** As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to **all** the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract **no later than ten (10) working days** after the contract is awarded.





**Appendix C Pricing Index  
DIR-CPO-4827  
CompuData, Inc.**

<b>Monochrome, B&amp;W MFD</b>	
Volume Band M1	1 - 30 Pages Per Minute (PPM)
Volume Band M2	31 - 49 Pages Per Minute (PPM)
Volume Band M3	50 - 68 Pages Per Minute (PPM)
Volume Band M4	69 - 89 Pages Per Minute (PPM)
Volume Band M5	90 + Pages Per Minute (PPM)
<b>Color and B&amp;W MFD</b>	
Volume Band C1	1 - 30 Pages Per Minute (PPM)
Volume Band C2	31 - 50 Pages Per Minute (PPM)
Volume Band C3	51 + Pages Per Minute (PPM)

<b>MANAGED PRINT SERVICES, NETWORK DEVICES, NON-NETWORK DEVICES and RELATED SERVICES</b>				
<b>Category</b>	<b>Subcategory</b>	<b>Brand</b>	<b>Description</b>	<b>Discount</b>
MPS	Non-MFD	Epson	WorkForce Color Scanner DS70	30.00%
MPS	Non-MFD	Epson	WorkForce Color Scanner DS80W	31.00%
MPS	Non-MFD	Epson	Expression Photo Scanner - Expression 12000XL-GA, Graphic	18.00%
MPS	Non-MFD	Epson	Expression Photo Scanner - Expression 12000XL-GA, Photo	10.00%
MPS	Non-MFD	Epson	WorkForce Color Scanner - DS-50000, A3 Flatbed	23.00%
MPS	Non-MFD	Epson	WorkForce Color Scanner - DS-60000	23.00%
MPS	Non-MFD	Epson	WorkForce Color Scanner - DS-70000	24.00%
MPS	Non-MFD	Epson	WorkForce Color Scanner - DS-6500	22.00%
MPS	Non-MFD	Epson	WorkForce Color Scanner - DS-7500	24.00%
MPS	Non-MFD	Epson	Color Scanner - DS-32000	24.00%
MPS	Non-MFD	Epson	Perfection Photo Scanner - V850-M Pro	18.00%
MPS	Non-MFD	Epson	WorkForce Color Scanner - DS-780N	28.00%
MPS	Non-MFD	Epson	WorkForce Color Scanner - DS-1630	31.00%
MPS	Non-MFD	Epson	WorkForce Color Scanner - DS-320	30.00%
MPS	Non-MFD	Epson	WorkForce Color Scanner - DS-410	28.00%
MPS	Non-MFD	Epson	WorkForce Color Scanner - DS-870	33.00%
MPS	Non-MFD	Epson	WorkForce Color Scanner - DS-970	28.00%
MPS	Non-MFD	Epson	Color Scanner- DS-30000	24.00%
MPS	Non-MFD	Epson	WorkForce Color Scanner - DS-730N	28.00%
MPS	Non-MFD	Epson	WorkForce Color Scanner - DS-530II	26.00%
MPS	Non-MFD	Epson	WorkForce Color Scanner - DS-770 II	30.00%
MPS	Non-MFD	Epson	WorkForce Color Scanner - DS-575W II	26.00%
MPS	Non-MFD	Epson	WorkForce Pro Printer- WF-C5790	5.00%
MPS	Non-MFD	Epson	WorkForce Pro WidePrinter- WF-C8190	5.00%
MPS	Non-MFD	Epson	WorkForce Pro Printer-WF-M5799	5.00%
MPS	Non-MFD	Kodak	i940 Scanner	22.00%



MPS	Non-MFD	Kodak	S2050, 2060, 2060, 2070, 2080W, s2985f Scanners	10.00%
MPS	Non-MFD	Kodak	S3120, i4250, i4650, i4850, i5250, Scanners	10.00%
MPS	Non-MFD	Kodak	i5650, i5650V, i5650S Scanners	10.00%
MPS	Non-MFD	Kodak	ScanStation 730EX+	15.00%
MPS	Maintenance	Kodak	Extended Warranties for S20xxx Scanners	5.00%
MPS	Maintenance	Kodak	Extended Warranties for i52x0, and i56xxx Scanners	10.00%
MPS	Maintenance	Kodak	Flatbeds: A3 size; Integrated Legal; Integrated Passport; and Legal size	5.00%

**MANAGED PRINT SERVICES, NETWORK DEVICES, NON-NETWORK DEVICES and RELATED SERVICES**

Category	Subcategory	Brand	Description	Discount
Related Services	Operational Assurance	CompuData	Remote service to ensure the electronic equipment is properly installed and working.	14.00%

**MANAGED PRINT SERVICES, NETWORK DEVICES, NON-NETWORK DEVICES and ACCESSORIES**

Category	Subcategory	Brand	Description	Discount
Accessory	Network Scan Modules	Epson	Network Scan Module. Supports the following scanners: DS-50000, DS-60000, DS-6500, DS-70000, DS-7500, DS-1630	5.00%
Accessory	Network Scan Modules	Epson	Carrier Sheet, Carrier Sheet 2, and Passport	10.00%
Accessory	Network Scan Modules	Epson	Roller Access Kits for DS-6500, DS-7500, DS-60000, and DS-7000	10.00%
Accessory	Network Scan Modules	Epson	Pickup Roller for DS-320	8.00%
Accessory	Network Scan Modules	Epson	Pickup and Separation Rollers, DS-30000 Series	10.00%
Accessory	Network Scan Modules	Epson	Roller Assembly Kit II	10.00%
Accessory	Extended Warranty	Epson	Extended Warranties (1 year) for MidVol and High End Scanners	5.00%
Accessory	Extended Warranty	Epson	Extended Warranties (1 year) for Perfection V850-M Pro Scanner	5.00%

**DOCUMENT IMAGING SERVICES**

Category	Subcategory	Brand	Description	Discount
DIS	Imaging Services/Solutions	N/A	Black and White Image Captures Low (200 DPI), Medium (300 DPI), High (400 DPI), Very High (600 DPI+)	20.00%
DIS	Imaging Services/Solutions	N/A	Color Image Captures Medium (300 DPI), High (400 DPI), Very High (600 DPI+)	20.00%
DIS	Imaging Services/Solutions	N/A	Large Format Image Capture Medium (300 DPI), High (400 DPI), Very High (600 DPI+)	20.00%

DIS	Imaging Services/ Solutions	N/A	Image Processing Low (200 DPI), Medium (300 DPI), High (400 DPI), Very High (600 DPI+)	20.00%
DIS	Imaging Services/ Solutions	N/A	Microfiche, Specialized Microfiche, Microfilm, Conversion to Digital Images	20.00%
DIS	Imaging Services/ Solutions	N/A	Index Field - Type 1 (Up to 15 Characters, 16-30 Characters, and 31-45 Characters)	20.00%
DIS	Imaging Services/ Solutions	N/A	Index Field - Type 2 (Up to 15 Characters, 16-30 Characters, and 31-45 Characters)	20.00%
DIS	Imaging Services/ Solutions	N/A	Image repository additions and maintenance	5.00%
DIS	Services/Solutions	N/A	Project Manager, Certified Digital Imaging Architect, Programming and Technical Support, Training Specialist, Data Entry, Document and Advanced Prep, Re-preparation, Needs Assessment / Analysis (Project Planning Reports)	5.00%
DIS	Transportaion	N/A	Source Material Transportation	5.00%
DIS	Transportaion	N/A	Secure Document Destruction Service	20.00%
DIS	Transportaion	N/A	Location of Scanning (Performed at Contractor's facility or Customer Facility, by contractor's staff)	20.00%

<b>ENTERPRISE CONTENT MANAGEMENT PRODUCTS, SOFTWARE, SERVICES</b>				
<b>Category</b>	<b>Subcategory</b>	<b>Brand</b>	<b>Description</b>	<b>Discount</b>
ECM	Document Security / Encryption	Secure Circle	Annual SaaS subscription per user (up to 500 users, from 501 to 2000 users)	10.00%
ECM	Workflow Automation	Joget	Large Enterprise Edition	3.00%
ECM	Capture Software	Alaris	Info Input Production Server (1Year and 3 Year SWA)	8.00%
ECM	Capture Software	Alaris	Info Input Client (UNDER 170PPM; 1700 PPM and Over; 1 Yr. and 3 Yr.)	8.00%
ECM	Capture Software	Alaris	Info Input Subscription Production Server 1Yr SWA	8.00%
ECM	Capture Software	Alaris	Kodak Image Capture Software (Capture Pro Group A, 3 Yr and 5 Yr)	8.00%
ECM	Capture Software	Alaris	Capture Pro Indexing - Kodak Image Capture Software (1 Yr., 3 Yr., 5 Yr.)	8.00%
ECM	Capture Software	Alaris	Kodak Image Capture Software (Capture Pro Group B, 3 Yr and 5 Yr)	8.00%
ECM	Capture Software	Alaris	Kodak Image Capture Software (Capture Pro Group C, 1 Yr, 3 Yr, and 5 Yr)	8.00%
ECM	Capture Software	Alaris	Kodak Image Capture Software (Capture Pro Group D, 1 Yr, 3 Yr, and 5 Yr)	8.00%
ECM	Capture Software	Alaris	Kodak Image Capture Software (Capture Pro Group DX, 1 Yr, 3 Yr, and 5 Yr)	8.00%
ECM	Capture Software	Alaris	Kodak Image Capture Software (Capture Pro Group E, 3 Yr, and 5 Yr)	8.00%



ECM	Capture Software	Alaris	Kodak Image Capture Software (Capture Pro Group F, 1 Yr, 3 Yr, and 5 Yr)	8.00%
ECM	Capture Software	Alaris	Kodak Image Capture Software (Capture Pro Group G, 1 Yr, 3 Yr, and 5 Yr)	8.00%
ECM	Capture Software	Alaris	Capture Pro Auto Import ( 1 Yr, 3 Yr, and 5 Yr)	8.00%
ECM	Capture Software	CompuData	Data On Demand - 25 User Subscription Single Tenant Virtual Server Edition	10.00%
ECM	Capture Software	CompuData	Data On Demand - 5 User Subscription Single Tenant Virtual Server Edition	10.00%
ECM	Capture Software	CompuData	Additional 5 users for single tenant applications: (Virtual FileRoom™, DAFConnect© and DAFCapture Pro™)	10.00%
ECM	Capture Software	CompuData	Subscriptions: Multitenant Shared VM (5 User and 25 User Editions)	10.00%
ECM	Capture Software	CompuData	Data On Demand - Subscriptions Starter Edition (Workflow for up to 25 users) ; Standard Edition (Workflow for up to 30 users); Enterprise and Large Enterpris Editions (Workflow for up to 100 users)	10.00%
ECM	Capture Software	CompuData	Data On Demand - Subscription: Starter Edition Workflow (5 additional user license bundles	10.00%

#### ENTERPRISE CONTENT MANAGEMENT PRODUCTS, SOFTWARE, SERVICES, RELATED SERVICES

Category	Technical Services	Brand	Description	Discount
Related Services	Maintenance	ALARIS	CapPro Software Maintenance (All Groups, 1 Yr, 3 Yr, 5Yr); Index (1 Yr, 3 Yr, 5 Yr); and Auto Import (1 Yr, 3 Yr, 5 Yr)	3.00%

#### MISCELLANEOUS / OTHER

Category	Sub-Category	Brand	Description	Discount
Miscellaneous	Technical Services	N/A	DOD Environment: VFR Configuration, Customer Startup	10.00%
Miscellaneous	Technical Services	N/A	DOD-Environment: Workflow Single Tenant Initial Setup.	14.00%
Miscellaneous	Technical Services	N/A	VFR-Training: End User and Application Administrator (up to 6 people)	7.00%
Miscellaneous	Technical Services	N/A	Document Management Integrator Level 1; Project Management / Technology Services Level 1	5.00%
Miscellaneous	Technical Services	N/A	Documentation Specialist/Technical Writer; VFR Support Specialist; Expert Imaging Engineer; General Technical Services Specialist	5.00%

DIR-CPO-4827 APPENDIX D  
SERVICE AGREEMENT  
ENGAGEMENT CONTRACT ORDER FORM

Customer Name:

Customer Address:

This Order Form (“OF”) shall be governed by the terms of the STATE OF TEXAS DEPARTMENT OF INFORMATION RESOURCES CONTRACT (CONTRACT NUMBER DIR-CPO-4827) dated \_\_\_\_\_ (the “Contract”) between the State of Texas, acting by and through the Department of Information Resources and COMPU-DATA International, LLC (“Successful Respondent”). In the event of any conflicts between this **Appendix D Service Agreement** and the Contract, the Contract will prevail. Capitalized terms used but not defined herein have the meanings given to them in **Appendix A, Standard Contract Terms and Conditions**.

## 1 SERVICES

### 1.1 Successful Respondent’s Obligations

#### 1.1.1 Scope of Services

Successful Respondent will provide the following services to Customer (“Services”):

<(Describe Services including schedule)>

## 2 RATES AND PAYMENTS

### 2.1 Labor Rates

Services shall be provided under this Order Form in accordance with **Contract** Section 4 Product and Service Offerings.

<(List Technician Level(s), Rate (Rates are inclusive of the Department of Information Resources Administrative Fee) Hours, and Total Labor Fee.)>

### 2.2 Travel, Meals, and Lodging Reimbursement

Rates for Services do not include travel, meals, and lodging.

### 2.3 Payment Type

To the extent allowable by the Contract the Services are provided on a time and materials (“T&M”) basis; that is, Customer shall pay Successful Respondent for all of the time spent performing such Services. Successful Respondent will bill for time and materials no more often than once every thirty (30) days. Successful Respondent acknowledges that Customer is an entity exempt from the imposition and collection of Texas sales taxes under Section 151.309 Texas Tax Code. Any estimate related to the Services performed under this Order Form is intended only to be an estimate for Customer’s budgeting and Successful Respondent’s resource scheduling purposes. Once fees for Services reach this estimate, Successful Respondent will cooperate with Customer to provide continuing Services on a T&M basis.



#### 2.4 Purchase Order

The purchase order will reference CONTRACT NUMBER DIR-CPO-4827.

#### 2.5 Purchase Order Number

Purchase Order number. \_\_\_\_\_ has been provided to Successful Respondent as of execution date of this Order Form.

#### 2.6 Invoicing

All fees will be invoiced monthly and will be payable within thirty (30) days of the receipt of invoice, and in accordance with Chapter 2251, Texas Government Code.

#### 2.7 Customer Billing Accounts Payable Contact/Mail Invoices To:

Name:

Address:

Telephone:

Fax:

E-mail:

### 3 PROJECT INFORMATION

#### 3.1 Customer Facility Location

Name:

Address:

#### 3.2 Successful Respondent Contact Information

Name:

Address:

Telephone:

Fax:

E-mail:

#### 3.3 Customer Project Manager/Contact Information

Name:

Address:

Telephone:

Fax:

E-mail:

#### 3.4 Successful Respondent Contract Manager/Contact Information

Name:

Address:

Telephone:

Fax:

E-mail:

(Insert Customer Name:)

By: \_\_\_\_\_

Name (Print): \_\_\_\_\_

Title: \_\_\_\_\_

Effective Date: \_\_\_\_\_

COMPU-DATA International, LLC

By: \_\_\_\_\_

Name (Print): \_\_\_\_\_

Title: \_\_\_\_\_



# COMPU-DATA International, LLC

## Data onDemand™ Cloud Service Agreement

This agreement is made as of the date of the last signature hereto (the “Effective Date”) is by and between Webb County located at 1110 Victoria St. Suite 203 Laredo, Texas 78040 (“COMPANY”) and COMPU-DATA International, LLC located at 14610 Falling Creek Dr. Houston, Texas 77068 (“CDI”) (individually a “Party” and collectively, the “Parties”) (the “Agreement”). This Agreement shall govern one or more separately CDI Proposal and/or Quote and COMPANY purchase orders for Cloud Services executed by the Parties which describe the services to be performed pursuant to the terms of this agreement (the “Cloud Service Agreement”). In the event of any conflict between the terms of any purchase order and this Agreement, the terms of the Agreement shall prevail unless the CDI Proposal and/or Quote expressly states otherwise.

This Agreement shall commence on the Effective Date and shall terminate automatically upon the expiration of a thirty-six-month period following such Effective Date, or upon completion or expiration of the last COMPANY purchase order for Cloud Services under this Agreement.

THIS IS AN AGREEMENT BETWEEN COMPANY (hereinafter “You” or “Your”) AND COMPU-DATA International, LLC (hereinafter “COMPU-DATA” or “Our” or “We” or “Us”) GOVERNING YOUR USE OF Data onDemand™ Content Management Solutions Cloud Software Services and the software products used by You in our Cloud Hosting System. This Agreement consists of the following terms and conditions (hereinafter the “Terms”).

## Index

1. [Definitions](#)
2. [Acceptance of the Terms](#)
3. [Services](#)
4. [Restrictions on Use](#)
5. [Obligations of User](#)
6. [Obligations of COMPU-DATA](#)
7. [Fees, Payments, Cancellations, & Refunds](#)
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9. [Data Ownership](#)
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# COMPU-DATA International, LLC

## Data onDemand™ Cloud Service Agreement

19. [Governing Law, Jurisdiction And Arbitration](#)
20. [End of Terms of Service](#)

### 1. Definitions

The following words and phrases have defined meanings:

- **“Affiliate”** means an entity that directly or indirectly Controls, is Controlled by or is under common Control with the subject entity.
- **“User Data”** means information relating to a person using COMPU-DATA Services.
- **“Confidential Information”** means all information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure.
- **“Customer Data”** or **“Your Data”** means any data provided by Customer that COMPU-DATA processes on behalf of Customer as a Data Processor in the course of providing Services.
- **“Customer Personal Data”** means Customer Data relating to person or entity (where entity’s information receives the same protection as Personal Data under applicable Data Protection Laws and Regulations).
- **“Data Processing Addendum”** (DPA) means the addendum governing the handling of customer data.
- **“Documentation”** means the online user guides, documentation, and help and training materials for the COMPU-DATA Services, as updated from time to time, accessible at [www.cdla.com](http://www.cdla.com) or other Websites designated by Us.
- **“Order Form”** means an ordering document or online order or subscription activation specifying the Services to be provided hereunder that is entered into between You and Us or any of Our Affiliates, including any addenda and supplements thereto. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it Were an original party hereto.
- **“Processing”** means any operation or set of operations which is performed upon Customer Data & Personal Data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.
- **“Services”** means the products and Services that are ordered by You under an Order Form or provided to You free of charge (as applicable) or under a free trial and made available online by Us, including associated offline and mobile components, as described in the Documentation. “Services” exclude Content and Third-party Applications.



# COMPU-DATA International, LLC

## Data onDemand™ Cloud Service Agreement

- “**Sub-processor**” means any Processor engaged by COMPU-DATA, by a member of the COMPU-DATA Group or by another Subprocessor.
- “**Terms of Service**” means this document.
- “**COMPU-DATA**” means the COMPU-DATA International, LLC (“COMPU-DATA”), a Delaware Limited Liability Company located at 14610 Falling Creek Dr., Houston, Texas 77068 or an Affiliate of COMPU-DATA, as applicable.

## 2. Acceptance of the Terms

You must be of legal age to enter into a binding agreement in order to accept the Terms. If You do not agree to the Terms, do not use any of our Services.

*You accept these Terms of Service by using our Cloud Services and Products including but not limited to Virtual FileRoom™, DAFCapture Pro™ and DAFConnect®.*

Employees or affiliates of businesses offering Services that directly compete with any of COMPU-DATA’s Services are expressly prohibited from accessing any COMPU-DATA Cloud Services and Product offerings for competitive research or related activities.

## 3. Services

### 3.1 Beta Services

We may offer certain Services as closed or open beta Services (“Beta Service” or “Beta Services”) for the purpose of testing and evaluation. You agree that We have the sole authority and discretion to determine the period for testing and evaluation of Beta Services. We will be the sole judge of the success of such testing and the decision, if any, to offer the Beta Services as commercial Services. You will be under no obligation to acquire a subscription to use any paid Service as a result of Your subscription to any Beta Service. We reserve the right to fully or partially discontinue, at any time and from time to time, temporarily or permanently, any of the Beta Services with or without notice to You. You agree that COMPU-DATA will not be liable to You or any third party for any harm related to, arising out of, or caused by the modification, suspension or discontinuance of any of the Beta Services for any reason.

# COMPU-DATA International, LLC

## Data onDemand™ Cloud Service Agreement

### 3.2 Paid User and Storage Subscriptions

Unless otherwise specified (i) Services are purchased as User and storage subscriptions and may be accessed by no more than the specified number of Users, (ii) additional User subscriptions may be added during the subscription term at the pricing specified in our current list price, prorated for the remainder of the subscription term in effect at the time the additional User subscriptions are added, and (iii) the added User subscriptions shall terminate on the same date as the pre-existing subscriptions. User subscriptions are for designated Users and cannot be shared or used by more than one User but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Services. Additional storage subscriptions may be added during the subscription term at the pricing specified in our current list price, prorated for the remainder of the subscription term in effect at the time. Automatic additional storage subscriptions will become effective when your storage subscription is exceeded. Automatic additional storage subscriptions will be added during the subscription term at the pricing specified in our current list price, prorated for the remainder of the subscription term in effect at the time.

### 3.3 Free Editions

We may offer free Services. Use of Free Services is subject to the terms and conditions of this Agreement. Please note that Free Services are provided to You without charge up to certain limits based on project details. Usage over these limits requires Your purchase of additional resources or Services. You agree that COMPU-DATA, in its sole discretion, may terminate Your access to the Free Services or any part thereof.

## 4. Restrictions on Use

You shall not engage in or permit any unacceptable use of the Services, which include (a) dissemination or transmission (or establishment of links within our offered services therefor) of material that, to a reasonable person may be abusive, obscene, pornographic, defamatory, harassing, grossly offensive, vulgar, threatening or malicious; (b) dissemination or transmission of files, graphics, software or other material that actually or potentially infringes the copyright, trademark, patent, trade secret, or other intellectual property right of any person; (c) interference, disruption or attempt to gain unauthorized access to other accounts using this service or any other computer network; (d) dissemination or transmission of viruses, Trojan horses or any other malicious code or program; or (e) engaging in any other activity reasonably considered by COMPU-DATA to conflict with the spirit and intent of this Agreement and the Services through this agreement.



# COMPU-DATA International, LLC

## Data onDemand™ Cloud Service Agreement

Additionally, and in Summary, You Shall Not:

1. Transfer or otherwise make available to any third party the Services
2. Provide any Service based on the Services without prior written permission
3. Post links to third party sites or use their logo, company name, etc.
4. Use the Services for illegal purposes or for the transmission of material that is unlawful, defamatory, harassing, libelous, invasive of another's privacy, abusive, threatening, harmful, vulgar, pornographic, obscene, or is otherwise objectionable, offends religious sentiments, promotes racism, contains viruses, or that which infringes or may infringe intellectual property or other rights of another.
5. Use the Services for the transmission of "junk mail", "spam", "chain letters", "phishing" or unsolicited mass distribution of email.

We reserve the right to terminate Your access to the Services if there are reasonable grounds to believe that You have used the Services for any illegal or unauthorized activity.

## 5. Obligations of User

### 5.1 Prerequisites

You are responsible for obtaining access to the Internet and the respective equipment necessary to use the Services.

### 5.2 Sign up Obligations

You agree to:

1. Provide true, accurate, current and complete information about the users of the system.
2. Maintain and promptly update the information provided during sign up to keep it true, accurate, current, and complete.

If You provide any information that is untrue, inaccurate, outdated, or incomplete, or if COMPU-DATA has reasonable grounds to suspect that such information is untrue, inaccurate, outdated, or incomplete, COMPU-DATA may terminate Your subscription and refuse current or future use of any or all of the Services.

### 5.3 Transmitted Content

You agree to be solely responsible for the contents of Your transmissions through the Services.

# COMPU-DATA International, LLC

## Data onDemand™ Cloud Service Agreement

### 5.4 Use of Extensions

When You enable a COMPU-DATA extension that copies, modifies or displays Your data, when it can be reasonably inferred by You that this extension requires COMPU-DATA to access, copy, distribute, store, transmit, or reformat Your data in order to perform the function enabled by the extension, You grant COMPU-DATA rights to do so in order to provide You with the added functionality.

When You enable a COMPU-DATA extension that connects to a third-party application or Service, You acknowledge that You agree to the third party's terms of service, and grant COMPU-DATA permission to access, copy, reformat, transmit, and to make available to the third party in question, any data required by said third party to render Services to You. You further indemnify COMPU-DATA of any liability associated with the third-party's access to and use of data provided to it on Your behalf.

### 5.5 Privacy Policy

User Data You provide to COMPU-DATA through the Service is governed by COMPU-DATA Privacy Policy. Your election to use the Service indicates Your acceptance of the terms of the COMPU-DATA [Privacy Policy](#)

### 5.6 Secure use

You are responsible for the secure use of the Services. This includes securing Your account authentication credentials, protecting the security of Your data when in transit to and from the Services and taking any appropriate steps to securely encrypt or export any of Your data uploaded to the Services. You are additionally responsible for ensuring that You do not accidentally make any private content publicly available.

COMPU-DATA strongly recommends You use COMPU-DATA's advanced security (Circle of Trust) encryption (which is solely Your decision) to protect against unauthorized access to documents, information and data stored on the System, in particular with respect to documents that contain information and data that may be subject to federal, state or foreign laws, regulations, rules or pronouncements relating to maintenance and protection of the privacy of such information and data, including, without limitation, any such data or information that may be considered as "personal information" or "personally identifiable information" (or any variant thereof) or "protected health information" (or any variant thereof).

You agree to use commercially reasonable efforts such as the data encryption option (Circle of Trust) offered by COMPU-DATA to prevent unauthorized access to or use of Services and notify us promptly of any such unauthorized access or use.



# COMPU-DATA International, LLC

## Data onDemand™ Cloud Service Agreement

### 5.7 Legality of data

You shall be responsible for the accuracy, quality, and legality of Your Data and the means by which You acquired Your data.

### 5.8 Compliance with local laws

You agree to use Services only in accordance with the documentation and applicable laws and government regulations.

### 5.9 Other Users compliance

If You are agreeing on behalf of Your business, You will be responsible for the compliance of other users on the account with this agreement.

If any users on Your subscription violate the terms of this agreement, COMPU-DATA may terminate Your subscription and refuse the current or future use of any or all of the Services to You and Your business.

## 6. Obligations of COMPU-DATA

### 6.1 Security

COMPU-DATA will maintain administrative and technical safeguards for the protection of the security, confidentiality, and integrity of Your Data. Those safeguards will include, but are not limited to measures for preventing access, use, modification or disclosure of Your data by our personnel, except (a) to provide the Services and prevent or address service or technical problems, (b) as compelled by law in accordance with the “Confidentiality: Compelled Disclosure” section below, or (c) as expressly permitted in writing by You.

### 6.2 Privacy of User Data

COMPU-DATA commits to safeguarding the personal information relating to the individual users of the service and agrees to the terms defined in the Privacy Policy.

# COMPU-DATA International, LLC

## Data onDemand™ Cloud Service Agreement

### 6.3 Privacy of Customer Data and Personal Data

Where Your use of Services includes the processing of Customer Personal Data as described in the DPA, the terms of the data processing addendum (“DPA”) shall apply to such processing (contact COMPU-DATA to sign DPA), and shall be incorporated into this Agreement from the date that You sign the DPA in accordance with the instructions therein.

### 6.4 Availability

We will use commercially reasonable efforts to make the online purchased Services available 24 hours a day, 7 days a Week, except for: (i) planned downtime (of which We shall give advance electronic notice), and (ii) any unavailability caused by circumstances beyond Our reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Our employees), Infrastructure or Internet service provider failure or delay, Non-COMPU-DATA Application, or denial of service attack.

### 6.5 Security Breach.

COMPU-DATA uses commercially reasonable technical, procedural and electronic systems to ensure the security and safety of its System, but there can be no assurance that the System will not be subject to unauthorized access by persons over which COMPU-DATA has no control (for example, hackers). COMPU-DATA strongly recommends You use COMPU-DATA’s advanced security (Circle of Trust) encryption (which is solely Your decision) to protect against unauthorized access to documents, information and data stored on the System, in particular with respect to documents that contain information and data that may be subject to federal, state or foreign laws, regulations, rules or pronouncements relating to maintenance and protection of the privacy of such information and data, including, without limitation, any such data or information that may be considered as “personal information” or “personally identifiable information” (or any variant thereof) or “protected health information” (or any variant thereof). Because COMPU-DATA will not have direct control or knowledge as to the contents of documents and data and information that may be stored on the System by You, COMPU-DATA’s only obligation in the event of any unauthorized access to the System that may be considered a security breach under applicable law, regulation, rule or pronouncement will be to notify You as soon as reasonably possible after COMPU-DATA becomes or is made aware of any such access, which notice will include reasonable summary of the event or occurrence, including the date(s) thereof and, if known, the person(s) responsible for such access. You hereby agrees to indemnify and protect COMPU-DATA from and against any liability relating to any noncompliance with the foregoing requirements (other than as directly related to the requirement above that COMPU-DATA provide You with notice of any such unauthorized access).



# **COMPU-DATA International, LLC**

## **Data onDemand™ Cloud Service Agreement**

### **7. Fees, Payments, Cancellations, & Refunds**

#### **7.1 Automatic renewal & Fee revision**

At the end of each COMPU-DATA Cloud subscription period, subscriptions are automatically renewed, and payment is processed using the payment method previously used. We reserve the right to modify subscription fees and to charge for the use of Services that are currently available free of charge.

#### **7.2 Fees are non-refundable**

You will pay all fees specified in Order Forms. Except as otherwise specified herein or in an Order Form, (i) fees are based on Services purchased and not actual usage, and (ii) payment obligations are non-cancelable, paid in advance and fees paid are non-refundable.

#### **7.3 Invoicing and Payment Details**

Fees will be invoiced monthly/annually in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, fees are due Net 30 days from the invoice date. You are responsible for providing complete and accurate billing and contact information to Us and notifying Us of any changes to such information. This contract Term is priced and invoiced using the Texas DIR Contract # DIR-CPO-4827.

#### **7.4 Payment by credit card or PayPal**

If You are paying by credit card or PayPal, You authorize us to charge Your credit card or bank account or PayPal account for all fees payable during the Subscription Term. You further authorize us to use a third party to process payments, and consent to the disclosure of Your payment information to such third party.

#### **7.5 Refunds**

For payments made for past periods, refunds will not be issued. Payments towards migration Services, kickstart Services, training service fees are non-refundable after the service has started.

# COMPU-DATA International, LLC

## Data onDemand™ Cloud Service Agreement

### 7.6 Payment Retries and Account Suspension

If payment is not received within the payment terms, COMPU-DATA will put the account in the suspended state, for the next 15 days. To re-activate Your account, You can simply pay the outstanding invoice(s). If Your account has not been activated within 75 days of suspension, Your instance will be deleted. An archive will be available for another 30 days.

### 7.7 Cancellations

You can discontinue this subscription at any time through the aforementioned Billing section. Cancellations that are made prior to the end of any contract period will stop the automatic renewal of Your COMPU-DATA Cloud contract at the end of the existing contract period. Your account will remain active until the end of the contract period that has already been paid for. You continue to be charged for the Service until the end of the agreed to contract period.

### 7.8 Payment Disputes

COMPU-DATA will review and respond to payment disputes submitted to ar@cdlac.com address. However, We will not exercise our rights under the “Payment Retries and Account Suspension” section above if You are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute.

### 7.9 Sales Tax

All fees are exclusive of taxes, which We will charge as applicable. You agree to pay any taxes applicable to Your use of the subscription service and other Services.

### 7.10 Future Functionality

You agree that Your purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by us regarding future functionality or features.

## 8. Subscription Term, Termination, & Suspension

### 8.1 Term and Renewal



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## Data onDemand™ Cloud Service Agreement

Your initial subscription period will be specified in Your Order, and Your subscription will automatically renew each year at the beginning of the contract date. To prevent a renewal of the subscription, You must cancel the subscription. If You add products during the Subscription Term, the fees for these additional products will be prorated and they will renew along with Your subscription unless otherwise indicated in Your Order.

### 8.2 Suspension and Termination of Paid Accounts

We may suspend Your user account or temporarily disable access to whole or part of any Service in the event of any suspected illegal activity, or requests by law enforcement or other government agencies. Objections to suspension or disabling of user accounts should be made to [adm@cdlac.com](mailto:adm@cdlac.com) within thirty days of being notified about the suspension. We may terminate a suspended or disabled user account after thirty days. We will also terminate Your user account on Your request. In addition, We reserve the right to terminate Your user account and deny the Services upon reasonable belief that You have violated the Terms and to terminate Your access to any Beta Service in case of unexpected technical issues or discontinuation of the Beta Service. Termination of user account will include denial of access to all Services, deletion of information in Your user account such as Your e-mail address and password and deletion of all data in Your user account.

### 8.3 Suspension and Termination of Free Services

We may suspend, limit, or terminate Free Services that we provide at any time without notice.

## 9. Data Ownership

### 9.1 Data Ownership

We respect Your right to ownership of content and data created or stored by You. You own the content created or stored by You. Unless specifically permitted by You, Your use of the Services does not grant COMPU-DATA or any of its partners the license to use, reproduce, adapt, modify, publish or distribute the content created by You or stored in Your user account for COMPU-DATA's commercial, marketing or any similar purpose. But You grant COMPU-DATA permission to access, copy, store, reformat, the content of Your user account solely as required for the purpose of providing the Services to You.

### 9.2 Sample files and Applications

# COMPU-DATA International, LLC

## Data onDemand™ Cloud Service Agreement

COMPU-DATA may provide sample data and files for the purpose of demonstrating the possibility of using the Services effectively for specific purposes. The information contained in any such sample files and applications consists of random data. COMPU-DATA makes no warranty, either express or implied, as to the accuracy, usefulness, completeness or reliability of the information or the sample files and applications.

### 10. Communications from COMPU-DATA

The Service may include certain communications from COMPU-DATA, such as service announcements, administrative messages, and newsletters. You understand that these communications shall be considered part of using the Services. As part of our policy to provide You total privacy, We also provide You the option of opting out from receiving newsletters from us. However, You will not be able to opt-out from receiving service announcements and administrative messages.

### 11. Confidentiality

#### 11.1 Confidential Information

Your Confidential Information includes Your Data; Our Confidential Information includes our Services; and Confidential Information of each party includes the terms and conditions of this Agreement and all Order Forms (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

#### 11.2 Protection of Confidential Information

The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit

# COMPU-DATA International, LLC

## Data onDemand™ Cloud Service Agreement

access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with this "Confidentiality" section.

### 11.3 Compelled Disclosure

The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

## 12. Customer Data Storage and Deletion Policy

With respect to Customer Data, DPA which is hereby incorporated by reference shall apply and the parties agree to comply with terms defined in DPA. For the avoidance of doubt, COMPU-DATA is a Data Processor, which process the data on behalf of the Customer ("Data Controller").

### 12.1 Paid Accounts

Data in Paid Accounts that are canceled or with payment overdue are handled as follows: If for any reason We are unable to successfully bill Your preferred payment method, We reserve the right to suspend access to Your account within 15 days of the failed billing attempt, and to delete Your account,

## 13. Referral Programs



# COMPU-DATA International, LLC

## Data onDemand™ Cloud Service Agreement

COMPU-DATA may make available, at its discretion, participation in referral programs that reward participants for referring clients to COMPU-DATA. By participating in these programs, You agree to keep confidential all program related materials, terms, details, and agreements, except where expressly granted by COMPU-DATA. Additionally, any referral links provided by COMPU-DATA for the purposes of this program may not be passed through any tools that shorten, modify, or track links in any way. Links may additionally not be transferred, sold, or made available to the general public unless expressly permitted by COMPU-DATA. If users are found to have engaged in behavior that violates these terms, COMPU-DATA may rescind access to the referral program, and revoke all rewards earned through the program.

### 14. Modification of Terms of Service

We may modify the Terms upon notice to You at any time. You will be provided notice of any such modification by electronic mail or by publishing the changes on the Website terms-of-service. You may terminate Your use of the Services if the Terms are modified in a manner that substantially affects Your rights in connection with the use of the Services. Your continued use of the Service after notice of any change to the Terms will be deemed to be Your agreement to the amended Terms.

### 15. Trademark

COMPU-DATA, COMPU-DATA logo, Data onDemand™, Data onDemand logo, Virtual FileRoom™ Virtual FileRoom logo, DigitalAsset Finder™, DAFCapture Pro™, DAFConnect® and DAFConnect logo and DigitalAsset Finder logo are trademarks of COMPU-DATA International, LLC including but not limited to those identified in COMPU-DATA's [Legal Notice page](#). You agree not to display or use, in any manner, the COMPU-DATA trademarks, without COMPU-DATA's prior consent.

Other products and company names mentioned and used in our services may be trademarks of their respective owners.

### 16. Disclaimer of Warranties

# **COMPU-DATA International, LLC**

## **Data onDemand™ Cloud Service Agreement**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT THE USE OF THE SERVICES IS AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN AS-IS-AND-AS-AVAILABLE BASIS. COMPU-DATA EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. COMPU-DATA MAKES NO WARRANTY THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR VIRUS-FREE. USE OF ANY MATERIAL DOWNLOADED OR OBTAINED THROUGH THE USE OF THE SERVICES SHALL BE AT YOUR OWN DISCRETION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM, MOBILE TELEPHONE, WIRELESS DEVICE OR DATA THAT RESULTS FROM THE USE OF THE SERVICES OR THE DOWNLOAD OF ANY SUCH MATERIAL. NO ADVICE OR INFORMATION, WHETHER WRITTEN OR ORAL, OBTAINED BY YOU FROM COMPU-DATA, ITS EMPLOYEES OR REPRESENTATIVES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS

## **17. Limitation of Liability**

### **17.1 Limits to Liability**

IN NO EVENT SHALL THE AGGREGATE LIABILITY OF COMPU-DATA AND ITS AFFILIATES TO YOU AND YOUR AFFILIATES IN RESPECT OF ANY SERVICE, WHETHER DIRECT OR INDIRECT, EXCEED THE FEES PAID BY YOU TOWARDS SUCH SERVICE IN THE TWELVE MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, BUT WILL NOT LIMIT YOUR AND YOUR AFFILIATES' PAYMENT OBLIGATIONS UNDER THE "FEES AND PAYMENT" SECTION ABOVE

### **17.2 Exclusion of Consequential and Related Damages**

YOU AGREE THAT COMPU-DATA SHALL, IN NO EVENT, BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, OR OTHER LOSS OR DAMAGE WHATSOEVER OR FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, COMPUTER FAILURE, LOSS OF BUSINESS INFORMATION, OR OTHER LOSS ARISING OUT OF OR CAUSED BY YOUR USE OF OR INABILITY TO USE THE SERVICE, EVEN IF COMPU-DATA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

# **COMPU-DATA International, LLC**

## **Data onDemand™ Cloud Service Agreement**

### **18. Indemnification**

You agree to indemnify and hold harmless COMPU-DATA, its officers, directors, employees, suppliers, and affiliates, from and against any losses, damages, fines and expenses (including attorney's fees and costs) arising out of or relating to any claims that You have used the Services in violation of another party's rights, in violation of any law, in violations of any provisions of the Terms, or any other claim related to Your use of the Services, except where such use is authorized by COMPU-DATA.

### **19. Governing Law, Jurisdiction, Arbitration, and Notices**

#### **19.1 Governing Law and Jurisdiction**

This Agreement will be governed by, construed and enforced in accordance with the laws of the State of Texas, U.S.A. The parties agree that Houston, Texas in the U.S.A. will be the venue of any dispute and will have jurisdiction over all parties.

#### **19.2 Arbitration**

If a dispute arises out of or relates to this Agreement or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by any recognized Arbitration Association under its Commercial Mediation, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

#### **19.3 Manner of Giving Notice.**

All notices, permissions, and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, or (iii) the first business day after sending by email (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Billing-related notices to You shall be addressed to the relevant billing contact designated by You. All other notices to You shall be addressed to the relevant administrators designated by You.

Notices should be sent to:



# COMPU-DATA International, LLC

## Data onDemand™ Cloud Service Agreement

Email:

Billing Queries: [ar@cdlac.com](mailto:ar@cdlac.com)

General Counsel: [adm@cdlac.com](mailto:adm@cdlac.com)

To reach by mail:

COMPU-DATA International, LLC 14610 Falling Creek Dr., Houston, Texas, 77068 U.S.A.

## 20. End of Terms of Service

Contact us for any questions pertaining to this agreement. You may reach us at [adm@cdlac.com](mailto:adm@cdlac.com)

## 21. U. S. Export Restrictions

You acknowledge and agree that the software programs of CDI and related technical information to be provided to You for performance of the Services are subject to export controls under the U.S. Export Administration regulations. You will (i) comply strictly with all legal requirements established under these controls, (ii) cooperate fully with CDI in any official or unofficial audit or inspection that relates to these controls and (iii) not export, re-export, divert or transfer, directly or indirectly, any such item or direct products thereof to Cuba, Iran, Iraq, Libya, North Korea or any country that is currently embargoed by Executive Order, unless You has obtained the prior written authorization of the U.S. Commerce Department.

## 22. Severability

Should any provision of this Agreement be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions of this Agreement shall not be affected or impaired thereby.

## 23. Section Headings

# COMPU-DATA International, LLC

## Data onDemand™ Cloud Service Agreement

Section headings have been included in this Agreement merely for convenience or reference. They are not to be considered part of, or to be used in interpreting, this Agreement.

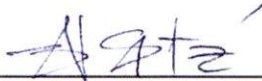
### 24. Entire Agreement

This Agreement and associated Statements of Work constitute the complete and entire statement of all conditions and representations of the agreement between COMPU-DATA and You with respect to its subject matter and supersedes all prior writings or understandings.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

COMPU-DATA International, LLC

COMPANY:

By:  \_\_\_\_\_

By:  \_\_\_\_\_

Name: Carlos Gutierrez

Name: \_\_\_\_\_


Title: VP of Sales & Marketing

Title: \_\_\_\_\_

Date: 5/28/2024

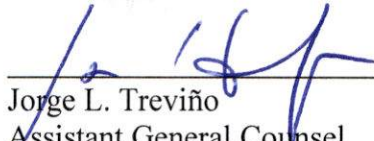
Date: \_\_\_\_\_

**ATTESTED:**



*Margie Ramirez-Ibarra*  
\_\_\_\_\_  
Margie Ramirez-Ibarra  
Webb County Clerk

**APPROVED AS TO FORM:**



\_\_\_\_\_  
Jorge L. Treviño  
Assistant General Counsel  
Civil Legal Division

\*The General Counsel, Civil Legal Division's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).\*

Passed and approved by the Webb County Commissioners Court  
On *May 28* 2024 item No. *7a*