

TexasOnline 2.0

Request for Offers

DIR-TXO-001

Version 2



Texas Department of Information Resources

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1.0 Introduction

The Department of Information Resources (DIR) is seeking to contract with one or more qualified Vendors to operate, maintain, and enhance the current statewide e-government portal, TexasOnline. TexasOnline functions as an interactive information and transaction system to access government information and services over the Internet. The Current Contract managing TexasOnline will expire December 31, 2009. This procurement is authorized under Texas Government Code, Chapter 2054.

For the purposes of this Request for Offers (RFO), "TexasOnline 2.0" is used as a placeholder to distinguish the new functionalities and Agreement from the current. Terminology with specific meaning is defined in Appendix A and capitalized in this document.

The Introduction section of this RFO provides Vendors with an overview of the RFO for TexasOnline 2.0.

Topics covered in this section:

- 1.1 Goals
- 1.2 Background
- 1.3 Vision and E-government Strategy
- 1.4 Contract Term

Detailed instructions for Vendor Offer format and content are in RFO Section 4.7.

1.1 Goals

The goals of TexasOnline 2.0 are to:

- Maintain full support and Customer satisfaction in operations of all current capabilities throughout the Agreement;
- Become the first choice for Citizens, Businesses, and Customers by providing responsive, efficient, and effective e-government information and solutions;
- Enhance governance processes to emphasize transparency and accountability;
- Drive e-government transformation by incorporating web tools that improve business processes and deliver more cost-effective services;
- Develop capability for rapid and simple deployment of new applications;
- Leverage the business and funding model to the benefit of Citizens, Businesses, Customers, and the public-private partnership; and
- Provide continuous and appropriate innovation.

The purpose of this procurement is to

- Secure a public-private partnership with a Vendor capable of achieving these goals and completing all the requirements described in this RFO,
- Achieve a seamless transition of current operations from the Current Contract to the new Agreement.

1.2 Background

The 76th Texas Legislature passed Senate Bill 974, which called for a common Internet-based system through which state and local governments can send documents, receive applications, and receive required payments. The legislation also established a governing authority to oversee the system. TexasOnline and the TexasOnline Authority were the result of that legislation.

The Current Contractor, BearingPoint, Inc., was awarded the master contract through a competitive procurement process in May 2000. The first online service launched in August 2000. Over time, various amendments to the contract were executed to address operational and financial arrangements. Appendix F.6 contains the current TexasOnline contract, referred to as the Texas Electronic Framework Agreement.

As TexasOnline continued to grow and stabilize, in 2005 the 79th Texas Legislature abolished the TexasOnline Authority and transferred its duties to DIR. This change in governance structure helps ensure consistency between TexasOnline policy and the DIR Strategic Vision for technology statewide.

Also in response to the 79th Texas Legislature, DIR renegotiated the master contract with the Current Contractor in September 2005, with the advice of the Legislative Budget Board and the State Auditor's Office. The renegotiated contract

- Required net revenue be divided 50-50 between the State and the Current Contractor upon full recovery of the investment by the Current Contractor;
- Increased the State's share of gross receipts net of credit card costs from 10% to 20%, beginning in fiscal 2007;
- Set firm contract deadline for project Breakeven no later than December 31, 2006;
- Required, at the discretion of DIR, capital asset ownership transfer to the State at Breakeven or December 31, 2009, whichever occurs first; and
- Strengthened terms for transition to awarded Vendor at re-bid.

A significant milestone was reached in April 2006, when the project reached Breakeven. At Breakeven, the portal infrastructure assets were transferred to the State of Texas. All operations, maintenance, and refresh costs continue to be funded by convenience, subscription, and service fees.

Effective January 1, 2008, Amendment 10 to the Texas Electronic Framework Agreement was entered into by DIR and BearingPoint, Inc. This amendment consolidated all New Projects as defined in the Second Renewal Agreement and some recent projects under the Amendment 10 Master Work Order (MWO) for purposes of determining investment costs and revenue for the consolidated projects. The Amendment also set the expiration date for the Master Work Order consolidated projects to August 31, 2012, to be in line with the Second Renewal Agreement.

According to the terms of the MWO, DIR has the right to buy out the Current Contractor's interest in the MWO, and after an award under this procurement, Vendor has the right to buy out the Current Contractor's interest in the MWO. If no buy-out has occurred by December 31, 2009, the MWO will be assigned to the Vendor and the Vendor will be responsible for the work performed by the Current Contractor, as a Subcontractor to Vendor, until the expiration of the Master Work Order.

The recent DIR approval of the Comptroller of Public Accounts Opportunity Proposal for the Online Ordering System, and revisions to the scope of the Online Vital Records

Application project, require that the MWO be amended to reflect the revised financial investment and Breakeven proposition. The RFO will be revised to include the MWO amendment following execution of the MWO contractual documents.

If the Current Contract is amended prior to the date the Offers are due to DIR, Vendors will be notified by an addendum to this RFO.

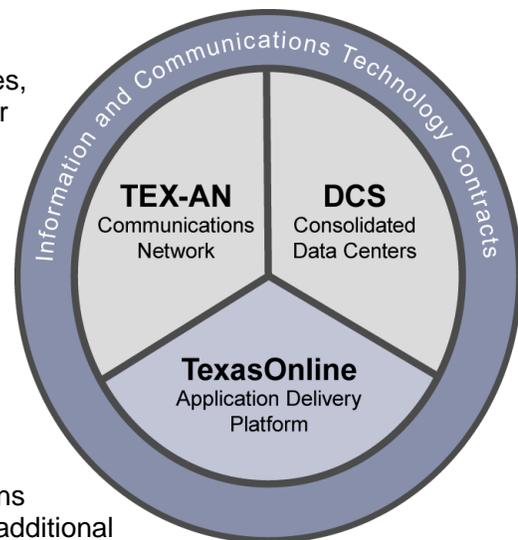
Additional information concerning the services provided under TexasOnline can be found at <http://www.dir.state.tx.us/egov/>.

From its inception through fiscal year 2008, TexasOnline has processed more than \$8 billion in State and local revenue with approximately 90 million financial transactions. TexasOnline currently has 842 services offered via 152 applications. Since its inception, TexasOnline has received more than 150 million visits. Refer to Appendix F.7(c).

1.3 Vision and E-government Strategy

TexasOnline must sustain and leverage its past successes to benefit Texas through more services, more cost-effective service provision, and greater usage of those services. When TexasOnline becomes the place where a Citizen turns first for Texas information and services, its value will be magnified.

To accomplish its goals, DIR envisions a service delivery model using the Data Center Services (DCS) for infrastructure and computing power (RFO Section 2.6.4); TEX-AN NG for the communications network (RFO Section 2.6.5); TexasOnline 2.0 as the application delivery platform; and the Information and Communications Technology (ICT) Contracts Program to provide additional commodities and services in a supportive role.



The current model of TexasOnline has been highly successful and has achieved goals beyond the original vision. However, there are abundant opportunities for new ideas, approaches, and successes that take full advantage of technology developments to meet user expectations for e-government. Through continuing the public-private partnership model, TexasOnline 2.0 will build upon past successes and provide the opportunity to make quantum-leap improvements in its service delivery to Citizens, Businesses, government entities, and government employees. DIR desires that each Vendor distinguish itself from the competition through offering creative solutions to help the State of Texas achieve its goals in this procurement.

1.4 Contract Term

DIR intends to award an Agreement for TexasOnline 2.0 services for a term that will expire on August 31, 2016. DIR will have the option to renew or extend the term of the Agreement for a period of up to two additional years in any combination of months or years as necessary to complete the purpose of this procurement.

2.0 Scope of Work

This section describes the Scope of Work that is expected to be performed by the Vendor.

Topics covered in this section:

- 2.1 Role Definitions, Responsibilities, and Authorities
- 2.2 Criteria for a Successful Public-Private Partnership
- 2.3 Rights and Ownership
- 2.4 Four Categories of Implementation
- 2.5 Program and Project Management
- 2.6 Maintenance and Operations
- 2.7 Governance
- 2.8 Reporting Requirements
- 2.9 Outreach and Marketing
- 2.10 Performance Measures and Associated Remedies

2.1 Role Definitions, Responsibilities, and Authorities

TexasOnline 2.0 will continue to be operated as a public-private partnership. The Vendor is the private partner and the public partner is DIR. DIR manages its TexasOnline responsibilities through its Board, Executive leadership team, and eGovernment and Web Services Division. The private partner has prime responsibility for implementation of TexasOnline 2.0 and operational management.

2.2 Criteria for a Successful Public-Private Partnership

TexasOnline is currently operating as a successful public-private partnership. Since August 2000, the Citizens of Texas have benefited from expanding online availability of many government services—saving time, money, and taxes. Texas businesses also have benefited from fast and efficient online transactions for licensing, certifications, tax information, driver records, and other business needs. The State's revenue share from TexasOnline has exceeded \$39 million as of the end of fiscal 2008.

The State's private partner, the Current Contractor, has benefited as well, receiving fair compensation for the investments it has made and the risk it undertook to develop TexasOnline. In all these respects, the current public-private partnership is a success. DIR plans to build on this successful model by establishing new contract and governance models in the new Agreement. The private partner under the new Agreement will have the potential to earn tangible and intangible benefits through creative, efficient, and forward-looking planning and execution.

DIR intends for the Vendor to establish new levels of service and cost-effectiveness. TexasOnline 2.0 must sustain and leverage the past successes to benefit Texas through more services and higher usage of those services. The Internet is evolving so rapidly that simply working harder at repeating the successful formulas of today will not anticipate and capture the benefits of new services, architectures, and opportunities that will emerge in the years to come.

A successful public-private partnership means the achievement of the goals listed in RFO Section 1.1 over the term of the next Agreement. The Vendor will demonstrate throughout its Offer how it will contribute to the achievement of these goals.

2.3 Rights and Ownership

In addition to the intellectual property terms and conditions in Appendix B, Section 14, the objectives and principals for the ownership and licensing of Equipment, Software, and documentation are as follows:

1. All Equipment, Software, and documentation provided must be freely usable by DIR, or its designee, including any successor vendor, during and after the term of the Agreement resulting from this RFO.
2. Revenue-sharing opportunities resulting from development efforts and intellectual property ownership are encouraged.
3. Intellectual property development must comply with standards developed in accordance with the governance model established under the Agreement resulting from this RFO.
4. Vendor must describe how it can leverage, where appropriate, Software and technology for multiple purposes in order to minimize both capital investment and ongoing operational costs.
5. Vendor must comply with the provisions of all relevant existing TexasOnline license agreements.

Vendor will respond in the Rights and Ownership section of its Offer describing the Vendor's compliance with these objectives. A Vendor that provides a value proposition on the objectives and principals listed above and that provides equitable compensation to DIR for intellectual property development will be evaluated more favorably.

Vendor may assert that the source code and documentation, together with all updates and revisions, will be the intellectual property of the Vendor. However, such source code and documentation, together with all updates and revisions, will be considered to be licensed to DIR on a fully paid, perpetual and non-cancelable basis for all purposes, including but not limited to, use by the Vendor and all subsequent service providers under future RFOs. Source code and documentation for Software will be escrowed with an escrow agent and conditions for its release (such as business failure, Agreement termination, or disaster recovery) will be specified in the escrow agent contract and must be acceptable to DIR. Updates and revisions to such source code and documentation will be escrowed and owned as stated above.

Periodic tests of the escrowed Software are performed, including the scripting of installation, actual installation, compilation of the source code onto test equipment, and full usability testing. DIR intends to schedule a routine, full usability test of the current escrowed source code in spring 2009.

2.3.1 Ownership of TexasOnline 2.0 Equipment and Software

The TexasOnline 2.0 infrastructure will be managed by International Business Machines Corporation (IBM) pursuant to the Data Center Services (DCS) Master Services Agreement (<http://www.dir.state.tx.us/datacenter/contract.htm>) for the benefit of TexasOnline.

As part of the Rights and Ownership section of its Offer, the Vendor may include pricing for out-of-scope Equipment as defined in the DCS Master Services Agreement (RFO Section 2.6.4.1), system Software, and costs for the Software development. After Vendor costs for these items have been paid for through the Vendor's proposed fee structure, all Equipment and Software will become property of DIR. The Rights and Ownership section of the

Vendor Offer must list all items that will become DIR property after the appropriate costs are recouped.

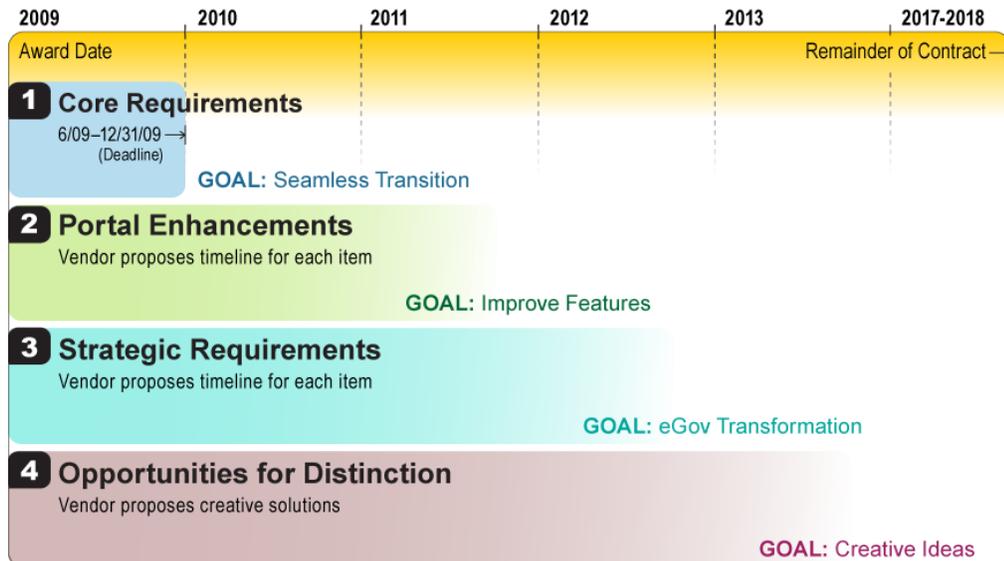
Upon Agreement termination, DIR may wish to purchase out-of-scope Equipment as defined in the DCS Master Services Agreement (RFO Section 2.6.4.1) and Software at the costs included in this section. Vendor will include depreciation schedules and prorated costs for the items.

2.4 Categories of Implementation

Vendors will propose solutions to four categories of requirements: core requirements, portal enhancements, strategic requirements, and opportunities for distinction. These categories are illustrated in the figure below and defined in more detail in RFO Sections 2.4.1 through 2.4.4.

Appendix F.7(c) contains current TexasOnline metrics and statistics that may be used to estimate pricing.

Figure 2.4 – Implementation Categories



2.4.1 Core Requirements

Core requirements are all services and deliverables necessary for the Vendor to assume operational responsibility for TexasOnline 2.0 on the Cutover. The core requirements include

1. Transfer knowledge and management of current operations;
2. Establish basic competencies and staff for operating a web portal;
3. Transfer of Customer Agreements;
4. Establish strategic and operational guides, processes, and procedures;
5. Establish governance and business models;
6. Negotiate post-implementation responsibilities and operating arrangement with Current Contractor for Master Work Order Projects and ePay;

7. Establish all financial mechanisms and accounting procedures to manage TexasOnline 2.0 financial operations. This includes migrating historical financial information from the Current Contractor;
8. Establish program facilities and staff in the Austin, Texas, area in order to facilitate communication, auditing, and access to records and documentation; and
9. Establish all necessary processes and interfaces with stakeholders for TexasOnline 2.0 transaction processing, as it relates to ePay. This may include establishing or transferring merchant accounts for Customers who have applications on TexasOnline 2.0.

All core requirements must be complete by December 31, 2009. In order for DIR to monitor the progress during this implementation period, the Vendor must submit a weekly status report based upon the key milestones from the Implementation Plan (RFO Section 2.5.2). The Vendor must submit, in writing, an affirmation on December 1, 2009, that it will be ready at Cutover to assume all responsibilities for TexasOnline 2.0 as required in the Agreement. If the Vendor cannot provide such affirmation, then the Vendor must provide a Corrective Action Plan to DIR no later than December 1, 2009. The Corrective Action Plan must reflect the steps that will be executed, with timelines, in order to complete all core requirements. Failure to meet these requirements will result in performance remedies as described in RFO Section 2.10.

2.4.1.1 Implementation Planning and Execution

Implementation of the new Agreement requires transition from the Current Contract. Implementation begins on the Effective Date of the Agreement and ends on the Cutover date. The Vendor will

- Acquire all knowledge necessary to operate TexasOnline 2.0;
- Develop all necessary support processes, procedures, functions, documentation, and staffing; and
- Work collaboratively with the Current Contractor to effect an orderly transition of operational control.

The Vendor must describe in the Implementation section of its Offer

- Its ability and willingness to assume operational control and perform all duties as described in this section;
- Identification of key issues that need to be addressed during the implementation period;
- Approach to the transition of Service Level Agreements (SLAs) to Customer Agreements;
- Relationship management structures, policies, and processes with Current Contractor and Customers during implementation.

Implementation is the responsibility of the Vendor with oversight provided by DIR.

A critical component of a successful transition is an Implementation Plan, described in RFO Section 2.5.2 that includes, at a minimum

- Project schedule with key milestones;

- Description of Vendor approach to knowledge transfer, including
 - Capturing and preserving the knowledge necessary to maintain the functions, applications, and services of TexasOnline,
 - Identifying the resources and the time commitments to training and knowledge transfer activities,
 - Specifying the number of resources to be trained,
 - Measuring and proving the knowledge transfer is working effectively;
- Outline of procedures to be followed during the implementation period;
- Roles and responsibilities as they relate to TexasOnline 2.0 functions for the Vendor, the Current Contractor, DIR, and additional stakeholders;
- Detailed headcount projections with job skills within each area of operational responsibility;
- Method of documenting and transferring assets developed by the Current Contractor (nature, type, stage of delivery, location, etc.);
- Point of contact and procedures for managing problems or issues during the implementation period;
- Implementation test plan; and
- Contingency plan for failed implementation.

2.4.1.2 Establish Customer Agreements

Currently, there are approximately 100 Service Level Agreements (SLAs) for services that are being provided through TexasOnline. These SLAs are included in Appendix F.6(g). The majority of these SLAs will expire on December 31, 2009.

The Vendor is required to transition to new Customer Agreements that must be effective on January 1, 2010, to replace the existing SLAs. In accordance with the proposed governance structure, the Customer Agreements will be executed by three parties: Vendor, Customer, and DIR. DIR intends to clearly communicate the necessity of this transition to the Customers prior to the award of the new Agreement. The objectives of the Customer Agreement are to maximize standardization of the terms and conditions, promote visibility by DIR into the project development process, and provide the opportunity for oversight of the contractual relationship.

The draft Customer Agreement Standard Terms and Conditions and a draft Customer Agreement template are in Appendix H.

The Vendor is required to complete execution of new Customer Agreements, with each Customer and DIR, no later than November 15, 2009. The templates are provided to assist the Vendor in determining the scope of this requirement, and the Vendor is encouraged to provide comments regarding these templates in the Implementation section of its Offer. The Vendor will be allowed and encouraged to perform a due diligence review of the existing SLAs immediately upon award of the new Agreement. Upon completion of the due diligence review, the Vendor must provide proposed Customer Agreement templates, and submit the new Customer Agreement templates to DIR for review and approval. Vendor must allow two weeks for DIR approval of the new templates. In the Implementation Plan, Vendor must include the activities necessary to transition all SLAs to the Vendor.

2.4.1.3 Establish Operational Functions

The Vendor must assume full operational control of TexasOnline 2.0 on January 1, 2010, in accordance with the terms of the new Agreement. Below is a list of items that are operational requirements to be accomplished to obtain a successful transition from the Current Contract to the new Agreement. These items should be incorporated into the Implementation Plan described in RFO Section 2.4.1.1.

Table 2.4.1.3 – Operational Requirements for Implementation

Implementation Task	Includes
Establish office and staff	<ul style="list-style-type: none"> • Local office • Staff, including program and Project Management, Development, Security, Accounting and Finance, Marketing, and Help Desk
Establish help desk functions	<ul style="list-style-type: none"> • Facility and office equipment • Call handling infrastructure (PBX, IVR, IP, soft switch) • Call distribution and reporting (screen pop, call routing, call vectoring) • Ticket tracking system • Online handling, distribution, and reporting (email, online ticket handling) • Processes and procedures
Develop and finalize management plans	<ul style="list-style-type: none"> • Implementation • Program Management • Disentanglement • Organizational and Staffing • Security Management • Help Desk Management • Problem Management • Risk Management • Disaster Recovery and Business Continuity • Change Management • Portfolio Management • Training and Communications • Quality Management
Establish governance processes	<ul style="list-style-type: none"> • Approved change control and change request process • Approved architecture review process • Business Case approval process • Quality assurance process • Due diligence review of current SLAs (approximately 100) • Provide new Customer Agreement template and Terms and Conditions document for DIR approval • Execution of all required new Customer Agreements with DIR and Customers • Third-party vendor management processes • Customer relationship management and support • DCS coordination processes • TEX-AN coordination processes
Establish financial systems	<ul style="list-style-type: none"> • Accounting system, reporting, and processes • Bank accounts • Merchant accounts for Customers • Processes and interfaces with CPA • Customer financial reports

Implementation Task	Includes
Establish reports	<ul style="list-style-type: none"> • Report templates as described in RFO Section 2.8.6
Assume full operational control of TexasOnline 2.0 as of cutover on December 31, 2009, at 11:59:59 p.m.	<ul style="list-style-type: none"> • Program management • Portal • Applications (currently 152) • Services (currently 842) • Logical database management • Security • Batch processes • Financial and account management • Routing, escalation, and service level procedures • DCS and TEX-AN interactions • Interactions with stakeholders and functions (Current Contractor, ePay, DIR) • Help Desk

2.4.2 Portal Enhancements

Required portal enhancements include: content management system, Internet and intranet templates, Internet and intranet toolsets, and improved navigation and search features. DIR prefers that these enhancements be implemented as soon as possible. Successful implementation will strengthen and augment usability, increase overall customer satisfaction, reduce calls to the help desk, and attract more users to complete transactions online.

In the Portal Enhancements section of its Offer, the Vendor must address the list below concerning each portal enhancement mentioned in RFO Section 2.4.2.1 to 2.4.2.4:

- Identify additional feature-specific requirements that support the goals of TexasOnline 2.0 as referenced in RFO Section 1.1;
- Support TexasOnline 2.0 extensible architecture requirement (RFO Section 2.4.3.3);
- Work within TexasOnline 2.0 governance model (RFO Section 2.7);
- Demonstrate its understanding of the TexasOnline 2.0 funding model;
- Demonstrate how it will develop and deploy these features while continuing the existing revenue stream to the State;
- Propose economies of scale that will provide savings to the State;
- Leverage interdependencies between features that will provide savings and value;
- Identify roles and responsibilities of Vendor and other stakeholders;
- Identify effective and efficient methods for Customer training and continuous improvement;
- Propose a project schedule with key milestones;
- Propose a staffing plan including skill sets required to develop and maintain features; and
- Propose pilots or phased rollouts as needed to ensure successful deployment.

At the end of each portal enhancement section, there are additional items for the Vendor to include in the Portal Enhancements section of its Offer. The Vendor solution may choose to combine portal enhancements in its Offer; however, each portal enhancement must be

accounted for individually as instructed in Appendix E.4. The Vendor will be responsible for submitting final project plans to DIR for approval no later than March 31, 2010.

2.4.2.1 Content Management System

A content management system is used to create, edit, manage, and publish web content in a consistent manner with a user interface that can be operated without a high degree of technical expertise. Many potential Customers face the challenges of maintaining intranet and Internet websites with limited budget, turnover in personnel, and an outdated infrastructure.

The objectives of the content management system are to

- Empower Customers to publish and update content directly to the web,
- Separate architecture from content,
- Provide a resource library of commonly used templates and information resources,
- Free up Customer resources and staff to focus on other programming tasks, and
- Encourage potential Customers to migrate their websites to TexasOnline 2.0.

The content management system must be accessible (RFO Section 2.6.10) and secure (RFO Section 2.6.6). The Vendor must identify all other requirements that support the objectives. The Vendor is also expected to develop a business model that provides

1. A basic website hosting package that is free to Customers. The basic package should also include a defined number of pages, storage capacity, and content management system features; and
2. Upgrade or premium packages, at an additional cost to Customers. The premium package may include additional services, features, larger storage capacity, and upgraded network capacity.

In the Portal Enhancements section of its Offer, the Vendor must also include at a minimum

- A description of Vendor's proposed content management system,
- Policies and procedures for implementation,
- A description of Vendor's approach to a pilot phase,
- Issue management,
- Preferred underlying technology,
- Customer support,
- Additional offerings (e.g., content migration, customizations, object-oriented programmers, graphic designers, etc.), and
- Description of the business model.

Financial details of the content management system must be submitted as described in Appendix E.4 – Portal Enhancements.

For pilot estimation purposes, the Vendor should use the information provided in the Pilot Assumptions table (Appendix F.8).

After the pilot phase is complete, the Vendor must provide and estimate a solution that is scalable for all interested Customers in the future.

2.4.2.2 Internet and Intranet Web Templates

Web templates, delivered in conjunction with the content management system described above, will help Customers redesign their Internet and intranet sites. Creative designs should employ a common look and feel that unite disparate websites and clarify TexasOnline 2.0 portal boundaries.

Web templates must

- Comply with accessibility standards as described in RFO Section 2.6.10;
- Allow for customizations and add-ons;
- Increase overall usability, navigation, and aesthetics of websites;
- Provide a common TexasOnline 2.0 look and feel;
- Address shared government Customer needs for Internet and intranet websites; and
- Be designed appropriately for a government portal.

In the Portal Enhancements section of its Offer, the Vendor must also include, at a minimum, examples of web templates from Vendor's prior projects.

Financial details of web templates must be submitted as described in Appendix E.4.

2.4.2.3 Internet and Intranet Tools and Features

The content management system should provide a resource library for additional toolsets and features that can be easily deployed on Customer intranet and Internet sites. Some tools are valuable additions to Customer intranet sites but may be inappropriate for the public-facing Internet site, and vice versa. The Vendor's main responsibility is to make these toolsets available and easily deployable.

Below is a sample list of tools and features that could be deployed on TexasOnline 2.0. In the Portal Enhancements section of its Offer, the Vendor will provide a description of the tools and features it envisions deploying on TexasOnline 2.0:

- Instant messaging,
- Document repositories,
- Virtual meetings,
- Brainstorming tools,
- Issue tracking,
- Project management tools,
- Wikis, forums, and blogs,
- RSS feeds,
- Streaming videos or podcasts,
- Mashups, and
- Mobile version of TexasOnline 2.0.

All TexasOnline 2.0 intranet tools and features must be accessible and secure. The Vendor must describe how the intranet tools and features will fit into the business model described in RFO Section 2.4.2.1.

In the Portal Enhancements section of its Offer, the Vendor must also include at a minimum

- Descriptions of features and tools;
- Business model description (e.g., which features are part of the free version versus the premium packages, how many different packages are affected, etc.);
- Policies and procedures for implementation;
- A collaboration strategy to help Customers apply content to the toolsets;
- Training, instruction guides, and continuing support for Customers;
- List of additional Vendor-related services to assist Customers in customizing toolsets;
- If compliance with DIR accessibility requirements (RFO Section 2.6.10) is an issue, describe mitigation strategies; and
- Projected revenue opportunities.

Financial details of the tools and features must be submitted as described in Appendix E.4.

2.4.2.4 Improved Navigation and Search Features

Improving navigation and search features of TexasOnline 2.0 will allow users to find information quickly and complete transactions easily. The requirements of this portal enhancement must include at a minimum

- Usable site map,
- Breadcrumbs,
- Compliance with statewide accessibility standards (RFO Section 2.6.10),
- Improved search engine,
- Enhanced search tools,
- Search tool help page,
- Carefully crafted taxonomy,
- Multiple ways to link to most frequently accessed pages,
- User feedback mechanism to solicit ideas for improvement, and
- Analytics to determine traffic patterns and provide continuous navigation improvement.

In the Portal Enhancements section of its Offer, the Vendor must also include at a minimum

- Other navigation and search features,
- Approach for navigation design,
- Policies and procedures for implementation,
- Description of the designs and features that improve overall navigation,
- Process for categorizing and organizing information to improve navigation, and
- Examples of navigation and search features from Vendor's prior projects.

Financial details of the improved navigation and search features must be submitted as described in Appendix E.4.

2.4.3 Strategic Requirements

Strategic requirements are new features and functionalities that require policy, planning, governance, and/or architecture enhancements. Vendor will propose the individual deployment timelines for each item balancing the benefits to the stakeholders and success of TexasOnline 2.0.

The goal of these requirements is to drive e-government transformation, which is one of the strategic goals for this procurement, as well as a State strategic goal for information resources management. Successful implementation of these items will allow TexasOnline 2.0 to make the quantum leap from the present state to a more rich and dynamic experience of the web.

Since these items are new to TexasOnline 2.0, there is a risk that Customers will not embrace these features. The Vendor must include in its response how it plans to capture Customer interest, ensure Customers learn how to best use these features, and use Customer feedback for continuous improvement.

In the Strategic Requirements section of its Offer, the Vendor must address the list below concerning each strategic requirement mentioned in RFO Section 2.4.3.1 to 2.4.3.7

- Identify additional feature-specific requirements that support the goals of TexasOnline 2.0 as referenced in RFO Section 1.1,
- Support TexasOnline 2.0 extensible architecture requirement (RFO Section 2.4.3.2),
- Work within TexasOnline 2.0 governance model (RFO Section 2.7),
- Demonstrate its understanding of the TexasOnline 2.0 funding model,
- Demonstrate how it will develop and deploy these features while continuing the existing revenue stream to the State,
- Propose economies of scale that will provide savings to the State,
- Leverage interdependencies between features that will provide savings and value,
- Identify roles and responsibilities of Vendor and other stakeholders,
- Identify effective and efficient methods for Customer training and continuous improvement,
- Propose a project schedule with key milestones,
- Propose a staffing plan including skill sets required to develop and maintain features, and
- Propose pilots or phased rollouts as needed to ensure successful deployment.

At the end of each strategic requirement section, there are additional items for the Vendor to include in the Strategic Requirements section of its Offer. The Vendor will be responsible for submitting final project plans to DIR for approval no later than June 1, 2010.

2.4.3.1 Federated Identity Management

Federated identity management (FIM) is the use of trust relationships between separate security domains (organizations) to provide appropriate and secure seamless authentication for users. This enables organizations to be more agile and efficient while

improving user productivity and reducing overhead. Implementation is a combination of policy, process, and technology.

DIR has three strategic objectives regarding the adoption of FIM:

1. Mitigate the security and privacy risks associated with electronic government by allowing government agencies to develop trust relationships with their respective user communities through the use of electronic identity credentials (e.g., public key infrastructure (PKI) certificates, user IDs/passwords) issued by other agencies and commercial organizations.
2. Control costs and risks associated with authenticating the identity of a large number of end users by eliminating the need for each agency to create and maintain a separate credentialing system for each of their online applications.
3. Improve Citizen, Business, and Customer online experience with single sign-on capabilities.

DIR will lead the development of policies and procedures with Customers in the federation. The Vendor is responsible for architecture, implementation, and operation of FIM within TexasOnline 2.0. In addition, the Vendor must also

- Participate as a technology subject matter expert in Texas federation policy-making discussions,
- Document the interface specifications and publish changes,
- Assist new TexasOnline 2.0 FIM participants with testing of new interfaces,
- Maintain a test instance of the authentication portal,
- Maintain auditable documentation of partners and their level of participation, and
- Maintain a list of participating information resources and contacts.

In the Strategic Requirements section of its Offer, Vendor will describe how it will authenticate users of State applications using a federated web authentication and authorization solution that is interoperable with current standards and protocols, and provides a secure capability for username and password log-on that does not require the use of a secondary or alternate sign-on process. The description will provide for Customer-specific secondary sign-on processes that are in addition to, not in lieu of, the Vendor's federated authentication solution. The Vendor will also describe multiple factor authentication options that can complement the single sign-on solution.

For pilot estimation purposes, the Vendor should use the information provided in the Pilot Assumptions table (Appendix F.8).

After the pilot phase is complete, the Vendor must provide and estimate a solution that is scalable for all interested Customers in the future.

In the Strategic Requirements section of its Offer, the Vendor must also include at a minimum

- A description of Vendor's proposed FIM solution,
- Policies and procedures for implementation,
- Preferred underlying technology, and
- Model for interoperability with current standards and protocols.

Financial details of federated identity management must be submitted as described in Appendix E.5.

2.4.3.2 Application Marketplace

TexasOnline 2.0 will provide a community where developers and employees are encouraged to share knowledge, ideas, and applications to collaborate across boundaries. The marketplace can be a central repository where users can leverage the power of a common portal infrastructure to extend benefits across boundaries, reduce redundancies, share best practices, and enhance existing solutions.

Features may include, but are not limited to

- Forums for posing questions, product reviews, technology discussions, knowledge sharing, creative ideas, partnering opportunities, etc.;
- Blogs;
- Wikis; and
- Add-ons to existing applications.

The Vendor is responsible for

- Marketing to current and potential Customers,
- Providing in-depth training to optimize usage,
- Moderating user-generated content,
- Establishing policies and standards for the community in accordance with state guidelines,
- Soliciting feedback to develop new ideas and refresh older tools, and
- Performing necessary duties to ensure the marketplace is a vibrant, well-visited site.

In the Strategic Requirements section of its Offer, the Vendor must also include at a minimum

- A description of Vendor's proposed marketplace,
- Policies and procedures for implementation,
- Preferred underlying technology, and
- Features to be included in the marketplace.

Financial details of the application marketplace must be submitted as described in Appendix E.5.

2.4.3.3 Extensible Architecture

Extensible architecture is based on a foundation of service-oriented architecture (SOA), enterprise application integration (EAI), and software-as-a-service (SaaS) architecture principles, using an extensible messaging tier for transactional data and business process management. The Vendor is required to deploy all new features into a target architecture that uses these principles. The Vendor will describe the preferred target architecture in the Strategic Requirements section of its Offer, and must include a recommended approach for transitioning existing applications into this architecture. The Vendor will describe policies, procedures, standards, and overall approach as well as methods that will be used to evaluate the potential benefit to TexasOnline resulting from emerging technologies.

Features of the architecture must

- Be built on SOA, EAI, and/or SaaS principles,
- Use a shared application server and presentation environment,
- Set up a messaging tier that is protocol-, platform-, and database-agnostic,
- Be able to abstract unstructured data from non-web-based, web-based, and multi-protocol web-based systems,
- Provide integration for existing applications that are more tightly coupled,
- Accommodate security requirements that range from simple to multi-tiered, and
- Offer Customers secure connectivity to both hosted and non-hosted applications.

In the Strategic Requirements section of its Offer, the Vendor must also include at a minimum

- A description of Vendor's proposed architecture,
- Policies, procedures, standards, and overall approach for implementation, and
- Retrofitting existing applications into the extensible architecture (the Vendor does not need to project this cost in the RFO response).

2.4.3.4 Financial Processing System

TexasOnline incorporates a payment processing engine (ePay) that various applications use for processing online payments for provided services. Customers either build their own payment site and feed transactions to the payment engine, or employ the Current Contractor to develop and host the payment site. The Current Contractor provides ePay as a service and may continue to operate this service through December 31, 2011, under current contractual arrangements as detailed in Appendix F.6(d).

The Vendor may choose to continue to use the ePay service, deploy a replacement online payment processing solution, or use both the ePay service and another online payment processing solution. Regardless of which approach is chosen, the payment engine architecture must support the architecture described in RFO Section 2.4.3.3. In addition, the payment processing engine must be a consolidated solution to support additional payment channels, such as interactive voice response (IVR) and over-the-counter. This payment engine must support all current interfaces, processes, and procedures, including all electronic activity between TexasOnline 2.0 and

- Electronic check (ACH),
- Credit card processing,
- Comptroller of Public Accounts,
- Participating Customers, and
- Existing applications.

Additional information on these interfaces may be found in the CPA accounting policy statement, *Fiscal Policies and Procedures for Electronic Processing of Revenues and Expenditures* (APS 029) (https://fm.x.cpa.state.tx.us/fm/pubs/aps/29/08-09/aps_029.pdf) and the *ePay Payment Services Specifications* document to be available in the TexasOnline 2.0 Resource Room. Applications and services that interface with ePay may be found in Appendix F.7(b). Any Customer-specific interfaces will be identified during due diligence after Contract Award.

The online payment process must support the following payment types:

- Visa credit,
- MasterCard credit,
- American Express credit,
- Discover credit,
- Debit cards (pinless),
- ACH,
- E-Check type B (business), and
- E-Check type E (Individual).

The Vendor will be responsible for

- Additional payment channels, such as IVR and over-the-counter,
- Daily file transfers,
- Ongoing maintenance,
- Reporting financial and transaction details,
- Negotiating a credit card processing rate that is market competitive,
- Development support for current and future Customers,
- Online system interfaces for Customer support, and
- Refund, exception, and chargeback processing capabilities.

In the Strategic Requirements section of its Offer, the Vendor must also include at a minimum

- A description of the online payment engine proposed,
- A transition plan and timeline from current payment engine to Vendor solution,
- An architecture based on principles described in RFO Section 2.4.3.3,
- Policies and procedures for implementation,
- Estimated credit card processing fee, and
- Flexibility to add additional payment types.

Financial details of the financial processing system must be submitted as described in Appendix E.5.

2.4.3.5 Personalized User Accounts

DIR intends TexasOnline 2.0 to offer a personal account for all Citizens, Businesses, and Customers to customize content to enhance the e-government experience. Personalization will include a dashboard allowing users to incorporate dynamic tools such as web widgets and RSS feeds to receive regular updates from the Customers of their choice.

Features of the customized pages must

- Incorporate an interface that is creative, well-designed, usable, and navigable,
- Comply with statewide accessibility standards (RFO Section 2.6.10),
- Work collaboratively with Customers to create useful and dynamic web widgets,

- Allow approved outside content to be incorporated into user dashboards, and
- Publish an organized and searchable library of widgets.

In the Strategic Requirements section of its Offer, the Vendor must state how it meets the requirements above and include at a minimum

- Description of personalized user account solution,
- Policies and procedures for implementation,
- Examples of potential TexasOnline 2.0 value-add widgets,
- Additional services offered to Customers, and
- Technical requirements to meet accessibility standards without compromising functionality or user interface.

Financial details of Personalized User Accounts must be submitted as described in Appendix E.5.

2.4.3.6 Published Specifications

The Vendor will publish specifications to allow developers to build applications to integrate efficiently into TexasOnline 2.0 and provide reusability of components. In addition, a software development kit (SDK) may be deployed to assist Customers with incorporating new applications into TexasOnline 2.0.

In the Strategic Requirements section of its Offer, the Vendor must also include at a minimum

- Policies and procedures for publishing specifications,
- Descriptions of how developers will test applications developed using these specifications,
- Descriptions of how new applications will be certified and deployed (RFO Section 2.7.3.5),
- Licensing terms and issues for any third-party-developed applications, and
- If an SDK is proposed, descriptions of the components that would be provided.

Financial details of published specifications must be submitted as described in Appendix E.5.

The Vendor must publish approved specifications by June 1, 2010.

2.4.3.7 Geospatial Infrastructure and Web Services

The significant technological leap forward in interactive mapping capacity via the web that has occurred within the last several years makes new solutions available that were not contemplated in the first version of TexasOnline. Texas has begun to develop an integrated state GIS initiative that TexasOnline 2.0 can support through improved GIS capacity. An integrated capacity for location awareness for information hosted via TexasOnline, as well as robust visualization of this information, would represent a substantial advancement of the ability of TexasOnline 2.0 to serve Citizens, Businesses, and Customers.

Presently, the State leverages GIS technology to support Citizen service delivery, economic and infrastructure development, emergency response and homeland security,

and environmental conservation. Approximately 45 state agencies, universities, and hundreds of local governments have GIS programs to support their missions, although many of these organizations are not yet utilizing GIS web services at this time.

The development of GIS web services presents Customers with many of the same challenges and opportunities as other strategic requirements in this RFO, such as lack of skilled personnel to support a system, budget constraints that limit the ability to finance new application development, and lack of knowledge and access to GIS data and technical resources. TexasOnline 2.0 will provide a flexible service that will lower development costs and time by utilizing enterprise GIS shared services that spread out the overall costs of development.

The objectives of the TexasOnline 2.0 GIS services are to

- Provide for the deployment of an integrated GIS database and map visualization capacity, supported by open and publishable API's that would enable deeper integration opportunities with other state GIS applications in the future;
- Provide an automated ability to discover and access spatial information delivered through TexasOnline;
- Provide Customers a cost-effective and efficient means to rapidly publish GIS web maps and create new geospatial web services for business purposes;
- Provide Customers access to an online catalog of state-maintained geospatial data formatted for the web, map templates, and web services;
- Provide Customers with multiple options for engaging skilled vendor contract resources and technological resources that can deliver support services for GIS web services;
- Facilitate the development of Customer GIS web applications that are interoperable with other State enterprise GIS systems;
- Empower Customers to publish geospatial content directly to the web;
- Provide a simple and intuitive map application interface environment with the ability to rapidly render maps.

2.4.3.7.1 GIS Web Services Requirements

The Vendor will provide technical staff and technological resources to enable Customers to add web mapping and other related geospatial services to their web portal pages. To ensure data interoperability, all data prepared for TexasOnline 2.0 applications will follow all relevant State of Texas cartographic standards found in 1 TAC 201 ([http://info.sos.state.tx.us/pls/pub/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=10&ch=201&rl=6](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=10&ch=201&rl=6)) and OpenGIS standards and specifications (<http://www.opengeospatial.org/standards>).

Customers with limited resources may choose a solution that can provide turn-key services for web mapping. There are also Customers with sufficient resources that may choose to provision web mapping services internally by subscribing to TexasOnline 2.0 services and creating their own service in-house or a third-party contractor.

The Vendor will provide solutions for organizations seeking to develop and implement basic web mapping service applications (i.e., Mashup Services). These solutions include provisioning for basic Internet mapping applications, without any database requirements, using services such as Google Maps / Earth, Microsoft Virtual Earth, ESRI Arc Web Services, and other comparable environments.

The Vendor is responsible for providing these services to support basic geospatial functionality:

- APIs for GIS web services,
- Basic web mapping application functionality, and
- Software licensing.

The Vendor is responsible for providing these geospatial services as required through approved Business Cases:

- Data development and integration services (excluding complex statewide base map data),
- Data licensing,
- Database management,
- Helpdesk services,
- Portal user account management,
- Security services (network and data),
- Subscription services,
- Training, and
- Web application development services.

In the Strategic Requirements section of its Offer, the Vendor must include at a minimum

- Policies and procedures for implementation;
- Preferred underlying technology;
- Description of Vendor's proposed GIS web services;
- Description and approach to
 - Portal account and geospatial database management services,
 - Licensing assistance and support for basic software such as Google Maps, Google Earth, Virtual Earth, and ESRI Map services,
 - GIS web application development,
 - Technical assistance for migrating existing geospatial data to an online web mapping environment;
- GIS-related project portfolio;
- Staffing capacity; and
- Subscription fees for commercial geospatial web services and data sets.

Financial details of GIS web services must be submitted as described in Appendix E.5.

2.4.3.7.2 GIS Opportunity for Distinction

Vendors may propose additional GIS solutions for TexasOnline 2.0 through the Opportunities for Distinction section (RFO Section 2.4.4). The following is a list of potential features:

- Database functionality utilizing commercial database products such as SQL Server, Oracle, or My SQL database engines Data editing support and import/export capabilities with improved application and network security;

- Volume licensing support for GIS software, database applications, translation software (i.e., SAFE software), and data products;
- Technical assistance for data editing and maintenance via the Internet;
- Advanced hosting services for improved network security to allow external users direct access to data;
- Licensing support for all GIS software including ESRI advanced server application;
- Additional capacity for large datasets;
- Premium hosting services designed for the implementation of advanced GIS analytical processes;
- Technical documentation for implementing full featured database (i.e., ArcGIS server or "direct connect" capabilities) within the mapping application;
- Tile caching server support for processing data tiles;
- Licensing support for GIS and database applications including the ESRI product suite;
- Enhanced hosting services capable of managing database enhanced applications with increased storage capacity;
- Maintenance of an applications development network including guidelines, wiki code sharing, and online forums.

The State has not selected a preferred vendor for geospatial web mapping technology. State agencies and universities are currently using geospatial technology produced by ESRI, Microsoft, Google, other vendors and open source software developed to OGC specifications. Therefore, TexasOnline 2.0 is not aiming for a preferred geospatial vendor solution, but instead for a proposal that can provide Customers with a suite of technological capabilities depending upon their needs.

2.4.3.7.3 Related GIS efforts

Through other efforts, the State plans to provide access to GIS base map data and web mapping services hosted by DCS and other State entities. Access may be provided to TexasOnline 2.0 at no charge through specific government program funding or by subscription, based upon the number of seats required and the complexity of the application.

The Vendor may be required to provide web services or data not hosted or provisioned by the State through an approved Business Case. It is not intended that TexasOnline 2.0 be used for complex framework or statewide base maps such as orthoimagery, LiDAR, etc.

Planning for the technical architecture and governance structure for a GIS enterprise utility web service is in development. Currently, there are other project initiatives in various stages of development that will create dependencies and interdependencies for the GIS offerings through TexasOnline that will become more defined over this fiscal year. In the event that the GIS utility service does not materialize or is not implemented in a timely manner to serve Customers then the Vendor may be requested to provide a solution proposal.

2.4.4 Opportunities for Distinction

This section allows the Vendor to demonstrate value beyond the requirements specified in the preceding sections.

Vendor must propose creative enhancements or business model improvements. For each product or service proposed, the Vendor must provide a Business Case, including at a minimum

- Description of product or service,
- High-level requirements,
- Approach,
- Schedule with key milestones, and
- Analysis of technical and business risk.

Financial details of each opportunity for distinction must be submitted as described in Appendix E.6.

Vendor may submit its own ideas for opportunities for distinction or may propose from any of the broad topics described below:

- Integrated point-of-sale transactions,
- Event registration system,
- Online survey and analytic tools,
- Electronic procurement,
- Green technology initiatives (within TexasOnline 2.0 and/or in business operations),
- Comprehensive GIS solution,
- Increase Customer adoption rate,
- Increase Citizen and business adoption rate, and/or
- Vendor's commercial alliances.

2.5 Program and Project Management

The Vendor will be responsible for program management of TexasOnline 2.0 and project management of all development projects that are undertaken. The Vendor will be expected to use standards, such as Texas Project Delivery Framework, Project Management Body of Knowledge (PMBOK), Information Technology Infrastructure Library (ITIL), and other internationally recognized standards for program and project management.

The Vendor must have strong management practices. The Vendor must create, maintain, implement, and update management plans as specified by DIR. In its Program Management Plan, the Vendor must describe its approach to developing each of the following management plans. Initial and final drafts of the management plans are to be submitted to DIR for approval within the timeframes specified in each subsection below. The Vendor will provide updated management plans annually or as requested by DIR.

The management plans include

- Program Management Plan,
- Implementation Plan,

- Disentanglement Plan,
- Quality Management Plan,
- Change Management Plan,
- Risk Management Plan,
- Problem Management Plan,
- Integration Management Plan,
- Organizational and Staffing Plan,
- Security Management Plan,
- Technology Management Plan,
- Portfolio Management Plan,
- Training and Communication Plan,
- Help Desk Management Plan, and
- Disaster Recovery and Business Continuity Plan.

2.5.1 Program Management Plan

The Vendor must establish a comprehensive Program Management Plan that describes how the TexasOnline 2.0 program will be managed to meet the goals and requirements defined in this RFO. This plan must incorporate the expectations and governance mechanisms described in RFO Section 2.7. It should also include how all projects within the TexasOnline 2.0 program will be identified, planned, staffed, managed, executed, and controlled.

The Program Management Plan must describe how each of the following areas of the program will be managed: governance, standards, project planning, portfolio management, stakeholders, subcontractors, integration, finances, infrastructure, and process improvement. The Program Management Plan must be aligned with the goals described in RFO Section 1.1 and the governance objectives described in RFO Section 2.7.1.

The initial draft of the Program Management Plan is to be submitted in the Required Plans section of the Vendor's Offer. The final draft is to be submitted to DIR by July 1, 2009.

2.5.2 Implementation Plan

The Implementation Plan must describe the Vendor's plan for implementing its solution, and describe how the functions, facilities, and processes will transition from the Current Contract to the new Agreement.

The Implementation Plan must address all of the requirements specified in RFO Section 2.4.1.1.

The initial draft of the Implementation Plan is to be submitted in the Required Plans section of the Vendor's Offer. The final draft is to be submitted for DIR approval by July 1, 2009.

2.5.3 Disentanglement Plan

The Vendor will assist DIR at the end of the Agreement awarded through this RFO in planning for an orderly exit strategy, and agrees to comply with direction provided by DIR to assist in the orderly transition of all assets, including Equipment, Services, Software, and leases to DIR or a third party designated by DIR. Because TexasOnline 2.0 will

receive all in-scope infrastructure services (RFO Section 2.6.4.1) through Team for Texas as outlined in the DCS Master Services Agreement, Vendor will not be responsible for Disentanglement functions related to the TexasOnline 2.0 in-scope infrastructure, except for the general obligations to provide knowledge transfer and to cooperate with other DIR contractors.

The establishment of a Disentanglement Plan will lay the foundation for that process. The Disentanglement Plan describes Vendor's policies and procedures that will ensure:

1. Minimal disruption in the delivery of services during the transition to DIR or a third party designated by DIR; and
2. Cooperation with DIR and any third party designated in transferring information and responsibility for services.

A Disentanglement Plan must include at a minimum

1. Issues that need to be addressed during a Disentanglement period;
2. Vendor's roles and responsibilities as they relate to TexasOnline 2.0 functions, including the role of Key Personnel and Subcontractors;
3. DIR's roles and responsibilities as they relate to TexasOnline 2.0 functions;
4. Additional stakeholders' roles and responsibilities as they relate to the transition of TexasOnline 2.0 functions;
5. An outline of key milestones during the Disentanglement period;
6. An outline of procedures to be followed during the Disentanglement period;
7. The Vendor's method of identifying, documenting, and transferring assets (including all State records, applications, data files, agreements, working papers, and operational documentation) developed during the course of the Agreement that are subject to the Disentanglement Plan;
8. A contact point and procedures for managing problems or issues during the Disentanglement period; and
9. A contingency for failed transition of services to DIR or a new vendor.

Components of this requirement must include the Vendor's decision-making process and a plan for continuation of all services.

The initial draft of the Disentanglement Plan must be submitted in the Required Plans section of the Vendor's Offer. The final draft will be submitted for DIR approval August 1, 2009. The Vendor will review the Disentanglement Plan on an annual basis or within sixty (60) days of a request from DIR and provide DIR with the updated plan for DIR approval.

2.5.4 Quality Management Plan

The Quality Management Plan provides the framework for a comprehensive, continuous, and measurable quality assurance program. The plan must embody the Vendor's endorsement of the fundamental importance of quality by promoting, reinforcing, and acknowledging quality management activities. The plan must include strategies and processes to promote quality and procedures to periodically measure and report quality performance to the State throughout the term of the Agreement. The plan must specify how often the Vendor conducts internal audits and engages external auditing firms to conduct audits of its operations, and must include a requirement that the Vendor will supply to DIR, as and when received by the Vendor, copies of all internal and external quality assurance audit reports.

The Quality Management Plan must describe the processes and methodology for acceptance for all TexasOnline 2.0 deliverables, including:

- Acceptance test for all releases to TexasOnline 2.0;
- The activities associated with the acceptance test, when they will begin and end, and responsible parties;
- The activities for which the various stakeholder groups are responsible (i.e., creating test scenarios, performing the tests, and validating the results);
- Standard acceptance testing criteria (metrics); and
- Processes and methodology for acceptance and approval of all plans, reports, and documents in accordance with the governance processes described in RFO Section 2.7.3.

The Vendor must describe its approach for developing this plan in the Plan Approach section of its Offer. The initial draft of the Quality Management Plan is to be submitted to DIR for approval September 1, 2009. The final draft is to be submitted to DIR for approval by December 1, 2009.

2.5.5 Change Management Plan

This plan must provide a comprehensive strategy to manage change and control project scope. The plan must provide, in coordination with the Change Control Board (CCB) as described in RFO Section 2.7.3.3, a formalized methodology including how changes will be proposed, reviewed, tracked, and approved. The methodology must also address how change requests will be analyzed and presented, identifying the impact of the change to the schedule, quality, and cost structure.

The Change Management Plan must include specifics regarding protocols and feedback systems to facilitate coordination of daily operational activities between the State, other vendors, subcontractors, stakeholders, and users.

The Change Management Plan must also include configuration management processes and procedures. The plan must describe an automated approach to configuration management for Software, hardware, plans, policies, reports, operations guides, technical guides, and training guides. The configuration management of hardware and Software inventories must be coordinated with the DCS processes for configuration management.

The Vendor must describe its approach for developing this plan in its Offer. The initial draft of the Change Management Plan is to be submitted to DIR for approval by July 1, 2009. The final draft is to be submitted to DIR for approval by October 1, 2009.

All change management activity must be available anytime at DIR's request. A monthly change management report must be presented to DIR.

2.5.6 Risk Management Plan

This plan must include a comprehensive strategy and methodology for identifying, assessing, reporting, managing, and mitigating risk.

The Vendor must describe its approach for developing this plan in the Plan Approach section of its Offer. The initial draft of the Risk Management Plan is to be submitted to DIR for approval by July 15, 2009. The final draft is to be submitted to DIR for approval by September 1, 2009.

2.5.7 Problem Management Plan

The Problem Management Plan must include a comprehensive strategy and methodology for identifying, assessing, reporting, managing, and resolving problems.

The Vendor must describe its approach for developing this plan in the Plan Approach section of its Offer. The initial draft of the Problem Management Plan is to be submitted to DIR by July 15, 2009. The final draft is to be submitted to DIR for approval by September 1, 2009.

2.5.8 Integration Management Plan

The Integration Management Plan must document the planned approach for how business activities will be coordinated and managed with DIR, Customers, other vendors, subcontractors, stakeholders, and users.

This plan must also include system integration coordination activities to ensure technological compatibilities among hardware, Software, system interfaces, and telecommunications infrastructures. It must include and adhere to all governance structures and requirements described in RFO Section 2.7.

In the Plan Approach section of its Offer, the Vendor must describe its approach for developing this plan. The initial draft of the Integration Management Plan is to be submitted to DIR for approval by September 1, 2009. The final draft is to be submitted to DIR for approval by February 1, 2010.

2.5.9 Organizational and Staffing Plan

The Organizational and Staffing Plan must define the required human resources needed to deliver the desired program and project deliverables. It involves the selection and assignment of the Vendor's program team. The plan must specify the appropriate skill sets to manage the project and to perform the tasks that produce the specified project deliverables. It also needs to provide for any additional non-labor resources such as tools, equipment, or processes used by the Vendor's program team.

The plan should include processes that ensure appropriate staffing levels, ensure the organization employs staff with the requisite knowledge, skills, and abilities in the appropriate positions when needed, and ensure that the organization can adapt to changes within the organization and in the external environment.

The Vendor must describe its approach for developing this plan in the Plan Approach section of its Offer. The initial draft of the Organizational and Staffing Plan is to be submitted by July 1, 2009. The final draft is to be submitted to DIR for approval by August 1, 2009.

2.5.10 Security Management Plan

The Security Management Plan must include methods for resolving the following major security concerns for each component of the system: environmental security, physical site security, computer hardware security, computer software security, data access and storage, client/user security, telecommunications security, and network security. This must be coordinated with the DCS security processes.

Specific requirements for the plan are described in RFO Section 2.6.6.

The initial draft of the Security Management Plan is to be submitted in the Required Plans section of the Vendor's Offer. The final draft is to be submitted to DIR for approval by August 1, 2009.

2.5.11 Technology Management Plan

The Technology Management Plan documents the overarching objectives for the development of the architecture and standards that will ensure the delivery of quality, cost-effective solutions for TexasOnline 2.0 that reflect new and innovative technology developments.

The Technology Management Plan includes

- The short-term strategies that support the goals of TexasOnline 2.0 as referenced in RFO Section 1.1,
- The technology roadmap for TexasOnline 2.0 that supports and incorporates DCS architectural decisions, and
- The technical architecture that will support the requirements defined in this RFO.

The Technology Management Plan must be submitted in the Required Plans section of the Vendor's Offer. An updated Technology Management Plan must be submitted by February 1, 2010. An updated Technology Management Plan must be submitted to DIR for approval annually.

2.5.12 Portfolio Management Plan

The Portfolio Management Plan will document a sound process for managing the Business Cases, evaluation, approval, development, testing, release, maintenance, and surveillance. In its Offer, the Vendor will describe its approach to portfolio management and how it will create and execute the Portfolio Management Plan. Past experience in creating and executing similar Portfolio Management Plans must be described in the Plan Approach section of the Vendor's Offer.

The Vendor must describe its approach for developing this plan in the Plan Approach section of its Offer. The initial draft of the Portfolio Management Plan is to be submitted by August 1, 2009. The final draft is to be submitted to DIR for approval by October 1, 2009.

2.5.13 Training and Communication Plan

The Training and Communication Plan must provide a comprehensive strategy to communicate to internal and external stakeholders. DIR must approve all communication materials.

The plan must include at a minimum

- Audiences to be trained (internal as well as external);
- Description of the types of communications that will be developed and delivered;
- Description of the methods of delivery that will be used;
- Specifics regarding communication procedures, protocols, and feedback systems to facilitate coordination of daily operational activities between DIR, other vendors, subcontractors, stakeholders, and users;
- Methods for evaluation and feedback and how that feedback will be used;
- Methods for identifying ongoing communication needs; and
- Tasks, deliverables, and milestones.

The Vendor must describe its approach for developing this plan in the Plan Approach section of its Offer. The initial draft of the Training and Communication Plan is to be submitted by August 1, 2009. The final draft is to be submitted to DIR for approval by December 1, 2009.

2.5.14 Help Desk Management Plan

The Help Desk Management Plan must provide a comprehensive strategy to manage help desk operations. Specific requirements for the plan are described in RFO Section 2.6.2.

The initial draft is to be submitted July 1, 2009. The final draft is to be submitted to DIR for DIR approval by September 1, 2009.

2.5.15 Disaster Recovery and Business Continuity Plan

This plan must include processes and procedures to provide for uninterrupted service delivery. Additionally, the plan must include courses of action to address potential and probable issues or problems that could occur during operations. The location of all disaster recovery operations must also be identified and approved by DIR. This must be coordinated with the DCS processes and procedures for providing uninterrupted service.

The Vendor must describe its approach for developing this plan in the Plan Approach section of its Offer. The initial draft of the Disaster Recovery Plan is to be submitted by August 1, 2009. The final draft is to be submitted to DIR for approval by October 1, 2009.

2.6 Maintenance and Operations

Ongoing maintenance of the logical components of the platform (Data layer, Application layer, User Interface layer) is the responsibility of the Vendor. Team for Texas is responsible for maintaining the infrastructure as described in RFO Section 2.6.4.

In its Offer, the Vendor will describe its approach to providing the maintenance and operational requirements listed below:

- Application support (RFO Section 2.6.1);
- 24x7 help desk for TexasOnline 2.0 (RFO Section 2.6.2);
- Construction and maintenance of a roadmap for planned application development;
- Construction and maintenance of a roadmap for planned logical infrastructure improvements;
- Availability and reliability (RFO Sections 2.6.7 and 2.6.8);
- Procedures for problem resolution, including escalation;
- Logical layer monitoring tools and procedures;
- Emergency updates for content and applications;
- Outage procedures and resolution, including escalation;
- Security certificate management;
- Procedures for working with Team for Texas for physical infrastructure support (RFO Section 2.6.4); and
- Logical database administration, including
 - DBA support for application development,
 - Data schema design,

- Directory maintenance for data definitions,
- Size estimates for new application databases,
- Database release upgrades and application integration,
- Application tuning and performance recommendations, and
- Add/change/delete database objects in development and initial test environments.

2.6.1 Application and Content Support

TexasOnline is composed of applications, services (main functions within the applications), internal and external links, static documents, graphics, navigational assistance, multi-language support, FAQs, contact information, online help, and site indices. These are collectively referred to as TexasOnline 2.0. The Vendor must be capable of providing immediate and ongoing support for all existing features and functionality that exist on TexasOnline 2.0 as of the Cutover. This requirement covers the period beginning with the Cutover and ending with the termination of the Agreement. This requirement will automatically include any new functions that the Vendor may develop and deploy as a result of other sections of this RFO unless support is to be provided by a Customer as defined within a Customer Agreement. Support of existing functionality includes traditional software defect issues as well as updating existing content, posting new content, adding new links, modifying links, fixing broken links, adding new graphics or navigational items, etc.

The Vendor must describe its approach for providing ongoing support in the Operations and Maintenance section of its Offer.

2.6.2 Help Desk

The Vendor must provide a help desk for TexasOnline 2.0. The help desk facilities must be in the United States with preference given to help desk facilities in Texas. The help desk will consist of Level I telephone and email support of TexasOnline 2.0 and its applications, including ePay, eFiling, and Master Work Order applications. If Level I personnel cannot resolve the inquiry or problem, the inquiry or problem will be directed to the appropriate personnel or a third party (e.g., Team for Texas) for resolution.

The Vendor will be responsible for responding to requests for support from Citizens, Businesses, and Customers on a 24 x7 x 365 basis. Currently, the help desk averages 13,200 calls and 1,570 emails per month.

The Vendor will have primary responsibility for designing, testing, and implementing the help desk solution, as well as the ongoing operation of the help desk.

In the Operations and Maintenance section of its Offer, the Vendor will describe its approach to the following high-level requirements for the help desk:

- Provide effective functional support for all Citizens, Businesses, and Customers;
- Describe multi-language resources available to the help desk;
- Coordinate the help desk with change management activities in order to help Citizens, Businesses, and Customers prepare for and accommodate new projects, comprehend significant business process changes, and respond to IT and external outages and disasters;
- Develop and regularly update the help desk knowledge base and contribute updates to appropriate portal FAQ;

- Ensure the design and operation of the help desk meets State requirements;
- Support Citizens, Businesses, and Customers who have special needs, which may include small agencies, Citizens in remote geographical areas, and Citizens and Customers who utilize assistive devices for website accessibility;
- Provide an automated system for problem tracking, response, and resolution;
- Provide an interface to the IBM Remedy system used in DCS; and
- Provide DIR with reports and metrics of help desk usage.

In the Plans Approach section of its Offer, the Vendor must describe the approach and schedule for completing the design, testing, and implementation of the help desk. The Help Desk Management Plan (RFO Section 2.5.14) must include at a minimum

- Definition of the help desk mission,
- Work plan and schedule for implementing the help desk,
- Identification of interdependencies with other aspects of TexasOnline 2.0,
- Definition and use of help desk service policies, protocols, and procedures,
- Utilization of the help desk software and integration with TexasOnline 2.0,
- Support, troubleshooting, diagnostic, and related help desk services during implementation,
- Definition, training, and provision of qualified help desk staff,
- Design and production of help desk documentation,
- Communication of help desk updates to Citizens, Businesses, and Customers,
- Development and maintenance of a help desk knowledge base, and
- Methodology for measuring Citizen, Business, and Customer satisfaction with the help desk in conjunction with RFO section 2.9.5.

2.6.2.1 Help Desk Process Improvement

The Vendor will track issues to identify trends that drive up contact volume. Feedback mechanisms, such as interactive voice response (IVR), online documentation, FAQs, or online help, must be in place to update outbound communications to reverse upward trends in contact volume. As traffic to the site increases, these trends may be adjusted to a ratio of contacts per volume of visitors.

In the Operations and Maintenance section of its Offer, the Vendor must describe the reporting methods for identifying opportunities to drive down call volume, what mechanisms will be used to address escalating call volumes, and the metrics by which such efforts are judged successful.

2.6.3 Application Service Levels

The Vendor will be required to work with DIR to define application service levels for TexasOnline 2.0. The service levels between the State and the Vendor will include at a minimum

- Online application availability and reliability,
- Online application responsiveness,
- Problem response,

- Problem circumvention or resolution time, and
- Application service level monitoring and reporting.

These service levels will be specified in the Customer Agreements.

2.6.4 Data Center Services Infrastructure Operational Management

Except as otherwise expressly provided in this RFO, all capitalized terms used in this RFO Section 2.6.4 will have the meanings ascribed to them in the Data Center Services Master Services Agreement.

The Texas Legislature, by action of House Bill 1516, 79th Legislature (Regular Session), established the foundation of a shared technology infrastructure and directed DIR to coordinate a statewide program to consolidate infrastructure services.

On November 22, 2006, DIR executed a contract with IBM to provide data center consolidation and operations for the prioritized 27 state agencies. The contract commenced on March 31, 2007, and expires on August 31, 2014, with three optional, one-year extensions. IBM and its partners in the contract are collectively called Team for Texas.

The DCS contract provides participating Customers mainframe and server operations, disaster recovery, and bulk print and mail services at two commercial-grade data center facilities: one located in San Angelo, Texas, and one located in Austin, Texas.

The State's goals for the DCS contract include effective management of in-place services, migration of services to the consolidated data centers, and improvements to services, security, and disaster recovery capability.

Additional information concerning DCS may be found on the DIR website (<http://www.dir.state.tx.us/datacenter/>). The DCS Master Services Agreement is available at (<http://www.dir.state.tx.us/datacenter/contract.htm>).

2.6.4.1 TexasOnline Infrastructure

By June 2009, the TexasOnline infrastructure will transition into the DCS program as fully managed by Team for Texas. At that time, TexasOnline will receive all infrastructure services through Team for Texas as outlined in the DCS Master Services Agreement. The Statement of Work describing those services can be found in Exhibit 2 of the DCS Master Services Agreement. The Vendor is required to work closely with Team for Texas in performance of infrastructure services, in accordance with the DCS Statement of Work and the DCS Service Responsibility Matrices. Generally, all activities that require privileged access (i.e., root access) are performed by Team for Texas, unless otherwise delegated to the Vendor by Team for Texas through the DCS Change Management process.

The following is a high-level description of the services provided by Team for Texas through the DCS program. All server environments including, but not limited to, production, test, and development are included and receive these services:

- Server hardware and operating system installation, support, and maintenance,
- Server software installation, upgrades, support, and maintenance for infrastructure, middleware, application utility, and database software,
- System administration for all in-scope server software,
- Server administration administered remotely from central location,

- Computer operations and monitoring,
- Production control (batch scheduling, job scheduling),
- Storage management (disk, tape),
- Disaster recovery backups and offsite tape storage,
- Physical database administration,
- Data center print services (printer operations; report staging for distribution; ordering paper, special forms, etc.; inserts; and bulk print mailings),
- Facility and environmental support within the State data centers,
- Capacity planning,
- Disaster recovery planning and testing for all data center services,
- Business continuity planning (service provider processes),
- Support Center (for in-scope data center services) using the IBM Remedy problem tracking and resolution application,
- Hardware/software procurement for in-scope services,
- Support and maintenance for the LAN environment within the data center facility,
- Standard security controls managed at the enterprise,
- Vulnerability/threat/virus support,
- Security software installation and maintenance,
- Physical security within the State data centers,
- Process management,
- Incident management, problem management, change management, configuration management, release management, and
- Standard infrastructure DCS Service Level Agreements.

The following services are considered retained services because they are out of scope of the DCS Master Services Agreement (not provided by Team for Texas) and these services must be considered by the Vendor when developing the proposed solution. The Vendor will be responsible for providing all Equipment necessary to deliver these services. These services, listed below, are addressed in other sections of this RFO:

- End-user computing, including desktop, mobile, and LAN-attached multi-function devices;
- Network support, including WAN/LAN support outside of the State data centers, voice/phone support;
- Help desk (Level I – all services);
- Expert troubleshooting and support for all non-DCS services;
- Technology planning, strategies, and visioning;
- Project management;
- Disaster recovery planning and testing for all retained services;
- Business continuity planning for agency processes;
- Packaged imaging systems (scanners, servers, optical disks, etc.);

- Coordination of data center print services, including coordinating form changes with business units, volume trending;
- Data security, security design and policy development, systems access requests (directory/file, ID creation and removal, determination of access rights);
- Logical database administration;
- Application development, support, maintenance, and monitoring;
- Electronic payment processing services;
- Data import and export to the environment (FTP services); and
- Reporting services.

2.6.4.2 DCS Service Level Agreements

The TexasOnline infrastructure will be subject to the standard infrastructure DCS Service Level Agreements (SLAs), which are described in the DCS Master Services Agreement, Exhibit 3. The goal of the DCS SLAs is quality performance from the DCS service provider through incentives for consistent quality behaviors that meet the State's expectations. The DCS SLAs are constructed to incent Team for Texas to perform and allow the parties to modify the DCS SLAs without a contract change.

Currently, there are 32 critical service levels (tied to financial credits for the State for performance failures) and 27 additional key measurements. The 27 key measurements can be promoted to critical service levels, allowing flexibility to focus attention on a particular area.

In addition, the DCS Master Services Agreement embraces the concept of continuous improvement. Each year, the Expected Value of the DCS SLA automatically increases in accordance with the methodology described in Exhibit 3 of the DCS Master Services Agreement.

2.6.4.3 DCS Disaster Recovery Overview

The DCS approach to restoration uses a dual-site solution, where each data center uses the other as a backup in case of a disaster. Each data center maintains the ability to restore critical data and applications from its sister site. Both data centers have bandwidth capacity to support restoration while maintaining current operations.

Applications covered by the DCS infrastructure are prioritized into one of five recovery time objective (RTO) classifications—D0, D1, D2, D3, D4—based on criticality to business operations. The RTO is the time in which systems, applications, or functions must be recovered after an outage, and help determine the recovery strategy.

Team for Texas is required to conduct periodic simulation exercises, at least annually, to test the effectiveness of the disaster recovery response once the dual-site solution is completed. All lessons learned from these exercises will be incorporated into the disaster recovery plans. The DCS Master Services Agreement, Exhibit 16 and Exhibit 2.1, describes disaster recovery requirements, including the RTO classifications and recovery locations.

TexasOnline is currently classified with a D1 RTO, and will be recovered at the sister site. Upon completion of transformation/consolidation into the two State data centers, TexasOnline will become classified with a D0 RTO for the portal presence and emergency preparedness page. Other applications will be D1 RTO, unless DIR or a Customer deem

otherwise. The Vendor will be required to work closely with Team for Texas to develop and update disaster recovery plans, periodically complete simulation exercises, and restore services in the event of a declared disaster. The Vendor will address the Disaster Recovery and Business Continuity Plan in RFO Section 2.5.15.

2.6.4.4 DCS Hardware and Software Acquisition

As a participating entity in the DCS project, TexasOnline 2.0 is required to acquire all in-scope infrastructure hardware and software through the DCS program. The Vendor is required to participate in the procurement process, including submitting the request into the DCS Remedy Tool, participating in the requirements gathering sessions, and validating the acquisition proposals received. As much as technically possible, the DCS program uses virtualized server instances on standard hardware configurations. Proper long-range planning is required in order to ensure that hardware and software is received to meet project schedules.

2.6.4.5 Process Management

Vendor will be required to participate in the defined DCS processes for incident management, problem management, change management, release management, configuration management, and request management. In the Management Plans described in RFO Section 2.5, the Vendor must describe its interactions with the DCS program. The DCS Policies and Procedures Manual is available in the TexasOnline 2.0 Resource Room.

2.6.4.6 Level I Help Desk

The Vendor is required to maintain a Level I help desk to triage all calls prior to submitting an incident to the DCS Support Center (RFO Section 2.6.2). Once the Vendor has determined or suspects that the cause of an incident is related to a DCS infrastructure component, the Vendor will log into the DCS Support Center's Remedy system (through an interface provided by the Vendor) to report the incident in accordance with the DCS Policies and Procedures Manual.

2.6.4.7 Database Administration

The Vendor will be responsible for logical database administration as described in RFO Section 2.6.

The Vendor is required to work closely with Team for Texas, as Team for Texas performs physical database administration activities, including

- Install database management software (DBMS),
- Configure DBMS parameters,
- Apply DBMS operating system patches,
- Capacity planning of database instances,
- Performance tuning of database instances,
- Reorganize the database as necessary,
- Create instances in all environments, and
- Add/change/delete database objects in production and pre-production.

2.6.4.8 Hardware and Software Currency

The DCS hardware infrastructure will be refreshed on a 60-month refresh cycle. Operating software, database software, and application utility tools are required to be within n or $n-1$ of the currently supported versions of the software manufacturer. The Vendor is required to ensure that the application software developed to support TexasOnline 2.0 will support the DCS standard hardware and software platforms as described in the DCS Standard Configurations Appendix F.5(a).

2.6.4.9 Data Center Consolidation

The TexasOnline Equipment is currently located in data centers in Austin and San Angelo, Texas. As part of ongoing consolidation efforts, the equipment located in Austin will move to the consolidated State data center located in Austin. Additionally, test and development equipment currently located in the San Angelo data center may require movement to the consolidated State data center located in Austin. To ensure a smooth and minimally disruptive move, the Vendor is required to participate in consolidation planning and execution processes with DIR and Team for Texas.

2.6.4.10 DCS Related Expenses

Programs that receive services through the DCS program are billed according to resources consumed. The DCS Resource Units are measured and billed on a monthly basis. Hardware Services Charges (HSC) are charged based on hardware and software acquired to support application servers. Application servers are classified as High, Medium, or Low, depending on the architecture and support requirements. The DCS Agreement, Exhibit 4 describes the pricing structure.

Estimated DCS Resource Unit consumption and associated costs for the current TexasOnline infrastructure may be found in the TexasOnline DCS Cost Estimate Workbook in Appendix F.5(b).

The Vendor must describe any additional infrastructure required to support the Vendor's solution in terms of the DCS Resource Units on the TexasOnline DCS Cost Estimate Proposed Solution Workbook in Appendix F.5(c).

2.6.5 Texas Agency Network (TEX-AN)

The centralized telecommunications system for the State of Texas is known as TEX-AN. TexasOnline 2.0 will be utilizing network services from the TEX-AN Next Generation (TEX-AN NG) contracts or DIR contracts.

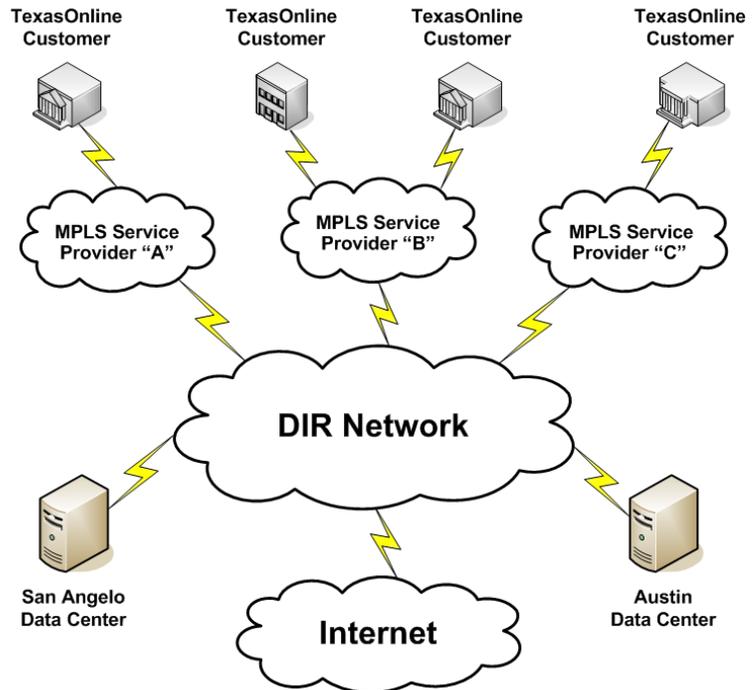
The current technological platform of TEX-AN is known as TEX-AN 2000. The TEX-AN 2000 architecture provides a solid statewide telecommunications infrastructure that is adaptable to changing requirements and can incorporate new and emerging technologies. The TEX-AN 2000 platform provides unified, scalable, redundant, flexible, and extremely cost-effective networking solutions.

The current contracts associated with TEX-AN will expire August 31, 2009. Earlier this year, DIR initiated the process that will form the procurement framework to establish the next-generation communications technology services suite of contracts.

The TEX-AN Next Generation contracts will allow customers to access commodity communications services through a model similar to the DIR Information and Communications Technology Contracts Program. TEX-AN NG customers will then have a direct contractual arrangement with their selected vendor partner/suppliers.

The Next Generation Communications Technology Service Model will provide customers access to DIR shared technology services. Access to these shared services will be accomplished by contracting with multiple statewide Multi-Protocol Label Switching (MPLS) vendors to facilitate secure transport while supporting both Quality of Service (QoS) and Class of Service (CoS). These multiple statewide MPLS vendors will offer TexasOnline 2.0 options for interconnecting facilities and will provide access to other higher-level shared services offered through DIR's statewide technology operations lines of business. These services will be acquired through the TEX-AN NG RFO #1, which is pending release.

Figure 2.6.5 – TEX-AN Next Generation Network



DIR plans to employ an enterprise solution on behalf of the State to facilitate connectivity between the disparate MPLS vendors and establish enterprise connectivity to the shared technology services that support the State. DIR plans to establish a shared enterprise peering model to be managed by a single contractor to bridge the multiple statewide MPLS vendors and serve as a high-speed shared communications technology services bus. The bus will connect the multiple statewide MPLS vendors to the DIR statewide technology offerings—specifically, data center, Network Security and Operations Center (NSOC), TexasOnline 2.0, and Internet access. A single vendor will be selected to manage this shared platform and coordinate between the various service vendors through the TEX-AN NG RFO #2, which is pending release. A high-level representation of this relationship is depicted at right.

TexasOnline 2.0 servers will be located in a State data center (Austin, Texas or San Angelo, Texas) and will be utilizing network services from the TEX-AN NG contracts or DIR contracts. The Vendor will coordinate with the TEX-AN NG RFO #2 vendor for connectivity to the State data centers. The Vendor will work with the individual MPLS vendors to obtain connectivity to the DIR network for transport to reach shared services, including the public Internet.

Although TexasOnline 2.0 (DIR) will be the customer of record, it will be the responsibility for the Vendor to determine, establish, and maintain appropriate bandwidth and network throughput to support applications hosted on the TexasOnline 2.0 server(s).

2.6.6 Security and Privacy

TexasOnline 2.0 must ensure the security of hosted State applications and data by providing and operating a secure and confidential environment. This environment must

convey a true sense of security and privacy to its users. TexasOnline 2.0 must protect the personal and private information of Citizens and Businesses that may transfer personal and private information using the State's online services. The Vendor is expected to maintain the security of this environment to the highest standards of commercial, financial, and government institutions. TexasOnline 2.0 also must be designed to implement and communicate a high level of security and privacy.

The Security section of the Offer must include how the Vendor will provide a secure web environment. The Vendor must take reasonable steps to minimize potential vulnerabilities from TexasOnline, such as the Top Ten Vulnerabilities list provided by the Open Web Application Systems Project (<http://www.owasp.org>).

TexasOnline 2.0 site security includes (1) all the components that implement the security enforcement for TexasOnline 2.0, (2) data while being stored on, transmitted to or through TexasOnline 2.0, and (3) data available to TexasOnline 2.0. The security barriers include firewalls, intrusion detection, malware protection, monitoring, vulnerability assessment, access control, authentication, and other mechanisms and techniques to ensure the system, applications, and data are protected.

In the Security section of the Offer, the Vendor must show how it will comply with privacy rules and policies established by Customers, and State and Federal law. Privacy policy statements, as developed and amended from time to time by the State, will be appropriately displayed on TexasOnline 2.0 web pages. In particular, the Vendor will provide whatever security is necessary to protect the data of the State as well as TexasOnline 2.0 Customer, Citizen, and Business data in network transit, storage, and temporary storage, including cache. DIR or the Customer retains data ownership at all times. The Vendor will not provide or allow access to any State data without the written approval of DIR and any applicable government entities.

The overall design of TexasOnline 2.0 must integrate security features that keep pace with the rapidly changing world of information technology, wide-scale growth, and e-government. Vendors must describe in the Security section of the Offer how security features that accommodate future technical advances will be incorporated into the TexasOnline 2.0 design.

The Vendor will provide a Security Management Plan, RFO Section 2.5.10, that addresses all of the requirements in Appendix F.10.

2.6.7 Availability

TexasOnline 2.0 must be operational and available twenty-four (24) hours a day, seven (7) days a week, throughout the year. The only exception will be for pre-defined systems administration and maintenance. Maintenance must be performed at times that will not adversely impact daily operations. Individual applications may be unavailable based on the individual agency legacy application operational schedule.

Scheduled TexasOnline 2.0 downtime must be coordinated with Data Center Services and approved by DIR with at least seven (7) days advance notice of performing the scheduled downtime. Scheduled downtime must be scheduled during lowest activity times as agreed to by the Parties.

Vendor must include its approach for providing portal availability and scheduling routine maintenance downtime in its Offer. Offers must describe a process for notifying Customers when an application is unavailable as well as its estimated time for return to service.

2.6.8 Application Reliability

The Vendor is responsible, in coordination with Data Center Services, for maintaining a reliable system. This metric refers to unscheduled downtime as a percentage of available hours tracked to the tenth of an hour.

Reliability will be measured and monitored for each hosted application separately and for the portal presence.

Each reliability percentage will be figured as follows:

- Available hours equal total number of hours in a month (24 hours x number of days in the month) minus the number of hours scheduled for maintenance for the hosted application or portal presence in the month.
- Unscheduled downtime equals total number of hours (to the quarter hour) during which a hosted application or the portal is not functioning due to hardware, operating system, or application program failure.
- Reliability equals available hours minus unscheduled downtime divided by available hours.

EXAMPLE:

Given: Available-Time-per-Month was 720 hours.
Downtime-per-Month was 3.60 hours.
(720 – 3.60)
Then: Computed % Reliability = $716.4 \div 720 = 99.5\%$

Vendor will work with all third-party contractors to maintain a portal presence and existing applications that are 99.5% reliable from the Effective Date, with a plan for moving all existing applications to a 99.9% reliability. All new applications must have a 99.9% reliability. Should DIR determine the Vendor is at fault for a system outage, DIR will have the right to enforce liquidated damages (RFO Section 2.10). Vendor must respond to an alert of a suspected problem within three (3) minutes. Vendor staff must work with the DCS vendor and other vendors to solve system problems. Vendor is responsible for coordinating resolution.

As operational manager, the Vendor will work collaboratively with the DCS and TEX-AN vendors to ensure reliability and availability requirements are met. If reliability and availability service levels are not achieved, and the root cause is determined by DIR in its discretion to be the fault of the Vendor, then the Vendor will be responsible for the performance criteria as described in RFO Section 2.10. The Vendor will not be held responsible for outage calculations in which the root cause is determined to be out of the control of the Vendor.

Vendor must include in its Offer its approach for providing portal reliability. Offers must include a process for notifying Customers when an application is unavailable as well as its estimated time for return to service. The service levels for reliability will be negotiated as described in RFO Section 2.6.3.

2.6.9 Disaster Recovery and Business Continuity

The Vendor is responsible for disaster recovery and business continuity planning for all TexasOnline 2.0 functions. The Vendor has sole responsibility for disaster recovery and business continuity for all business operations and systems, including

- Program and project management

- Help desk
- Financial systems
- Development
- Marketing
- Reporting
- Subcontracted services and staff
- Communications and Training
- Quality assurance
- Security (in conjunction with DCS)

The Vendor will coordinate its business continuity plan with DCS and Customer business continuity plans to ensure that all TexasOnline 2.0 functions can resume timely regular business functions in the event of a disaster or significant event. DCS is responsible for disaster recovery planning and testing for all data center services and for developing, maintaining, and testing a business continuity plan for their in-scope Data Center Operations. DCS will provide TexasOnline 2.0 with D0 recovery time objective for the portal presence and emergency preparedness page. Other applications will be D1 recovery time objective unless DIR or a Customer deem otherwise (see RFO Section 2.6.4.3).

The business continuity plan should comply with all applicable federal and State requirements. General guidelines for business continuity plans can be found on the State Office of Risk Management's website:

http://www.sorm.state.tx.us/Risk_Management/Business_Continuity/init_overview.php.

Disaster recovery plans must comply with all DIR standards, including the National Institute of Standards and Technology (NIST) Special Publications 800-34

(<http://csrc.nist.gov/publications/nistpubs/800-34/sp800-34.pdf>) and 800-66 Section 4.7

(<http://csrc.nist.gov/publications/nistpubs/800-66/SP800-66.pdf>), and must be tested annually in accordance with applicable laws.

The Vendor's documented procedures for disaster recover and business continuity must include, at a minimum

- Operational priorities,
- Recovery time objective for its critical business functions,
- Procedures for invoking contingency mode,
- Required authorizations,
- Notification and reporting procedures,
- Detailed contact information in the event of an outage or an emergency,
- Media handling procedures,
- Contingency mode resource plan,
- Contingency plans for all locations from which services are provided,
- Key documents and procedures,
- Infrastructure and network recovery activities and procedures (in collaboration with TEX-AN and DCS),

- Other cross-functional recovery activities and procedures,
- Return to normal operating mode procedures, and
- Training and test procedures.

Vendor must include in its Offer its approach to Disaster Recovery and Business Continuity Plan as described in RFO Section 2.5.15.

2.6.10 Electronic and Information Resources Accessibility Standards

The State of Texas is committed to providing all Citizens and State employees access to electronic and information resources, including Citizens and State employees with disabilities. TexasOnline, as the State's official e-government web portal, must meet or exceed all accessibility and usability standards as defined below.

1. Effective September 1, 2006, State agencies and institutions of higher education will procure products that comply with the State of Texas Accessibility requirements for Electronic and Information Resources specified in 1 TAC Chapter 213 ([http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=4&ti=1&pt=10&ch=213](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=1&pt=10&ch=213)) when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.
2. Where applicable, Vendor will provide DIR with the URL to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the State of Texas Accessibility requirements (based on the Federal standards established under Section 508 of the Rehabilitation Act), or indicate that the product/service accessibility information is available from the General Services Administration "Buy Accessible Wizard" (<http://www.buyaccessible.gov>). Vendors not listed with the "Buy Accessible Wizard" or not supplying a URL to their VPAT must provide DIR with a report that addresses the same accessibility criteria in substantively the same format. Additional information regarding the "Buy Accessible Wizard" or obtaining a copy of the VPAT is located at <http://www.section508.gov/>.
3. Vendor will comply with the web accessibility standards of 1 TAC Chapter 206 ([http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=4&ti=1&pt=10&ch=206](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=1&pt=10&ch=206)) regarding the accessibility, usability, and multilingual capabilities including Spanish, for all web pages and web content hosted on TexasOnline 2.0. In response to this RFO, Vendor will describe its approach and the methodology used for the selection, implementation, and monitoring of
 - Compliance standards,
 - Development and testing tools,
 - Performance reporting,
 - Web page and web application accessibility development and test plans,
 - Features and functionalities that will require an exemption from accessibility standards,
 - Remediation/corrective action plans, and
 - Any other information that addresses compliance with the rules in 1 TAC 206 and 1 TAC 213 (Appendix F.6 (f)), to ensure the accessibility and usability of the TexasOnline 2.0 website.

2.7 Governance

Governance refers to the processes and authorities by which DIR will oversee, influence, and control key decisions that affect the value of TexasOnline to the State and its Citizens. This section describes DIR objectives in governance, and the organizations, decision processes, information exchanges, funding methods, and Vendor participation and support required to meet those objectives.

2.7.1 Governance Objectives

The overarching goal of governance is to ensure that the best interests of the State and its Citizens continue to be served by the TexasOnline program by achieving the goals defined in RFO Section 1.1. The governance system is intended to provide maximum latitude to the Vendor to pursue revenue-generating developments while also advancing the interests of the State and its Citizens.

DIR will:

- Collect adequate data to determine if the goal of governance is being met;
- Use approval authority to ensure that the goal of governance is met;
- Be an equal partner in tactical and strategic planning for TexasOnline 2.0;
- Not bear increased costs for governance beyond the costs of State employee labor;
- Ensure that the self-sustaining business model of TexasOnline continues to succeed and support evolution toward the TexasOnline 2.0 goals;
- Preserve the non-commercial character of TexasOnline 2.0;
- Receive timely and pertinent information of all outreach and project development initiatives;
- Have ready access to detailed program information;
- Review projects for consistency with industry-accepted architectural principles, and conformity with State requirements;
- Identify, evaluate, and adopt opportunities for minimizing cost and duplication;
- Receive adequate data to evaluate application performance, cost recovery, Customer and Citizen support, and problem resolution experience of the Vendor, distinct from the performance of the infrastructure support organization, DCS;
- Provide formal mechanisms for DIR and the Vendor to propose, negotiate, and achieve continuing consensus on TexasOnline 2.0 evolution; and
- Provide formal mechanisms for either DIR or the Vendor to propose modifications of specific governance structures and processes as experience may suggest.

The Vendor must describe a governance model that addresses these objectives in the Governance section of its Offer, including

- Aspects of governance that are critical to the success of TexasOnline 2.0,
- Aspects of governance that may pose risks to the success of TexasOnline 2.0,
- Alternative approaches that would address and mitigate risks to TexasOnline 2.0, and
- Alternative approaches that would contribute to the success of TexasOnline 2.0

2.7.2 Governance Structures and Authorities

This section defines the roles and authorities of each organization that will participate in governance, and describes the processes by which information will be exchanged and governance decisions implemented.

The following organizations and governance structures will participate in some major way in TexasOnline governance:

- DIR Board
- DIR
 - TexasOnline Operations and Contract Management
 - Governance Team
 - Marketing
 - Data Center Services
 - Texas Agency Network (TEX-AN)
- Vendor
- Customers
 - Customer Advisory Groups
 - Customer Advisory Council
 - Occupational Licensing Steering Committee
- Auditors
- Change Control Board
- Other Vendors

All parties participating in governance processes will be mutually bound by appropriate confidentiality agreements to facilitate free exchange of financial and technical information while protecting essential organizational interests. Within the limitations of these agreements, DIR will reserve the right to request and obtain from the Vendor any financial or technical information that DIR deems necessary to execute its responsibilities under this agreement.

2.7.2.1 DIR Board

The DIR Board sets the general direction of DIR operations and major initiatives, including all aspects of TexasOnline. In this role, the DIR Board oversees and ensures that DIR pursues TexasOnline 2.0 goals effectively. The Board must approve all State rules associated with DIR and TexasOnline, fees that may be levied in support of TexasOnline, and some Business Cases that have fees associated with them.

2.7.2.2 DIR

DIR is the public partner in the public-private partnership and is statutorily charged with oversight of the TexasOnline program. In order to meet its obligations, DIR requires the cooperation of the private partner in the public-private partnership. To meet this responsibility, and to execute other responsibilities as directed by statute, DIR will evaluate, guide, direct, and approve Vendor execution of its contractual obligations under provisions of the new Agreement. DIR will perform product and contract management activities including oversight, coordination, and administration activities necessary to maintain effective portal operation and development. DIR will manage relationships with TexasOnline customers and users. Governance processes will provide full visibility by DIR into the TexasOnline program and safeguard the financial interests of the State.

2.7.2.2.1 TexasOnline Operations and Contract Management

The TexasOnline Operations staff is a team of DIR employees and/or contractors who support the TexasOnline program. This team coordinates, monitors, reports, routes, and provides recommendations on operational issues. Operations will be the point of contact for changes or enhancements, including technical changes considered by the Change Control Board, Business Cases for new services, and significant effort reallocations by the Vendor.

The DIR Contract Manager will serve as the primary point of contact and interface with the Vendor for all aspects of contract management. The Contract Manager's responsibilities will include: monitoring the Vendor's compliance with contract terms and conditions, statement of work, service levels, and status reporting requirements for deliverables.

2.7.2.2.2 Governance Team

The governance team within DIR will provide technical support and recommendations on matters of technical architecture, business architecture, data architecture, overall performance, and consistency with TexasOnline 2.0 objectives. The governance team will evaluate all new Business Cases and provide recommendations to DIR management. The governance team also will provide architectural oversight of TexasOnline 2.0 development plans, designs, and decisions in relation to their alignment with the TexasOnline 2.0 requirements for

- An extensible architecture based on State Auditor's Office principles;
- A secure architecture compliant with all security requirements; and
- An architecture that promotes re-usability and configurability.

The governance team will recommend the priorities for execution of development projects, which DIR can enforce through its contractual responsibility to approve all Business Cases. This will include prioritization of non-revenue-generating services and applications that are deemed to benefit the Citizens of Texas.

The governance team will report formally to DIR. The governance team will consist of DIR personnel and may include support by a third-party contractor. Any such third-party contractor will be selected solely by DIR and will be compensated from the TexasOnline operational budget. For the purposes of developing this Offer, the Vendor will assume that the governance team will initially be supported by a third-party contractor at an average level of two high-level professional information technology FTEs.

2.7.2.2.3 Marketing

DIR will participate, at its discretion, in planning and marketing decisions that may affect the success of TexasOnline in the web marketplace. DIR will review and may require changes in marketing plans and materials; review outreach plans, surveys, and materials; and review prototypes, designs, mock-ups, and other artifacts and processes related to the market success of TexasOnline.

2.7.2.2.4 Data Center Services

After June 2009, all operational hardware and system software support will be provided to TexasOnline through the Data Center Services Master Services Agreement, which provides data center services to State agencies. An operating cost of TexasOnline 2.0 will be the service fee for data center operational support to the program. The Data Center Services will provide operational information, including costs, for planning, cost accounting, and evaluation of TexasOnline performance.

The shift of infrastructure responsibility from the TexasOnline Current Contractor to the Data Center Services creates a new interface to be managed by the Vendor. Additional information regarding Data Center Services can be found in RFO Section 2.6.4.

2.7.2.2.5 Texas Agency Network (TEX-AN)

TexasOnline servers will be located in Data Center Services and will be utilizing network services from the TEX-AN Next Generation contracts or DIR contracts. TEX-AN will provide operational information, including costs for evaluation of TexasOnline 2.0 performance. Additional information regarding TEX-AN can be found in RFO Section 2.6.5.

2.7.2.3 Vendor

The Vendor is responsible for planning, funding, developing, operating, securing, marketing, and documenting all operational aspects of TexasOnline 2.0. The Vendor will provide information and Business Cases, provide reports, and take all actions necessary to ensure the success of TexasOnline.

The Vendor will execute its contractual obligations to achieve the goals of TexasOnline 2.0 as described in RFO Section 1.1, including financial benefit to the Vendor and the State. Within the constraints provided in the new Agreement, the Vendor will conceive, promote, and execute operations and enhancements of TexasOnline to maintain the success of the public-private partnership.

The Vendor will establish and operate the Change Control Board, and participate as a voting member of the board as described in RFO Section 2.7.2.5.

The Vendor may choose to contract for the services of subcontractors or consultants in order to meet its responsibilities most effectively. In all such cases, the Vendor will bear full responsibility for the performance of such subcontractors or consultants, and will be the single point of contact for formal communications regarding contract management, administration, project planning and execution, personnel, performance, and any other issues.

2.7.2.4 Customers

Customers sponsor TexasOnline 2.0 projects to meet their responsibilities to Citizens. Opportunities for new projects will be identified through Vendor and DIR outreach efforts. The Customer will specify its requirements and commission work by establishing Business Cases and Customer Agreements with the Vendor and DIR to define scope, requirements, budget, and schedule of performance. Customers will administer the Customer Agreements they establish with the Vendor. Vendor will keep DIR informed regarding all phases of discussion and negotiation between the Customer and the Vendor, and DIR, Vendor, and Customer will be a signatory to the resulting Customer Agreement.

A special case of this project management process will apply to development projects that serve several or many Customers, or have the clear potential to serve many Customers. In these cases, DIR may choose to coordinate the work on behalf of the whole group of Customers. In such cases, DIR will establish and supervise Customer Agreements with the Customers and the Vendor for this purpose.

2.7.2.4.1 Customer Advisory Groups

Customer Advisory Groups include the existing Occupational Licensing Steering Committee (OLSC), a Customer Advisory Council, and other groups or individual agencies as needed. These groups will provide continuing input to DIR on the direction, quality, and performance of TexasOnline 2.0.

2.7.2.4.1.1 Customer Advisory Council

Customers will have a continuing voice in the broad direction and quality assurance of TexasOnline 2.0. For this purpose, one or more groups will be established or utilized to obtain customer advice, concerns, and evaluations. A Customer Advisory Council will be established, consisting of DIR Customer representatives. The Customer Advisory Council will not have decision-making authority over TexasOnline, but will provide advice, criticisms, user feedback, and identification of needs and wants. The Customer Advisory Council will assist DIR in establishing development priorities from a statewide perspective. The Customer Advisory Council will provide recommendations to DIR. Vendor must provide for the secretariat function in the financial plan.

2.7.2.4.1.2 Occupational Licensing Steering Committee

The Occupational Licensing Steering Committee (OLSC), established by Texas Government Code, Section 2054.354 (<http://tlo2.tlc.state.tx.us/statutes/docs/GV/content/htm/gv.010.00.002054.00.htm>), is the steering committee for electronic occupational licensing transactions and represents the interests of agencies responsible for occupational licensing. The OLSC will provide to TexasOnline 2.0 a voice of many of the smaller agencies, that otherwise might not receive appropriate attention in the allocation of available resources. Its scope is electronic occupational licensing transactions governed by Texas Government Code, Section 2054.353 (<http://tlo2.tlc.state.tx.us/statutes/docs/GV/content/htm/gv.010.00.002054.00.htm>). It is composed of one representative from each of the licensing entities listed in Texas Government Code, Section 2054.352 (<http://tlo2.tlc.state.tx.us/statutes/docs/GV/content/htm/gv.010.00.002054.00.htm>), and may also include representatives of the governing bodies for those entities.

2.7.2.5 Change Control Board

The Change Control Board (CCB) will be established and operated by the Vendor, and its operations will be funded from the TexasOnline operational budget. The CCB will consider and approve or disapprove all modifications of the TexasOnline Software, data, or operations that meet a threshold for consideration as established by the CCB. The CCB will function as a technical arm of the Vendor, to ensure that the Vendor meets its responsibilities to maintain available, accessible, responsive, and secure online services. The Board will ensure technology compatibility and security are maintained at all times.

Membership of the CCB will include representatives of DIR and the Vendor, and each of these may utilize support resources from their organizations or from stakeholder organizations. It is anticipated that most decisions will reflect a consensus, but DIR reserves the authority to veto a decision of the CCB should a situation of great concern to DIR arise. The CCB will be funded from the TexasOnline operational budget. The Vendor must provide for the CCB in its financial plan.

2.7.2.6 Auditors

DIR retains independent auditors for certain regular and special purpose audits of TexasOnline throughout the year. The auditors perform annual audits upon request by DIR or DIR Board, and report to the DIR Executive Director or DIR Board. The auditors are funded from the TexasOnline operational budget. The Vendor must provide for the audits in its financial plan.

2.7.2.7 Other Vendors

TexasOnline 2.0 provides for participation in development of new services by vendors other than the Vendor procured through this RFO process, such as the Cooperative Contracts Program or other vehicles. These vendors will require varying degrees of information and support to design and execute new tools that are fully consistent with the

priorities, business model, and technical environment of TexasOnline. Therefore formal agreements will be established among those vendors, the Vendor, and DIR to support effective collaboration. The Vendor will describe in the Governance section of its Offer how it plans to encourage and quality-assure the participation of such other vendors, and not unduly discourage their participation.

2.7.3 Governance Processes

The governance entities described in preceding sections will conduct governance processes. These governance processes will conform to the principles of the Texas Project Delivery Framework, a consistent, statewide method to select, control, and evaluate projects based on their alignment with business goals and objectives. The Vendor will explain in its Offer how it will support these governance processes.

All new projects, whether revenue-generating or non-revenue-generating, will be documented and approved through a formal Business Case approval process. The process for developing and approving a Business Case will be as follows:

1. Customer will identify and communicate need to Vendor and/or DIR.
2. Vendor will inform DIR and log contact in monthly report to DIR.
3. Vendor will work with Customer and DIR to define high-level requirements, approach, schedule, proposed fee schedules and payback, rough-order-of-magnitude cost, impact on TexasOnline financial results, and an analysis of technical and business risk. The Vendor will ensure that DIR is offered opportunities to participate substantively and frequently throughout development of these elements of the Business Case, and will make no commitments to or separate agreements with Customers without the prior approval of DIR.
4. Vendor will develop and submit to DIR a preliminary draft Business Case providing these high-level descriptive elements and a business case and statewide impact analysis for the project in conformance with the Texas Project Delivery Framework. Upon receipt of DIR comments and direction, the Vendor will finalize the Business Case and statewide impact analysis and submit it to DIR and the Customer for approval.
5. DIR will evaluate the Business Case, work with the Vendor and Customer to address any concerns, and recommend approval or disapproval to the DIR Executive Director.
6. Upon approval of the Business Case, the Vendor will execute a Customer Agreement with the Customer and DIR. The Customer Agreement will be in a form approved by DIR as described in RFO Section 2.4.1.2.
7. Upon execution of the Customer Agreement by the Customer, Vendor, and DIR, work will commence.

Project deliverables must be consistent with, and adequate for, the guidance provided in the Texas Project Delivery Framework, and must be provided to the Customer if requested. The Vendor must provide a draft template to be used for all Business Cases to DIR in the Governance section of its Offer. A revised template must be submitted to DIR for approval 30 days after the effective date of the Agreement.

2.7.3.1 Business Case Process

DIR will evaluate the Business Case for its consistency with and contribution to the objectives of the TexasOnline vision and its contribution to the long-term success of the public-private partnership. The process for evaluating the Business Case may include

architectural and technical review by the DIR governance team. DIR may negotiate with the Vendor to address any concerns, and then will make an approval recommendation to the DIR Executive Director.

DIR will approve or disapprove the Business Case, in accordance with DIR policies. Currently, DIR Board approval is required when new fees are proposed in the Business Case. DIR Executive Director approval is required in all other cases. Disapproved Business Cases will be returned to the Vendor for possible modification and resubmission if concerns can be resolved.

The Vendor then will lead development of a Customer Agreement acceptable to the Customer and DIR for the development of the required TexasOnline functionality. The Customer Agreement will address Customer objectives, Customer requirements, high-level solution strategy, schedule, long-term maintenance responsibilities, anticipated fees, costs to all parties, and dispute resolution.

Once the Customer, Vendor, and DIR have executed the Customer Agreement, work will proceed. DIR will monitor progress via regular reports from the Vendor as specified in RFO Section 2.8.

DIR will participate at its discretion in meetings and reviews throughout any TexasOnline project. Continuing contact between Customer representatives and the Vendor will be expected and normal throughout the development and execution of a Customer Agreement, and the Vendor will ensure that DIR is made aware promptly of any new information, issues, or decisions that could affect project scope, schedule, or budget.

The Vendor will explain in the Governance section of its Offer how it will support this governance process.

2.7.3.2 Architectural Review Process

The TexasOnline 2.0 architecture includes the technical architecture, data architecture, and business architecture. The architectural review process will

- Review proposed projects and subsequent design documents and make recommendations regarding their compliance with technical architecture standards, and
- Address TexasOnline 2.0 technology architecture issues and provide policy, standards, guidelines, and procedural recommendations.

The governance team will be authorized to design and lead the architectural review process. This process will include maintaining and improving the review process; obtaining necessary information from the Vendor, State data center, and others; performing technical evaluation; convening meetings of DIR and the Vendor representatives when necessary to clarify issues or present results; and documenting findings and recommendations. The governance team will submit its evaluations and recommendations to DIR. The Vendor will explain in the Governance section of its Offer how it will support this governance process.

2.7.3.3 Change Control Process

The change control process, managed by the CCB, will ensure that the stability and performance of TexasOnline 2.0 is not diminished or interrupted by unforeseen technical conflicts, changes in version or protocols, bug fixes, security weaknesses, or other sources of technical malfunction.

The change control process will be initiated by formal Change Requests. A Change Request may be initiated by any party involved in governance, but it is anticipated that most will be prepared and submitted by the Vendor. This will include changes that are necessitated by hardware or software decisions by the State data center, which often will have repercussions for TexasOnline 2.0 development and maintenance. The CCB will provide a report of all Change Requests and outcomes to DIR.

The Vendor will perform the following major functions in support of the CCB:

1. Document an efficient CCB process in terms of work flow, responsibilities, and decision authority in a Change Control Process Management Plan that will be submitted to DIR for approval by November 15, 2009;
2. Create and maintain a form for documenting Change Requests;
3. Create and maintain a web-based method, accessible to DIR and the governance team, to track and view the status of all past and current Change Requests;
4. Perform the secretariat role, including convening meetings, keeping minutes, and reporting on activities and decisions to DIR;
5. Track and report costs attributable to the CCB function, including the cost of any evaluations requested by temporary staff assignments; and
6. Provide the Vendor member or members of the CCB, who must bring sufficient technical knowledge and experience to create, interpret, and evaluate highly technical Change Requests in respect of potential conflicts or hidden problems.
7. Define communication processes that will provide Customers visibility into Change Requests that are being considered, ample time to consider impact of change, and mechanisms for providing cost, risk, and other information to the Change Control Board.

The Vendor may propose to operate a separate internal change review team or similar organization for approvals of very minor systems changes. If so, the Vendor will explain in the Governance section of its Offer how any such internal change review group will interface with the CCB and how it proposes to differentiate matters that would, and would not, be referred to the CCB. The Vendor will explain in the Governance section of its Offer how it will support this governance process.

2.7.3.4 Advisory Groups Process

The OLSC will provide input to TexasOnline 2.0 as defined by statute. The Customer Advisory Council will be established by DIR for support to TexasOnline 2.0. The Customer Advisory Council will meet approximately every second month to discuss an agenda that will be proposed by the DIR representative and that will include discussion topics suggested by Customers (which may include Customers who are not then represented on the Customer Advisory Council). The Customer Advisory Council will not be asked for decisions and will not have any binding authority.

Both the OLSC and Customer Advisory Council will provide feedback to DIR and the Vendor on their level of satisfaction, any issues with function or performance, their experience with the design and development process, and their expectations for future TexasOnline 2.0 development. The OLSC and Customer Advisory Council will be among the subjects of DIR and Vendor outreach efforts to identify opportunities for expansion of TexasOnline 2.0 services. The Vendor will explain in the Governance section of its Offer how it will support this governance process.

2.7.3.5 Process for Third-party Solutions

TexasOnline 2.0 will provide opportunities for development and maintenance of web pages, applications, and functions by parties other than the Vendor. The application marketplace (RFO Section 2.4.3.2) and other third-party-provided solutions give Customers the opportunity to share tools, widgets, Web 2.0 applications, etc., which have been developed by other independent parties. Application-sharing and third-party development provides significant potential for capability enhancement and standardization across TexasOnline 2.0 at reduced cost. The objective is to create these opportunities without jeopardizing the architectural or operational integrity of TexasOnline 2.0.

TexasOnline applications, functions, and web pages may be provisioned in the following additional ways:

- Customers may purchase technology solutions through the DIR ICT Cooperative Contracts;
- Customers may develop functions, web pages, or applications using their own staff;
- Customers may develop functions, web pages, or applications using staff augmentation or deliverables-based outsourcing, through the DIR ICT Cooperative Contracts or any other outsourcing mechanism that is compliant with procurement policies;
- Customers may purchase or re-use shared functions, web pages, or applications that are deployed through the application marketplace (RFO Section 2.4.3.2).

DIR recognizes that these third-party solutions imply technical and licensing issues that must be managed as part of the TexasOnline 2.0 governance process, including architectural review board approval, Business Case approval, and Customer Agreements.

Third-party development of TexasOnline 2.0 solutions is dependent upon the Vendor publication of specifications (RFO Section 2.4.3.6). Once these specifications have been developed and published, policies and procedures must be in place to

- Approve and certify new and modified applications, functions, or web pages;
- Establish minimum and standard service levels for third-party solutions;
- Deploy and host third-party solutions on TexasOnline 2.0; and
- Provide Level I support for third-party applications.

The Vendor will describe in the Governance section of its Offer how it proposes to

- Operate the application marketplace;
- Support the governance processes described in this section, including critical licensing terms and issues;
- Establish procedures and policies to host and provide Level I support for third-party developed solutions;
- Identify costs of deploying and supporting third-party applications; and
- Fund and recoup expenses incurred by the Vendor.

2.8 Reporting Requirements

The Vendor will provide routine and ad hoc reporting as required in a form and format approved by DIR. Details of the data items, formats, and periodicity of these reports will be established between DIR and the Vendor upon initiation of this Agreement.

DIR will have the option of requesting special analyses, reports, and reviews from the Vendor. Examples include ad hoc system engineering analyses, one-time project portfolio management reports, and project-specific architectural reviews. Such requests will be limited in number and scope through a process involving DIR and Vendor management so that they are not open-ended or an undue burden on the Vendor.

In exercising any of the options listed above, DIR may use staff or contractors, including third-party auditing contractors and third-party Independent Verification and Validation contractors. DIR will ensure that any person or third-party company granted access to Vendor information handles such information securely and appropriately.

The costs of assembling, reporting, and explaining data to DIR will be funded from the TexasOnline 2.0 operational budget. Reports must be designed with the flexibility to be readily modified as functional and reporting requirements change.

The Vendor must describe its approach to support present and future reporting needs in the Reporting section of its Offer. The Vendor's approach may include a performance tracking system to support performance criteria measurement (RFO Section 2.10) and reporting. The Vendor may propose alternate reports and reporting solutions that meet or exceed the requirements described below.

2.8.1 IT Portfolio Reporting

In order to track execution of the comprehensive Portfolio Management Plan required by RFO Section 2.5.12, the Vendor will provide a standard monthly summary report of IT portfolio status, progress, performance, and issues. This report will be prepared and submitted by the Vendor for every major portal component in operation or in development. A standardized format will be employed to simplify review and comparison of the information, and a summary section will provide trend information from month to month. Required information will include cost and cost recovery information, progress indicators, status, issues, performance measures, and other key indicators.

2.8.2 Monthly Progress and Performance Reviews

The Vendor will report monthly to DIR key indicators of program progress and performance, to be defined in discussions between DIR and the Vendor upon initiation of this Agreement. (Program-level financial performance measures will be reported via the Monthly Financial Report, defined in Section 2.8.3 below.) The Monthly Progress and Performance Report will focus on program status indicators not included in the project-specific IT Portfolio reports described in RFO Section 2.8.1. The Vendor will compile and report on

- Satisfaction of and any deviations from scheduled delivery dates of reports, presentations, or products;
- Any changes in scope, budget, schedule, or sponsorship; and
- Project quality metrics, including acceptance test plan results.

The Monthly Progress and Performance Report will include

- A listing by Customer and application of all monthly usage and fee, subscription, or other receipts and allocations to the TexasOnline partners;
- Statistics on help desk contacts and resolution for the month, by Customer and application;
- A listing with names, dates, purpose, and outcome of all significant contacts with publicly funded entities in connection with outreach, identifying needs, or responding to inquiries (not including help desk);
- A record of contacts to external entities and contacts from external entities and the actions and disposition of issues or requests;
- A listing of any new support requests or inquiries about new services from existing or potential Customers and users;
- A list of all Change Requests and their outcomes as determined by the Change Control Board;
- Application service level monitoring;
- Help desk usage, metrics, and contact drivers;
- Performance metrics, including reliability, availability, and defect rates; and
- Customer satisfaction measurement and analysis.

Every six months, or at any time with thirty (30) days notice, DIR may convene a progress and performance review. This meeting will evaluate how well the TexasOnline 2.0 partnership is progressing toward the TexasOnline 2.0 vision. This meeting will not result in the issuance of directives or decisions, but will gather information for use in decision-making by the established governance mechanisms. The agenda and participants for this review will be established by DIR. Supporting information for the agenda items will be prepared by the Vendor, and the Vendor will provide the secretariat function. The Vendor must provide for these costs in its cost proposal for this RFO.

2.8.3 Financial Reporting

The Vendor will be responsible for all financial reporting for TexasOnline 2.0. From the standpoint of the Master Work Order Projects, this will necessitate that the new Vendor review the reports that will continue to be prepared by the Current Contractor.

The Vendor must describe its approach to financial reporting to support present and future financial reporting needs. Delivered reports must be designed with the flexibility to be easily modified as functional and reporting requirements change.

The Vendor will create and submit the following financial reports to DIR in accordance with the statutes, contracts, and state auditor reports mentioned below.

- **Fiscal Year Annual Budgets**

An annual budget report must be prepared by the Vendor and is due to DIR by June 1 prior to the start of the fiscal year. The budgets provide projections for each year of the contract term. The budgets include the Statement of Operations, Investment in Capital Projects, and Distribution of Net Revenue Share as well as the supporting schedules for revenues, expenses, and capital costs. The annual budgets must include a marketing plan. The budgets are separated by existing and Master Work Order projects. The budgets must be approved by the DIR Executive Director.

Since the budget for fiscal 2010 is due by June 1, the Current Contractor will be responsible for submitting the budget for the period of September 1, 2009 through

December 31, 2009. An amended budget based on the new Agreement for the period of January 1, 2010 through August 31, 2010 must be submitted to DIR for approval by October 1, 2009.

- **Monthly Financial Report**

The Monthly Financial Report is one of the most important and comprehensive reports required by DIR. The report includes financial statements of existing projects, projects of the Master Work Order as defined in Amendment 10, and a consolidation of both. The financial statements include a balance sheet, statement of operations, cash flow statement, unrecovered or recovered investment statement, and various detailed schedules that support the balance sheet and statement of operations. The report also includes management discussion and analysis and footnotes. The report is due to be submitted to the DIR five (5) weeks subsequent to the close of the preceding accounting month.

- **Other Financial Reports**

Other financial reports will be required. The definition of these reports is dependent on the details of the new Agreement. These reports may include the following existing financial reports or new reports as determined and defined by DIR:

- Revenue Share Reports
- General Ledger
- Fixed Assets Report
- Labor Report
- Labor Roster

2.8.4 Statutory Reporting Requirements

- **Biennial Performance Report to the State**

As required by Texas Government Code, §2054.260 Reporting Requirements, no later than November 15 of each even-numbered year, DIR is required to report on the status, progress, benefits, and efficiency gains of the project as well as financial matters, including project costs and revenues and any significant issues regarding contract performance on the project. The department must provide the report to the Lieutenant Governor, Speaker of the House, and the chairs of the legislative committees with primary jurisdiction over the department.

The Vendor must provide reasonable assistance to DIR in providing requested financial and operational data prior to this due date for the purpose of assembling such biennial reports.

- **Annual Audit**

As required by Texas Government Code, §2054.2721 Independent Annual Audit, no later than August 1 of each year, any private Vendor chosen to implement or manage the project must have an audit of the Vendor's finances associated with the management and operation of the project performed by an independent certified public accountant selected by the State. The Vendor must pay for the audit and must have a copy of the audit provided to DIR. Not later than August 15 of each year, DIR must provide a copy of the audit report to: the presiding officer of each house of the legislature; and the chair of each committee in the legislature with primary jurisdiction over the department. DIR must keep a copy of the audit report and make the audit report available for inspection by any interested person during regular business hours.

2.8.5 Ad hoc Reporting

DIR may examine any work, process, procedure, and/or product that is performed or produced by the Vendor as part of the Agreement. In addition, the Vendor may be required to provide estimates for proposed legislation and other legislative information requests. There may be cases when a one-day turnaround or less is required.

DIR will observe and gather data from all governance processes that determine and/or prioritize work to be performed by the Vendor. This includes visibility into governance processes in which DIR does not directly participate. This includes governance processes internal to the Vendor and governance processes through which work is negotiated with, approved by, and monitored by Customers using the Agreement.

The Vendor is required to catalog and maintain all documentation that is associated with performing the Agreement in an electronic document repository. This does not include access to notes of individual Vendor staff members, such as meeting notes or status reports to Vendor management.

Vendor will provide upon DIR's request an electronic copy of any document developed as part of performing work under the Agreement, including documents that are considered working papers, drafts, or non-deliverable products. Examples include architecture documents, project notes, CCB proceedings and reports, project artifacts, and portfolio metrics.

2.8.6 Report Templates

In the Reporting section of its Offer, the Vendor must provide report templates for the following reports.

- **IT Portfolio Report**

Vendor will submit a template of this report with its Offer. Vendor will submit final draft of the report template for DIR approval within sixty (60) calendar days after the Effective Date of the Agreement.

- **Monthly Progress and Performance Report**

Vendor will submit a template of this report with its Offer. Vendor will submit final draft of the report template for DIR approval within sixty (60) calendar days after the Effective Date of the Agreement.

- **Monthly Financial Report**

Vendor will submit a template of this report with its Offer. Vendor will submit final draft of the report template for DIR approval within sixty (60) calendar days after the Effective Date of the Agreement.

- **Fiscal Year Annual Budgets**

Vendor will submit a template of this report with its Offer. Vendor will submit final draft of the report template for DIR approval within sixty (60) calendar days after the Effective Date of the Agreement.

2.9 Outreach and Marketing

The Vendor will provide enhanced marketing and outreach efforts to

- Collaborate with Customers to understand their needs and to promote the benefits of e-government initiatives to Citizens;
- Market specific services to targeted constituencies;
- Deliver compelling incentives to Customers, Businesses, and Citizens to use the site;

- Build trust through promotion of the benefits, ease of use, security, and privacy that are integral features of the site;
- Create an engaging online experience; and
- Establish an ongoing feedback, response, and resolution process.

In this section the Vendor is asked to create a Marketing Plan that describes how TexasOnline 2.0 may be rebranded, how stakeholder needs will be assessed, what outreach and marketing efforts will be deployed to help meet those needs, and how satisfaction with TexasOnline 2.0 will be measured and improved. The initial draft of the Marketing Plan must be submitted with the Vendor's Offer. The final draft is to be submitted to DIR for approval within sixty (60) calendar days after the Effective Date of the Agreement.

2.9.1 Outreach and Marketing Program

The Vendor must address methods and media for communicating functionality of TexasOnline 2.0 and increasing Customer adoption rates.

Key components of the Outreach and Marketing portion of the Marketing Plan must at a minimum

- Define the marketing objectives, media mix, communication tactics, measurability, and projected yearly increase in adoption rates for each target audience segment (State agencies, local government, public education entities);
- Describe specific messaging objectives for each audience segment;
- Outline how the plan aligns with the core mission and vision of TexasOnline 2.0;
- Provide details on an outreach plan to smaller Customers and how this will drive higher adoption rates to TexasOnline 2.0; and
- Describe the budgeting allocation process and how funding would be applied to this effort.

2.9.2 Stakeholder Needs

By sharing the processes and service infrastructure of TexasOnline 2.0, Customers are able to reduce redundancy of effort and leverage economies of scale. There is significant added value to all stakeholders if different levels of Texas government work together to enhance the e-government user experience. With TexasOnline 2.0, DIR encourages more participation across all levels of government and a comprehensive Marketing Plan will build the foundation for driving increased participation and expanding the Customer base.

2.9.2.1 Stakeholder Needs Assessment

The Vendor must describe how TexasOnline 2.0 will address the needs of its stakeholders. The stakeholders—Customers, Citizens, and Businesses—have different needs and expectations. The stakeholder needs assessment portion of the Marketing Plan will, at a minimum, outline the methodology used to assess stakeholder needs.

2.9.3 Rebranding Strategy

DIR is considering rebranding TexasOnline. Rebranding is a good strategy when a brand is confusing, unknown, or changes markedly. The efforts to clarify a brand, increase awareness of it, or call attention to advances and improvements must, however, be weighed against stakeholder needs and program expenses.

Key components of the Rebranding portion of the Marketing Plan must at a minimum

- Provide a thorough assessment of the existing TexasOnline brand;
- Describe how the rebrand for TexasOnline 2.0 aligns with the core mission and vision of TexasOnline 2.0;
- Summarize and describe any potential obstacles to the rebranding effort;
- Detail the specific site functionality and usability recommendations for TexasOnline 2.0;
- Describe the budgeting process and how funding will be applied to the rebrand strategy;
- Provide assessment of other e-government websites that encapsulate elements of the TexasOnline 2.0 vision; and
- Provide a mock-up version of TexasOnline 2.0 rebrand and redesign.

DIR owns the *texas.gov* domain name and, if it is decided to change to a *.gov* URL to clarify the e-government priorities from the commercial orientation of a *.com* website, this will be the preferred domain name.

2.9.4 Marketing New Features

The Vendor will identify from its past experience with e-government portals and Web 2.0 applications those features and functionality that drive Customer, Business, and Citizen adoption and usage rates. Vendor will also make recommendations as to the role these features and functionalities may play in TexasOnline 2.0. Vendor will identify the features and functionalities that drive Customers, Businesses, and Citizens to incent first-time users.

Key components of the Marketing New Features portion of the Marketing Plan must at a minimum

- Define the characteristics of Customers, Businesses, and Citizens who have never used TexasOnline;
- Describe the introduction process and timing for these new features as they pertain to existing TexasOnline Customers, Businesses, and Citizens;
- Specify how feedback will be tracked and addressed for the new features;
- Define the promotion and outreach program to market the new features to existing users and to target additional audience segments not currently using TexasOnline;
- Address appropriate search engine optimization and search engine marketing strategies to drive higher placement of TexasOnline 2.0 in search results;
- Outline the types of users most likely to adopt these new features;
- Provide a preliminary design or mock-up of TexasOnline 2.0 with a defined set of new features; and
- Describe the budgeting process and how funding will be applied to the new features effort.

2.9.5 Satisfaction and Response Measurement Process

TexasOnline 2.0 seeks to increase its Customer base and drive higher adoption rates among those who use the State's government portal. As the Customer base and portal usage increases, it is imperative that the Vendor provide a thorough plan to handle

feedback, make the feedback actionable, and track any and all issues in a timely, responsive manner.

The Vendor must provide an overall plan to measure and track Customer, Business, and Citizen satisfaction and issues with TexasOnline 2.0.

The Satisfaction and Response Measurement Process portion of the Marketing Plan must, at a minimum

- Outline feedback collection system with Customer survey methodology and survey frequency;
- Provide reporting and analysis mechanisms with schedule and timing for reports;
- Define an effective problem resolution process for Customer satisfaction;
- Detail linkage between all touch points with TexasOnline 2.0 and how these align with the satisfaction process;
- Determine appropriate web analytics tools or applications to utilize as part of the satisfaction and measurement process;
- Outline the process for how satisfaction information will be reported to DIR; and
- Describe the budgeting allocation process and how funding will be applied to this effort.

2.10 Performance Measures and Associated Remedies

DIR will monitor the contract performance requirements on a regular basis. DIR will perform on-site and desk reviews to monitor contract requirements on a regular basis. Monitoring will be based upon the Agreement deliverables, requirements, and performance measures as defined in the contract. DIR may use Independent Verification and Validation techniques in addition to monitoring.

2.10.1 Liquidated Damages

The State of Texas expects the Vendor to perform its responsibilities and tasks as specified in the Agreement. This expectation is reasonable, within normally acceptable business practices, and in the best interests of the State, its Customers, and its Citizens. To emphasize this approach, the critical dates for major project milestones and project deliverables specified within this RFO will be negotiated with the Vendor.

The State has chosen to address a majority of the risks related to Vendor performance through the assignment of liquidated damages. The liquidated damages provisions described below represent the projected financial loss and expenditures that may occur as a result of Vendor non-performance, including financial loss or reduced cost savings as a result of project delays. The following provisions form the basis for assessing liquidated damages:

- If the Vendor does not fulfill its obligations under the Agreement, the State will be damaged;
- Establishing the precise amount or value of such damage would be difficult to quantify;
- Liquidated damages will start to accumulate immediately following the end of the cure period; and cure periods begin upon the earlier of Vendor's (1) discovery or (2) receipt of notification that a deficiency has occurred.

The time set forth in the Agreement for the completion of work is an essential element of the Agreement. The Vendor's failure to complete specified work within the timeframes prescribed by the Agreement will cause damage to the State and possibly to other vendors. If the Vendor is responsible for impacting the timelines of other vendors, the Vendor will be held accountable as determined by DIR. Therefore, should the Vendor fail to complete the specified work within the agreed-upon times, the State will assess and/or collect liquidated damages in the amount specified in this RFO Section 2.10. The State's failure to assess liquidated damages in one or more of the particular instances described will in no event waive the right of the State to assess additional liquidated or actual damages. DIR also reserves the right to pursue recovery of actual losses resulting from the failure of the Vendor to perform, in addition to the specific liquidated damages noted.

Should any of the following listed events occur during the Agreement, DIR will assess liquidated damages against the Vendor in the amounts specified. DIR will notify the Vendor in writing, for any default specified herein, and such liquidated damages will be paid by the Vendor within thirty (30) calendar days of the DIR notice. DIR will have the right to deduct the amount of any liquidated damages assessed by DIR against the Vendor from amounts otherwise payable to the Vendor under the Agreement.

Except where noted otherwise, expectations and activities described within this document will be evaluated as having the general impact criteria described for the purposes of liquidated damages. DIR will evaluate both the accuracy and timeliness of expectations and activities in order to determine potential liquidated damages. DIR will provide written notice ten (10) days prior to the assessment of any potential liquidated damages. This notice will allow the opportunity for a written response to DIR within the ten (10) day period regarding any considerations that may be applicable to the potential liquidated damages being considered. Liquidated damages will not be assessed during the specified cure period, which is intended to allow corrections of the accuracy and/or timeliness deficiency, except as noted otherwise.

2.10.2 Rolling Estoppel

DIR assumes the obligation for State resources as indicated in the RFO. DIR will be conclusively deemed to have fulfilled its obligations, unless it receives a deficiency report from the Vendor within fifteen (15) calendar days of the occurrence of the alleged deficiencies and the Vendor identifies specific deficiencies in DIR's fulfillment of its obligations in that report. Deficiencies must be described in terms of how they have impacted the specific performance requirement of the Vendor. The Vendor is estopped from claiming that a situation has arisen that might otherwise justify changes in the project timetable, the standards of performance under this Agreement, or the project cost, if the Vendor knew of that problem and failed to include it in the applicable report.

In the event the Vendor identifies a situation in which DIR is impairing the Vendor's ability to perform for any reason, the Vendor's deficiency report should contain the Vendor's suggested solutions to the situation(s). These suggestions should be in sufficient detail so that DIR's Project Manager can make a prompt decision as to the best method of dealing with the problem and continuing the project in an unimpeded fashion.

If the problem is one that allows the Vendor (within the terms of the Agreement) to ask for changes in project timetables, the standards of performance, the project costs, or all of these elements, the report should comply with the change control process in RFO Section 2.7.3.3.

2.10.3 Performance

DIR will measure performance in the following areas:

- Implementation,
- Management Plans,
- Portal and Application Performance,
- Portfolio Management,
- Reports,
- Security and Privacy,
- Help Desk, and
- Customer Satisfaction.

The Vendor will not be responsible for hardware infrastructure performance, as defined in the DCS Master Services Agreement, except as otherwise required in the RFO.

If the Vendor impacts performance within the TexasOnline 2.0 system and DIR determines that it is the fault of the TexasOnline 2.0 Vendor or its Subcontractors, DIR will have the right to assess liquidated damages or remedies as shown.

2.10.3.1 Implementation

The Vendor must assume full operational control of TexasOnline 2.0 as of the Cutover, December 31, 2009, at 11:59:59 p.m. If the implementation deadline cannot be achieved, the Vendor will be in material breach of the Agreement. Should a project delay event occur and not be remedied by the Vendor within a designated cure period, DIR will notify the Vendor in writing of the occurrence of a project delay event. After written notice from DIR of the occurrence or existence of such project delay event, DIR will have the right to assess liquidated damages in the amounts specified for each day that such unresolved project delay event exists after expiration of the applicable cure period.

Table 2.10.3.1 – Performance Criteria for Implementation Delays

Implementation Plan		Performance Remedy	Cure Period
1	Transition all SLAs to new Customer Agreements by November 15, 2009	\$500 per day per Customer Agreement	5 days
2	Provide affirmation by December 1, 2009, that all core requirements will be met by the Cutover	Corrective Action Plan	None
3	Core requirements complete and TexasOnline 2.0 is fully operational by the Cutover	\$10,000 per day	None
4	Publish approved specifications by June 1, 2010 (RFO Section 2.4.3.6)	\$500 per day	5 days

2.10.3.2 Management Plans

Failure of the Vendor to submit the following required Management Plans in a final version to DIR for review and acceptance will result in liquidated damages in the amount of \$500 per day after a five (5) day cure period. The same liquidated damages also apply to Management Plans that are changed due to any future updates or revision requests that

may be required by DIR. A revised plan addressing changes recommended by DIR must be submitted to DIR within five (5) business days of receiving notice from DIR.

Table 2.10.3.2 – Due Dates for Management Plans

Management Plan	Initial Draft Due	Final Draft Due
Implementation	Submitted with Offer	July 1, 2009
Program Management	Submitted with Offer	July 1, 2009
Disentanglement	Submitted with Offer	August 1, 2009
Security Management	Submitted with Offer	August 1, 2009
Technology Management	Submitted with Offer	February 1, 2010
Organizational and Staffing	July 1, 2009	August 1, 2009
Help Desk Management	July 1, 2009	September 1, 2009
Change Management	July 1, 2009	October 1, 2009
Problem Management	July 15, 2009	September 1, 2009
Risk Management	July 15, 2009	September 1, 2009
Disaster Recovery and Business Continuity	August 1, 2009	October 1, 2009
Portfolio Management	August 1, 2009	October 1, 2009
Training and Communication	August 1, 2009	December 1, 2009
Quality Management	September 1, 2009	December 1, 2009
Integration Management	September 1, 2009	February 1, 2010

2.10.3.3 Portal and Application Performance

The Vendor will measure availability and reliability as defined in RFO Sections 2.6.7 and 2.6.8 and report as described in RFO Section 2.8.2. The following table of activities and expectations provides additional specific criteria regarding potential liquidated damages. DIR reserves the right to modify the monitoring frequency as needed.

The Vendor must report all instances of availability and reliability non-performance to DIR as soon as the non-performance issue is detected. The initial incident report must be submitted to DIR within 24 hours of the incident. A detailed summary incident report must be submitted to DIR within seven (7) calendar days of the incident.

Table 2.10.3.3 – Performance Activities and Remedies

Activity	Monitoring Frequency	Liquidated Damage Amount
Maintain Availability requirement as described in RFO Section 2.6.7 (Total maintenance duration over a month minus the scheduled maintenance duration over a month must be less than 0).	Monthly	\$100 for each tenth of an hour above zero.

Activity	Monitoring Frequency	Liquidated Damage Amount
Maintain reliability requirements for each application as described in RFO Section 2.6.8.	Monthly	\$200 for each tenth of an hour below target.
Maintain reliability requirements for portal presence as described in RFO Section 2.6.8.	Monthly	\$500 for each tenth of an hour below target.

2.10.3.4 Portfolio Management

The Vendor will manage TexasOnline 2.0 projects according to the Portfolio Management Plan described in RFO Section 2.5.12. The Vendor must track its actual schedule, cost, and quality metrics against the approved schedule, cost, and requirements. These metrics must be reported to DIR as described in RFO Section 2.8.1.

The Vendor must measure, report, and adhere to the Portfolio Management criteria described in the Portfolio Management Activities and Remedies table.

Portfolio measurements related to quality are based on the defect severity levels described in the Defect Severity Levels table.

Table 2.10.3.4-1 – Defect Severity Levels

Critical	High	Medium	Low
<p>The defect creates a serious business and financial exposure, to the point that money or data losses are severe and noticeable or security is compromised. Users are unable to receive any service whatsoever due to the outage</p> <p>AND</p> <p>There is no acceptable workaround to the problem (i.e., the job cannot be performed in any other way).</p>	<p>The defect creates a moderate business and financial exposure. The failure may have such an impact as to be noticed by users.</p> <p>AND</p> <p>There may or may not be an acceptable workaround to the problem.</p>	<p>The application failure creates a low business and financial exposure</p> <p>AND</p> <p>There is likely an acceptable workaround to the problem.</p>	<p>The application failure creates a minimal business and financial exposure</p> <p>AND</p> <p>There is an acceptable and implemented workaround to the problem (i.e., the job can be performed in some other way).</p>

DIR will assign points for portfolio management deficiencies and assess liquidated damages as defined in the table in Section 2.10.9.2.

Table 2.10.3.4-2 – Portfolio Management Activities and Remedies

Activity	Method of Measurement	Remedy
Projects are completed on schedule as described in the Business Case or Customer Agreement or authorized adjustments to schedule.	The date the project is delivered to the Customer for user acceptance test.	Deduction of 5 points for each ten percent delay, measured in calendar days, from the scheduled delivery date.
Projects costs do not exceed the approved budget.	For each completed project, compare the budget estimate in the Business Case or Customer Agreement to the actual tracked costs for a project.	Deduction of 5 points for each ten percent actual cost overage from the approved budget estimate.
All project requirements are met.	Acceptance test plan must document the approved requirements. Completed project must satisfy the requirements as defined in the acceptance test plan.	Deduction of 1 point for each mandatory requirement up to 5 points per project.
No Critical defects are released to production.	Critical defects are reported.	Deduction of 5 points for each critical defect released to production.
Defects are corrected within prescribed timeframes.	Defects should be recorded as tickets and time is duration between opening a ticket and the time a ticket is closed based on critical, high, medium, and low defects.	Deduction of 1 point for each day to fix a critical defect after a cure period of one day. Deduction of 1 point for each day to fix a high severity defect after a cure period of two days. Deduction of 1 point for each week to fix a medium severity defect after a cure period of two weeks. There will be no points deducted for low severity defects, however Vendor is expected to report and address low severity defects as appropriate.
Portfolio scorecard points exceed 10 points per quarter.	Portfolio scorecard points are accumulated for each calendar quarter. At the beginning of each calendar quarter, the Vendor's portfolio scorecard is 0.	\$1,000 per each point over zero points.

2.10.3.5 Reports

Liquidated damages will be assessed if the Vendor fails to produce and submit all required reports. Calendar days are applicable unless otherwise noted in the Reports table below. Additional reporting may be required by DIR.

Table 2.10.3.5-1 – Reports

ID	Report Name	RFO Section	Frequency	Due Date	Impact
1	Implementation Status Report	2.4.1	Weekly	Monday, 9:00 a.m. (CT)	High
2	Help Desk Process Improvement	2.6.2.1	TBD	TBD	Low
3	Application Service Levels	2.6.3	Monthly	TBD	High
4	Accessibility	2.6.10	TBD	TBD	Low
5	IT Portfolio	2.8.1	Monthly	The 21st of the month following the preceding calendar month	Medium
6	Progress and Performance	2.8.2	Monthly	The 21st of the month following the preceding calendar month	High
7	Fiscal Year Annual Budget and Marketing Plan	2.8.3	Annual	June 1	High
8	Monthly Financial Report	2.8.3	Monthly	The 21st of the month following the preceding calendar month	High
9	State Revenue Share	2.8.3	Monthly	20% share report due the 10th day of the following month; 50% share report due one week after monthly financial statements	High
10	General Ledger	2.8.3	Monthly	The 21st of the month following the preceding calendar month	Low
11	Fixed Assets report	2.8.3	Monthly	The 21st of the month following the preceding calendar month	Low
12	Labor Reports	2.8.3	Monthly	The 21st of the month following the preceding calendar month	Medium
13	Labor Rosters	2.8.3	Monthly	The 21st of the month following the preceding calendar month	Medium
14	Customer Satisfaction	2.9.5	TBD	TBD	Medium
15	Compliance reports (Prime Contractor Progress Assessment Report – PAR)	Appendix C HUB Affirmation Section 10	Monthly	TBD	Medium
16	Security / Privacy Incident	Appendix F.10.10	Upon incident	4 hours after discovery of the incident	High

ID	Report Name	RFO Section	Frequency	Due Date	Impact
17	Security Status Report	Appendix F.10.10	Monthly	10 business days after the end of the month	Medium
18	Vendor Security Assessment and Remediation	Appendix F.10.10	Upon scan	5 business days after scan report is generated	High
19	Vendor Internal Security Report of Internal Controls	Appendix F.10.10	Quarterly	10 business days after the end of the quarter	Medium
20	Vendor Security Awareness Training	Appendix F.10.10	Annual	10 business days after the end of the State fiscal year	Low
21	Change Management Security Assessment	Appendix F.10.10	Monthly	5 business days after the end of the month	Medium
22	Correction or remediation reports for any audit exceptions	Appendix F.10.10	Upon audit	30 days after completion of the audit	Medium

Table 2.10.3.5-2 – Cure Periods for Reports

Report Category		Liquidated Damage Amount	Cure Period
1	High Impact Reports	\$500 per day	3 days
2	Medium Impact Reports	\$200 per day	7 days
3	Low Impact Reports	\$100 per day	14 days

2.10.3.6 Security and Privacy

Vendor security services will report to the authorized DIR security representative all Security and Privacy Incidents requiring possible corrective action within four (4) hours of the discovery of the Security or Privacy Incident.

Vendor will bear the cost of all claims, judgments, legal fees, attorney fees, and associated costs due to a Security or Privacy Incident that is directly attributable to the Vendor's performance under this Agreement.

Vendor will bear the cost of all claims, judgments, legal fees, attorney fees, and associated Customer and Citizen notification and remediation costs due to a Security or Privacy Incident or other loss of data that is directly attributable to the Vendor's performance under this Agreement.

Vendor will implement and maintain reasonable procedures, including taking any appropriate corrective action, to protect and safeguard from unlawful use or disclosure all sensitive personal information, as such is defined at §48.002, Business and Commerce Code, that is collected or maintained by Vendor under the Agreement.

Vendor will notify DIR, and the affected Customers and Citizens if appropriate, of any Security or Privacy Incident in accordance with the terms of the Agreement, if sensitive personal information was, or is reasonably believed to have been, disclosed to or acquired

by an unauthorized person. However, Vendor may delay providing notice to the affected Customers and Citizens at the request of DIR if DIR determines that the notification will impede a criminal investigation. The notification to the affected Customers and Citizens will be made as soon as DIR determines that it will not compromise any criminal investigation.

Notification to Citizens for a Security or Privacy Incident will be made by Vendor at Vendor's expense and at the direction of DIR, and will comply with the notification requirements of §48.103, Business and Commerce Code.

In the event of any Security or Privacy Incident, if sensitive personal information was, or is reasonably believed to have been, disclosed to or acquired by an unauthorized person, Vendor will also provide the following protections (at the direction of DIR and at Vendor's expense) to the affected Citizens, and will notify the affected Citizens of these protections in the notice Vendor provides to such affected Citizens:

- a. **Vendor will cover the cost of providing the affected Citizens with credit monitoring services for a minimum of twelve (12) months**
- b. **Vendor will cover the cost of providing the affected Citizens with identity theft insurance for a minimum of twelve (12) months**
- c. **Vendor will provide the affected Citizens with call center support regarding the Security or Privacy Incident for a minimum of thirty (30) days**

2.10.3.7 Help Desk

Help Desk – Average Call Answer Time

The Service Level for "Help Desk – Average Call Answer Time" measures the elapsed time between when a person selects a service option (initiates Chat or selects option from IVR menu) and the time the phone call is answered by a live support technician ready to start working the request. All phone calls to the Help Desk will be included in the calculation of this Service Level with no exceptions for phone calls to the Help Desk during any period of Downtime.

The Service Level calculation for Help Desk – Average Call Answer Time is the total number of seconds, for all phone calls to the Help Desk during the applicable month, between the time the phone caller first selects a service option (initiates Chat or selects option from IVR menu) for assistance by a live support technician to the time the phone call is verbally answered by a live support technician ready to start working on the phone call divided by the total number of all phone calls to the Help Desk during the applicable month.

Help Desk – Abandon Rate

The Service Level for "Help Desk – Abandon Rate" measures the percentage of phone calls to the Help Desk that are abandoned by the person after the person selected a service option and prior to a live support technician answering the phone call.

The Service Level calculation for Help Desk – Abandon Rate is the total number of phone calls to the Help Desk during the applicable month that are abandoned by the person after the person selected a service option and prior to a live support technician answering the phone call divided by the total number of phone calls to the Help Desk during the applicable month for which the person selected a service option, with the result expressed as a percentage.

Table 2.10.3.7 – Help Desk Activities and Remedies

Activity	Monitoring Frequency	Liquidated Damage Amount
Help Desk – Average Call Answer Time is less than or equal to 5 seconds	Monthly	Corrective Action Plan
Help Desk – Abandon Rate is less than or equal to 3 percent	Monthly	Corrective Action Plan

2.10.3.8 Customer Satisfaction

Performance remedies will be assessed if the Vendor fails to meet Customer satisfaction performance standards.

Based on the Customer Satisfaction and Response Measurement Process described in RFO Section 2.9.5, and as agreed to by the Parties, failure of the Vendor to meet required minimum standards will result in a Corrective Action Plan aimed at the specific areas of non-performance.

2.10.4 Response to Performance Criteria

In the Performance Criteria section of its Offer, the Vendor must affirm its agreement to the performance criteria and remedies or propose performance criteria and remedies different from those listed above. The Vendor must provide reasons and documentation for the alternative performance criteria and remedies.

Vendor must discuss its plan for meeting the performance criteria. Vendor must include anticipated sizing and configurations in the discussion.

Vendor must provide mechanisms to report on these performance criteria. All plans and mechanisms to be used for reporting shall be subject to approval by DIR.

3.0 Business Model, Investment and Compensation

The purpose of this section is to provide basic financial, operational, and contractual information that describes the current TexasOnline business arrangement. The intent is to help the Vendor understand the scope of the current operation, the required method for investment, and compensation structure for developing, maintaining, and operating the TexasOnline business arrangement.

Topics covered in this section:

- 3.1 Instructions and Terms
- 3.2 Business Model Overview
- 3.3 TexasOnline Financial Performance
- 3.4 Future Opportunities
- 3.5 Risks and Constraints
- 3.6 Financial Plan for TexasOnline 2.0

3.1 Instructions and Terms

The current TexasOnline business model has evolved from the original Texas Electronic Framework Agreement through various renewals and amendments. RFO Section 3.2.1 gives an overview of the contractual obligations. There are opportunities to add value to TexasOnline 2.0 in terms of new Customers, Services, and capabilities. These are presented in RFO Section 3.4 for the Vendor to consider in its Offer.

This section also provides instructions to the Vendor in how to submit costing and pricing for evaluation, including a preliminary statement of operations that supports the Vendor's management plans.

There are several terms used in the following sections that are defined below:

- **Financial Plan**
The Financial Plan includes all completed financial schedules in Appendices E.1 through E.8 and the narrative discussion, including all key assumptions, risks, and risk mitigation strategies used to generate revenue, cost, and capital investment. It includes a narrative explaining the proposed business model, including the Alternative Financial Model.
- **Business Model Forecast**
The Business Model Forecast refers to the forecast the Vendor is providing for seven (7) years of revenues, expenses, capital, usage, number of applications, and other pertinent operating data. This term encompasses a variety of elements, including revenue, labor, variable costs, and capital expenditures. The Business Models for core requirements, portal enhancements, strategic requirements, and opportunities for distinction are all a part of the Vendor's Financial Plan.
- **Alternative Financial Model**
The alternative financial model is a financial model not bound by the financial model of the Current Contract and that allows change to the distributions to the State and Vendor.

3.2 Business Model Overview

TexasOnline has emerged as one of the leading state portals and most successful public-private partnerships in the country. The business model has been highly successful in introducing an array of new applications and services that have benefited the public with improved service, convenience, and easier access to government information.

While the current business model has benefited the Current Contractor through its participation in a project that fully recovers its investment capital and operating expenses, and provides upside incentive to earn additional income, DIR is seeking a business model that provides greater value to the State.

Several key business and contractual principles underpin the TexasOnline 2.0 business model:

- **Comprehensive Scope of Work**

The Vendor will be responsible for all management, outreach, development, maintenance, operations, and support for TexasOnline 2.0. DIR will be responsible for oversight of the project, to include developing policies, approving and disapproving services provided, managing the Agreement, ensuring compliance, and evaluating the performance of TexasOnline 2.0.

- **Self-funding**

The Vendor will be required to provide all upfront and ongoing investment capital and labor resources to fulfill the ongoing operation and maintenance of TexasOnline 2.0. The Vendor will recover its investments from revenue generated by TexasOnline 2.0. From the Vendor's perspective, recovery of its investment is dependent upon the success of the portal in providing essential and necessary services to the Citizens of the State.

- **Revenue**

Revenue comes from members of the public (includes non-Texas residents) and persons who are currently regulated by a State agency or local government. Marketing and outreach is essential for TexasOnline 2.0 to be successful.

- **Business Case Process**

The Vendor and DIR will work together to determine which services will be developed and offered through TexasOnline 2.0. New projects will be prioritized through the Business Case process to balance resources with Customer and Business needs.

- **Share of Total Revenue**

The current business financial model requires that each month the State receive a payment from TexasOnline equal to 20% of Total Revenue, less credit card charges.

- **Achieving Breakeven**

This is a key financial and project management milestone for TexasOnline 2.0. The financial Breakeven is the point at which all Vendor capital investments have been recovered from the Net Revenue. Once this investment Breakeven occurs, both partners may take advantage of the Share of Net Revenue.

- **Share of Net Revenue**

Net Revenue Share is the additional amount of compensation available to the State and Vendor once Breakeven on investments is reached. The current 50-50 Share of Net Revenue is a financial incentive for the partnership. The State benefits from

additional revenue to the Treasury, thereby lowering the tax burden on the citizens and the Vendor benefits by earning an additional income stream.

- **Asset Ownership and Transfer**

All assets related to Existing Projects will be transferred in title and ownership to DIR upon Breakeven or Agreement termination, whichever occurs first. All assets related to Master Work Order Projects will be transferred in title and ownership to DIR upon Breakeven; the date of a buy-out for the Master Work Order Projects, or August 31, 2012, whichever occurs first.

- **Additional Financial Model**

Vendors are required to propose an alternative financial model that enhances the value of TexasOnline 2.0 and funds the implementation of services that are not directly financially self-supporting (RFO Section 3.6.8). Vendor may propose an alternate Share of Net Revenue and Share of Total Revenue as part of its alternative financial model.

From the Vendor perspective, recovery of its investment is dependent upon the success of TexasOnline 2.0 providing essential and necessary services to the public and Customers. In general, the better the Vendor determines needs and delivers quality services, the faster and greater yield the Vendor may receive on its investment.

3.2.1 Overview of Financial and Legal Structure

The TexasOnline 2.0 Agreement can be logically divided into (1) the Master Work Order and (2) the Agreement excluding the Master Work Order. The Master Work Order has a distinct product development lifecycle, deployment schedules, adoption rates, and its own termination date and Breakeven. Both share the same underlying TexasOnline 2.0 technical infrastructure, labor resources, governance models, and accounting methods.

The recent DIR approval of the CPA Opportunity Proposal for the Online Ordering System, and revisions to the scope of the Online Vital Records Application project, require that the MWO be amended to reflect the revised financial investment and Breakeven proposition. The RFO will be revised to include the MWO amendment following execution of the MWO contractual documents.

If the Current Contract is amended prior to the date the Offers are due to DIR, Vendors will be notified by an addendum to this RFO.

- **Master Work Order**

The Master Work Order consists primarily of three applications: Motor Vehicle Inspections, Vital Records, and eFiling. Revenues for the Master Work Order are derived primarily from receipts from transactions, although a portion of revenues are derived from service fees. The individual Motor Vehicle Inspections, Vital Records, and eFiling projects have different deployment rates, product lifecycles, and investment recovery stages. Collectively, the Master Work Order Projects have yet to achieve Breakeven.

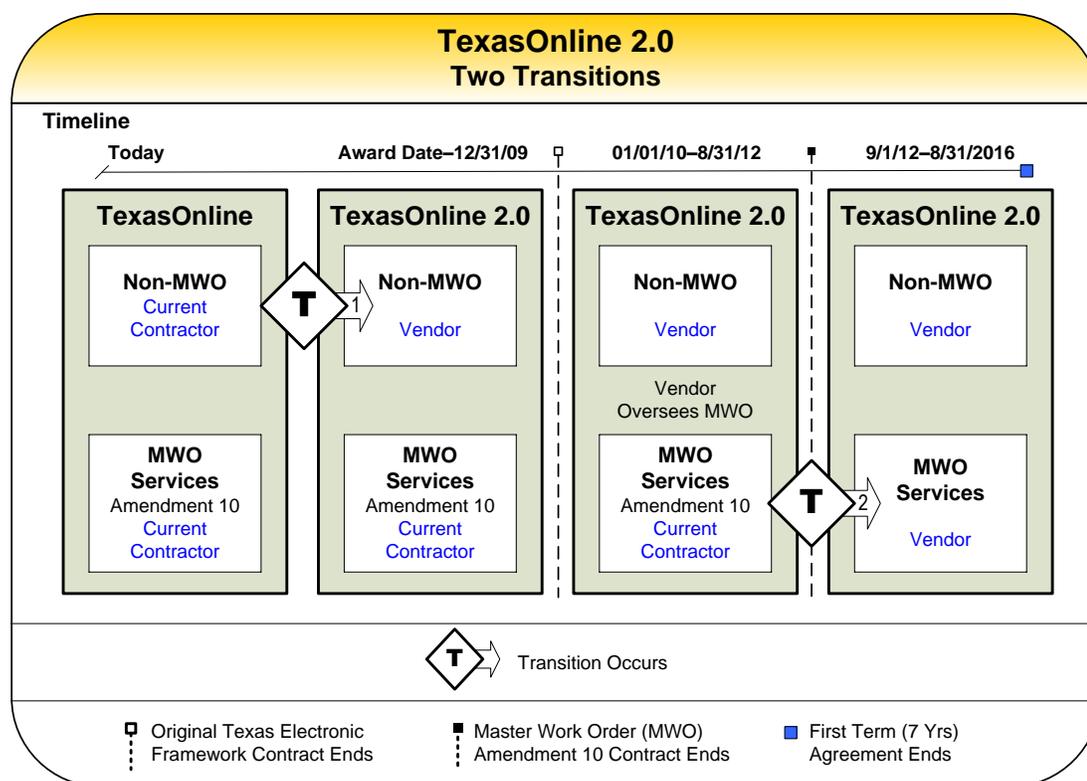
- **The Agreement, excluding the Master Work Order**

The Agreement, excluding the Master Work Order, consists of all TexasOnline 2.0 services that are not in the Master Work Order. Collectively, the portfolio of services has recovered its investment capital and is currently contributing positively to a Share of Net Revenue.

The activities under the Master Work Order are described in Amendment 10 to the Texas Electronic Framework Agreement. The Current Contractor will be obligated to perform all project work, capital recovery, and potentially receive its 50% Share of Net Revenue for the Master Work Order through contract expiration of August 31, 2012. Pursuant to the terms of the MWO, DIR has the right to buy out the Current Contractor's interest in the MWO, and after an award under this procurement, Vendor has the right to buy out the Current Contractor's interest in the MWO. If no buy-out has occurred by December 31, 2009, the MWO will be assigned to the Vendor and the Vendor will be responsible for the work performed by the Current Contractor, as a Subcontractor to Vendor, until the expiration of the Master Work Order.

The figure below shows TexasOnline 2.0 including the different programs and transition phases if no buy-out of the Current Contractor occurs.

Figure 3.2.1 – TexasOnline 2.0: Two Transitions

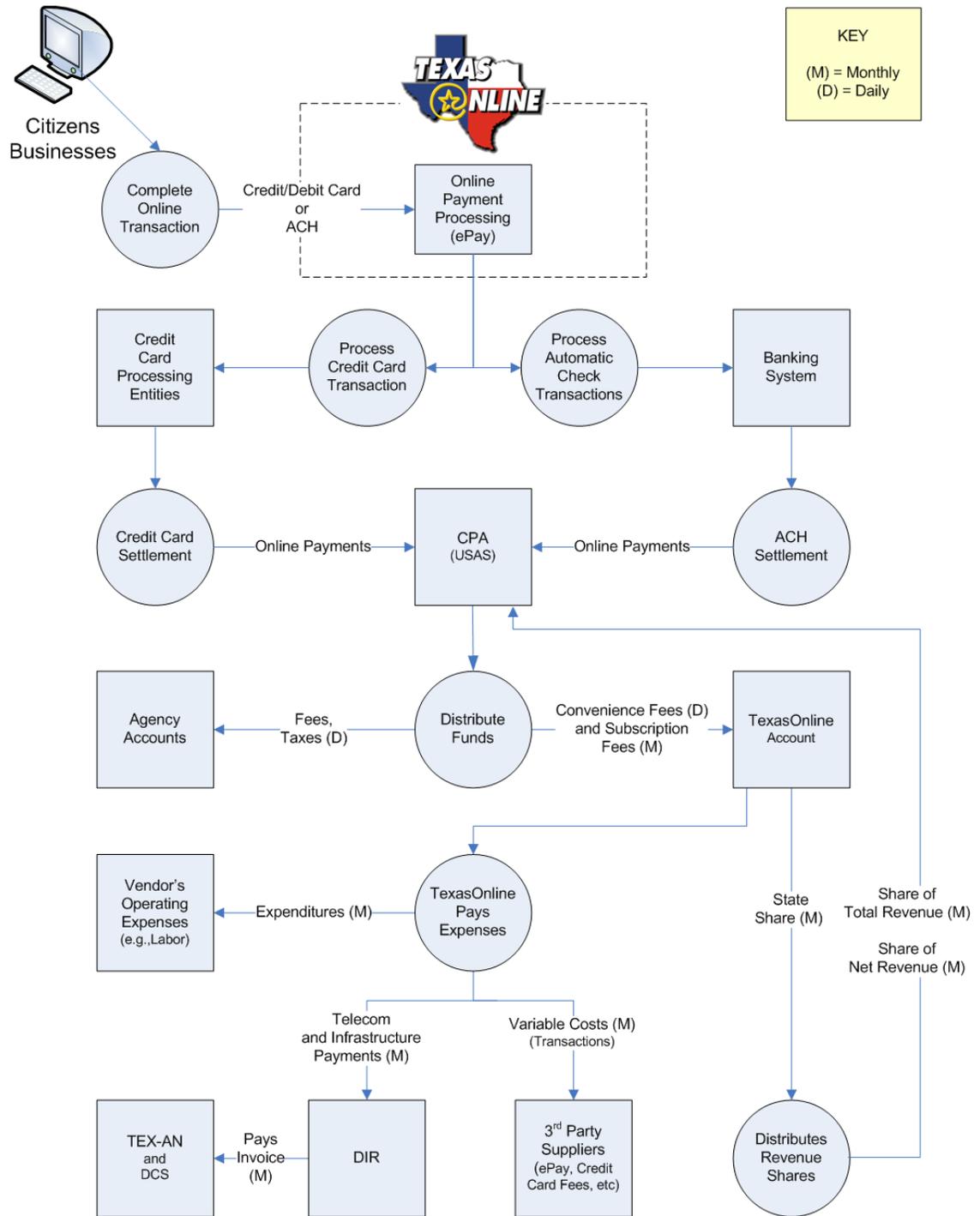


When the Master Work Order expires on August 31, 2012, the Vendor will be responsible for managing all Master Work Order Projects from that time through the Agreement termination.

3.2.2 Overview of Flow of Funds

This section describes the high-level flow of funds between Customers, Citizens, and Businesses that use TexasOnline for financial transactions and the different entities that interact with TexasOnline. Figure 3.2.2.1 shows the flow of funds for revenues and expenditures related to TexasOnline electronic transactions. This figure illustrates the flow of funds when the Customer's accounting system is the Texas Comptroller's Uniform Statewide Accounting System (USAS). The flow of funds involving Customers that do not use USAS (cities, counties, and some agencies) is substantively similar.

Figure 3.2.2.1 – TexasOnline Revenue and Expense Processing



The processes illustrated in Figures 3.2.2.1 and 3.2.2.2 are described below:

- **Complete Online Transactions**

A Citizen or Business uses an application or service on TexasOnline to complete an online transaction. TexasOnline transaction payment methods include credit card, debit card, and electronic check (ACH) methods. Online payments include not only the actual fees and taxes, but may include additional charges such as Convenience and Subscription Fees.

- **Process Credit/Debit Card Transactions/Credit Card Settlement**

Through a secure TexasOnline financial processing gateway, Citizens and Businesses provide their credit card information, which is passed to a credit card processing service, then to the Customer's credit card company (and upon payment authorization), and on to the CPA for funds settlement. Credit card and other transactional information is sent by the payment gateway and received by Treasury Operations in the Comptroller's Office.

- **Process Automatic Check Transactions/ACH Settlement**

The process for electronic check methods is similar. The Citizen or Business bank information is passed to the banking system, then to the individual's bank, and on to the CPA for funds settlement.

- **CPA Distributes Funds**

The payment is assigned to the different revenue and expenditure codes according to agency-specific merchant accounts and recorded in USAS. On a daily and aggregate basis, the CPA issues payment of TexasOnline-specific funds to the TexasOnline bank account.

- **TexasOnline Pays Expenses**

From the TexasOnline account, drafts are made against operational expenses approved by TexasOnline. Expenses include payments for Vendor's labor, suppliers such as ePay (or other financial processing service), credit card companies, and Subcontractors. For DCS and TEX-AN costs, DIR is invoiced and the payment invoices must be approved by DIR prior to payment by TexasOnline.

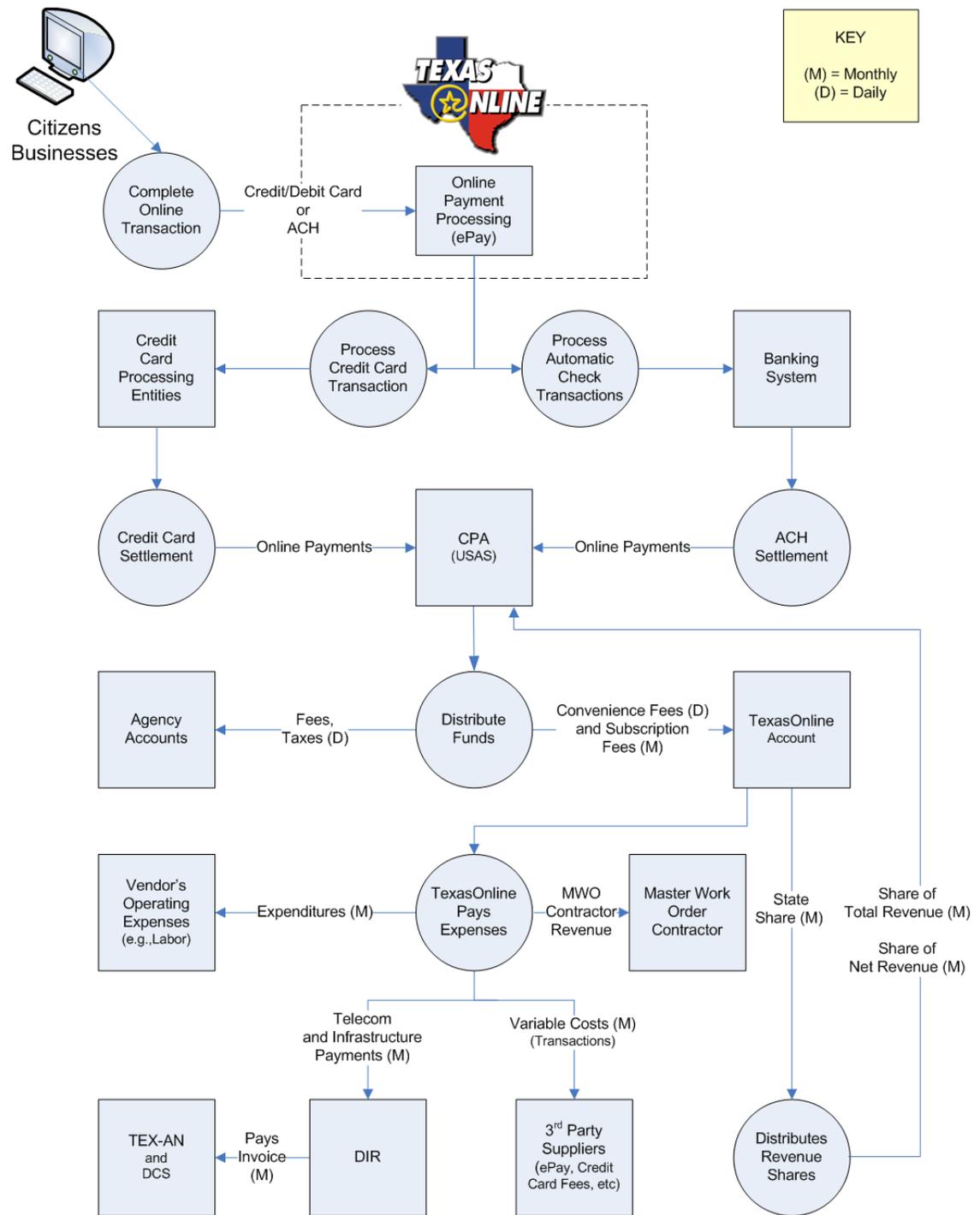
- **TexasOnline Distributes Revenue Share(s)**

The Share of Net Revenue and the Share of Total Revenue is wire transferred from the TexasOnline account to the State Treasury managed by CPA. This transfer occurs once per month, approximately two weeks following the close of the previous accounting month.

Additional information on processing TexasOnline revenues and expenditures may be found in the CPA accounting policy statement, *Fiscal Policies and Procedures for Electronic Processing of Revenues and Expenditures* (APS 029) (https://fm.xcpa.state.tx.us/fm/pubs/aps/29/08-09/aps_029.pdf).

Figure 3.2.2.2 – TexasOnline 2.0 Revenue and Expense Processing shows the expected future state for the flow of funds. This diagram includes the flow of funds for the Master Work Order Contractor.

Figure 3.2.2.2 – TexasOnline 2.0 Revenue and Expense Processing



KEY
(M) = Monthly
(D) = Daily

3.3 TexasOnline Financial Performance

This section provides the Vendor with information on the financial performance of TexasOnline. The Appendix F.1 (a) through (j) contains all relevant financial reports for TexasOnline.

3.3.1 Consolidated Statement of Operations

This section presents an overview of the overall financial performance of TexasOnline. Refer to the TexasOnline Monthly Financial Reports for May 2008 through August 2008, August 2007, and August 2006 (Appendix F.1 (a1–a4), (b), (c)).

- **TexasOnline Consolidated Revenues**

TexasOnline derives revenues from transactions and Convenience Fees (Transaction Revenue), as well as subscription fees and cost-sharing arrangements with agencies (Service Revenue). Transaction fees will be typically priced at fixed, per-transaction amount or based on a percentage of the total transaction. Service Revenue comes from application development, maintenance, hosting, and support fees.

- **TexasOnline Consolidated Operations Costs**

Operations Costs include the State's 20% Revenue Participation, Schedule 7 Variable Costs, Schedule 8 Team Costs, and Depreciation, and Loss on Discontinued Projects.

Labor is currently a large component of Operations Costs. Labor costs are included in the line item "Team Costs" in the Statement of Operations for TexasOnline. Labor costs may be found on Schedule 8 in the Monthly Financial Reports. Appendix F.1(i) includes a Labor Roster for April 2008 which lists the pool of Current Contractor's employees available to work in various functional areas or labor categories (as defined by Current Contractor). The report does not specify the actual hours worked by employees, merely the pool of employees that were available for work.

- **State Revenue**

The State currently receives a 20% share of the Total Revenue less credit card fees and 50% of the Net Revenue on existing projects. Note that for fiscal 2006, the State received nothing for the 10% share, as the State's 10% Gross Revenue share was reduced to 0% for fiscal 2006 in accordance with the Second Renewal Agreement.

3.3.2 TexasOnline (excluding Master Work Order)

This section presents the financial performance for TexasOnline excluding the Master Work Order. The information can be found in the Monthly Financial Report for the fiscal year ended August 2007 (Appendix F.1 (b)). The term TexasOnline Existing refers to the consolidated TexasOnline revenues and costs, less the Master Work Order program. The year-to-date Monthly Financial Report as of May 2008 (Appendix F.1 (a2)) does not include revenue and cost from the Master Work Order.

For the fiscal year ended 2007, Schedule 7 Variable Costs included Credit Card fees and ePay fees. Details for Team Costs can be found in Schedule 8.

- **Net Revenue Share (50-50) for Current Contractor**

TexasOnline (excluding the Master Work Order) achieved Breakeven in April 2006. At that point, both DIR and the Current Contractor began participating in the share of Net Revenues on a 50% basis each.

3.3.3 Master Work Order

The information provided in this section was obtained from the TexasOnline Monthly Financial Report for August 2007 (Appendix F.1(b)), and May 2008 (Appendix F.1(a2)). The TexasOnline Monthly Financial Report for August 2007 provides separate statements of operations for the eFiling, Vital Records, and Motor Vehicle Inspections projects.

The TexasOnline Monthly Financial Report for May 2008 provides a Consolidated Statement of Operations for all projects covered in the Master Work Order. The Vital Records project generated a 50% net revenue share prior to Amendment 10 during the period from September 1, 2007, to December 31, 2007. The effect of Amendment 10 was to discontinue payment of the Vital Records share. This was due to the Vital Records project investment balance now being aggregated with eFiling and Motor Vehicle Inspections. The consolidation of the three investment balances yielded a net unrecovered investment balance to the Current Contractor.

Schedule 7 Variable Costs included a Hosted Service Fee charged by the Current Contractor. The Hosted Service fees are charged to TexasOnline based on the number of non-emissions inspection certificates sold in the State. For the fee rate, refer to Appendix F.6, Master Work Order Agreement, Motor Vehicle Inspection – Exhibit A, p.20. Hosted Service fees also include data broker fees for Vital Records (see May Monthly TexasOnline Report, Schedule 7, for more information).

- **State Revenue from Master Work Order**

- The State received a Share of Total Revenue (20%) for fiscal 2007 and fiscal 2008 as depicted in Appendix F.6.

3.3.4 Current Applications, Services, and Usage

Currently, TexasOnline operates 152 applications and approximately 842 services. Applications are software programs designed to perform a specific function or a group of computing tasks. The services offered by TexasOnline are service-based deployments of the applications that may have single or multiple instances. For example, TexasOnline developed and operates a Vehicle Registration Renewal application for the Texas Department of Transportation. This application has many service instances (157 in total) since it is currently deployed on a county-by-county basis throughout Texas. As a result, the number of total services counted are 158 services (includes the application as a service). For detailed information on the existing applications and services offered by TexasOnline, refer to Appendix F.7(b). The report contains three worksheets with a listing of all applications, Customers served, and the list of revenue-generating versus non-revenue-generating services.

A key service used by TexasOnline is ePay, the payment processing engine supporting transaction-related services. ePay was developed and is currently operated by the Current Contractor. For the nine months ending May 2008, the ePay fees paid by TexasOnline are described in Appendix F.1(a2).

Fifty-nine State government agencies, 35 local governments, and three institutions of higher education use ePay through TexasOnline. The “PFE Served” worksheet in the “TexasOnline Combined Application & Service Launch Report” (Appendix F.7(b). Texas Online Application List) provides a complete list of served Customers.

The majority of services currently offered by TexasOnline are revenue-generating, meaning fees are charged to the public or Customer. TexasOnline has only 32 non-revenue-generating services. More information may be found in the “Revenue vs. Non”

worksheet in “TexasOnline Combined Application & Service Launch Report” (Appendix F.7(b)).

Each application contains one or more related services supporting both monetary and non-monetary transactions. Currently, users are charged a Convenience Fee that varies depending on the transaction. Convenience Fees may be assessed at between \$1.00 and \$2.00 per transaction. However, some Convenience Fees may be higher (e.g., Occupational License Renewals) since they are currently based on the percentage of the actual license fee. Payment transactions currently average about 1,400,000 per month resulting from 2,175,000 visits per month.

Other key transactional and operational data may be found in Appendix F.7(a1)(a2), TexasOnline End of Month Operations Report for April 2007, and April 2008, and the Key Operational Metrics report in Appendix F.7(c).

As a matter of privacy policy, TexasOnline does not use cookies or other identification technology, so the unique visitors count may not provide a true representation of unique visitors.

3.4 Future Opportunities

In describing the TexasOnline 2.0 business model, Vendor must consider the additional value created by future opportunities such as launching new applications and services, stimulating customer growth and usage, and increasing capital investment. This section discusses a variety of potential opportunities that the Vendor must take into account in its planning and response.

3.4.1 New Services

A measure of a Vendor’s innovation and potential for growth is its ability to add new services to TexasOnline 2.0. New services refer to the development or implementation of services through the deployment of additional instances of existing applications (i.e., a current local government service implemented for a different county). New services may be revenue-generating (either transaction-based or service-fee-based) or non-revenue-generating.

With an enhanced user experience, higher adoption rates, loyalty, and increased usage should result over time. The rebranding of TexasOnline 2.0, new marketing programs, and other initiatives as described in Section 2.9 may have a positive impact on building market share, increased usage, and awareness among Texas Citizens and Businesses. Also, outreach to other State educational and local government markets may be areas for future growth.

Vendor is required to submit its estimates for the number of services planned to be deployed in its business model. New services related to existing applications must be included in Appendix E.3(c) – Key Metrics Worksheet for Core Requirements. New services related to portal enhancements must be included in Appendix E.4 – KSM Summary Worksheet for Portal Enhancements.

Corresponding costs and revenue estimates for new services must be provided in accordance with instructions in RFO Section 3.6.3 and Appendix E.3 (existing TexasOnline applications) and RFO Section 3.6.4 and Appendix E.4 (Portal Enhancements).

3.4.2 Portal Enhancements

The RFO requires deploying several enhancements to the TexasOnline 2.0 portal (Section 2.4.2), which will increase customer satisfaction and potentially add new revenue streams. For portal enhancements, the Vendor is required to develop and submit its response in accordance with instructions in RFO Section 3.6.4 and Appendix E.4.

3.4.3 Strategic Requirements

The strategic requirements (RFO Section 2.4.3) are key to achieving the TexasOnline 2.0 vision. The Vendor must separately identify and estimate costs and associated revenues for these strategic requirements. The Vendor will develop and submit its response in accordance with instructions in RFO Section 3.6.5 and Appendix E.5.

3.4.4 Opportunities for Distinction

Vendor must present additional activities, strategies, or programs that go above the core requirements, portal enhancements, and strategic requirements of the RFO. This section offers Vendor an opportunity to distinguish itself by demonstrating its creativity to build value and benefit to various Customers served by TexasOnline 2.0. Vendor must provide its proposed revenue, expense, and capital investments for opportunities for distinction as described in RFO Section 3.6.6 and Appendix E.6.

3.5 Risks and Constraints

The purpose of this section is to identify risks and constraints.

3.5.1 Identifiable Constraints

Under the Current Contract, the State receives no less than a 20% Share of Total Revenue from TexasOnline. This is currently a legislative requirement as stated in Rider 9, page I-70, Chapter 1428 (HB-1), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act). This rider reads as follows:

State Revenue Share for the TexasOnline Project. It is the intent of the Legislature that the Department of Information Resources with the advice of the Legislative Budget Board and the State Auditor's Office negotiate a contract for the TexasOnline Project as authorized by Sec. 2054.252(d), Government Code. It is the intent of the Legislature that any new contract for the TexasOnline Project maintain the state's share of revenue to be no less than 20 percent of gross receipts from all applicable revenue sources. It is the intent of the Legislature that before the Department of Information Resources executes a new contract or approves the extension of the current contract for the TexasOnline Project, the Legislative Budget Board and the State Auditor's Office must report to the Chair of the House Appropriations Committee, Chair of the Senate Finance Committee, Speaker of the House, and Lieutenant Governor regarding the financial details of the contract.

The current business model for TexasOnline requires that the State of Texas receive a 50% share of Net Revenue Contributions after the Vendor's investment capital has been fully recovered. However, in RFO Section 3.6.8, Vendor may propose alternative financial models (including a different revenue share distribution) that enhance the value to the State. The approval by DIR of an Agreement, including an Agreement with an alternative financial model, is subject to the terms of Rider 9 noted above.

Currently, no direct advertising, such as "pop-up" ads, are allowed on the web page.

Team for Texas has a long-term contract with the State to manage the Data Center Services. Therefore, any data center services required by TexasOnline 2.0 must use the State's Data Center Services. This includes projects in transition, enhancements, and new applications.

The Vendor will be responsible for overseeing the Master Work Order. The Vendor will have the opportunity to negotiate a buy-out of the Master Work Order from the Current Contractor. However, DIR can provide no assurances that the Current Contractor and Vendor will be able to agree to acceptable buy-out terms.

If no buy-out occurs, the Current Contractor will be responsible for managing the Master Work Order until August 31, 2012. The Current Contractor may add new projects to the Master Work Order, but only with the approval of DIR. Once the Master Work Order achieves Breakeven, the Current Contractor and the State will each receive a 50% share of the Net Revenue on the Master Work Order until the Master Work Order expires.

3.5.2 Potential Risks

There is a risk that future federal or State legislation could negatively impact the economics of the business model. For example, as part of the federal government's initiative to prevent identity theft, the State may require drivers to visit a local Department of Public Safety Driver's License Office to renew licenses.

TexasOnline revenues are concentrated in two areas—Drivers' Records and Occupational License subscriptions.

DIR is planning to have the TexasOnline infrastructure transitioned to a managed service under the DCS Master Services Agreement by June 2009. This transition is underway, but not yet completed. There is a risk that the Data Center transition may be delayed. In that case, TexasOnline 2.0 implementation may be negatively impacted.

There are other Subcontractors that provide products and services to TexasOnline. A large portion of TexasOnline variable costs is due to the fees charged by credit card companies to process credit card payments. Also, the Current Contractor provides a payment and transaction reporting system called ePay. The Vendor for Texas Online 2.0 will be responsible for determining the future use of ePay and negotiating terms and conditions with ePay or other third party.

3.6 Financial Plan for TexasOnline 2.0

The requirements for the development and submission of a Financial Plan for TexasOnline 2.0 are contained in this section. The Vendor will develop and submit a Financial Plan that supports and is consistent with the assumptions, strategies, and plans presented by the Vendor in all areas of its Offer. The Financial Plan will be the Vendor's projection of the economic value during the term of the Agreement. The Financial Plan includes all completed financial schedules in Appendices E.1 through E.8 and the narrative discussion including all key assumptions, risks, and risk mitigation strategies used to generate revenue, cost, and capital investment. The following sections describe the key components of the Financial Plan.

3.6.1 Staffing Projections

The Vendor will establish and maintain an Organizational and Staffing Plan (RFO Section 2.5.9) that identifies the personnel, skill sets, and organizational structure required by TexasOnline 2.0. The Vendor will ensure adequate staffing to complete transition, maintenance, and development activities.

The Vendor will provide a projection of staffing levels by labor category (Appendix F.2) required by TexasOnline 2.0 that covers the Initial Term of the Agreement. Staffing levels will be expressed in full time equivalents (FTEs). Appendix E.1, Staffing Projections, provides additional instructions for submitting this information.

3.6.2 Intentionally Left Blank

3.6.3 Core Requirements

As described in RFO Section 2.4.1, the Vendor will be responsible for management, operation, and delivery of the core requirements for TexasOnline 2.0. In its Financial Plan, the Vendor is required to complete a narrative description and provide detailed financial information that supports the requirements in RFO Section 2.4.1 Core Requirements.

The Business Model Forecast is a projected statement of operations throughout the Initial Term of the Agreement. The Vendor will prepare and submit separate estimates for (1) the Agreement, excluding the Master Work Order and (2) the Master Work Order. The Vendor will provide revenue, cost, and capital investment estimates as described in the instructions provided in Appendix E.3, Business Model Forecast. In addition, worksheet E.3(c) requires Vendors to provide estimates for key operational metrics such as the number of applications, services, page views, and transactions, to determine changes to TexasOnline 2.0.

3.6.4 Portal Enhancements

In its Financial Plan, the Vendor is required to complete a narrative description and provide detailed financial information that supports the requirements in RFO Section 2.4.2 Portal Enhancements. The Vendor is required to complete and submit worksheets for portal enhancements according to the instructions provided in Appendix E.4 – Portal Enhancements.

3.6.5 Strategic Requirements

In its Financial Plan, the Vendor is required to complete a narrative description and provide detailed financial information that supports the requirements in RFO Section 2.4.3 Strategic Requirements. The Vendor is required to complete and submit worksheets for strategic requirements according to the instructions provided in Appendix E.5 – Strategic Requirements.

3.6.6 Opportunities for Distinction

In its Financial Plan, the Vendor is required to complete a narrative description and provide detailed financial information that supports the requirements in RFO Section 2.4.4 Opportunities for Distinction. The Vendor is required to complete and submit worksheets for opportunities for distinction according to the instructions provided in Appendix E.6 – Opportunities for Distinction.

3.6.7 Implementation Costs

An important objective for TexasOnline 2.0 is to achieve a seamless transition of current operations from the Current Contract to the new Agreement. In preparing to assume full operational control of TexasOnline 2.0 by January 1, 2010, the Vendor will undertake various activities to ensure a successful transition as defined in RFO Section 2.4.1.1. The Vendor is required to submit an estimate of its anticipated costs during the implementation, defined as June 1 through December 31, 2009. The Vendor is required to complete and submit completed worksheets according to the instructions provided in Appendix E.7 – Implementation Costs.

3.6.8 Alternative Financial Model

Vendors are required to propose an Alternative Financial Model that enhances the value of TexasOnline 2.0 and funds implementation of services that are not financially self-supporting.

Vendors must submit Alternative Financial Model(s), separate and distinct from the financial plans provided in Appendices E.3–E.7. DIR will consider models that change the distributions to the State if Vendor can clearly demonstrate and justify the value to the State. For example, a Vendor may propose changing

- The State's Share of Total Revenue,
- The State's Share of Net Revenue, and/or
- The entire structure of the current financial model.

A challenge for TexasOnline 2.0 is to ensure that non-revenue-generating applications and projects that are not directly financially self supporting are deployed. In responding to this section, the Vendor must describe how it will solicit, evaluate, prioritize, and reinvest a portion of its revenue share in non-revenue-generating and projects that are not directly financially self supporting, Services, and infrastructure. An amount for non-revenue-generating and projects that are not directly financially self supporting will be incorporated into the negotiated Agreement based on Vendor's Alternative Financial Model Offer.

Appendix E.8 provides a template for Vendor to use, all or in part, to submit its Alternative Financial Model. A Vendor may wish to propose an alternative approach for its entire financial model (e.g., E.3–E.7) or for a portion of the model (e.g., E.3 only).

In its Offer, Vendor must clearly demonstrate that its Alternative Financial Model will add economic value to TexasOnline 2.0 and the State. All key assumptions must be documented for an evaluation to be rendered.

4.0 General Information

The General Information section of this RFO provides Vendors with instructions regarding contacts, schedule, Vendor qualifications, and Offer submission requirements.

Topics covered in this section:

- 4.1 Point of Contact
- 4.2 Contact with DIR Staff
- 4.3 Anticipated Schedule
- 4.4 Historically Underutilized Businesses
- 4.5 Vendor Qualifications
- 4.6 Offer Deadline and Submission Requirements
- 4.7 Offer Format and Contents
- 4.8 Rejection of Offers
- 4.9 Right to Amend or Withdraw RFO
- 4.10 Pre-agreement Costs
- 4.11 Ownership of Offers
- 4.12 Public Information
- 4.13 TexasOnline 2.0 Resource Room Instructions

4.1 Point of Contact

All communications regarding this RFO must be addressed in writing to

Carrie Cooper
Department of Information Resources
300 West 15th Street, Suite 1300
Austin, Texas 78701
Phone: 512-936-2353
Fax: 512-936-6896
E-mail: carrie.cooper@dir.state.tx.us.

4.2 Contact with DIR Staff

Upon issuance of this RFO, employees and representatives of DIR other than the Point of Contact identified in RFO Section 4.1 will not discuss the contents of this RFO with any Vendor or its representatives. **Failure of a Vendor and any of its representatives to observe this restriction may result in disqualification of any subsequent Offer.** This restriction does not preclude discussions between affected parties for the purpose of conducting business unrelated to this procurement.

4.3 Anticipated Schedule

4.3.1 RFO Schedule

DIR intends to comply with the following schedule for this RFO. These dates represent a tentative schedule of events. DIR reserves the right to modify these dates at any time, with appropriate notice to prospective Vendors.

Table 4.3.1 – RFO Schedule of Events

Date/Time	Activity
October 17, 2008	Publish RFO on Electronic State Business Daily
October 28, 2008 10:00 a.m. (CDT)	Deadline for submitting first round of questions for Vendor Conference
October 30, 2008 10:00 a.m. (CDT)	Mandatory Vendor Conference and optional live webcast
November 6, 2008 5:00 p.m. (CST)	Deadline for submitting first round questions
November 18, 2008 5:00 p.m. (CST)	Deadline for answering first round questions
December 1, 2008 5:00 p.m. (CST)	Deadline for submitting second round questions
December 12, 2008 5:00 p.m. (CST)	Deadline for answering second round questions
January 5, 2009 2:00 p.m. (CST)	Deadline for submitting Offers to RFO
January 6, 2009 – until completed	Evaluation of Offers, negotiation, and Contract execution
June 1, 2009	Tentative Agreement Award Date

4.3.2 Mandatory Vendor Conference and Webcast

A mandatory Vendor Conference, webcast, and RFO Q&A will be held on October 30, 2008, 10:00 a.m. Central Daylight Time (CDT). The Vendor Conference will be available live via the web.

To participate in this live interactive webcast, individuals must register by going to <https://www2.gotomeeting.com/register/856375510>.

At least one representative from the Vendor organization must physically attend the mandatory Vendor Conference at the following location:

MCC Building
 Auditorium
 3925 West Braker Lane
 Room Number
 Austin, Texas 78759

Please bring a copy of the RFO to the Vendor Conference, as DIR will only supply a limited number of copies.

Note: Offers from Vendors who do not attend the mandatory Vendor Conference will not be considered and will be disqualified.

Vendors may email questions for the Vendor Conference to the DIR Point of Contact listed in RFO Section 4.1 no later than October 28, 10:00 a.m. CDT. DIR will also provide Vendors the opportunity to submit written questions during the webcast and at the conference. All questions submitted by email, webcast, or at the conference must reference the appropriate RFO page and section number and be submitted in the Q&A format contained in Appendix I. Although DIR may provide tentative responses to questions at the conference, responses are not official until they are posted as an addendum to this RFO on the Electronic State Business Daily, <http://esbd.cpa.state.tx.us/>. DIR reserves the right to amend answers prior to the Offer submission deadline.

4.3.3 Written Questions and Official Answers

Vendors will submit all questions regarding this RFO by fax, email, or in writing to the Point of Contact listed in RFO Section 4.1. First round questions regarding this RFO will be accepted until 5:00 p.m. (CST) on November 6, 2008. First round questions will be answered by November 18, 2008, no later than 5:00 p.m. (CST). Second round questions regarding this RFO will be accepted until 5:00 p.m. (CST) on December 1, 2008. Second round questions will be answered by December 12, 2008, no later than 5:00 p.m. (CST). Questions must be submitted in the Q&A format contained in Appendix I. Official answers will be posted as addenda to this RFO, requisition number DIR-TXO-001, on the Electronic State Business Daily, <http://esbd.cpa.state.tx.us/>. DIR reserves the right to amend answers prior to the Offer submission deadline.

4.4 Historically Underutilized Businesses

The purpose of the Historically Underutilized Businesses (HUB) Program is to promote full and equal business opportunities for all businesses in State contracting in accordance with the goals specified in the State of Texas Disparity Study. Each state agency will make a good faith effort to meet or exceed the goals identified below and assist HUBs in receiving a portion of the total contract value of all contracts that the agency expects to award in a fiscal year in accordance with the following procurement goals/percentages:

- 11.9% for heavy construction other than building contracts;
- 26.1% for all building construction, including general contractors and operative builders' contracts;
- 57.2% for all special trade construction contracts;
- 20% for professional services contracts;
- 33% for all other services contracts;
- 12.6% for commodities contracts.

It is the policy of DIR to make a good faith effort to achieve the annual program goals by contracting directly with HUBs or indirectly through subcontracting opportunities in accordance with Texas Government Code, Chapter 2161, Subchapter F, and CPA HUB Rules, 1 TAC §111.14.

Historically Underutilized Businesses are strongly urged to respond to this RFO. Under Texas law, state agencies are required to make a good faith effort to assist HUBs in receiving certain percentages of the total value of contract awards. Vendors who meet the qualifications are strongly encouraged to apply for certification as HUBs.

4.4.1 Subcontracts with HUBs

DIR has determined that subcontracting is probable under any contract awarded as a result of this RFO. **ALL VENDORS RESPONDING TO THIS RFO, INCLUDING THOSE THAT ARE HUB CERTIFIED MUST COMPLETE A HUB SUBCONTRACTING PLAN (HSP) IN ACCORDANCE WITH THE STATE'S POLICY ON UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES. THE HSP MUST BE INCLUDED AS PART OF THE RESPONSE TO THIS RFO. FAILURE TO COMPLETE A HSP AS INSTRUCTED WILL RESULT IN ELIMINATION OF THE OFFER FROM CONSIDERATION.** The State's Policy on Utilization of Historically Underutilized Businesses and HSP forms are attached to this RFO as Appendix C. If Vendor does not plan to subcontract, Vendor must state that fact in its plan. The completed plan will become a part of the contract that may be awarded as a result of this RFO.

4.4.2 HUB Continuing Performance

Any contracts awarded as a result of this RFO will include reporting responsibilities related to HUB subcontracting. Awarded Vendors may not change any Subcontractor without submitting a revised HUB Subcontracting Plan.

4.4.3 HUB Resources Available

A list of certified HUBs is available on the Comptroller of Public Accounts (CPA) website at <http://www.window.state.tx.us/procurement/cmb/hubonly.html>. For additional information, contact the CPA's HUB program office at (512) 463-5872. If Vendors know of any businesses that may qualify for certification as a HUB, they should encourage those businesses to contact the CPA HUB program office.

4.5 Vendor Qualifications

Vendors who respond to this RFO must meet the following:

4.5.1 Federal Requirements

1. State agencies are prohibited from doing business with terrorists and terrorist organizations. Any Vendor listed in 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 (Terrorism List) will not be awarded a Contract as a result of this RFO. Any Vendor awarded a Contract as a result of this RFO will agree that should at any time during the term of the Contract they become listed on the Terrorism List, they will promptly notify DIR. DIR will have the absolute right to terminate the Contract without recourse in the event Vendor becomes listed on the Terrorism List.
2. Any Vendor awarded a Contract as a result of this RFO may not be suspended or debarred from doing business with the federal government as listed in the Excluded Parties List System (EPLS) maintained by the General Services Administration.

4.5.2 Vendor Performance and Debarment

In accordance with 1 TAC, Chapter 113, Subchapter F, any Vendor awarded a Contract as a result of this RFO may not be debarred from doing business with the State of Texas under the Comptroller of Public Accounts' Vendor Performance Program. The list of debarred Vendors is located on the Comptroller's website at http://www.window.state.tx.us/procurement/prog/vendor_performance/debarred/.

4.5.3 Proof of Financial Stability

All Vendors responding to this RFO must be and remain current in payment of all taxes, including Sales and Franchise Taxes. In general, the Comptroller of Public Accounts must identify the Vendor to be "in good standing" and a Vendor with which the State is authorized to do business.

Vendors must provide the mandatory items listed in RFO Section 4.5.3.1 for the appropriate company type. Vendors may also submit additional information as described in RFO Section 4.5.3.2.

4.5.3.1 Mandatory Items

The following items **MUST** be included in the Vendor's Offer. **FAILURE TO INCLUDE ANY OF THE ITEMS LISTED FOR THE APPROPRIATE COMPANY TYPE WILL CAUSE AUTOMATIC REJECTION OF THE OFFER.**

A. Publicly-Traded Companies:

1. Dun and Bradstreet D-U-N-S number for parent company;
2. Name of exchange on which common stock is listed (e.g., NYSE, AMEX, etc.) and ticker symbol (e.g., XOM);
3. Title page of the most currently filed SEC forms 10K and 10Q. Fully explain the reason(s) why any reports are currently not filed timely or have been filed late within the past three years;
4. Most recently audited financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP);
5. Debt and commercial paper ratings issued by Moody's Investors Service, Standard & Poor's, and Fitch's Investors Service, if applicable;
6. Statement describing all unasserted and asserted legal claims, current status and expected outcomes, and/or judgments, and any off balance sheet liabilities or contingencies;
7. Any official document displaying current proof of authority to conduct business in the State of Texas. Examples: Texas State Franchise Tax Certificate, Texas State Sales Tax Permit, and documents obtained from the Secretary of State of Texas.
8. Certificate of Insurance that sets forth limits of liability to include all insurance coverage of the company

B. Privately-Owned Companies (C corporations):

1. Dun and Bradstreet D-U-N-S number for parent company;
2. Names of shareholders whose holdings comprise a minimum of 50% of the voting common shares and percentage holdings of each (e.g., Blackstone Group – 40%, KKR - 5%; John Doe – 10%);
3. For the year most recently ended, audited financial statements prepared in accordance with GAAP;
4. Latest two quarters internally prepared financial statements;
5. Debt and commercial paper ratings issued by Moody's Investors Service, Standard & Poor's, and Fitch's Investors Service, if applicable;
6. Résumés or biographies of the Chief Executive Officer (CEO) and the Chief Financial Officer (CFO);
7. History and background of the company;
8. Statement describing all unasserted and asserted legal claims, current status and expected outcomes, and/or judgments and any off balance sheet liabilities or contingencies;
9. Any official document displaying current proof of authority to conduct business in the State of Texas. Examples: Texas State Franchise Tax Certificate, Texas State Sales Tax Permit and documents obtained from the Texas Secretary of State.

10. Certificate of Insurance that sets forth limits of liability to include all insurance coverage of the company

C. LLPs, LLCs, S Corporations and similar forms of ownership, other than Sole Proprietorships, (Professional Organizations to include, but not limited to, Certified Public Accounting (CPA) firms, Law firms and Professional Engineering firms):

1. Dun and Bradstreet D-U-N-S number for parent company;
2. Names of shareholders or partners whose holdings comprise a minimum of 50% of the voting shares and percentage holdings of each (e.g., Blackstone Group – 40%, KKR - 5%; John Doe – 10%);
3. For the year most recently ended, audited financial statements prepared in accordance with GAAP;
4. Latest two quarters of internally prepared financial statements;
5. Resume or biography of the Principal that will be executing the contract;
6. History and background of the company;
7. Statement describing all unasserted and asserted legal claims, current status and expected outcomes, and/or judgments and any off balance sheet contingencies;
8. Any official document displaying current proof of authority to conduct business in the State of Texas. Examples: Texas State Franchise Tax Certificate, Texas State Sales Tax Permit and documents obtained from the Texas Secretary of State;
9. Submit a copy of a current professional license to practice in Texas. License, if required, must be current;
10. CPA firms must submit a copy of their latest Peer Review; and
11. All LLPs, LLCs and other forms of ownership, other than Sole Proprietorship, must submit any additional professional documented information that demonstrates the authority to practice the profession.
12. Certificate of Insurance that sets forth limits of liability to include all insurance coverage of the company.

4.5.3.2 Additional Information

Vendor may submit any additional information, not formally requested, that may support financial stability. This information will be used in conjunction with the required items to analyze financial stability and can be in any form the Vendor desires. DIR reserves the right to request additional information if deemed necessary.

4.5.4 Insurance

4.5.4.1 Requirements

Vendor agrees to keep in full force and effect and maintain at its sole cost and expense the following policies of insurance with the specified minimum limits of liability during the term of this Agreement:

1. Workers' Compensation and Employer's Liability Insurance in full compliance with the applicable Laws of the State and, as applicable, such other state in which the work is to be performed. Each such policy will contain a waiver of subrogation endorsement against the State, DIR, and Customers and their respective officers, directors, employees, agents, successors, and assigns.

The limits of liability of Workers' Compensation Insurance will be not less than the limits required by applicable Law.

The limits of liability of Employer's Liability Insurance with minimum limits of \$1,000,000 per employee by accident / \$1,000,000 per employee by disease (or, if higher, the policy limits required by applicable Law).

2. Commercial General Liability Insurance (including coverage for Contractual Liability assumed by Vendor under this Agreement, Premises-Operations, Completed Operations-Products, Independent Contractors, and explosion, collapse, and underground property damage hazards) providing coverage for bodily injury, personal injury and property damage with combined single limits of not less than \$5,000,000 per occurrence. This coverage may be provided with a combination of primary and excess insurance policies.
3. Commercial Business Automobile Liability Insurance including coverage for all owned, non-owned, leased, and hired vehicles providing coverage for bodily injury and property damage liability with combined single limits of not less than \$1,000,000 per occurrence, except as may otherwise be required by Law.
4. Professional Liability (also known as Errors and Omissions Liability) and Cyber Risk Insurance covering acts, errors, and omissions arising out of Vendor's operations or Services in an amount not less than \$5,000,000 per occurrence.
5. Comprehensive Crime Insurance or Blanket Fidelity Bond, including Employee Dishonesty and Computer Fraud Insurance covering losses arising out of or in connection with any fraudulent or dishonest acts committed by Vendor employees, acting alone or with others, in an amount not less than \$5,000,000 per occurrence.
6. All-risk property insurance covering loss or damage to Vendor-owned or -leased Equipment and other assets in an amount not less than the full replacement cost of such Equipment and assets.

4.5.4.2 Approved Companies

All such insurance will be procured with reputable insurance companies and in such form as is usual and customary to Vendor's business. Such insurance companies will maintain a rating of at least "A" and be at least a Financial Size Category VIII as both criteria are defined in the most current publication of Best's Policyholder Guide.

4.5.4.3 Endorsements

Vendor will obtain the following endorsements to its policy or policies of insurance as are necessary to cause the policy or policies to comply with the requirements stated herein.

1. Vendor's insurance policies as required herein under RFO Section 4.5.4.1, items 2 and 3 will name DIR and Customers and their respective officers, directors, and employees as Additional Insureds for any and all liability arising at any time in connection with the performance of Vendor or Vendor Personnel under this Agreement. These policies will have no cross suits exclusion, or any similar exclusion that excludes coverage for claims brought by one insured under the policy against another insured under the policy.
2. Vendor insurance policies required under RFO Section 4.5.4.1, items 4, 5, and 6 will name DIR and Customers and their respective officers, directors, and employees as loss payees for any and all liability arising at any time in connection with the performance of Vendor or Vendor Personnel under this Agreement.
3. Each policy will provide that it will not be canceled or materially altered except after thirty (30) days advance written notice to DIR. Should any policy expire or be canceled

during the Term and should Vendor thereafter fail to immediately procure replacement insurance as specified, DIR reserves the right (but not the obligation) to procure such insurance and to deduct the cost thereof from any sums due Vendor under this Agreement.

4. All insurance required under this Section will be primary insurance and any other valid insurance existing for DIR benefit will be excess of such primary insurance.

4.5.4.4 Minimum Amounts, Self-Insurance

These insurance provisions set forth the minimum amounts and scopes of coverage to be maintained by Vendor and are not to be construed in any way as a limitation on Vendor's liability under this Agreement. Vendor will not self-insure any of its obligations under this Agreement without full disclosure to DIR of its intention to self-insure. Any and all deductibles in the above-referenced insurance policies will be assumed by, for the account of, and at the sole risk of the Vendor.

4.5.4.5 Certificates

Vendor will provide DIR with certificates of insurance evidencing compliance with this Section (including evidence of renewal of insurance) signed by authorized representatives of the respective carriers for each year that this Agreement is in effect. The failure of DIR to obtain such evidence from Vendor before permitting Vendor to commence work will not be deemed to be a waiver by DIR and Vendor will remain under continuing obligation to maintain and provide proof of the insurance coverage.

4.5.4.6 No Implied Limitation

The obligation of Vendor to provide the insurance specified herein will not limit or expand in any way any obligation or liability of Vendor provided elsewhere in this Agreement. The rights of DIR and Customers to insurance coverage under policies issued to or for the benefit of one or more of them are independent of this Agreement will not be limited by this Agreement.

4.5.4.7 Waiver of Subrogation

With respect to insurance coverage to be provided by Vendor pursuant to this Section, the insurance policies will provide that the insurance companies waive all rights of subrogation against Vendor, the State, DIR, the Customers and their respective Affiliates, officers, directors and employees. Vendor waives its rights to recover against DIR and Customers and their respective officers, directors, employees, agents, successors, and assigns in subrogation or as subrogee for another party.

4.5.4.8 Risk of Loss

Each Party will be responsible for risk of loss of, and damage to, any Equipment, Materials, or other items in its possession or under its control. Vendor will be deemed to possess and control of all Equipment, Materials, and other items located in Vendor Facilities or in DIR Facilities used by Vendor to provide the Services. Each Party will promptly notify the other of any damage (except normal wear and tear), destruction, loss, theft, or governmental taking of any such Equipment, Materials, and other items in the possession or under the control of such Party, whether or not insured against by such Party, whether partial or complete, which is caused by any act, omission, fault, or neglect of such Party ("Event of Loss"). Each Party will promptly notify the other Party of any damage (except normal wear and tear), destruction, loss, theft, or governmental taking of such other Party's tangible property or real property (whether owned or leased).

4.5.4.8 Waiver

Vendor and DIR each waive all rights to recover against the other Party for damage, destruction, loss, theft, or governmental taking of their respective real or tangible personal property (whether owned or leased) from any cause to the extent covered by insurance maintained by each of them, including their respective deductibles or self-insured retentions. Vendor will cause its insurers to issue appropriate waivers of subrogation rights endorsements to all property insurance policies.

4.5.5 Financial Capacity and Bonding

Vendors must submit evidence of adequate financial stability, as described in RFO Section 4.5.3. If the Vendor is a subsidiary, affiliate, or creation of one or more entities, and the proposing entity presents or relies upon the experience, financial stability or other qualifications of the parent or other entity(ies), the Vendor must also include the most recent detailed financial report of the parent or other entity(ies) and a statement that the parent or other entity(ies) will unconditionally guarantee performance by the Vendor in each and every term, covenant, and condition of any contract as executed by the parties.

Continuing Evidence of Financial Solvency – The Vendor must provide a certified public accountant’s statement of tangible net worth during the term of the Agreement no later than ninety (90) days after the end of each Vendor’s Fiscal Year. Included in the statement must be a description of any uncertainties and the potential impact of such uncertainties on tangible net worth. Tangible net worth is defined as net worth less intangible assets. Net worth can include a parent company’s assets if these assets have been pledged under the conditions above if a subsidiary is the Vendor. In addition, Vendor must provide a statement describing all unasserted and asserted legal claims, current status and expected outcomes, and/or judgments, and any off balance sheet liabilities or contingencies.

During the term of the Agreement, should DIR determine that evidence of Vendor’s financial solvency creates a risk to the Vendor’s ability to perform, DIR may request appropriate assurances acceptable to DIR that the Vendor will be able to perform and that the State will be able to continue to operate and maintain the subject matter of this procurement in the event of a failure to perform. Such assurances may consist of a performance bond or other financial instrument or mechanism to protect the State against losses in the event of the Vendor’s failure to perform. Notwithstanding any other provision of this RFO, failure to timely provide the appropriate assurances may result in DIR’s election to terminate the Agreement for cause.

4.6 Offer Deadline and Submission Requirements

Vendors are invited to submit Offers in accordance with the requirements outlined in this document. Offers must be received by DIR on or before 2:00 p.m. (CST) on January 5, 2009. No late Offers will be reviewed. Offers must be hand-delivered or mailed to the submittal address listed in RFO Section 4.7.1 No facsimile or email Offers will be accepted.

4.6.1 Official Timepiece

The clock in the DIR Purchasing Office at 300 West 15th Street, 13th floor, Room 1335, is the official timepiece for determining compliance with the deadline. All Offers will be date- and time-stamped when received by the Purchasing Office on the 13th floor.

4.6.2 Hand Delivery of Offers

All Vendors and courier delivery service personnel will be required to check in at the security desk on the first floor at 300 West 15th Street. Therefore, it is advised that

Vendors allow extra time for building security check-in if hand-delivering Offers or using a courier delivery service. DIR will not be responsible for delays associated with building security compliance.

4.6.3 United States Postal Service Delivery of Offers

Delivery of Offers via United States Postal Service is acceptable. However, due to the State's mail processing procedures, this method may cause a 3- to 4-day delay in delivery to the DIR Purchasing Office. DIR will not be responsible for any delays associated with this method of delivery.

4.7 Offer Format and Contents

4.7.1 Submittal Address and External Packaging of Offer

Offers should be addressed to:

Department of Information Resources
300 West 15th Street, Suite 1300
Austin, Texas 78701
Attn: Carrie Cooper

The external packaging of the Offer must reference "RFO DIR-TXO-001" and must include the name and address of the Vendor submitting the Offer.

4.7.2 Offer Specifications

Offers must comply with the following standards:

- The Offer and Financial Plan must be bound separately in three-ring binders and be clearly labeled. The HUB Subcontracting Plan must be in a separate envelope and clearly labeled. For the purposes of this RFO, the Technical Offer is defined as the entire offer in the Offer to the RFO excluding the Financial Plan and HUB Subcontracting Plan.
 - One (1) signed original (clearly marked) of the complete Offer;
 - One (1) copy (clearly marked) of the complete Offer;
 - Twenty (20) electronic copies of the Technical Offer, one (1) copy of the HUB Subcontracting Plan and eight (8) additional copies of the Financial Plan on CD-ROM;
 - One (1) electronic copy of complete Offer on CD-ROM;
 - One (1) CD-ROM containing any and all Offer materials, which Vendor asserts, are confidential or proprietary*;
 - One (1) CD-ROM containing any and all copyrighted materials in the Vendor's Offer*; and
 - One (1) CD-ROM containing any and all non-proprietary/confidential and non-copyrighted materials in the Vendor's Offer.
- All packages/boxes containing a Vendor's Offer must clearly reference the name of this RFO as indicated on the Cover Page of the RFO.
- The signed originals must be clearly labeled "Original" on the front covers.

* If Vendor's Offer does not contain such materials, then CD-ROMs for these items are not required.

Paper Offers must be bound and the cover of the binders must reference “DIR-TXO-001” and include the name and address of the responding Vendor.

Each CD-ROM must be clearly marked as to its contents. The Offer materials on each CD-ROM must be compatible with Microsoft Office 2000 or Adobe Acrobat Reader 6.0 and be searchable. If there are any disparities between the contents of the printed Offer and any of the Offer materials on CD-ROM, the contents of the signed original printed Offer will take precedence.

4.7.2.1 Offer Contents and Submission Checklist

The following checklist is provided for the convenience of Vendors in their Offer preparation process. It is not intended to represent an exhaustive list of the requirements for this RFO. Vendors must ensure that all requirements for this RFO are met, even if they are not included in this checklist.

A completed checklist shall not be binding on the DIR administrative review for compliance with the mandatory Offer contents specified in this RFO. As step one of the evaluation process, DIR will review all Offers to ensure compliance with the Offer contents as specified in Table 4.7.2.1 of the RFO and may reject any Offer that does not comply.

VENDOR MUST PROVIDE THE ITEMS SPECIFIED AS MANDATORY LISTED BELOW OR THE OFFER WILL BE REJECTED.

The pages in Vendor’s Offer should be numbered clearly and consecutively to reflect the total number of pages in the Offer. Each Offer section must be organized with the following tabs, corresponding to the offer submission checklist.

Table 4.7.2.1 – Checklist for Offer Preparation

Offer Component	RFO Reference	Offer Section	Completed (Y/N)
Title Page This completed Offer Checklist must follow the Title Page	4.7.3.1		
Transmittal Letter	4.7.3.2		
Vendor Certifications (MANDATORY)	Appendix D		
Table of Contents	4.7.3.3		
Executive Summary	4.7.3.4	Section 1	
Vendor Identifying Information	4.7.3.5	Section 1	
Qualifications of Firm	4.7.3.6	Section 1	
Qualifications of Proposed Project Personnel	4.7.3.7	Section 1	
References	4.7.3.8	Section 1	
Proof of Financial Stability (MANDATORY)	4.5.3	Section 1	
Exceptions to Terms and Conditions	4.7.3.9	Section 1	
Required Sections			
Implementation Section	2.4.1.1 2.4.1.2	Section 2	

Offer Component	RFO Reference	Offer Section	Completed (Y/N)
Operations and Maintenance Section	2.6.1 2.6.2	Section 3	
Security Section	2.6.6	Section 4	
Portal Enhancements Section	2.4.2 2.4.2.1 2.4.2.2 2.4.2.3 2.4.2.4	Section 5	
Strategic Requirements Section	2.4.3 2.4.3.1 2.4.3.2 2.4.3.3 2.4.3.4 2.4.3.5 2.4.3.6 2.4.3.7 2.4.3.7.1	Section 6	
Governance Section	2.7.1 2.7.3 2.7.3.1 2.7.3.2 2.7.3.3 2.7.3.4 2.7.3.5	Section 7	
Reporting Section	2.8 2.8..6	Section 8	
Performance Criteria Section	2.10.4	Section 9	
Required Plans		Section 10	
Program Management Plan	2.4.1.3 2.4.2 2.4.3 2.4.3.6 2.5 2.5.1 2.7 – All 2.5.5 2.5.8	Section 10	
Implementation Plan	2.4.1.1 2.4.1.2 2.5 2.5.2	Section 10	
Disentanglement Plan	2.4.1.3 2.5 2.5.3	Section 10	
Security Management Plan	2.5 2.5.10 2.6.6 2.10.3.2 Appendix F.10	Section 10	

Offer Component	RFO Reference	Offer Section	Completed (Y/N)
Marketing Plan	2.4.1.3 2.4.3.2 2.6..9 2.7.2.2.3 2.9 2.9.1 2.9.2 2.9.3 2.9.4 2.9.5	Section 10	
Technology Management Plan	2.5 2.5.11	Section 10	
Additional Plan Approaches		Section 11	
Change Management Plan	2.4.1.3 2.5 2.5.5 2.6.2 2.6.4.1 2.6.4.5 F.10.10	Section 11	
Organizational and Staffing Plan	2.4.1.3 2.5 2.5.9 3.6.1	Section 11	
Portfolio Management Plan	2.4.1.3 2.5 2.5.1 2.5.12 2.8 2.8.1	Section 11	
Help Desk Management Plan	2.4.1.3 2.5 2.5.14 2.6.2 2.6.2.1	Section 11	
Quality Management Plan	2.4.1.3 2.5 2.5.4	Section 11	
Risk Management Plan	2.5 2.5.6 2.10.3.4	Section 11	
Problem Management Plan	2.5 2.5.7 2.6.4.1 2.10.3.2	Section 11	
Integration Management Plan	2.5 2.5.8 2.10.3.2	Section 11	
Training and Communication Plan	2.5 2.5.13 2.10.3.2	Section 11	

Offer Component	RFO Reference	Offer Section	Completed (Y/N)
Disaster Recovery and Business Continuity Plan	2.5 2.5.15 2.6.4.3 2.6.9 2.10.3.2	Section 11	
Opportunities for Distinction	2.4 2.4.3.7.2 2.4.4 3.1 3.4.3 3.6.6	Section 12	
Rights and Ownership	2.3 2.3.1	Section 13	
HUB Subcontracting Plan (MANDATORY)	Appendix C	Separate, clearly labeled, sealed envelope	
Financial Plan (separate, sealed document)	2.7.2.4.1.1 2.7.2.5 2.7.2.6 3.0 3.1 3.4.1 3.6 3.6.3 3.6.4 3.6.5 3.6.6 4.7.2.1 4.7.3.4 Appendix E Appendix F.5(c)	Separate, clearly labeled, sealed envelope	

4.7.3 Vendor Information

Vendor must provide the following information in its Offer in order to be considered acceptable.

4.7.3.1 Title Page

The title page must specify

- “TexasOnline 2.0”
- “RFO ID: DIR-TXO-001”
- Name and address of the Vendor

4.7.3.2 Transmittal Letter

The letter of transmittal must be limited to two (2) pages, must contain the Vendor’s name, business address, legal status (corporation, partnership, limited liability corporation, limited liability partnership, joint venture, sole proprietorship, etc.), and must include

- A brief statement of the Vendor's understanding of the work to be done and a summary of its Offer
- The names, titles, addresses, and telephone numbers of the individuals who are authorized to make representations on behalf of the Vendor
- A statement that the person signing the transmittal letter is authorized to legally bind the Vendor
- Signature of person(s) authorized to legally bind the Vendor

4.7.3.3 Table of Contents

Each Offer must be submitted with a table of contents that clearly identifies and denotes the location of each section and sub-section of the Offer. Additionally, the table of contents should clearly identify and denote the location of all enclosures and attachments to the offer.

4.7.3.4 Executive Summary

The executive summary must be limited to no more than five (5) pages and must provide

- Concise summarization of the services being offered to meet the requirements of this solicitation,
- How the Vendor's Offer will achieve the goals of TexasOnline 2.0 and meets the criteria for success of the public-private partnership over the term of the Agreement,
- Vendor's approach to providing the services, and
- Documentation as to why the Vendor is best qualified to perform the requirements of the RFO.

The executive summary must not reference any information from the Financial Plan.

4.7.3.5 Vendor Identifying Information

Vendor must provide:

- Name and address of business entity submitting the Offer;
- Name and location of major offices and other facilities that will be used as part of the Vendor's performance under the terms of this RFO; and
- Name, business address, business and fax telephone numbers, and email address (if available) of the proposed principal contact person regarding all contractual matters relating to this RFO.

4.7.3.6 Qualifications of Firm

The Vendor is expected to provide information to indicate that it has the experience to provide the products and services requested in the RFO. Specifically, the Vendor is to provide

- An overview and brief history of the firm, and a description of what uniquely qualifies the firm for this project;
- A description of projects in which the Vendor has implemented similar portal services, with a preference on state and large local government clients; and
- A description of projects in which the Vendor has participated in public-private partnerships.

4.7.3.7 Qualifications of Proposed Key Personnel

The Vendor is expected to provide information to indicate that the personnel proposed for this RFO have experience in providing the services requested in this RFO. Specifically, the Vendor is to provide

- A description of the recommended project organization for TexasOnline 2.0 and an organization chart showing all personnel proposed for the engagement, including Subcontractors
- The following information for all key personnel assigned to this project, including any Subcontractors:
 - Name,
 - Title,
 - Specific work to be performed and/or services to be provided,
 - Description of qualifications, certifications, and relevant experience that makes the proposed individual suitable for their designated role on TexasOnline 2.0,
 - Each individual's percentage of time to be dedicated to this project if the Vendor is selected and the number of other projects to which the individual is currently assigned,
 - Any additional information that indicates the individual's ability to successfully perform the services required in this RFO,
 - Detailed resume for each individual.

All key Vendor personnel assigned to this project will be subject to DIR approval. As part of the negotiation process, DIR and the Vendor will agree to designate specific members of its team considered to be essential to the services to be provided as key personnel.

4.7.3.8 References

Vendors will provide five (5) client references that receive similar services as required in this RFO. Vendors are encouraged to include clients with similar scope of services, in size and complexity to the requirements in this RFO, industry, and geographies where they have implemented and managed such a program in a comparable computing environment. References must include the following information:

- Customer name
- Contact name, title, business address, email address, and phone number
- Project start/end dates
- Date system operational in production environment
- Project description
- Project cost (implementation services/operational services) and Vendor investment
- Outcome of project (i.e., on time, on budget, and met customer needs)
- Scope of work performed
- Staff assigned to engagement that are proposed for work on this project, including their roles and responsibilities
- Software application(s)/specific services performed
- Number of total and concurrent users

- Technical environment
- Types of interfaces, if applicable, middleware used, and other factors demonstrating the ability to integrate to existing applications

In addition to the detailed five references, Vendors must also submit a client list for all contracts over \$5 million for the last four years that includes a contact and contact information for each.

The Evaluation Committee may contact references provided by the Vendor during the selection process. The Evaluation Committee will not work through a Vendor's Reference Manager to complete a reference contact. Vendor is responsible for ensuring the references listed will allow communications from the DIR domain (dir.state.tx.us). DIR is not responsible for undeliverable emails. If DIR is unable to contact a reference due to incomplete or inaccurate information, Vendor will receive a score of "0" for that reference. Vendor must include all requested information.

4.7.3.9 Exceptions to Terms and Conditions

List below, by subsection, all exceptions to the Standard Terms and Conditions contained in Appendix B. Vendor must include the basis of its exceptions and provide proposed alternate language.

Table 4.7.3.9 – Exceptions to Terms and Conditions

Section	Section Title	Exception	Proposed Language

4.8 Rejection of Offers

DIR has sole discretionary authority and reserves the right to reject any and all Offers received as a result of this RFO. Offers that do not comply with the mandatory submission requirements will be rejected. In addition, DIR reserves the right to accept or reject, in whole or in part, any Offers submitted, and to waive minor technicalities when in the best interest of the State.

4.9 Right to Amend or Withdraw RFO

DIR reserves the right to alter, amend, or modify any provision of this RFO, or to withdraw this RFO at any time prior to the award of a contract if to do so is in the best interest of the State. DIR reserves the right to re-solicit for like or similar services whenever it determines re-solicitation to be in the best interest of the State.

Any changes or additional information regarding this RFO will be posted as an addendum to requisition number DIR-TXO-001 on the Electronic State Business Daily, <http://esbd.cpa.state.tx.us>. It is the responsibility of Vendors to check periodically for addenda.

4.10 Pre-agreement Costs

DIR will not be responsible or liable for any cost incurred by any Vendor in the preparation and submission of its Offer to this RFO, or for other costs incurred by participating in this procurement process.

4.11 Ownership of Offers

All Offers become the property of DIR. DIR reserves the right to use any and all information or materials presented in Offer to this RFO. Disqualification of a Vendor's Offer does not eliminate this right.

4.12 Public Information

DIR is a government agency subject to the Texas Public Information Act. Offers submitted to DIR as a result of this RFO are subject to release as public information after contracts are executed or if the procurement is terminated. If a Vendor believes that its Offer, or parts of its Offer, may be exempted from disclosure under Texas law, the Vendor must specify page-by-page and line-by-line the parts of the Offer that it believes are exempt. In addition, the Vendor must specify which exception(s) are applicable and provide detailed reasons to substantiate the exception(s).

The determination of whether information is confidential and not subject to disclosure under the Public Information Act is the duty of the Office of Attorney General (OAG). DIR must provide the OAG sufficient information to render an opinion and therefore, vague and general claims to confidentiality by the Vendor are not acceptable. DIR will comply with all opinions of the OAG.

DIR assumes no responsibility for asserting legal arguments on behalf of any Vendor. Vendors are advised to consult with their legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information.

4.13 TexasOnline 2.0 Resource Room Instructions

The TexasOnline 2.0 Resource Room is a central repository for RFO support documents and resources.

Only Vendors attending the Mandatory Vendor Conference (RFO Section 4.3.2) will be permitted access to the TexasOnline 2.0 Resource Room. Vendor representatives who are named in the list submitted to the TexasOnline 2.0 Resource Room Administrator (see below) will be able to schedule an appointment to visit the TexasOnline 2.0 Resource Room facilities to read, review, and take notes on these documents. Copying, scanning, or reproducing these documents—in part or in total—is strictly prohibited. Before entering the TexasOnline 2.0 Resource Room, each Vendor representative will be required to sign a confidentiality and compliance agreement for the TexasOnline 2.0 Resource Room rules and procedures, which will be sent to the requestor with the TexasOnline 2.0 Resource Room appointment confirmation notice.

An index of the documents and files located in the TexasOnline 2.0 Resource Room will be provided on the DIR website (www1.dir.state.tx.us/tol/rfo/resourceroom.htm). This index may be updated periodically if new documents are added to the TexasOnline 2.0 Resource Room. Vendors should check the DIR website for updates.

The Point of Contact for the RFO also serves as the TexasOnline 2.0 Resource Room Administrator (RFO Section 4.1). The TexasOnline 2.0 Resource Room Administrator will schedule, coordinate, and supervise the access of the TexasOnline 2.0 Resource Room. The TexasOnline 2.0 Resource Room will be monitored by Resource Room staff at all times. Vendors will not be permitted to ask questions of or engage in conversation with DIR staff about the TexasOnline 2.0 Resource Room materials, this RFO, or other pending solicitations. Any questions or inquiries regarding the TexasOnline 2.0 Resource Room or RFO should be addressed to the Point of Contact listed in RFO Section 4.1, including requests to visit the TexasOnline 2.0 Resource Room.

4.13.1 Location and Schedule

The TexasOnline 2.0 Resource Room is located at

Texas Department of Information Resources
300 West 15th Street, 13th Floor
Austin, TX 78701

The TexasOnline 2.0 Resource Room will be available October 23, 2008, through November 20, 2008, and December 2, 2008, through December 18, 2008, from 1:00–4:00 pm, Central Time. Access is by pre-scheduled reservation only. Vendors wishing to visit the TexasOnline 2.0 Resource Room should send an email to the TexasOnline 2.0 Resource Room Administrator in accordance with RFO Section 4.1. The request should include

Company Name,
Names and Titles of Attendees, and
Requested Dates and Times (in accordance with schedule listed above).

The TexasOnline 2.0 Resource Room Administrator will send written confirmation of the scheduled TexasOnline 2.0 Resource Room appointment. DIR will monitor bookings to ensure as far as practicable that equitable access is given to all Vendors who request access.

4.13.2 Admission

Vendors must submit a list of representatives (including names and job titles) anticipated to request admission into the TexasOnline 2.0 Resource Room to the Point of Contact (see RFO Section 4.1) no later than 5:00 p.m. CDT on October 22, 2008. The individually named Vendor representatives on the TexasOnline 2.0 Resource Room list DO NOT have to be in attendance at the Mandatory Vendor Conference. Vendor representatives not named on the TexasOnline 2.0 Resource Room list submitted by the Vendor will not be admitted into the TexasOnline 2.0 Resource Room. Vendor may amend the list of representatives by submitting a revised list to the Point of Contact.

DIR reserves the right to amend the TexasOnline 2.0 Resource Room schedule or TexasOnline 2.0 Resource Room rules and procedures. DIR reserves the right to deny access to the TexasOnline 2.0 Resource Room to any person or persons.

5.0 Evaluation, Negotiations and Award

Topics covered in this section:

- 5.1 Evaluation of Responses
- 5.2 Evaluation Criteria
- 5.3 Negotiations
- 5.4 Revised Offers
- 5.5 Award of Contract
- 5.6 Vendor Protest Procedures

5.1 Evaluation of Responses

DIR will review proposals to determine responsiveness to this RFO. All determinations about responsiveness to this RFO are final. DIR will establish an Evaluation Committee to review all responses that have not been rejected. DIR may ask any or all Vendors to elaborate on or clarify specific points or portions of their response. Clarifications may take the form of in-person presentations or written responses to questions. Once initial evaluation of responses has been completed, the Evaluation Committee will turn over the tabulated scores to the DIR Purchasing Office and will conclude their duties.

5.2 Evaluation Criteria

The criteria and weight to be used in determining the best value for the State are as follows:

30% Achievement of Goals and Technical Approach

- The Vendor's ability to achieve the goals listed in RFO Section 1.1 with its proposed solution, the ability to satisfy or exceed the requirements of the RFO, and the quality of the Offer to assure consistently high quality service.
- The Vendor's ability to meet the requirements of Section 2 of this RFO including a seamless transition of operations and user support, core requirements, portal enhancements, strategic requirements, and ongoing operations and maintenance
- The Vendor's ability to provide effective outreach, customer and user needs assessment, ongoing surveillance of web developments and opportunities and reliable execution of long-term strategic plans.
- The Vendor's acceptance of DIR-proposed Service Levels, the overall Service Level methodology, and commitment to continuous improvement of Service Levels.
- Vendor's ability to conform to and enhance the governance structures and processes outlined in the RFO.

30% Pricing

- The Vendor's demonstrated ability to provide value to the State.

25% Vendor Financial Capacity and Past Performance

- RFO Sections 4.5.3, 4.5.4, 4.5.5, 4.7.3.5, 4.7.3.6, 4.7.3.7, 4.7.3.8

10% Terms and Conditions

- The Vendor's willingness to accept DIR Agreement terms and conditions.
- The Vendor's ability to propose terms that are appropriate to the dynamic and competitive environment in which the State operates, and provide DIR with maximum flexibility in terms of the services provided.

5% Opportunities for Distinction

- The Vendor's initiative to provide value added services beyond the specific requirements of the RFO.

5.3 Negotiations

At the conclusion of the evaluation, as described within RFO Sections 5.1 and 5.2, DIR staff will determine the number of Vendors with which it will start contract negotiations. In its discretion, DIR may continue contract negotiations until DIR determines that the best value for the State has been obtained.

5.4 Revised Offers

DIR, in its discretion, will make the determination whether to request revised Offers. Revised Offers, if requested, will also be scored. DIR reserves the right to continue to evaluate responses until such point as the best value, as defined by §2157.003, Texas Government Code, is obtained for the State. Then the Evaluation Committee will recommend award of one or more contracts to the Source Selection Authority.

5.5 Award of Contract

DIR Source Selection Authority will make the decision to award any contracts, based on the recommendation of the Evaluation Committee, if in the best interest of DIR and the State to do so. The decision of the Source Selection Authority on any award is final. Any award for this RFO will be posted under requisition number DIR-TXO-001 on the Electronic State Business Daily, <http://esbd.cpa.state.tx.us/>, upon execution of an Agreement with one or more Vendors. All responses and working papers pursuant to this RFO are not subject to disclosure under the Public Information Act until the Agreement has been executed.

5.6 Vendor Protest Procedures

Any Vendor who is aggrieved in connection with this RFO, evaluation, or award of a contract may formally protest to DIR in accordance with the vendor protest procedures posted on the DIR website at: <http://www.dir.state.tx.us/vendorprotest.htm>.

Appendix A – Definitions

Agreement – The final version of any contractually binding agreement between the Texas Department of Information Resources (DIR) and the Vendor relating to the subject matter of this Request for Offers (RFO); references to the Agreement include all Exhibits, Attachments, and other documents attached thereto or incorporated therein by reference.

Breadcrumb – A navigation technique used in user interfaces. Its purpose is to give users a way to keep track of their location within programs or documents and retrace their steps, if necessary.

Breakeven – In the Second Renewal Agreement, Definitions, the point at which the Current Contractor fully recovered its investment costs in each of the following: the Existing Projects as a whole, and each individual New Project. On an ongoing basis, Breakeven means the point at which the Vendor's investment costs in a project or defined group of projects have been fully recovered.

Business – A person, partnership, corporation, or other entity engaged in commerce, manufacturing, or a service

Business Case – A formal document that will include an analysis of a proposed project, including the high-level requirements, technical and architecture approach, schedule, proposed fee schedules and payback, rough-order-of-magnitude cost, impact on TexasOnline financial results, technical and business risk analysis, and a statewide impact analysis where applicable.

Business Day – Monday through Friday, excluding State holidays, 7:00 a.m. to 6:00 p.m. local time. State holidays will include all holidays with the status "All Agencies closed." State holidays will not include State optional holidays or holidays that require skeleton crews. If the Contract calls for performance on a day that is not a business day, then performance is intended to occur on the next business day.

Change – Any alteration, adjustment, exchange, substitution, or modification of the Services under this Agreement that is authorized in accordance with Article 7 of the Agreement Terms and Conditions, attached as Appendix B.

Change Request – A request for authorization to make a change in the Services or Deliverables under this Agreement.

Citizen – Any member of the public.

Comptroller of Public Accounts (CPA) – The State's chief tax collector, accountant, revenue estimator, and treasurer. CPA includes the Texas State Treasury.

Confidential Information – Any communication or record (whether oral, written, electronically stored, or transmitted, or in any other form) that consists of

1. All non-public budget, expense, payment, and other financial information;
2. All Privileged Work Product;
3. All information designated by DIR or any other State agency as confidential, including all information designated as confidential under the Texas Public Information Act, Texas Government Code, Chapter 552;

4. Unless publicly disclosed by DIR or the State, the pricing, payments, and terms and conditions of this Agreement; and,
5. Information that is utilized, developed, received, or maintained by DIR, the Vendor, or participating State agencies for the purpose of fulfilling a duty or obligation under this Agreement and that has not been publicly disclosed.

Contract Year – For the first Contract Year, a period commencing on the Effective Date and ending on August 31, 2009, and for each ensuing Contract Year, a twelve (12) month period commencing on September 1st and ending on August 31st.

Convenience Fees – Fees charged with the permission of the Board and paid by members of the public in exchange for the convenience of accessing information or conducting transactions via the Texas Electronic Framework Agreement rather than in person, by mail, or by other non-electronic means.

Corrective Action Plan – The detailed written plan required by DIR to correct or resolve a deficiency or event causing the assessment of a liquidated damage against Vendor.

Current Contract – The Texas Electronic Framework Agreement.

Current Contractor – The current or incumbent vendor contractually bound to provide all services for the existing TexasOnline.

Custom Software Deliverable – Any Deliverable, including without limitation any Software, developed by Vendor in connection with the Agreement.

Customer – Collectively, any of the following entities that are designated by DIR to receive Services under the Agreement, whether directly from Vendor or from DIR:

- a. Department of Information Resources in its capacity as a recipient of Services;
- b. Any State agency, as defined in Texas Government Code, Section 2054.003(13);
- c. Any unit of Texas local government, as defined in Texas Government Code, Section 2054.003 (9);
- d. Any licensing entity, as defined in Texas Government Code, Section 2054.251;
- e. Any other entity permitted under law to purchase Services from or through DIR; and
- f. Other entities to which the Parties agree.

The Parties acknowledge and agree that the definition of eligible DIR Customers is subject to modification by the State Legislature, and the then-current definition of DIR Customers will apply for all purposes.

Customer Agreement – A contractual document containing the terms, conditions, and scope for projects to be implemented under TexasOnline 2.0 or Services provided to a Customer.

Cutover – 11:59:59 p.m., Central Time, on December 31, 2009, or such other date as the Parties may agree upon in writing as the date on which Vendor will assume full responsibility for TexasOnline 2.0.

Data Center Services (DCS) – The statewide effort to consolidate infrastructure services, as directed by House Bill 1516, 79th Texas Legislature, Regular Session.

Data Center Services Master Services Agreement – The contract between The State of Texas, acting by and through DIR and International Business Machines, Inc., dated November 22, 2006.

Deliverable – A report or item that must be completed and delivered under the terms of the contract. The measurable result or output of a process prepared, developed, or procured by Vendor as part of the Services under this Agreement for the use or benefit of DIR or the State of Texas.

Derivative Work – A work based on one or more preexisting works, including a condensation, transformation, translation, modification, expansion, or adaptation that, if prepared without authorization of the owner of the copyright of such preexisting work, would constitute a copyright infringement under applicable Law, but excluding the preexisting work.

DIR Board – The Board of Directors of the Texas Department of Information Resources.

DIR Programs – The statewide or agency programs administered by DIR, including but not limited to TexasOnline.

Disability – A physical or mental impairment that substantially limits one or more of the major life activities of an individual.

Disentanglement – The period of time and activities for the transition of TexasOnline services from the Vendor awarded an Agreement under this solicitation to the State or a third party designated by the State.

Effective Date – The date of execution of this Agreement by both Parties. For purposes of this Agreement, the term includes any period under which work is performed in accordance with a properly executed Letter of Intent between DIR and Vendor.

ePay – Current Contractor’s payment processing engine.

Equipment – Computer hardware, routers, telecommunication devices, and the like utilized under this Agreement.

ETOL – Existing TexasOnline. Acronym used by Current Contractor in financial and transaction reporting.

Full Time Equivalent (FTE) – A measurement equal to one staff person working a full-time work schedule for one year.

Government Entities – A subset of TexasOnline Customers that includes all publicly funded entities, such as State agencies, higher education, and local governments.

Implementation – The process of transitioning from the Current Contract to the TexasOnline 2.0 Agreement.

Information and Communication Technology (ICT) Contracts Program – A streamlined cooperative purchasing program for state, local, public education, and other public entities within and outside the State of Texas.

Initial Term – The period between the Effective Date and the expiration date of the Agreement.

Key Personnel – All individuals identified by Vendor in its Offer as Key Personnel will be considered Key Personnel.

Level I Support – Support that is provided as the entry point for inquiries or problem reports. If Level I personnel cannot resolve the inquiry or problem, the inquiry or problem is directed to the appropriate personnel or third party for resolution.

Master Work Order (MWO) – The Master Work Order Agreement document attached as Attachment A to Amendment 10 to the Texas Electronic Framework Agreement that describes the particulars of the MWO Projects and sets forth obligations of both parties in connection therewith.

Master Work Order Projects – Those projects included in the Master Work Order, as defined in Section A of Amendment 10 to the Texas Electronic Framework Agreement.

New Projects – Projects that have been accepted by both Parties pursuant to Project Work Orders executed after June 1, 2005, under the Second Renewal Agreement, which may include both revenue-generating and non-revenue-generating projects. The eFiling Project is redefined under the Second Renewal Agreement as a New Project.

Net Revenue – The amount remaining after applying the Breakeven analysis on Attachment D of the First Renewal Agreement.

Offer – A formal response to this RFO.

Opportunity Proposal – Under the Current Contract, the term for the file or format for adding, modifying, or removing an application to or from the Texas Electronic Framework and submitted to DIR by the Vendor, or the Vendor and a Government Entity jointly. See Section 3 of the First Renewal Agreement and Section 7 of the Second Renewal Agreement for more detailed information.

Parties – DIR and Vendor, collectively.

Party – Either DIR or Vendor, individually.

Premium Subscription Fees – Fees charged with the permission of the Board and paid for by members of the public in exchange for access to one or more of a combination of services offered to members of the public via the Texas Electronic Framework Agreement.

Privacy Incident – The loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users, and for an other than authorized purpose, have access or potential access to sensitive personal information in usable form, whether physical or electronic. The term encompasses both suspected and confirmed incidents involving sensitive personal information that raise a reasonable risk of harm.

Public information – Information that

1. Is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body or for a governmental body; and
2. The governmental body owns or to which it has a right of access.

Purchase Order – DIR's or the Customer's fiscal form or format, which is used when making a purchase (e.g., formal written Purchase Order, Procurement Card, Electronic Purchase Order, or other authorized instrument).

Request for Offers (RFO) – The procurement solicitation instrument issued by DIR under which this Agreement will be awarded.

Scope of Work – The description of Services and Deliverables specified in this Agreement, the RFO, and any agreed modifications thereto.

Security Incident – An unauthorized act or circumstance against any system or data contained within that deviates from the confidentiality, integrity, or availability of predefined policies and procedures.

Services – The tasks, functions, and responsibilities assigned and delegated to Vendor under this Agreement.

Service Level Agreement (SLA) – A negotiated agreement between Parties that contains service performance metrics with corresponding service level objectives. Under the Current Contract, an SLA represents the agreement between the Current Contractor and Customer for TexasOnline Services.

Service Revenue – All Revenues TexasOnline derives from maintenance, hosting, and support of an application developed by the Vendor that is subscribed to or whose cost is shared by a user. This revenue is recognized ratably over the service period, usually one year.

Share of Net Revenue – The share the State receives of net revenue collected by Vendor in connection with its performance under this Agreement. The State currently receives 50% of Net Revenue.

Share of Total Revenue – The share the State receives of Total Revenue collected by the Vendor in connection with its performance under this Agreement. The State currently receives 20% of Total Revenue.

Software – All operating systems, applications Software, and related documentation used by Vendor to provide the Services under this Agreement.

Software as a Service – A model of software deployment where an application is hosted as a service provided to customers across the Internet.

Source Selection Authority – The Deputy Executive Director of the Statewide Technology Services Division of the Department of Information Resources is the Source Selection Authority

State – The State of Texas, acting by and through the Department of Information Resources.

State Treasury – The Treasury Operations Division of the Texas Comptroller of Public Accounts.

Subcontract – Any written agreement between Vendor and other party to fulfill the requirements of this Agreement. All Subcontracts are required to be in writing and signed by all parties.

Subcontractor – A party to a Subcontract.

Team for Texas – The partners providing services under the Data Center Services contract, including IBM, Unisys, Pitney Bowes, and Xerox. This team was developed in response to the statewide effort to consolidate infrastructure services, as directed by House Bill 1516, 79th Texas Legislature, Regular Session.

TEX-AN Next Generation (TEX-AN NG) – The shared technology transport services of DIR, which will be accomplished by contracting with multiple statewide Multi-Protocol Label Switching (MPLS) vendors to facilitate secure transport while supporting both Quality of Service (QoS) and Class of Service (CoS).

Texas Electronic Framework Agreement – The contract for TexasOnline services between DIR and BearingPoint, Inc., dated May 5, 2000, as amended and renewed.

Texas Project Delivery Framework – A consistent statewide method to select, control, and evaluate projects based on their alignment with business goals and objectives (<http://www.dir.state.tx.us/projectdelivery>).

TexasOnline – The current Texas e-government portal or electronic framework.

TexasOnline 2.0 – A placeholder name for the resulting program, portal, and website from this RFO.

TexasOnline 2.0 Resource Room – The central repository for RFO support documents and resources located in DIR's offices at 300 West 15th Street in Austin, Texas. The Resource Room has detailed rules and procedures governing its use.

Total Revenue – Gross Revenue earned and collected for services provided to State agencies plus revenue earned and collected from local government by the TexasOnline Project.

Transaction – Exchange of something of value from one entity to another that involves a financial component.

Transaction Revenue – All Revenues TexasOnline derives from Convenience Fees on transactions. These fees are typically priced at a fixed dollar, per-transaction amount or based on a percentage of the total transaction and are recognized as revenue when the transaction is completed.

Vendor – Any offeror or respondent to this RFO. Vendor may also mean the company contracted to implement the Agreement resulting from this RFO.

Vision Document – The Texas Department of Information Resources TexasOnline Re-Procurement Planning Vision Document, version 1.1, dated June 24, 2008 (see <http://www1.dir.state.tx.us/tol/rfo/doc/vision.pdf>).

Appendix B – Standard Terms and Conditions

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Article 1. Introduction

Section 1.01 *Inducements.*

In making the award of this Agreement, the Department of Information Resources (DIR) relies on Vendor's assurances of the following:

(1) Vendor and its agents and Subcontractors regularly provide the types of services described in the Request for Offers (RFO) to other public or private entities;

(2) Vendor and agents and its Subcontractors have the skills, qualifications, expertise, financial resources and experience necessary to perform the services described in the RFO, Vendor's Proposal, and this Agreement in an efficient, cost-effective manner, with a high degree of quality and responsiveness, and has performed similar services for other public or private entities;

(3) Vendor has thoroughly reviewed, analyzed, and understood the RFO, has timely raised all questions or objections to the RFO, and has had the opportunity to review and fully understand the DIR's current program and operating environment for the activities that are the subject of this Agreement and the needs and requirements of the State during this Agreement term;

(4) Vendor has had the opportunity to review and understand the State's stated objectives in entering into this Agreement and, based on such review and understanding, Vendor currently has the capability to perform in accordance with the terms and conditions of this Agreement;

(5) Vendor also has reviewed and understands all of the risks associated with the DIR Programs as described in the RFO, including the risk of non-appropriation of funds.

Accordingly, on the basis of the terms and conditions of this Agreement, DIR desires to engage Vendor to perform the services described in this Agreement under the terms and conditions set forth in this Agreement.

Section 1.02 *Construction of Agreement.*

(a) *Scope of Introductory Article.*

These provisions are not intended to expand the scope of the Parties' obligations under this Agreement or to alter the plain meaning of the terms and conditions of this Agreement.

(b) *References to the "State."*

References in this Agreement to the "State" will mean the State of Texas unless otherwise specifically indicated and will be interpreted, as appropriate, to mean or include DIR and other agencies of the State of Texas that may participate in the administration of DIR Programs, provided, however, that no provision will be interpreted to include any entity other than DIR as the contracting agency.

(c) *Severability.*

If any provision of this Agreement is construed to be illegal or invalid, such interpretation will not affect the legality or validity of any other provisions. The illegal or invalid provision will be deemed stricken and deleted to the same extent and effect as if never incorporated in this Agreement, but all other provisions will remain in full force and effect.

(d) *Survival of terms.*

Termination or expiration of this Agreement for any reason will not release either Party from any liabilities or obligations set forth in this Agreement that:

(1) The Parties have expressly agreed will survive any such termination or expiration; or

(2) Remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.

(e) *Headings.*

The article and section headings in this Agreement are for reference and convenience only and may not be considered in the interpretation of this Agreement.

(f) *Global drafting conventions.*

(1) The terms “include,” “includes,” and “including” are terms of inclusion, and where used in this Agreement, are deemed to be followed by the words “without limitation.”

(2) Any references to “sections,” “appendices,” or “attachments” are deemed to be references to sections, appendices, or attachments to this Agreement.

(3) Any references to agreements, contracts, statutes, or administrative rules or regulations in this Agreement are deemed references to these documents as amended, modified, or supplemented from time to time during the term of this Agreement.

Section 1.03 No implied authority.

The authority delegated to Vendor by DIR is limited to the terms of this Agreement. DIR is the State agency designated by the Texas Legislature to administer the DIR Programs, and no other agency of the State grants Vendor any authority related to this program unless directed through DIR. Vendor is required to cooperate to the fullest extent possible to assist DIR in communications and negotiations with State and Federal governments and agencies as directed by DIR. Vendor may not rely upon implied authority, and specifically is not delegated authority under this Agreement to:

(1) make public policy;

(2) promulgate, amend or disregard administrative regulations or program policy decisions made by State and Federal agencies responsible for administration of DIR Programs; or

(3) unilaterally communicate or negotiate with any Federal or State agency or the Texas Legislature on behalf of DIR regarding the DIR Programs.

Section 1.04 Legal Authority.

(a) DIR is authorized to enter into this Agreement under Chapter 2054, Texas Government Code. Vendor is authorized to enter into this Agreement pursuant to the authorization of its governing board or controlling owner or officer.

(b) The person or persons signing and executing this Agreement on behalf of the Parties, or representing themselves as signing and executing this Agreement on behalf of the Parties, warrant and guarantee that he, she, or they have been duly authorized to execute this Agreement and to validly and legally bind the Parties to all of its terms, performances, and provisions.

Article 2. Definitions

As used in this Agreement, the terms and conditions will have the meanings assigned in Appendix A – Definitions.

Article 3. General Terms and Conditions

Section 3.01 Agreement elements.

(a) *Agreement documentation.*

The Agreement between the Parties will consist of this Agreement, the RFO, and Vendor’s Offer.

(b) *Order of documents.*

In the event of any conflict or contradiction between or among these documents, the documents will control in the following order of precedence:

(1) The final executed Agreement, and all amendments thereto;

(2) The Agreement Exhibits, and all amendments thereto;

(3) The RFO, as amended and clarified by the vendor questions and DIR's official responses thereto, which are incorporated for all purposes into this Agreement; and

(4) Vendor's Offer which is incorporated for all purposes into this Agreement.

Section 3.02 Funding.

Based on the limits of the Texas Constitution, this Agreement is expressly conditioned on the availability of State and Federal appropriated funds. Vendor will have no right of action against DIR in the event that DIR is unable to perform its obligations under this Agreement as a result of the suspension, termination, withdrawal, or failure of funding to DIR or lack of sufficient funding of DIR for any activities or functions contained within the scope of this Agreement. If funds become unavailable, the provisions of Article 11 (Remedies and Disputes) will apply. DIR will use reasonable efforts to ensure that such funds are available, and will negotiate in good faith with Vendor to resolve any Vendor claims for payment that represent accepted Services or Deliverables that are pending at the time funds become unavailable. DIR will make reasonable efforts to provide written advance notice to Vendor upon learning that funding for this Agreement may be discontinued.

Section 3.03 Delegation of authority.

Whenever, by any provision of this Agreement, any right, power, or duty is imposed or conferred on DIR, the right, power, or duty so imposed or conferred is possessed and exercised by the DIR Executive Director unless any such right, power, or duty is specifically delegated to the duly appointed agents or employees of DIR. The DIR Executive Director will reduce any such delegation of authority to writing and provide a copy to Vendor on request.

Section 3.04 No waiver of sovereign immunity.

The Parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver by DIR or the State of Texas of any immunities from suit or from liability that DIR or the State of Texas may have by operation of law.

Section 3.05 Force majeure.

Neither Party will be liable for any failure or delay in performing its obligations under this Agreement if such failure or delay is due to any cause beyond the reasonable control of such Party, including, but not limited to, unusually severe weather, strikes, natural disasters, fire, civil disturbance, epidemic, war, court order, or acts of God. The existence of such causes of delay or failure will extend the period of performance in the exercise of reasonable diligence until after the causes of delay or failure have been removed. Each Party must inform the other in writing with proof of receipt within five (5) business days of the existence of a Force Majeure Event or otherwise waive this right as a defense.

Section 3.06 Most favored customer.

The Vendor agrees that if during the term of this Agreement, the Vendor enters into any agreement with any other governmental customer, or any non-affiliated commercial customer by which it agrees to provide equivalent services at lower prices, or additional services at comparable prices, this Agreement will, at DIR's option, be amended to accord equivalent lower prices to DIR.

Section 3.07 Publicity.

(a) Except as provided in the paragraphs below, Vendor must not use the name of DIR, the State of Texas, or any other State agency, or refer to DIR or any such agency directly or indirectly in any media release, public announcement, or public disclosure relating to this Agreement or its subject matter, including, but not limited to, in any promotional or marketing materials, customer lists, or business presentations (other than proposals or reports submitted to DIR, an administrative agency of the State of Texas, or a governmental agency or unit of another State or the Federal government).

(b) Vendor may publish, at its sole expense, results of Vendor performance under this Agreement with DIR's prior review and approval, which DIR may exercise at its sole discretion. Any

publication (written, visual, or sound) will acknowledge the support received from DIR and any Federal agency, as appropriate. Vendor will provide DIR at least three (3) copies of any such publication no less than five (5) business days prior to public release. Vendor will provide additional copies at the request of DIR.

(c) Vendor may include information concerning this Agreement's terms, subject matter, and estimated value in any report to a governmental body to which the Vendor is required by law to report such information.

Section 3.08 Assignment.

(a) Assignment by Vendor.

Vendor will not assign all or any portion of its rights under or interests in this Agreement or delegate any of its duties without prior written consent of DIR. Any written request for assignment or delegation must be accompanied by written acceptance of the assignment by the assignee, or delegation by the delegate. Except where otherwise agreed in writing by DIR, assignment or delegation will not release Vendor from its obligations pursuant to this Agreement.

(b) Assignment by DIR.

Vendor understands and agrees DIR may in one or more transactions assign, pledge, transfer, or hypothecate this Agreement. DIR will provide written notification of such assignment to Vendor. This assignment will only be made to another State agency or an entity designated by the Texas Legislature.

(c) Amendment.

Each Party agrees to cooperate to amend the Agreement as necessary to maintain an accurate record of the contracting parties.

(d) Assumption.

Each Party to whom an assignment or transfer is made (an "Assignee") must assume all or any part of Vendor's or DIR's interests in this Agreement, the services, and any documents executed with respect to this Agreement, including, without limitation, its obligation for all or any portion of the payments, in whole or in part.

Section 3.09 Cooperation with other vendors and prospective vendors.

(a) DIR may award supplemental contracts for work related to this Agreement, or any portion thereof. DIR reserves the right to award a contract as a joint venture between two or more potential vendors, if such an arrangement is in the best interest of DIR. Vendor will agree to cooperate with such other vendors, and will not commit or permit any act that may interfere with the performance of work by any other vendor.

(b) Vendor agrees that when DIR so requests, the Vendor will allow parties interested in bidding for DIR contracts, during the competitive procurement, to have reasonable access during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m. local time) to Software, and site visits to the Vendor's facilities. All such parties inspecting the facilities and Software may be required to agree to use the information so obtained only in the State of Texas, and only for the purpose of bidding on the contract.

Section 3.10 Renegotiation and reprocurement rights.

(a) Renegotiation of Agreement terms.

Notwithstanding anything in this Agreement to the contrary, DIR may at any time during the term of this Agreement exercise the option to notify Vendor that DIR has elected to renegotiate certain terms of this Agreement. Upon Vendor's receipt of any notice pursuant to this Section, Vendor and DIR will undertake good faith negotiations of the subject terms of this Agreement.

(b) Reprocurement of the services or procurement of additional services.

Notwithstanding anything in this Agreement to the contrary, whether or not DIR has accepted or rejected Vendor's Services provided during any period of this Agreement, DIR may at any time issue requests for proposals or RFOs to other potential contractors for performance of any portion of the

Services covered by this Agreement or services similar or comparable to the Services performed by Vendor under this Agreement.

(c) Termination rights upon reprocurement.

If DIR elects to procure the Services or any portion of the Services from another vendor in accordance with this Section, DIR will have the termination rights set forth in Article 11 of this Agreement.

Section 3.11 RFO errors and/or omissions.

Vendor will not take advantage of any errors and/or omissions in any RFO or the resulting Agreement. Vendor must promptly notify DIR of any such errors and/or omissions that are discovered.

Section 3.12 Abandonment or Default.

If the Vendor defaults on the Agreement, DIR reserves the right to cancel the Agreement without notice and either re-solicit or re-award the Contract to the next best responsive and responsible respondent. The defaulting Vendor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specifications or scope of work significantly changed.

Section 3.13 Preferences under service contracts.

Pursuant to Texas Government Code, Section 2155.4441, Vendor is required in performing this Agreement to purchase products and materials produced in the State of Texas when they are available at a price and time comparable to products and materials produced outside the State.

Section 3.14 Time of the essence.

In consideration of the need to ensure uninterrupted and continuous DIR Program services, time is of the essence in the performance of the Services under this Agreement.

Section 3.15 Place of Performance.

Unless otherwise agreed to in writing, all Services performed by Vendor, its Subcontractors and agents, under the Agreement must be performed in the United States.

Article 4. Contractor Personnel Management

Section 4.01 Qualifications, retention and replacement of Vendor employees.

Vendor agrees to maintain the organizational and administrative capacity and capabilities to carry out all duties and responsibilities under this Agreement. The personnel Vendor assigns to perform the duties and responsibilities under this Agreement will be properly trained and qualified for the functions they are to perform. Vendor does not warrant the quality of training for which the State is responsible. Notwithstanding transfer or turnover of personnel, Vendor remains obligated to perform all duties and responsibilities under this Agreement without degradation and in accordance with the terms of this Agreement.

Section 4.02 Responsibility for Vendor personnel.

(a) Under no circumstances will Vendor's employees, agents and Subcontractors be considered employees of DIR or the State of Texas, but will be considered Vendor's employees, agents or Subcontractors for all purposes.

(b) Except as expressly provided in this Agreement, neither Vendor nor any of Vendor's employees, agents or Subcontractors may act in any sense as agents or representatives of DIR or the State of Texas.

(c) Vendor's employees, agents or Subcontractors must be paid exclusively by Vendor for all services performed. Vendor is responsible for and must comply with all requirements and obligations related to such employees, agents or Subcontractors under local, State or Federal law, including

minimum wage, social security, unemployment insurance, State and Federal income tax and workers' compensation obligations.

(d) Vendor assumes sole and full responsibility for its acts and the acts of its employees, agents and Subcontractors.

(e) Vendor agrees that any claim on behalf of any person arising out of employment, alleged employment (including, but not limited to, claims of discrimination against Vendor, its officers, or its agents), agency or subcontracts are the sole responsibility of Vendor and are not the responsibility of DIR, and that Vendor will indemnify and hold harmless the State from any and all such claims asserted against the State. Vendor understands that any person who alleges a claim arising out of employment, alleged employment, agency, or subcontract by Vendor will not be entitled to any compensation, rights, or benefits from DIR (including, but not limited to, tenure rights, medical and hospital care, sick and annual/vacation leave, severance pay, or retirement benefits).

Section 4.03 Cooperation with DIR and State administrative agencies.

(a) Cooperation with DIR contractors.

Vendor agrees to reasonably cooperate with and work with the State's contractors, Subcontractors, and third-party representatives as requested by DIR. To the extent permitted by DIR's financial and personnel resources, DIR agrees to reasonably cooperate with Vendor and to use its reasonable efforts to ensure that DIR's other DIR Programs contractors reasonably cooperate with Vendor.

(b) Cooperation with State and Federal administrative agencies.

Vendor must ensure that Vendor employees, agents and Subcontractors will cooperate with DIR or other State or Federal administrative agency personnel at no charge to DIR for purposes relating to the administration of DIR programs including, but not limited to the following purposes:

- (1) The investigation and prosecution of fraud, abuse, and waste in the DIR programs;
- (2) Audit, inspection, or other investigative purposes; and
- (3) Testimony in judicial or quasi-judicial proceedings relating to the Services under this Agreement or other delivery of information to DIR or other agencies' investigators or legal staff.

Section 4.04 Conduct of and responsibility for Vendor employees.

(a) While performing the Services, Vendor's employees, agents and Subcontractors must:

- (1) Comply with applicable State rules, and regulations and DIR's requests regarding personal and professional conduct generally applicable to the service locations; and
- (2) Otherwise conduct themselves in a businesslike and professional manner.

(b) If DIR determines in its sole discretion that a particular employee, agent, or Subcontractor is not conducting themselves in accordance with this Section, DIR may provide Vendor with notice and documentation concerning such conduct. Upon receipt of such notice, Vendor must promptly investigate the matter and take appropriate action that may include:

- (1) Removing the employee, agent or Subcontractor from the project;
- (2) Providing DIR with written notice of such removal; and
- (3) Replacing the employee, agent or Subcontractor with a similarly qualified individual acceptable to DIR.

(c) Nothing in this Agreement will prevent Vendor, at the request of DIR, from replacing any employee, agent or Subcontractor who are not adequately performing their assigned responsibilities or who, in the opinion of DIR's Project Director, after consultation with Vendor, are unable to work effectively with the members of the DIR's staff. In such event, Vendor will provide replacement employee, agent, or Subcontractor with equal or greater skills and qualifications as soon as reasonably practicable. Replacement of Key Personnel will be subject to DIR review and approval. The Parties will work together in the event of any such required replacement so as not to disrupt the overall project schedule.

(d) Vendor agrees that anyone employed by Vendor to fulfill the terms of this Agreement is an employee, agent or Subcontractor of Vendor and remains under Vendor's sole direction and control.

(e) Vendor agrees to be responsible for the following in respect to its employees, agents or Subcontractors:

(1) Any and all employment taxes and/or other payroll withholding;

(2) Damages incurred by Vendor's employees, agents or Subcontractors within the scope of their duties under this Agreement; and

(3) Determination of the hours to be worked and the duties to be performed by Vendor's employees, agents or Subcontractors.

Vendor agrees and will inform its employees, agents, and Subcontractors that there is no right of action against DIR for any duty owed by Vendor pursuant to this Agreement. Vendor understands that DIR does not assume liability for the actions of, or judgments rendered against, the Vendor, its employees, agents, or Subcontractors. Vendor agrees that it has no right to indemnification or contribution from DIR for any judgments rendered against Vendor, agents or Subcontractors. DIR's liability to the Vendor's employees, agents, and Subcontractors, if any, will be governed by the Texas Tort Claims Act, as amended or modified (TEX. CIV. PRACT. & REM. CODE §101.001 et seq.).

Section 4.05 Responsibility for Subcontractors.

(a) Vendor remains fully responsible for obligations, services, and functions performed by its Subcontractors to the same extent as if such obligations, services, and functions were performed by Vendor's employees or agents and for purposes of this Agreement such work will be deemed work performed by Vendor. DIR reserves the right to require the replacement of any Subcontractor found by DIR to be unacceptable.

(b) Vendor must not disclose Confidential Information of DIR or the State of Texas to a Subcontractor unless and until such Subcontractor has agreed in writing to protect the confidentiality of such Confidential Information in the manner required of Vendor under this Agreement.

(c) Vendor must identify any Subcontractor that is a newly-formed subsidiary or entity, whether or not an affiliate of Vendor, substantiate the proposed Subcontractor's ability to perform the subcontracted Services, and certify to DIR that no loss of service will occur as a result of the performance of such Subcontractor. The Vendor will assume responsibility for all contractual responsibilities whether or not the Vendor performs them. Further, DIR considers the Vendor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from this Agreement.

(d) At least thirty (30) days prior to executing a subcontract or other agreement with a third party with a value greater than \$100,000.00, Vendor must submit a copy of the agreement to DIR. DIR reserves the right to (1) reject the agreement or require changes to any provisions that do not comply with the requirements or duties and responsibilities of this Agreement or create significant barriers for DIR in monitoring compliance with this Agreement, and (2) object to the selection of the Subcontractor.

Section 4.06 DIR's ability to contract with Subcontractors.

The Vendor may not limit or restrict, through a covenant not to compete, employment agreement or other contractual arrangement, DIR's ability to contract with Subcontractors or former employees or agents of the Vendor.

Section 4.07 Security of Premises, Equipment, Data, and Personnel.

Vendor may, from time to time during the performance of the Agreement, have access to the premises, equipment, and other property, including data, files and/or materials (collectively referred to as "Data") belonging to DIR or Customers. Vendor will use their commercially best efforts to preserve the safety, security, and the integrity of the premises, equipment, Data and other property of DIR or Customer, in accordance with the instruction of DIR or Customers. Vendor will be

responsible for damage to DIR or Customer's equipment, workplace, and its contents when such damage is caused by its employees, agents or Subcontractors.

Section 4.08 Background and/or Criminal History Investigation.

Prior to commencement of any services, background and/or criminal history investigation of the Vendor's employees, agents and Subcontractors who will be providing services to DIR under the Contract may be performed by DIR or certain Customers having legislative authority to require such investigations. Should any employee, agent, or Subcontractor of the Vendor who will be providing services to DIR or Customer under the Agreement not be acceptable to DIR or Customer as a result of the background and/or criminal history check, then DIR or Customer may immediately request replacement of the employee, agent or Subcontractor in question.

Article 5. Governing Law and Regulations

Section 5.01 Governing law and venue.

This Agreement is governed by the laws of the State of Texas without regard to conflict of laws principles, and interpreted in accordance with Texas law. Provided Vendor first complies with the procedures set forth in Section 11.12, Dispute Resolution, proper venue claim arising from this Agreement will be in a Texas State court in Travis County, Texas.

Section 5.02 Vendor responsibility for compliance with laws and regulations.

(a) Vendor is responsible for compliance with all laws, regulations, and administrative rules that govern the performance of the Services including, but not limited to, all State and Federal tax laws, State and Federal employment laws, State and Federal regulatory requirements, and licensing provisions.

(b) Vendor is responsible for ensuring each of its employees, agents, or Subcontractors who provide Services under this Agreement are properly licensed, certified, and/or have proper permits to perform any activity related to the Services.

(c) Vendor warrants that the Services comply with all applicable Federal, State, and County laws, regulations, codes, ordinances, guidelines, and policies. Vendor will indemnify DIR from and against any losses, liability, claims, damages, penalties, costs, fees, or expenses arising from or in connection with Vendor's failure to comply with or violation of any Federal, State, and County law, regulation, code, ordinance, or policy.

Section 5.03 Immigration Reform and Control Act of 1986.

Vendor will comply with the requirements of the Immigration Reform and Control Act of 1986 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) hired on or after November 6, 1986, who will perform any labor or services under this Agreement.

Section 5.04 Equal Opportunity Compliance.

Vendor agrees to abide by all applicable laws, regulations, and executive orders pertaining to equal employment opportunity, including Federal or State laws and the laws of the State in which its primary place of business is located. In accordance with such laws, regulations, and executive orders, the Vendor agrees that no person in the United States will, 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 Vendor under this Agreement. If Vendor is found to be not in compliance with these requirements during the term of this Agreement, Vendor agrees to take appropriate steps to correct these deficiencies. Upon request, Vendor will furnish information regarding its non discriminatory 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.

Article 6. Service Levels and Performance Measurement

Section 6.01 *Performance measurement.*

Satisfactory performance of this Agreement will be measured by:

- (a) Adherence to this Agreement, including all representations and warranties;
- (b) Compliance with project work plans, schedules, and milestones as proposed by Vendor in its Proposal and as revised by Vendor and finally approved by DIR;
- (c) Delivery of the Services and Deliverables in accordance with the service levels and availability proposed in its Proposal and as finally approved or accepted by DIR;
- (d) Results of audits performed by DIR or its representatives in accordance with Article 8;
- (e) Timeliness, completeness, and accuracy of required reports; and
- (f) Achievement of performance measures developed by Vendor and DIR and as modified from time to time by written agreement.

Article 7. Amendments, Modifications, and Change Orders

Section 7.01 *Amendments and modifications.*

(a) *Amendments and modifications resulting from changes in law or contract.*

This Agreement may be amended by mutual written agreement of the Parties if changes in Federal or State laws, rules, regulations, policies, guidelines, or circumstances affect the performance of the work. The Parties will develop a business plan for negotiating appropriate change order and amendment procedures.

(b) *Modifications resulting from imposition of remedies.*

This Agreement may be modified under the terms of Article 11 (relating to Remedies and Disputes).

Section 7.02 *Required compliance with amendment modification procedures.*

No different or additional services, work, or products will be authorized or performed except pursuant to an amendment or modification of this Agreement that is executed in compliance with this article. No waiver of any term, covenant, or condition of this Agreement will be valid unless executed in compliance with this article. Vendor will not be entitled to payment for any services, work, or products that are not authorized by a properly executed Agreement amendment or modification, or through the express written authorization of DIR.

Article 8. Audit and Financial Compliance

Section 8.01 *Financial record retention and audit.*

Vendor and its agents and Subcontractors agree to maintain supporting financial information and documents that are adequate to ensure contract compliance, and are sufficient to ensure the accuracy and validity of Vendor invoices. Such documents, including all original claims forms, will be maintained and retained by Vendor, its agents and Subcontractors for a period of four (4) years after the date of submission of the final billing or until the resolution of all litigation, claims, financial management reviews or audits pertaining to this Agreement, whichever is longer. Vendor agrees to timely repay any undisputed audit exceptions taken by DIR in any audit of this Agreement.

Section 8.02 *Access to records, books, and documents.*

(a) Upon reasonable notice, Vendor must provide, and cause its agents and Subcontractors to provide, the officials and/or entities identified in this Section with prompt, reasonable, and adequate access to any records, books, documents, and papers that are directly pertinent to the performance of this Agreement and any Scope of Work.

(b) Vendor and its agents and Subcontractors must provide the access described in this Section upon DIR's request. This request may be for, but is not limited to, the following purposes:

- (1) Examination;
- (2) Audit;
- (3) Investigation;
- (4) Contract administration; or
- (5) The making of copies, excerpts, or transcripts.

(c) The access required must be provided to the following officials and/or entities:

- (1) Any independent verification and validation contractor or quality assurance contractor, when acting on behalf of DIR;
- (2) The Office of the State Auditor of Texas or its designee;
- (3) A State or Federal law enforcement agency;
- (4) A special or general investigating committee of the Texas Legislature or its designee; and
- (5) Any auditor or other entity identified by DIR.

(d) Vendor agrees, and will require its agents and Subcontractors, to provide the access described wherever Vendor maintains such books, records, and supporting documentation. Vendor further agrees, and will require its agents and Subcontractors, to provide such access in reasonable comfort and to provide any furnishings, equipment, or other conveniences deemed reasonably necessary to fulfill the purposes described in this Section.

Section 8.03 Audits of Services, Deliverables and inspections.

(a) Upon notice from DIR, Vendor will provide, and will cause its agents and Subcontractors to provide, such auditors and inspectors as DIR may from time to time designate, with access to:

- (1) Vendor, agent and Subcontractor service locations, facilities, or installations; and
- (2) Vendor, agent and Subcontractor Software and Equipment.

(b) Vendor and its agents and Subcontractors must provide as part of the Services any assistance that such auditors and inspectors reasonably may require to complete such audits or inspections.

Section 8.04 Response/compliance with audit or inspection findings.

(a) Vendor must take action to ensure its employees', agents' or a Subcontractor's compliance with or correction of any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle relating to the Services and Deliverables or any other deficiency contained in any audit, review, or inspection conducted under this Article. This action will include Vendor's delivery to DIR, for DIR's approval, a Corrective Action Plan that addresses deficiencies identified in any audit(s), review(s), or inspection(s) within thirty (30) calendar days of the close of the audit(s), review(s), or inspection(s).

(b) Vendor must bear the expense of compliance with any finding of noncompliance under this Section that is:

- (1) Required by a Texas or Federal law, regulation, rule or other audit requirement relating to Vendor's business;
- (2) Performed by Vendor as part of the Services; or
- (3) Necessary due to Vendor's noncompliance with any law, regulation, rule, or audit requirement imposed on Vendor.

(c) As part of the Services, Vendor must provide to DIR upon request a copy of those portions of Vendor's and its agents' and Subcontractors' internal audit reports relating to the Services and Deliverables provided to the State under this Agreement.

Section 8.05 Audit of Vendor fees.

(a) Vendor will provide, and will cause its agents and Subcontractors to provide, to DIR and its designees access to such financial records and supporting documentation reasonably requested by DIR.

(b) In addition to the normal monthly review and payment of administrative vouchers, DIR may audit the Fees charged to DIR to determine that such Fees are accurate and in accordance with this Agreement.

(c) If, as a result of such audit, DIR determines that Vendor has overcharged the State, DIR will notify Vendor of the amount of such overcharge and Vendor will promptly pay to DIR the amount of the overcharge, plus interest. Interest on such overpayment amount will be calculated from the date of receipt by the Vendor of the overcharged amount until the date of payment to DIR, and will be calculated at the Department of Treasury's Median Rate (resulting from the Treasury's auction of 13-week bills) for the week in which liability is assessed, but in no event to exceed the highest lawful rate of interest. In the event any such audit reveals an overcharge to DIR, Vendor will reimburse DIR for the cost of such audit.

Section 8.06 State Auditor's Office Audit

In addition to and without limitation on the other audit provisions of this Agreement, pursuant to Texas Government Code, Section 2262.003, acceptance of funds under the Agreement by Vendor 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. Vendor, and its agents and Subcontractors, agree 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. Vendor will ensure that this clause concerning the authority to audit funds received indirectly by Subcontractors through Vendor and the requirement to cooperate is included in any subcontract it awards pertaining to the Agreement. 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.

Article 9. Terms and Conditions of Payment

Section 9.01 Rights of set-off.

(a) General right of set-off.

With respect to any undisputed amount that a Party in good faith determines should be reimbursed to it or is otherwise payable to it by the other Party pursuant to this Agreement, the Party seeking the set-off may deduct the entire amount owed against the charges otherwise payable or expenses owed to it under this Agreement until such time as the entire amount determined to be owed has been paid.

(b) Duty to make payments.

DIR will be relieved of its obligation to make any payments to the Vendor until such time as all such amounts have been credited to DIR and the Vendor will be relieved of its obligation to make any payments to DIR until such time as such amounts have been credited to the Vendor.

Section 9.02 Expenses.

Except as provided in its Offer, all other expenses incurred by the Vendor in connection with its provision of the Services or Deliverables will not be reimbursed by DIR unless agreed upon by DIR. Vendor will be responsible for payment of all expenses related to salaries, benefits, employment taxes, and insurance for its employees, agents and Subcontractors. In addition, the costs associated with transportation, delivery, and insurance for each Deliverable will be paid for by Vendor.

Section 9.03 *Disputed fees.*

If DIR disputes payment of all or any portion of an invoice from the Vendor, DIR will notify the Vendor of such dispute and both Parties will attempt in good faith to resolve the dispute. DIR will not be required to pay any disputed portion of a Vendor invoice. Notwithstanding any such dispute, the Vendor must continue to perform the Services and produce Deliverables in compliance with the terms of this Agreement pending resolution of such dispute so long as all undisputed amounts continue to be paid to Vendor.

Section 9.04 *Liability for taxes and insurance.*

(a) VENDOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS AGREEMENT, VENDOR WILL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF VENDORS', AGENTS' AND SUBCONTRACTORS' EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS AGREEMENT. VENDOR AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. VENDOR AGREES AND ACKNOWLEDGES THAT VENDOR'S EMPLOYEES, AGENTS OR SUBCONTRACTORS WILL NOT BE ENTITLED TO ANY STATE BENEFIT OR BENEFIT OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER. DIR AND/OR THE STATE WILL NOT BE LIABLE TO THE VENDOR ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, 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.

(b) VENDOR AGREES TO INDEMNIFY AND HOLD HARMLESS DIR, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR EXPECTATIONS OF BENEFITS BY VENDOR, ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS IN THEIR PERFORMANCE UNDER THIS AGREEMENT. VENDOR WILL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES AND OUT OF POCKET EXPENSES. THE DEFENSE WILL BE COORDINATED BY THE OFFICE OF THE ATTORNEY GENERAL FOR TEXAS STATE AGENCY CUSTOMERS AND BY CUSTOMER'S LEGAL COUNSEL FOR NON-STATE AGENCY CUSTOMERS.

Section 9.05 *Liability for employment-related charges and benefits.*

Vendor will perform work under this Agreement as an independent contractor and not as agent or representative of DIR. Vendor is solely and exclusively liable for all taxes and employment-related charges incurred in connection with the performance of this Agreement. DIR will not be liable for any employment-related charges or benefits of Vendor, such as workers compensation benefits, unemployment insurance and benefits, or fringe benefits.

Section 9.06 *No additional consideration.*

Vendor, agents and Subcontractors will not be entitled to nor receive from DIR any additional consideration, compensation, salary, wages, or any other type of remuneration for services rendered under this Agreement. Specifically, Vendor will not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever. In addition, the costs associated with transportation, delivery, and insurance relating to the Vendor's, agents' or Subcontractors' performance of this Agreement will be paid for by the Vendor.

Section 9.07 *Prompt Payment Act.*

Should payment by DIR or Customer be necessary under this Agreement, payment will be made on a monthly basis and within thirty (30) days from receipt of a correct invoice or billing statement.

Each invoice presented must include the Customer's contract number. The invoice must identify vendor identification number or social security number, a description of the services provided, and the name and division of the Customer contract manager. The invoices must be submitted to Customer's billing address. Payment by State agencies will be made in accordance with the Texas Prompt Payment law, Texas Government Code, Subtitle F. Chapter 2251.

Article 10. Disclosure and Confidentiality of Information

Section 10.01 Confidentiality.

(a) Vendor and all agents and Subcontractors under this Agreement must treat all information that is obtained through performance of the Services under this Agreement, including, but not limited to, information relating to users of DIR Programs as Confidential Information to the extent that confidential treatment is provided under State and Federal law, regulations, or administrative rules.

(b) Vendor is responsible for understanding the degree to which information obtained through performance of this Agreement is confidential under State and Federal law, regulations, or administrative rules.

(c) Vendor and all agents and Subcontractors under this Agreement may not use any information obtained through performance of this Agreement in any manner except as is necessary to the proper discharge of obligations and securing of rights under this Agreement.

(d) Vendor must have systems in effect to protect all records and all other documents deemed confidential under this Agreement that are maintained in connection with the activities funded under this Agreement. Any disclosure or transfer of Confidential Information by Vendor, including information required by DIR, will be in accordance with applicable State and Federal law, regulations, or administrative rules. If the Vendor receives a request for information deemed confidential under this Agreement, the Vendor will immediately notify the State of such request, and will make best efforts to protect the information from public disclosure.

(e) In addition to the requirements expressly stated in this Section, Vendor must comply with any policy, rule, or requirement of DIR that relates to the safeguarding or disclosure of information relating to DIR Programs recipients, Vendor's operations, or the Vendor performance of this Agreement.

(f) In the event of the expiration or termination of this Agreement for any reason, all Confidential Information of a Party disclosed to and all copies thereof made by the other Party will be returned to the disclosing Party or, at the disclosing Party's option, erased or destroyed. The recipient of the Confidential Information will provide the disclosing Party certificates evidencing such of erasure or destruction.

(g) The obligations in this Section will not restrict any disclosure by a Party pursuant to any order of a court or government agency, provided that the disclosing Party will give prompt written notice to the non-disclosing Party of such order.

(h) With the exception of confidential DIR Program user information, Confidential Information of a Party will not be afforded the protection of this Agreement if such data was:

- (1) Already known to the receiving Party without restrictions at the time of its disclosure by the furnishing Party;
- (2) Independently developed by the receiving Party without reference to the furnishing Party's Confidential Information;
- (3) Rightfully obtained by the other Party without restriction from a third party after its disclosure by the furnishing Party;
- (4) Publicly available other than through the fault or negligence of the other Party; or
- (5) Released without restriction to anyone.

Section 10.02 Disclosure of DIR's Confidential Information.

(a) Vendor will immediately report to DIR any and all unauthorized disclosures or uses of DIR's Confidential Information of which it or its agent(s) and/or Subcontractor(s), is aware or has knowledge. Vendor acknowledges that any publication or disclosure of DIR's Confidential Information to others may cause immediate and irreparable harm to DIR and may constitute a violation of State or Federal laws. If Vendor, its agent(s) and/or Subcontractor(s), should publish or disclose such Confidential Information to others without authorization, DIR will immediately be entitled to seek injunctive relief or any other remedies to which it is entitled under law or equity without requiring a cure period as described in Article 11. DIR will have the right to recover from Vendor all damages and liabilities caused by or arising from Vendor's, its agent(s) and/or Subcontractors', failure to protect DIR's Confidential Information. Contractor will defend with counsel approved by DIR, indemnify and hold harmless DIR from all damages, costs, liabilities, and expenses (including without limitation reasonable attorneys' fees and costs) caused by or arising from Vendor's or its agent(s) and/or Subcontractors', failure to protect DIR's Confidential Information.

(b) Vendor will require its agent(s) and/or Subcontractor(s), to comply with the terms of this provision.

Section 10.03 Requests for public information.

(a) Vendor acknowledges that DIR is a government agency subject to the Public Information Act (Chapter 552 of the Texas Government Code). Vendor also acknowledges that DIR will comply with the Public Information Act, and with all opinions of the Texas Attorney General's office concerning this Public Information Act. DIR agrees that it will promptly notify Vendor of a request for disclosure of public information filed in accordance with the Public Information Act that consists of the Vendor's Confidential Information, including data to which Vendor has a proprietary or commercial interest. DIR will deliver all copies of requests for public information to Vendor.

(b) With respect to any information that is the subject of a request for disclosure, Vendor is required to demonstrate to the Texas Office of Attorney General the specific reasons why the requested information is confidential or otherwise excepted from required public disclosure under the Public Information Act. Vendor will provide DIR with copies of all such communications.

(c) To the extent authorized under the Public Information Act, DIR agrees to safeguard from disclosure information received from Vendor that the Vendor believes to be Confidential Information. Vendor must clearly mark such information as Confidential Information or provide written notice to DIR that it considers the information confidential.

(d) Under the terms of the Agreement, DIR may provide Vendor with information related to Customers or DIR Program users. Vendor will not re-sell or otherwise distribute or release Customer information to any party in any manner without DIR's or the Customer's, as appropriate, express written consent.

Section 10.04 Privileged Work Product.

(a) Vendor acknowledges that DIR asserts that Privileged Work Product may be prepared in anticipation of litigation and that Vendor may perform Services with respect of Privileged Work Product as an agent of DIR, and that all DIR documents, data, database, or communications to which DIR asserts is Privileged Work Product is protected from disclosure by the Texas Rules of Civil Procedure, Texas Rules of Evidence, Federal Rules of Civil Procedure, or Federal Rules of Evidence.

(b) DIR will notify Vendor of any Privileged Work Product to which Vendor or its agent(s) and/or Subcontractors, have or may have access. After the Vendor is notified or otherwise becomes aware that such documents, data, database, or communications are Privileged Work Product, only Vendor agents and/or Subcontractors, for whom such access is necessary for the purposes of providing the Services may have access to Privileged Work Product.

(c) If Vendor receives notice of any judicial or other proceeding seeking to obtain access to DIR's Privileged Work Product, Vendor will:

- (1) Immediately notify DIR; and

(2) Use all reasonable efforts to resist providing such access.

(d) If Vendor resists disclosure of DIR's Privileged Work Product in accordance with this Section, DIR will, to the extent authorized under Civil Practices and Remedies Code or other applicable State law, have the right and duty to represent Vendor in such resistance or to retain counsel to so represent Vendor or to reimburse Vendor for reasonable attorneys' fees and expenses incurred in resisting such access.

(e) If a court of competent jurisdiction orders Vendor to produce documents, disclose data, or otherwise breach the confidentiality obligations imposed in this Agreement, or otherwise with respect to maintaining the confidentiality, proprietary nature, and secrecy of Privileged Work Product, Vendor will not be liable for breach of such obligation.

Section 10.05 *Unauthorized acts.*

Each Party agrees to:

(1) Notify the other Party promptly of any unauthorized possession, use, or knowledge, or attempt thereof, of any Confidential Information by any person or entity that may become known to it;

(2) Promptly furnish to the other Party full details of the unauthorized possession, use, or knowledge, or attempt thereof, and use reasonable efforts to assist the other Party in investigating or preventing the reoccurrence of any unauthorized possession, use, or knowledge, or attempt thereof, of Confidential Information;

(3) Cooperate with the other Party in any litigation and investigation against third parties deemed necessary by such Party to protect its proprietary rights; and

(4) Promptly prevent a reoccurrence of any such unauthorized possession, use, or knowledge of Confidential Information.

Section 10.06 *Legal action.*

Neither Party may commence any legal action or proceeding in respect to any unauthorized possession, use, or knowledge, or attempt thereof, of Confidential Information by any person or entity, which action or proceeding identifies the other Party or its Confidential Information without such Party's consent.

Article 11. Remedies and Disputes

Section 11.01 *Understanding and expectations.*

The remedies described in this Section contemplate Vendor's timely and responsive performance of the Services and production of Deliverables, and to the creation of a flexible and responsive relationship between the Parties.

Section 11.02 *Tailored remedies.*

(a) *Understanding of the Parties.*

Vendor agrees and understands that DIR may pursue tailored contractual remedies for noncompliance with this Agreement. At any time and at its discretion, DIR may impose or pursue one or more remedies for each item of noncompliance and will determine remedies on a case-by-case basis. DIR's pursuit or non-pursuit of a tailored remedy does not constitute a waiver of any other remedy that DIR may have at law or equity.

(b) *Notice and opportunity to cure for non-material breach.*

(1) DIR will notify Vendor in writing of specific areas of Vendor performance that fail to meet performance expectations, standards, or schedules, but that, in the determination of DIR, do not result in a material deficiency or delay in the implementation or operation of the Services.

(2) Vendor will, within three (3) business days (or another date approved by DIR) of receipt of written notice of a non-material deficiency, provide the DIR Project Manager a written response that:

(A) Explains the reasons for the deficiency, Vendor's plan to address or cure the deficiency, and the date and time by which the deficiency will be cured; or

(B) If Vendor disagrees with DIR's findings, its reasons for disagreeing with DIR's findings.

(3) Vendor's proposed cure of a non-material deficiency is subject to the approval of DIR.

Vendor's repeated commission of non-material deficiencies or repeated failure to resolve any such deficiencies may be regarded by DIR as a material deficiency and entitle DIR to pursue any other remedy provided in this Agreement or any other appropriate remedy DIR may have at law or equity.

(c) *Corrective action plan.*

(1) At its option, DIR may require Vendor to submit to DIR a detailed written plan (the "Corrective Action Plan") to correct or resolve a material breach of this Agreement.

(2) The Corrective Action Plan must provide:

(A) A detailed explanation of the reasons for the cited deficiency;

(B) Vendor's assessment or diagnosis of the cause; and,

(C) A specific proposal to cure or resolve the deficiency.

(3) The Corrective Action Plan must be submitted by the deadline set forth in DIR's request for a Corrective Action Plan. The Corrective Action Plan is subject to approval by DIR, which will not unreasonably be withheld.

(4) DIR will notify Vendor in writing of DIR's final disposition of DIR's concerns. If DIR accepts Vendor's proposed Corrective Action Plan, DIR may:

(A) Condition such approval on completion of tasks in the order or priority that DIR may prescribe;

(B) Disapprove portions of Vendor's proposed Corrective Action Plan; or

(C) Require additional or different Corrective Action Plan(s).

(5) At any time during this process, DIR reserves the right to:

(A) Suspend all, or part of, this Agreement, and to withhold further payment for the suspended portions of this Agreement; or

(B) Prohibit Vendor from incurring additional obligations of funds during investigation of the alleged breach and pending corrective action, if necessary, by Vendor or a decision by DIR to terminate for cause.

(6) If DIR rejects Vendor's written explanation or proposed Corrective Action Plan, DIR may issue a written Stop Work Order to Vendor or any of its agents, or Subcontractors or suppliers. DIR may delay the implementation of the Stop Work Order if it affects the completion of any of the Services in accordance with the approved Schedule or Work Plan.

(7) DIR's acceptance of a Corrective Action Plan under this Section will not:

(A) Excuse Vendor's prior substandard performance;

(B) Relieve Vendor of its duty to comply with performance standards; or

(C) Prohibit DIR from assessing additional tailored remedies or pursuing other appropriate remedies for continued substandard performance.

(d) *Administrative remedies.*

(1) At its discretion, DIR may impose one or more of the following remedies for each item of noncompliance and will determine the scope and severity of the remedy on a case-by-case basis:

(A) Assess liquidated damages in accordance with the terms of this Agreement;

(B) Conduct accelerated monitoring of the Vendor including more frequent or more extensive monitoring by DIR or its agents;

(C) Require additional, more detailed, financial and/or programmatic reports to be submitted by Vendor;

(D) Decline to renew or extend this Agreement; or

(E) Terminate this Agreement in accordance with Section 11.03.

(2) For purposes of this Agreement, an item of noncompliance means a specific action of Vendor that:

(A) Violates a provision of this Agreement;

(B) Fails to meet an agreed service level measure of performance; or

(C) Represents a failure of Vendor to be reasonably responsive to a reasonable request of DIR relating to the Services for information, assistance, or support within the timeframe specified by DIR.

(3) DIR will provide notice to Vendor of the imposition of an administrative remedy in accordance with this Section, with the exception of accelerated monitoring, which may be unannounced. DIR may require Vendor to file a written response in accordance with this Section.

(4) The Parties agree that a State or Federal statute, rule, regulation, or Federal guideline will prevail over the provisions of this Section unless the statute, rule, regulation, or guidelines can be read together with this Section to give effect to both.

(e) *Damages.*

(1) DIR will be entitled to actual and consequential damages resulting from the Vendor's failure to comply with any of the terms of this Agreement. In some cases, the actual damage to DIR or the State of Texas as a result of Vendor's failure to meet any aspect of the responsibilities of this Agreement and/or to meet specific performance standards set forth in this Agreement are difficult or impossible to determine with precise accuracy. Therefore, liquidated damages will be assessed in writing against and paid by the Vendor for failure to meet any aspect of the responsibilities of this Agreement and/or to meet the specific performance standards identified by the DIR. Liquidated damages will be assessed if DIR determines such failure is the fault of the Vendor (including the Vendor's agents and/or Subcontractors) and is not materially caused or contributed to by DIR or its agents. If at any time, DIR determines the Vendor has not met any aspect of the responsibilities of this Agreement and/or the specific performance standards due to mitigating circumstances, DIR reserves the right to waive all or part of the liquidated damages. All such waivers must be in writing, contain the reasons for the waiver, and be signed by the appropriate executive of DIR.

(2) The liquidated damages prescribed in this Section are not intended to be in the nature of a penalty, but are intended to be reasonable estimates of DIR's projected financial loss and damage resulting from the Vendor's nonperformance, including financial loss as a result of project delays. Accordingly, in the event Vendor fails to perform in accordance with this Agreement, DIR may assess liquidated damages as provided in this Section.

(3) If Vendor fails to perform any of the Services described in this Agreement, DIR may assess liquidated damages for each occurrence of a liquidated damages event, to the extent consistent with DIR's tailored approach to remedies and State law.

(4) At its sole discretion, DIR may elect to collect liquidated damages:

(A) Through direct assessment and demand for payment delivered to Vendor; or

(B) By deduction of amounts assessed as liquidated damages as set-off against payments then due to Vendor for the Services or Deliverables or that become due at any time after assessment of the liquidated damages. DIR will make deductions until the full amount payable by the Vendor is received by the State.

(f) *Equitable Remedies*

(1) Vendor acknowledges that, if Vendor breaches (or attempts or threatens to breach) its obligation under this Agreement, the State will be irreparably harmed. In such a circumstance, DIR may proceed directly to court.

(2) If a court of competent jurisdiction finds that Vendor breached (or attempted or threatened to breach) any such obligations, Vendor agrees that without any additional findings of irreparable injury or other conditions to injunctive relief, it will not oppose the entry of an appropriate injunctive order compelling performance by Vendor and restraining it from any further breaches (or attempted or threatened breaches).

(g) *Suspension of Agreement*

(1) DIR may suspend performance of all or any part of this Agreement if:

(A) DIR determines that Vendor has committed a material breach of this Agreement;

(B) DIR has reason to believe that Vendor, its agent(s) and/or Subcontractors have committed, assisted in the commission of, or failed to take appropriate action concerning fraud, abuse, malfeasance, misfeasance, or nonfeasance concerning this Agreement; or

(C) DIR determines that suspension of this Agreement in whole or in part is convenient or in the best interests of the State of Texas or the DIR Programs.

(2) DIR will notify Vendor in writing of its intention to suspend this Agreement in whole or in part. Such notice will:

(A) Be delivered in writing to Vendor; and

(B) Include a concise description of the facts or matter leading to DIR's decision.

Section 11.03 Termination of Agreement.

In addition to other provisions of this article allowing termination, this Agreement will terminate upon the Expiration Date unless extended in accordance with the terms of this Agreement, or terminated sooner under the terms of this Agreement. Prior to completion of the Initial Term and any extensions or renewal thereof, all or a part of this Agreement may be terminated for any of the following reasons:

(a) *Termination by mutual agreement of the Parties.*

This Agreement may be terminated by mutual agreement of the Parties. Such agreement must be in writing.

(b) *Termination in the best interest of the State.*

DIR may terminate this Agreement at any time when, in its sole discretion, DIR determines that termination is in the best interests of the State of Texas. The termination will be effective on the date specified in DIR's notice of termination.

(c) *Termination for cause.*

DIR reserves the right to terminate this Agreement, in whole or in part, upon the following conditions:

(1) *Assignment for the benefit of creditors, appointment of receiver, or inability to pay debts.*

DIR may terminate this Agreement if Vendor:

(A) Makes an assignment for the benefit of its creditors;

(B) Admits in writing its inability to pay its debts generally as they become due; or

(C) Consents to the appointment of a receiver, trustee, or liquidator of Vendor or of all or any part of its property.

(2) *Failure to adhere to laws, rules, ordinances, or orders.*

DIR may terminate this Agreement if a court of competent jurisdiction finds Vendor failed to adhere to any laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction and such violation prevents or substantially impairs performance of Vendor's duties under this Agreement.

(3) *Breach of confidentiality.*

DIR may terminate this Agreement if Vendor breaches Article 10 of this Agreement or confidentiality laws with respect to the Services and Deliverables provided under this Agreement.

(4) *Failure to maintain adequate personnel or resources.*

DIR may terminate this Agreement if, after providing notice and an opportunity to correct, DIR determines that Vendor has failed to supply personnel or resources and such failure results in Vendor's inability to fulfill its duties under this Agreement.

(5) *Termination for gifts and gratuities.*

(A) DIR may terminate this Agreement following the determination by a competent judicial or quasi-judicial authority and Vendor's exhaustion of all legal remedies that Vendor, its employees, agents or Subcontractors have either offered or given any thing of value to an officer or employee of DIR or the State of Texas in violation of State law.

(B) Vendor must include a similar provision in each of its agency agreements and subcontracts and will enforce this provision against an agent or a Subcontractor who has offered or given any thing of value to any of the persons or entities described in this Section, whether or not the offer or gift was in Vendor's behalf.

(C) Termination of an agent or subcontract by Vendor pursuant to this provision will not be a cause for termination of this Agreement unless:

(1) Vendor fails to replace such terminated Subcontractor within a reasonable time; and

(2) Such failure constitutes Cause as described in this Section.

(D) For purposes of this Section, a "thing of value" means any item of tangible or intangible property that has a monetary value of more than fifty dollars (\$50.00) and includes, but is not limited to, cash, food, lodging, entertainment, and charitable contributions. The term does not include contributions to holders of public office or candidates for public office that are paid and reported in accordance with State or Federal law.

(6) Termination for non-appropriation of funds.

This Agreement is subject to termination, either in whole or in part, without penalty to DIR, subject to appropriation or availability of State funds. DIR is a State agency whose authority and appropriations are subject to actions of the Texas Legislature and whose availability of funds may be subject to governmental action. If DIR becomes subject to a legislative change, revocation of statutory authority, lack of appropriated funds, or unavailability of funds which would render Vendor's delivery or performance under this Agreement impossible or unnecessary, this Agreement will be terminated, either in whole or in part, in the event of a termination under this subsection. DIR will not be liable to Vendor or any other person or entity for any payments, damages, or any other amounts which were otherwise due or which may be caused or associated with such termination and DIR will not be required to give prior notice.

(7) Judgment and execution.

(A) DIR may terminate this Agreement if judgment for the payment of money in excess of \$500,000.00 that is not covered by insurance, is rendered by any court or governmental body against Vendor, and Vendor does not:

(1) Discharge the judgment or provide for its discharge in accordance with the terms of the judgment;

(2) Procure a stay of execution of the judgment within thirty (30) days from the date of entry thereof; or

(3) Perfect an appeal of such judgment and cause the execution of such judgment to be stayed during the appeal, providing such financial reserves as may be required under generally accepted accounting principles.

(B) If a writ or warrant of attachment or any similar process is issued by any court against all or any material portion of the property of Vendor, and such writ or warrant of attachment or any similar process is not released or bonded within thirty (30) days after its entry, DIR may terminate this Agreement in accordance with this Section.

(8) Termination for insolvency.

(A) DIR may terminate this Agreement if Vendor:

(1) Files for bankruptcy;

(2) Becomes or is declared insolvent, or is the subject of any proceedings related to its liquidation, insolvency, or the appointment of a receiver or similar officer for it;

(3) Makes an assignment for the benefit of all or substantially all of its creditors; or

(4) Enters into an Agreement for the composition, extension, or readjustment of substantially all of its obligations.

(B) Vendor agrees to pay for all reasonable expenses of DIR including the cost of counsel, incident to:

(1) The enforcement of payment of all obligations of the Vendor by any action or participation in, or in connection with a case or proceeding under Chapters 7, 11, or 13 of the United States Bankruptcy Code, or any successor statute;

(2) A case or proceeding involving a receiver or other similar officer duly appointed to handle the Vendor's business; or

(3) A case or proceeding in a State court initiated by DIR when previous collection attempts have been unsuccessful.

(9) *Termination for Vendor's material breach of this Agreement.*

DIR has the right to terminate this Agreement in whole or in part if DIR determines, at its sole discretion, that Vendor has materially breached this Agreement.

(10) *Prohibited Vendor's List*

DIR has the absolute right to terminate this Agreement without recourse in the event that:(i) Vendor 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, or (ii) Vendor becomes suspended or debarred from doing business with the Federal government as listed in the Excluded Parties List System (EPLS) maintained by the General Services Administration or (iii) Vendor is found by DIR to be ineligible to hold this Agreement under Subsection (b) of Section 2155.006, Texas Government Code. Vendor will be provided written notice in accordance with Article 11, of intent to terminate.

Section 11.04 Effective date of termination.

Except as otherwise provided in this Agreement, termination will be effective as of the date specified in the notice of termination.

Section 11.05 Extension of termination effective date.

DIR may extend the effective date of termination one or more times as it elects, in its sole discretion, without waiving any other termination provisions of this Agreement

Section 11.06 Payment and other provisions at Agreement termination.

(a) If DIR terminates this Agreement, DIR will pay Vendor on the effective date of termination (or as soon as practical thereafter taking into account appropriation and fund accounting requirements) any undisputed amounts due for all completed, approved, and accepted Services or Deliverables.

(b) DIR further agrees to negotiate in good faith with Vendor to equitably adjust and settle any accrued or outstanding liabilities for any unaccepted Service or Deliverable and Change Order that:

(1) Is due or delivered prior to or upon termination of this Agreement;

(2) Is complete or substantially complete, or for which Vendor can document to the satisfaction of DIR substantial progress of completion; and

(3) Benefits DIR or the State of Texas, notwithstanding its unaccepted status.

(c) Vendor must provide DIR all reasonable access to records, facilities, and documentation as is required to efficiently and expeditiously close out the Services under this Agreement.

(d) Vendor must prepare a Disentanglement Plan, which is acceptable to and approved by DIR. That Disentanglement Plan will be implemented during the time period between receipt of notice and the termination date.

Section 11.07 *Modification of Agreement in the event of remedies.*

DIR may propose a modification of this Agreement in response to the imposition of a remedy under this article. Any modifications under this Section must be reasonable, limited to the matters causing the exercise of a remedy, and in writing. Vendor must negotiate such proposed modifications in good faith.

Section 11.08 *Disentanglement assistance.*

Upon receipt of notice of full or partial termination of this Agreement by DIR, Vendor will provide any Disentanglement assistance reasonably necessary to enable DIR or its designee to effectively close out this Agreement and move the work to another vendor or DIR may perform the work by itself.

Section 11.09 *Rights upon termination or expiration of Agreement.*

In the event that this Agreement is terminated for any reason, or upon its expiration, DIR will, at DIR's sole discretion, retain ownership of any and all Software and associated work products, and/or Deliverables in whatever form that they exist.

Section 11.10 *Vendor responsibility for associated costs.*

If DIR terminates this Agreement for Cause, the Vendor will be responsible to DIR for all costs incurred by DIR, the State, or any of its administrative agencies to replace the Vendor. These costs include, but are not limited to, the costs of procuring a substitute vendor and the cost of any claim or litigation that is reasonably attributable to Vendor's failure to perform any Service in accordance with the terms of this Agreement

Section 11.11 *Dispute resolution.*

(a) General agreement of the Parties.

The Parties mutually agree that the interests of fairness, efficiency, and good business practices are best served when the Parties employ all reasonable and informal means to resolve any dispute under this Agreement. The Parties express their mutual commitment to using all reasonable and informal means of resolving disputes prior to invoking a remedy provided elsewhere in this Section.

(b) Duty to negotiate in good faith.

Any dispute that in the judgment of any Party to this Agreement may materially or substantially affect the performance of any Party will be reduced to writing and delivered to the other Party. The Parties must then negotiate in good faith and use reasonable efforts to resolve such dispute and the Parties will not resort to filing any lawsuit unless they have reasonably determined that a negotiated resolution is not possible. The resolution of any dispute disposed of by agreement between the Parties will be reduced to writing and delivered to all Parties within ten (10) business days.

(c) Claims for breach of Agreement.

(1) General requirement. As required by and in accordance with Chapter 2260, Texas Government Code, Vendor's claim for breach of this Agreement must be resolved in accordance with the dispute resolution process established by DIR.

(2) Negotiation of claims. The Parties expressly agree that the Vendor's claim for breach of this Agreement that the Parties cannot resolve in the ordinary course of business or through the use of all reasonable and informal means will be submitted to the negotiation process provided in Chapter 2260, Subchapter B, Texas Government Code.

(A) The Parties expressly agree that the Vendor's compliance with Chapter 2260, Subchapter B, Texas Government Code, will be a condition precedent to the filing of a contested case proceeding under Chapter 2260, Subchapter C, of the Texas Government Code.

(3) Contested case proceedings. The contested case process provided in Chapter 2260, Subchapter C, Texas Government Code, will be Vendor's sole and exclusive process for seeking

a remedy for any and all alleged breaches of the Agreement by DIR if the Parties are unable to resolve their disputes under Subsection (c)(2) of this Section.

(A) The Parties expressly agree that compliance with the contested case process provided in Chapter 2260, Subchapter C, Texas Government Code, will be a condition precedent to seeking consent to sue from the Texas Legislature under Chapter 107, Texas Civil Practices & Remedies Code. Neither the execution of this Agreement by DIR nor any other conduct of any representative of DIR relating to this Agreement will be considered a waiver of the State's sovereign immunity to suit.

(4) *DIR rules.* The submission, processing and resolution of Vendor's claim is governed by the rules adopted by DIR pursuant to Chapter 2260, Texas Government Code, found at Title 1, Chapter 201, of the Texas Administrative Code.

(5) *Vendor's duty to perform.* Neither the occurrence of an event constituting an alleged breach of contract nor the pending status of any claim for breach of contract is grounds for the suspension of performance, in whole or in part, by Vendor of any duty or obligation with respect to the performance of this Agreement. Any changes to this Agreement as a result of a Dispute Resolution will be implemented in accordance with Article 7, Amendments, Modifications and Change Orders.

Section 11.12 Liability of Vendor.

(a) Vendor bears all risk of loss or damage due to:

- (1) Defects in Software, products, Services or Deliverables;
- (2) Unfitness or obsolescence of Software, products, Services or Deliverables; or
- (3) The negligence or intentional misconduct of Vendor or its employees, agents, or Subcontractors.

(b) Vendor must, at the Vendor's own expense, defend with counsel approved by the State, indemnify, and hold harmless the State and State employees, officers, directors, contractors and agents from and against any losses, liabilities, damages, penalties, costs, fees, including without limitation reasonable attorneys' fees, and expenses arising out of, or resulting from, any acts or omissions of the Vendor, or its agents or Subcontractors, in the execution or performance of this Agreement REGARDLESS OF THE NEGLIGENCE OF DIR, THE STATE AND/OR THEIR EMPLOYEES, AGENTS, OR CONTRACTORS. VENDOR WILL PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS FEES AND EXPENSES. THE DEFENSE WILL BE COORDINATED BY THE OFFICE OF THE ATTORNEY GENERAL FOR TEXAS STATE AGENCIES AND BY CUSTOMER'S LEGAL COUNSEL FOR NON-STATE AGENCY CUSTOMERS.

(c) Vendor will not be liable to DIR for any loss, damages or liabilities attributable to or arising from:

(1) The failure of DIR or any State agency to perform a service or activity in connection with this Agreement; or

(2) Vendor's prudent and diligent performance of the Services in compliance with instructions given by DIR in accordance with Section 1.03 (relating to implied authority) and Section 3.03 (relating to delegation of authority) of this Agreement.

(d) Vendor will ship all Equipment and Software purchased and Third Party Software licensed pursuant to this Agreement, freight prepaid, FOB DIR's destination. The method of shipment will be consistent with the nature of the Equipment, Software and hazards of transportation. Regardless of FOB point, Vendor agrees to carry adequate freight insurance and bear all risks of loss, damage, or destruction of Deliverables, in whole or in part, ordered hereunder that occurs prior to Acceptance, except loss or damage attributable to DIR's fault or negligence; and such loss, damage, or destruction will not release Vendor from any obligation hereunder. After Acceptance, the risk of loss or damage will be borne by DIR, except loss or damage attributable to Vendor's fault or negligence.

Article 12. Assurances and Certifications

Section 12.01 *Proposal certifications.*

Vendor certifies that it: (i) 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 this Agreement, (ii) is not currently delinquent in the payment of any franchise tax owed the State, and relating to child support obligations is not ineligible to receive payment under §231.006 of the Texas Family Code and acknowledge this Agreement may be terminated and payment withheld if this certification is inaccurate, and furthermore, any Offer submitted under this RFO shall contain the names and social security numbers of person or entity holding at least a twenty-five percent (25%) ownership interest in the business entity submitting the Offer, (iii) neither it, nor anyone acting for it, has violated State or Federal antitrust laws, 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) under Texas Government Code, Section 2155.004, no person who prepared the specifications or this RFO has any financial interest in Vendor's Offer, (v) under Section 2155.004, Texas Government Code, Vendor certifies that the individual or business entity named in this Proposal or Agreement is not ineligible to receive the specified Agreement and acknowledges that this Agreement 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 it, which if determined adversely to it will have a material adverse effect on the ability to fulfill its obligations under this Agreement, (vii) is not suspended or debarred from doing business with the Federal government as listed in the Excluded Parties List System (EPLS) maintained by the General Services Administration, (viii) as of the effective date of this Agreement, is not listed in 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 and (ix) under Section 2155.006, Government Code, Vendor certifies that the individual or business entity in this Agreement is not ineligible to receive the specified agreement and acknowledges that this agreement may be terminated and payment withheld if this certification is inaccurate . In addition, Vendor acknowledges the applicability of §2155.444 and §2155.4441, Texas Government Code, in fulfilling the terms of this Agreement.

Section 12.02 *Conflicts of interest.*

(a) *Representation.*

Vendor agrees to comply with applicable State and Federal laws, rules, and regulations regarding conflicts of interest in the performance of its duties under this Agreement. Vendor warrants that it has no interest and will not acquire any direct or indirect interest that would conflict in any manner or degree with its performance under this Agreement.

(b) *General duty regarding conflicts of interest.*

Vendor will establish safeguards to prohibit employees, agents, and Subcontractors from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain. Vendor, agents, and Subcontractors will operate with complete independence and objectivity without actual, potential or apparent conflict of interest with respect to the activities conducted under this Agreement with the State.

Section 12.03 *Organizational conflicts of interest.*

(a) *Definition.*

An organizational conflict of interest is a set of facts or circumstances, a relationship, or other situation under which Vendor, agent, or Subcontractor has past, present, or currently planned personal or financial activities or interests that either directly or indirectly:

- (1) Impairs or diminishes Vendor's, or Subcontractor's ability to render impartial or objective assistance or advice to DIR; or

(2) Provides the Vendor, agent, or Subcontractor an unfair competitive advantage in future DIR procurements.

(b) *Warranty.*

Except as otherwise disclosed and approved by DIR prior to the Effective Date of this Agreement, Vendor warrants that, as of the Effective Date and to the best of its knowledge and belief, there are no relevant facts or circumstances that could give rise to organizational conflict of interest affecting this Agreement. Vendor affirms that it has neither given, nor intends to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or any employee or representative of same, at any time during the procurement process or in connection with the procurement process except as allowed under relevant State and Federal law.

(c) *Continuing duty to disclose.*

(1) Vendor agrees that, if after the Effective Date, Vendor discovers or is made aware of an organizational conflict of interest, Vendor will immediately and fully disclose such interest in writing to DIR. In addition, Vendor must promptly disclose any relationship that might be perceived or represented as a conflict after its discovery by Vendor or by DIR as a potential conflict. DIR reserves the right to make a final determination regarding the existence of conflicts of interest, and Vendor agrees to abide by DIR's decision.

(2) The disclosure will include a description of the action(s) that Vendor has taken or proposes to take to avoid or mitigate such conflicts.

(d) *Remedy.*

If DIR determines that an organizational conflict of interest exists, DIR may, at its discretion, terminate the contract. If DIR determines that Vendor was aware of an organizational conflict of interest before the award of this Agreement and did not disclose the conflict to the contracting officer, such nondisclosure will be considered a material breach of this Agreement. Furthermore, such breach may be submitted to the Texas Office of the Attorney General, Texas Ethics Commission, or appropriate State or Federal law enforcement officials for further action.

(e) *Flow down obligation.*

Vendor must include the provisions of this Section 12.03 in all agent agreements and subcontracts for work to be performed similar to the service provided by Vendor, and the terms "Agreement," "Vendor," and "project manager" modified appropriately to preserve the State's rights.

Section 12.04 *DIR personnel recruitment prohibition.*

Vendor has not retained or promised to retain any agent, Subcontractor, person, or company, or utilized or promised to utilize an agent, or a Subcontractor that participated in DIR's development of specific criteria of this Agreement or who participated in the selection of the Vendor for this Agreement.

Vendor will not recruit or employ any DIR professional or technical personnel who have worked on projects relating to the subject matter of this Agreement, or who have had any influence on decisions affecting the subject matter of this Agreement, for two (2) years following the completion of this Agreement.

Section 12.05 *Anti-kickback provision.*

Vendor certifies that it will comply with the Anti-Kickback Act of 1986, 41 USC §51-58 and Federal Acquisition Regulation 52.203-7.

Section 12.06 *Debt or back taxes owed to the State of Texas.*

In accordance with Section 403.055 of the Texas Government Code, Vendor agrees that any payments due to Vendor under this Agreement will be first applied toward any debt and/or back taxes Vendor owes the State. Vendor further agrees that payments will be so applied until such debts and back taxes are paid in full.

Section 12.07 Certification regarding status of license, certificate, or permit.

Article IX, Section 163 of the Texas General Appropriations Act for the 1998/1999 State fiscal biennium prohibits an agency that receives an appropriation under either Article II or V of the General Appropriations Act from awarding a Agreement with the owner, operator, or administrator of a facility that has had a license, certificate, or permit revoked by another Article II or V agency. Vendor certifies it is eligible for an award under this provision.

Section 12.08 Outstanding debts and judgments.

Vendor certifies that it is not presently indebted to the State, and that Vendor is not subject to an outstanding judgment in a suit by the State against Vendor for collection of the balance. For purposes of this Section, an indebtedness is any amount sum of money that is due and owing to the State and is not currently under dispute. A false statement regarding Vendor's status will be treated as a material breach of this Agreement and may be grounds for termination at the option of DIR.

Section 12.09 Anti-trust.

In submitting a proposal, and in accepting this Agreement, Contractor certifies and agrees as follows:

(1) Neither the Vendor, nor agent, nor Subcontractor, nor the person represented by the Vendor, nor any person acting for the represented person has:

(a) violated the antitrust laws codified by Chapter 15, Texas Business & Commerce Code, or the Federal antitrust laws; or

(b) directly or indirectly communicated the Proposal or Offer associated with this Agreement to a competitor or other person engaged in the same line of business.

(2) Vendor hereby assigns to DIR any and all claims for overcharges associated with this contract arising under the anti-trust laws of the United States, 15 U.S.C.A. Section 1, *et seq.* (1973), as amended, and the anti-trust laws of the State of Texas, TEX. BUS. & COMM. CODE ANN. Section 15.01, *et seq.* (1967), as amended.

Section 12.10 Agency Executive.

Under Texas Government Code, Section 669.003, relating to contracting with an executive of a state agency, Vendor represents that no person who, in the past four years, served as an executive of the Texas Comptroller of Public Accounts, DIR, or any other State agency, was involved with or has any interest in this Offer or any Agreement resulting from this RFO. If Vendor employs or has used the services of a former executive head of DIR or other State agency, then Vendor shall provide the following information: Name of former executive, name of State agency, date of separation from State agency, position with Vendor, and date of employment with Vendor.

Section 12.11 Deceptive Trade Practices; Unfair Business Practices.

Vendor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Tex. Bus. & Com. Code, Chapter 17, or allegations of any unfair business practice in any administrative hearing or court suit and that Vendor has not been found to be liable for such practices in such proceedings. Vendor certifies that it has no officers who have served as officers of other entities who have been the subject allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.

Article 13. Representations and Warranties

Section 13.01 Authorization.

(a) The execution, delivery and performance of this Agreement has been duly authorized by Vendor and no approval, authorization or consent of any governmental or regulatory agency is

required to be obtained in order for Vendor to enter into this Agreement and perform its obligations under this Agreement.

(b) Vendor has obtained all licenses, certifications, permits, and authorizations necessary to perform the Services under this Agreement and currently is in good standing with all regulatory agencies that regulate any or all aspects of Vendor's performance of this Agreement. Vendor will maintain all required certifications, licenses, permits, and authorizations during the term of this Agreement.

Section 13.02 Ability to perform.

Vendor warrants that it has the financial resources to fund the capital expenditures required under this Agreement without advances by DIR or assignment of any payments by DIR to a financing source.

Section 13.03 Workmanship and performance.

(a) All Services and Deliverables provided under this Agreement will be provided in a manner consistent with the standards of quality and integrity as outlined in this Agreement, the RFO, and Vendor's Proposal.

(b) All Services and Deliverables must meet or exceed the required levels of performance specified in or pursuant to this Agreement, and will meet or exceed DIR's Objectives, as set forth in the RFO.

(c) Vendor, agents, and Subcontractors will perform the Services in a workmanlike manner, in accordance with best practices and high professional standards used in well-managed operations performing services similar to the services described in this Agreement.

Section 13.04 Warranty of deliverables.

Vendor warrants that Deliverables developed and delivered under this Agreement will meet the Specifications as described in this Agreement during the period following its acceptance by DIR, through the term of this Agreement, including any extensions as provided in this Agreement, that are subsequently negotiated by Vendor and DIR. Vendor will promptly repair or replace any such Deliverables not in compliance with this warranty at no charge to DIR.

Section 13.05 Manufacturers' warranties.

Vendor assigns to DIR all of the manufacturers' warranties and indemnities relating to all products, including without limitation, Third Party Software to the extent Vendor is permitted by the manufacturers to make such assignments to DIR. Such assignment is subject to all of the terms and conditions imposed by the manufacturers with respect thereto.

Section 13.06 Compliance with agreement.

Vendor will not take any action substantially or materially inconsistent with any of the terms and conditions set forth in this Agreement without the express written approval of DIR.

Article 14. Intellectual Property

Section 14.01 Infringement and misappropriation.

(a) Vendor warrants that all Deliverables provided by Vendor will not infringe or misappropriate any right of, and will be free of any claim of, any third person or entity based on copyright, patent, trade secret, or other intellectual property rights.

(b) Vendor will, at its expense, defend with counsel approved by DIR, indemnify, and hold harmless DIR, its employees, officers, directors, contractors, and agents from and against any losses, liabilities, damages, penalties, costs, fees, including without limitation reasonable attorneys' fees and expenses, from any claim or action against DIR that is based on a claim of breach of the warranty set forth in the preceding paragraph. DIR will promptly notify Vendor in writing of the claim,

provide Vendor a copy of all information received by DIR with respect to the claim, and cooperate with Vendor in defending or settling the claim.

(c) In case the Deliverables, or any one or part thereof, is in such action held to constitute an infringement or misappropriation, or the use thereof is enjoined or restricted or if a proceeding appears to Vendor to be likely to be brought, Vendor will, at its own expense, either:

(1) Procure for DIR the right to continue using the Deliverables; or

(2) Modify or replace the Deliverables to comply with the Specifications and to not violate any intellectual property rights.

Section 14.02 *Exceptions.*

Vendor is not responsible for any claimed breaches of the warranties set forth in Section 14.01 to the extent caused by:

(a) Modifications made to the item in question by anyone other than Vendor or its agents or Subcontractors, or DIR or its agents working at Vendor's direction or in accordance with the specifications; or

(b) The combination, operation, or use of the item with other items if Vendor did not supply or approve for use with the item; or

(c) DIR's failure to use any new or corrected versions of the item made available by Vendor.

Section 14.03 *Rights in data.*

(a) DIR or Customer will be and remain the owner of all data made available by DIR or Customer to Vendor or its agents, Subcontractors or representatives pursuant to the Agreement. Vendor will not use DIR or Customer data for any purpose other than providing the Services, nor will any part of DIR or Customer data be disclosed, sold, assigned, leased or otherwise disposed of to the general public or to specific third parties or commercially exploited by or on behalf of Vendor, nor will any employee of Vendor other than those on a strictly need to know basis have access to DIR or Customer data. Vendor will not possess or assert any lien or other right against DIR or Customer data. Without limiting the generality of this Section, Vendor will only use personally identifiable information as strictly necessary to provide the Services and will disclose such information only to its employees who have a strict need to know such information. Vendor will comply at all times with all State and Federal laws and regulations applicable to such personally identifiable information.

(b) DIR or Customer is and will remain the owner of all DIR or Customer-specific data pursuant to the Agreement. DIR or Customer may use the data provided by the Vendor for any purpose. DIR or Customer will not possess or assert any lien or other right against the Vendor's data.

Section 14.04 *Ownership of pre-existing materials.*

DIR or Customer and Vendor will continue to own their respective proprietary technologies developed before entering into the Agreement. Any equipment bought through the Vendor by DIR or Customer, and paid for by DIR or Customer, will be owned by DIR or Customer. Any software licensed through the Vendor and sold to DIR or Customer, will be licensed directly to DIR or Customer.

Section 14.05 *Third-party commercial software.*

If applicable and necessary, all third-party commercial software used in performing the Services will be provided to DIR or Customer under a separate license agreement between DIR or Customer and the owner (or authorized licensor) of such software.

Section 14.06 *Pre-existing materials for custom software deliverables.*

Neither Vendor nor any of its agents, or representatives, or its Subcontractors will incorporate any pre-existing materials (including third-party commercial software) into Custom Software Deliverables or use any pre-existing materials to produce Custom Software Deliverables if such pre-existing materials will be needed by DIR or Customer in order to use the Custom Software Deliverables unless (i) such pre-existing materials and their owners are identified to DIR or

Customer in writing, and (ii) such pre-existing materials are either readily commercially available products for which Vendor or its Subcontractor, as the case may be, has obtained a license (in form and substance approved by DIR) in the name of DIR or Customer, or are materials that Vendor or its Subcontractor, as the case may be, has the right to license to DIR or Customer and has licensed to DIR or Customer on terms and conditions approved by DIR prior to using such pre-existing materials to perform the Services.

Section 14.07 Ownership of work product by DIR or Customer.

(a) All Deliverables, including reports, marketing and survey information, financial reports, and plans, will be owned by DIR or Customer and will be considered “works made for hire” by the Vendor for DIR or Customer. DIR or Customer will own all United States and international copyrights, trademarks, patents, trade secrets, or other proprietary rights in the Deliverables. In its Offer, Vendor must identify all Deliverables and ownership criteria.

(b) With the sole exception of any pre-existing licensed works identified by the vendor, the Vendor will assign, and upon creation of each Deliverable automatically assigns, to DIR or Customer, ownership of all United States and international copyrights, trademarks, patents, trade secrets, or other proprietary rights in each and every Deliverable, whether or not registered by the Vendor, insofar as any such Deliverable, by operation of law, may not be considered “work made for hire” by the Vendor for DIR or Customer. From time to time upon DIR request, the Vendor and/or its personnel will confirm such assignment by execution and delivery of the assignments, confirmations of assignment, or other written instruments as DIR may request. DIR or Customer will have the right to obtain and hold in its own name all copyright, trademark, and patent registrations and other evidence of rights that may be available for Deliverables.

Article 15. Liability

Section 15.01 Property damage.

(a) Vendor will protect DIR’s real and personal property from damage arising from Vendor’s, its agent’s, and Subcontractors’ performance of this Agreement, and Vendor will be responsible for any loss, destruction, or damage to DIR’s property that results from or is caused by Vendor’s, its agents’, or Subcontractors’ negligent or wrongful acts or omissions. Upon the loss of, destruction of, or damage to any property of DIR, Vendor will notify the DIR Project Manager thereof and, subject to direction from the Project Manager or their designee, will take all reasonable steps to protect that property from further damage.

(b) Vendor agrees to observe and encourage its employees, agents, and Subcontractors to observe safety measures and proper operating procedures at DIR sites at all times.

(c) Vendor will distribute a policy statement to all of its employees, agents, and Subcontractors that directs the employee, agent, or Subcontractor to immediately report to DIR or to Vendor any special defect or unsafe condition encountered while on DIR premises. Vendor will immediately report to DIR any special defect or an unsafe condition it encounters or otherwise learns about.

Section 15.02 Risk of Loss.

During the period Deliverables are in transit and in possession of Vendor, its carriers or DIR prior to being accepted by DIR, Vendor will insure and bear the risk of loss or damage thereto, unless such loss or damage is caused by the negligence or intentional misconduct of DIR. After DIR accepts a Deliverable, the risk of loss or damage to the Deliverable will be borne by DIR, except loss or damage attributable to the negligence or intentional misconduct of Vendor’s agents, employees or Subcontractors.

Section 15.03 Limitation of Liability.

(a) For any claim or cause of action arising under or related to the Agreement, none of the Parties will be liable to the other for indirect punitive, special, or consequential damages, even if it is advised of the possibility of such damages.

(b) DIR'S LIABILITY TO VENDOR UNDER THE AGREEMENT WILL NOT EXCEED THE TOTAL CHARGES TO BE RECEIVED BY VENDOR UNDER THE AGREEMENT IN THE TWELVE (12) MONTHS PRECEDING THE FILING OF A LAWSUIT, INCLUDING CHANGE ORDER PRICES AGREED TO BY THE PARTIES OR OTHERWISE ADJUDICATED.

(c) Exceptions to Limitations of Liability. This Section will not apply with respect to:

(1) Losses occasioned by the fraud, willful misconduct, or gross negligence of a Party.

(2) Losses that are the subject of indemnification under this Agreement.

(3) Losses occasioned by the wrongful termination of this Agreement by Vendor.

(4) Losses occasioned by Vendor's refusal to provide Services (including Disentanglement assistance services). For purposes of this provision, "refusal" means the intentional cessation by Vendor, in a manner impermissible under this Agreement, of the performance of all or a material portion of the Services then required to be provided by Vendor under this Agreement.

(5) Losses occasioned by any breach of a Party's representations or warranties under this Agreement.

(6) Losses occasioned by any breach of a Party's obligations under Section 10.

(d) Items Not Considered Damages. The following will not be considered damages subject to, and will not be counted toward the liability exclusion or cap specified herein:

(1) Service level credits assessed against Vendor pursuant to this Agreement.

(2) Amounts withheld by DIR in accordance with this Agreement due to incorrect charges or services not provided.

(3) Amounts paid by DIR but subsequently recovered from Vendor due to incorrect charges or services not provided.

(4) Invoiced Charges and other amounts that are due and owing to Vendor for services under this Agreement.

Appendix C – HUB Subcontracting Plan



HUB SUBCONTRACTING PLAN (HSP)

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

Note: Responses that do not include a completed HSP shall be rejected pursuant to 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 State of Texas Disparity Study. The HUB goals defined in 34 TAC §20.13 are: **11.9 percent for heavy construction other than building contracts, 26.1 percent for all building construction, including general contractors and operative builders contracts, 57.2 percent for all special trade construction contracts, 20 percent for professional services contracts, 33 percent for all other services contracts, and 12.6 percent for commodities contracts.**

-- Agency Special Instructions/Additional Requirements --

For assistance in completing this form, please contact DIR's HUB Coordinator at bernadette.davis@dir.state.tx.us.

If you are not subcontracting any portion of the contract, the self performance justification statement must be completed (Section 9).

If you are subcontracting, your supporting documentation of the good faith effort must be included with your response (Section 7). You must also list the subcontractor(s) you selected, to include HUB and Non-HUB vendors (Section 8).

Failure to comply may result in your response being rejected.

SECTION 1 - RESPONDENT AND SOLICITATION INFORMATION

a. Respondent (Company) Name: _____ State of Texas VID #: _____

Point of Contact: _____ Phone #: _____

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

c. Solicitation #: _____

SECTION 2 - SUBCONTRACTING INTENTIONS

After having divided the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, the respondent must determine what portion(s) of work, including goods or services, will be subcontracted. Note: In accordance with 34 TAC §20.12., a "Subcontractor" means a person who contracts with a vendor to work, to supply commodities, or contribute toward completing work for a governmental entity. Check the appropriate box that identifies your subcontracting intentions:

- Yes, I will be subcontracting portion(s) of the contract.
(If Yes, in the spaces provided below, list the portions of work you will be subcontracting, and go to page 2.)
- No, I will not be subcontracting any portion of the contract, and will be fulfilling the entire contract with my own resources.
(If No, complete SECTION 9 and 10.)

Line Item # - Subcontracting Opportunity Description	Line Item # - Subcontracting Opportunity Description
(#1) -	(#11) -
(#2) -	(#12) -
(#3) -	(#13) -
(#4) -	(#14) -
(#5) -	(#15) -
(#6) -	(#16) -
(#7) -	(#17) -
(#8) -	(#18) -
(#9) -	(#19) -
(#10) -	(#20) -

*If you have more than twenty subcontracting opportunities, a continuation page is available at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/HUBSubcontractingPlanContinuationPage1.doc>

Enter your company's name here: _____	Solicitation #: _____
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IMPORTANT: You must complete a copy of this page for each of the subcontracting opportunities you listed in SECTION 2. You may photocopy this page or download copies at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/HUBSubcontractingPlanContinuationPage2.doc>.

SECTION 3 - SUBCONTRACTING OPPORTUNITY

Enter the line item number and description of the subcontracting opportunity you listed in SECTION 2.
 Line Item # _____ Description: _____

SECTION 4 - MENTOR-PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting their Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the portion of work (subcontracting opportunity) listed in SECTION 3, constitutes a good faith effort towards that specific portion of work. Will you be subcontracting the portion of work listed in SECTION 3 to your Protégé?
 - Yes (If Yes, complete SECTION 8 and 10.) - No / Not Applicable (If No or Not Applicable, go to SECTION 5.)

SECTION 5 - PROFESSIONAL SERVICES CONTRACTS ONLY

This section applies to Professional Services Contracts only. All other contracts go to SECTION 6.
 Does your HSP contain subcontracting of 20% or more with HUB(s)?
 - Yes (If Yes, complete SECTION 8 and 10.) - No / Not Applicable (If No or Not Applicable, go to SECTION 6.)
In accordance with Gov't Code §2254.004, "Professional Services" means services: (A) within the scope of the practice, as defined by state law of accounting; architecture; landscape architecture; land surveying; medicine; optometry; professional engineering; real estate appraising; or professional nursing; or (B) provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant; an architect; a landscape architect; a land surveyor; a physician, including a surgeon; an optometrist; a professional engineer; a state certified or state licensed real estate appraiser; or a registered nurse.

SECTION 6 - NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

Complying with a, b and c of this section constitutes Good Faith Effort towards the portion of work listed in SECTION 3. After performing the requirements of this section, complete SECTION 7, 8 and 10.

- Provide written notification of the subcontracting opportunity listed in SECTION 3 to **three (3)** or more HUBs. Use the State of Texas' Centralized Master Bidders List (CMBL), found at <http://www2.cpa.state.tx.us/cmb/cmbhub.html>, and its HUB Directory, found at <http://www2.cpa.state.tx.us/cmb/hubonly.html>, to identify available HUBs. **Note: Attach supporting documentation (letters, phone logs, fax transmittals, electronic mail, etc.) demonstrating evidence of the good faith effort performed.**
- Provide written notification of the subcontracting opportunity listed in SECTION 3 to a minority or women trade organization or development center to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. A list of trade organizations and development centers may be accessed at <http://www.window.state.tx.us/procurement/prog/hub/mwb-links-1/>. **Note: Attach supporting documentation (letters, phone logs, fax transmittals, electronic mail, etc.) demonstrating evidence of the good faith effort performed.**
- Written notifications should include the scope of the work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. Unless the contracting agency has specified a different time period, you must allow the HUBs no less than **five (5) working days** from their receipt of notice to respond, **and** provide notice of your subcontracting opportunity to a minority or women trade organization or development center no less than **five (5) working days** prior to the submission of your response to the contracting agency.

SECTION 7 - HUB FIRMS CONTACTED FOR SUBCONTRACTING OPPORTUNITY

List **three (3)** State of Texas certified HUBs you notified regarding the portion of work (subcontracting opportunity) listed in SECTION 3. Specify the vendor ID number, date you provided notice, and if you received a response. **Note: Attach supporting documentation (letters, phone logs, fax transmittals, electronic mail, etc.) demonstrating evidence of the good faith effort performed.**

Company Name	VID #	Notice Date (mm/dd/yyyy) / /	Was Response Received? <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

SECTION 8 - SUBCONTRACTOR SELECTION

List the subcontractor(s) you selected to perform the portion of work (subcontracting opportunity) listed in SECTION 3. Also, specify the expected percentage of work to be subcontracted, the approximate dollar value of the work to be subcontracted, and indicate if the company is a Texas certified HUB.

Company Name	VID #	Expected % of Contract %	Approximate Dollar Amount \$	Texas Certified HUB? <input type="checkbox"/> - Yes <input type="checkbox"/> - No*
_____	_____	_____%	_____\$	<input type="checkbox"/> - Yes <input type="checkbox"/> - No*
_____	_____	_____%	_____\$	<input type="checkbox"/> - Yes <input type="checkbox"/> - No*

*If the subcontractor(s) you selected is not a Texas certified HUB, provide written justification of your selection process below:

Enter your company's name here: _____	Solicitation #: _____
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SECTION 9 - SELF PERFORMANCE JUSTIFICATION

(If you responded "No" to SECTION 2, you must complete SECTION 9 and 10.)

Does your response/proposal contain an explanation demonstrating how your company will fulfill the entire contract with its own resources?

- **Yes** If Yes, in the space provided below, list the specific page/section of your proposal which identifies how your company will perform the entire contract with its own equipment, supplies, materials and/or employees.

- **No** If No, in the space provided below, explain how your company will perform the entire contract with its own equipment, supplies, materials, and/or employees.

SECTION 10 - 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 are true and correct. Respondent understands and agrees that, if awarded any portion of the solicitation:

- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying their compliance with the HSP, including the use/expenditures they have made to subcontractors. (The PAR is available at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/progressassessmentrpt.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to their HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to debarment pursuant to Gov't Code §2161.253(d).
- 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 to be performed and must provide documents regarding staff and other resources.

_____ Signature	_____ Printed Name	_____ Title	_____ Date
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Appendix D – Vendor Certifications

VENDOR MUST SIGN AND SUBMIT THIS MANDATORY VENDOR CERTIFICATIONS FORM OR THE OFFER WILL BE REJECTED.

By submitting an Offer, the Vendor agrees to and certifies the following:

1. The Vendor accepts the RFO terms and conditions, including the Standard Terms and Conditions in Appendix B, and other RFO requirements unless specifically noted. DIR reserves the right to reject any or all of the Vendor's proposed exceptions.
2. The Vendor's Offer will remain a firm and binding offer for 270 days from the date the Offer is due.
3. The Vendor guarantees that the Offer complies with all RFO requirements, at the costs outlined in the Offer. The Vendor further guarantees that the terms specified in the Offer will remain firm and binding through the Agreement termination date, unless the parties agree to modify such terms in the Agreement.
4. DIR will have the right to use, produce, and distribute copies of, and disclose all or part of the Offer to DIR employees, agents, and contractors and other governmental entities as DIR deems necessary to complete the procurement process or comply with State or federal laws.
5. Neither the Vendor nor any firm, corporation, partnership, or institution represented by the Vendor, nor anyone acting for such firm, corporation, partnership or institution has (1) violated the antitrust laws of the State of Texas under TEX. BUS. & COM. CODE, Chapter 15, or federal antitrust laws, or (2) communicated directly or indirectly the Offer to any competitor or any other person engaged in such line of business during the procurement process.
6. All prices proposed by the Vendor have been arrived at independently. The Vendor has not, for the purpose of restricting competition, consulted, communicated with, and/or made any agreements with or inducements to any other Vendor relating to
 - the intention to submit an Offer,
 - the methods or factors used to calculate the prices proposed, or
 - the Vendor's Offer.
7. On behalf of itself, any parent or subordinate organization and all proposed Subcontractors, the Vendor accepts as lawful and binding, without reservation or limitation:
 - the RFO submission requirements and specifications, including all RFO appendices and addenda, except as noted in the Offer;
 - DIR procurement rules, procedures, and processes;
 - DIR use of the evaluation methodology and process described in RFO Section 5;
 - DIR's sole, unrestricted right to reject any or all Offers, or parts thereof, submitted in response to the RFO;
 - the substantive, professional, legal, procedural, and technical propriety of the RFO Scope of Work.
8. The Vendor generally releases from liability and waives all claims against any party providing information about the Vendor at DIR request.

9. Prior to assigning any personnel to perform any part of its obligation under the Agreement, the Vendor agrees that it will require its personnel and Subcontractor personnel to execute individual confidentiality agreements, which upon execution will become part of the Agreement.
10. The Vendor does not have personal or business interests that present a conflict of interest with respect to the RFO and resulting Agreement, and if applicable, the Vendor has identified any potential conflicts of interest in its Offer.
11. The Vendor has complied with all State of Texas and federal laws and regulations relating to the hiring of former state employees, and has disclosed all past state employment in its Offer.
12. The Vendor has identified all parts of its Offer that it believes are excepted from disclosure under the Texas Public Information Act, and provided an explanation of why it believes the exceptions apply.
13. Under Section 2155.004, Texas Government Code, the Vendor is not ineligible to receive the specified Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.
14. Under Section 231.006, Texas Family Code, relating to child support obligations, the Vendor and any other individual or business entity named in this solicitation are eligible to receive the specified payment and acknowledge that this Agreement may be terminated and payment withheld if this certification is inaccurate.
15. The Vendor will adhere to, and require its Subcontractors to adhere to, Executive Order 13224, "Terrorist Financing – Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism," effective September 24, 2004, as amended.
16. Vendor has not given, offered to give, nor intends to give at anytime hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted response.
17. The Vendor acknowledges all addenda and amendments to the RFO.

Signature of Officer or Agent empowered to contractually bind the Vendor

Printed Name

Title

Date

Appendix E – Financial Plan

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Appendix E.1 – Staffing Projections	Bid Packet 2
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Appendix F – Reference Materials

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Appendix F.3 – TexasOnline Portal Overview	Online
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Appendix F.5 – DCS Reference Materials	Online
(a) DCS Standard Configurations	Online
(b) TexasOnline DCS Cost Estimate Workbook	Bid Packet 2
(c) TexasOnline DCS Cost Estimate Proposed Solution Workbook	Bid Packet 2
Appendix F.6 – Current Contracts, Agreements, and Statutes	Online
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Appendix F.9 – TEX-AN Telecommunications Cost Schedule	RFO Page 157
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Note: Online documents are available at <http://www1.dir.state.tx.us/tol/rfo/appendices.htm>.

F.2 – Labor Category Descriptions

Category	Description
Developer Analyst	<p>Plans, develops, tests, and documents computer programs, applying knowledge of programming languages, human resource management systems, clinical research trial results, statistical study of data, and compatibility with current system, and computer capabilities. Consults with user to identify requirements and uses methodologies such as structured analysis and design or object-oriented development.</p> <p>Work involves assisting in analyzing systems outlines to develop programs for computer systems and correcting programs. Works under moderate supervision with limited latitude for the design and data flow for applications.</p> <p>Captures requirements using industry standard development frameworks and tools. Develops screens, reports, forms and letters designs with users. Converts project specifications, logical steps for coding into language processable by computer, applying knowledge of programming languages.</p> <p>Enters program codes into computer system. Enters commands into computer to run and test programs. Uses diagnostic software to detect errors. Replaces, deletes, or modifies codes to correct errors. Writes documentation to describe program development, logic, coding, and corrections. Writes test plans taken by user to locate source of problem and rewrites program to correct errors. May be involved in installation of hardware and software. May provide technical assistance to program users and in developing programs for business or technical applications.</p>
Developer Analyst 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly used functions of the job. Primary job functions do not typically require exercising independent judgment.
Developer Analyst 2	4-7 years of experience in the field or in a related area. Familiar with standard concepts, practices, and procedures. A certain degree of creativity and latitude is required. Works under limited supervision with some independence.
Developer Analyst 3	8 or more years of experience, relies on experience and judgment to plan and accomplish goals. A broad range of creativity and latitude is expected.
Developer	<p>Converts data from project specifications and statements of problems and procedures into program code. Must follow and input, output, and logical operations involved. Analyzes specifications, coordinates with departments concerned with program to resolve questions of program intent, data input, and output by computer. Enters program codes into computer system. Inputs test data into computer system. Modifies program or altering sequence of program steps. May prepare computer block diagrams.</p> <p>Writes instructions to guide operating personnel during production runs. Analyzes, revises, and documents program development and subsequent revisions. May assist computer operators in developing specifications. May direct and coordinate work of others to write, test, and modify computer programs, development, and testing and correcting programs. Work involves analyzing system under supervision with limited latitude for the use of initiative and independent judgment. Analyzes software-related problems. May assist in the generation or installation of systems software.</p> <p>Prepares test data. May assist in writing and maintaining functional and technical specifications, programming and systems analysis, of computer operations procedures and systems, architecture; to prepare program specifications; to code, test, and debug computer programs; and to communicate effectively.</p>
Developer 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly used functions of the job. Primary job functions do not typically require exercising independent judgment.
Developer 2	4-7 years of experience in the field or in a related area. Familiar with standard concepts, practices, and procedures. A certain degree of creativity and latitude is required. Works under limited supervision with some independence.
Developer 3	8 or more years of experience, relies on experience and judgment to plan and accomplish goals. A broad range of creativity and latitude is expected.
Software Test Analyst	Carries out procedures to ensure that all information systems, products and services meet requirements free from defects. Develops, publishes, and implements test plans. Writes and maintains test scripts and upgrades automated test scripts and architectures for application products. Also writes test reports. Participates in the testing process through test review and analysis, test witnessing and test planning, and develops models of possible future configurations.

Category	Description
Software Test Analyst 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly used functions of the job. Primary job functions do not typically require exercising independent judgment.
Software Test Analyst 2	4-7 years of experience in the field or in a related area. Familiar with standard concepts, practices, and procedures. A certain degree of creativity and latitude is required. Works under limited supervision with some guidance.
Software Test Analyst 3	8 or more years of experience, relies on experience and judgment to plan and accomplish assignments. Must be able to supervise the work of others or manages a group of QA/Test analysts.
Technical Writer	Develops and maintains user and technical documentation and project process documents in a logical sequence. Provides expertise on technical concepts of applications and /or user interface. Writes technical articles, reports, brochures, and/or manuals for documentation for a wide range of users. Develops, enhances, and maintains user documentation for multiple applications including user guides, documentation libraries and subscription lists. Identifies, creates, revises, and maintains user documentation. Ensures messages and terminology are consistent across all written materials. Manages and reports time spent on all work activities. Follows quality standards. Ability to work independently. Composes technical documents, manuals, bulletins, brochures, publications, training materials, and reproductions. Reviews and edits prepared material and illustrations. Develops and refines materials for agency staff in the development of formats, graphics, and the layout of publications. Assesses user capabilities, and compatibility ranges
Technical Writer 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly used functions of the job. Primary job functions do not typically require exercising independent judgment.
Technical Writer 2	4-7 years of experience in the field or in a related area. Familiar with standard concepts, practices, and procedures. A certain degree of creativity and latitude is required. Works under limited supervision with some guidance.
Technical Writer 3	8 or more years of experience, relies on experience and judgment to plan and accomplish assignments. Must be able to supervise the work of others.
Business Analyst	Reviews, analyzes, and evaluates business systems and user needs. Formulates system requirements and technology to business problems to make business more effective. Familiar with industry trends, solution options, risk identification, and financial analyses such as cost/benefit, ROI, and payback programs. Prepare and document Functional and Technical Specifications for reporting and data management of end-user reporting tools and platforms. Work with IT and business users to facilitate knowledge transfer to the rest of the Enterprise Reporting Team for all solutions. Reviews, analyzes, and evaluates business systems and user needs. Formulates system requirements in a particular field. Familiar with relational database concepts, and client-server concepts. Works under supervision; typically reports to a project leader or manager. A certain degree of creativity and latitude is required.
Business Analyst 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly used functions of the job. Primary job functions do not typically require exercising independent judgment.
Business Analyst 2	4-7 years of experience in the field or in a related area. Familiar with standard concepts, practices, and procedures. A certain degree of creativity and latitude is required. Works under limited supervision with some guidance.
Business Analyst 3	8 or more years of experience, relies on experience and judgment to plan and accomplish assignments. Must be able to supervise the work of others.
System Analyst	Understands business objectives and problems, identifies alternative solutions, performs system analysis, processing or to improve existing computer system: Confers with personnel of organization to determine requirements, such as forms of data input, how data is to be summarized, and formats for program. Reviews computer system capabilities, specifications, and scheduling limitations. Studies existing information processing systems to evaluate effectiveness and develop recommendations by equipment and computer programs and operations to be performed by personnel in the field and prepares technical reports, memoranda, and instructional manuals as documentation. Works as a computer programmer in resolution of work problems related to project specifications, and

Category	Description
	<p>Provides technical assistance and support for applications and hardware problems and the effective use of management information systems. Determines operational, technical, and programming requirements. Prepares charts, diagrams, tables, and flowcharts. Details input and output record forms. Performs design, development, and maintenance of various computer applications. May provide technical training. Responsible for planning, development, implementation, system security, and interfaces.</p> <p>Graduation from an accredited four-year college or university with major course work in computer systems, with knowledge of limitations and capabilities of computer systems and of the techniques used in the design and development of hardware and software, of computer operating systems, of writing program code, and of the ability to communicate effectively, and to train others.</p>
System Analyst 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly used computer systems and the functions of the job. Primary job functions do not typically require exercising independent judgment.
System Analyst 2	4-7 years of experience in the field or in a related area. Familiar with standard concepts, practices, and procedures. A certain degree of creativity and latitude is required. Works under limited supervision with some guidance.
System Analyst 3	8 or more years of experience, relies on experience and judgment to plan and accomplish goals. Works independently.
Database Architect	Designs and builds relational databases. Develops strategies for data acquisitions, architectures, and data warehousing. Must be able to design, develop and manipulate database management systems, data warehouses, and data marts of relational databases and provides insight into strategic data manipulation. Responsibilities include data modeling, involves creating and maintaining a centralized registry of metadata.
Database Architect 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly used computer systems and the functions of the job. Primary job functions do not typically require exercising independent judgment.
Database Architect 2	4-7 years of experience in the field or in a related area. Familiar with standard concepts, practices, and procedures. A certain degree of creativity and latitude is required. Works under limited supervision with some guidance.
Database Architect 3	8 or more years of experience, relies on experience and judgment to plan and accomplish goals. Works independently.
Data Warehouse Architect	<p>Designs, implements and supports data warehousing. Implements business rules via stored procedures, triggers, and views. Verifies accuracy of data, and the maintenance and support of the data warehouse. Knowledge of data warehouse design, ETL, end-user tools, database, SQL, performance tuning. Demonstrates expertise in data warehouse design and data modeling (both relational and dimensional) and development of data marts. Understanding of data warehouse Metadata concepts, tools and different data warehouse architectures. Knowledge of architecture and design of the data warehouse, data mart, and reporting environments. Knowledge of the reporting physical environment.</p> <p>Responsible for proper selection of appropriate hardware, software, tools and system integrations. Profiling software, database platform, performance monitoring, reporting and analytic tool selection. Setting or enforcing standards and overall architecture for data warehouse design and section of strategic warehousing tools and techniques. Ensuring compatibility of the data warehouse with the project teams on the standards and architecture of each component of the data warehouse.</p>
Data Warehouse Architect 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly used computer systems and the functions of the job. Primary job functions do not typically require exercising independent judgment.
Data Warehouse Architect 2	4-7 years of experience in the field or in a related area. Familiar with standard concepts, practices, and procedures. A certain degree of creativity and latitude is required. Works under limited supervision with some guidance.
Data Warehouse Architect 3	8 or more years of experience, relies on experience and judgment to plan and accomplish goals. Works independently.
Database Administrator	<p>Responsible for data analysis and database management. Involved in maintenance, error correction, and production tools used for data storage management to support the Application. Requires a strong knowledge of data base management system. Designs logical and physical databases. Knowledge of physical characteristics, such as location, amount of space, and access methods.</p> <p>Establishes physical database parameters. Codes database descriptions and specifies values for database parameters, such as amount of computer memory to be used by database operations, such as insert, replace, retrieve, or delete data. Specifies which users can access data base.</p>

Category	Description
	<p>Enters codes to create production data base. Selects and enters codes of utility program analysts to make changes to data base management system. Reviews and corrects program cost for making changes to data base. Modifies data base programs to increase procedure management systems. Providing assistance in the planning, development, maintenance consistent with the structural parameters within the database environment.</p> <p>Evaluates users' requests for new data elements and systems, incorporates them into and control redundancy, loads databases, and reorganizes as needed. Performs data physical data models from logical data models. Performs security recovery procedures uniformity of definitions and sets standards for use of data dictionary. Monitors databases the creation of necessary libraries and procedures.</p> <p>Executes the procedures necessary to save, retrieve, and recover databases from hardware database security and with monitoring agency disaster recovery procedures and system benchmarking and threshold testing of databases and with establishing and controlling analysis or computer programming work.</p> <p>Knowledge of the principles, practices, and techniques of computer programming and computer programming languages; of data processing flowcharting techniques; of data</p>
Database Administrator 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly used the functions of the job. Primary job functions do not typically require exercising indepe
Database Administrator 2	4-7 years of experience in the field or in a related area. Familiar with standard concepts certain degree of creativity and latitude is required. Works under limited supervision wi
Database Administrator 3	8 or more years of experience, relies on experience and judgment to plan and accomp
Project Manager	<p>Designs, plans, and coordinates work teams. Follows standard project management in project sponsor. Creates project charter and work plan and tracks budget and schedule. Documents risks and develops mitigation plans. Manages scope. Creates and implements resources. Communicates to stakeholders and project sponsor. Identifies, tracks, and application features and technical designs. Designs and implements the components r judgment to plan and accomplish goals. Professional certification is highly desirable.</p> <p>May require specific PC, workstation, operating system, application or platform skills. F responsibility over the achievement of performance, revenue, and profit objectives of a information to team members and customers. Creates a structure and organization for any area where performance falls below objectives. Arranges for the assignment of res independent. Responsible for the coordination and completion of projects. Oversees a reports for upper management regarding status of project.</p>
Project Manager 1	1-7 years of experience in the field or in a related area. Familiar with standard concepts certain degree of creativity and latitude is required. Works under limited supervision wi
Project Manager 2	8 or more years of experience, relies on experience and judgment to plan and accomp
Project Lead	<p>The Project Lead will have day to day responsibility for management of a project team. documentation and support. They will have full technical knowledge of all phases of ap This person will manage day-to-day execution of design, development, testing and imp teams; and ensure that system requirements are documented, complete, accurate and</p> <p>This person will ensure formal design reviews are held regularly for each iteration or co release planning meetings. This person will manage development activities and coordi support and maintenance documentation is complete, which includes support documen Project Delivery Manager to determine project resource requirements.</p> <p>Provides extremely high-level subject matter proficiency for work described in the task. functional systems analysis, design, integration, documentation, training, and impleme</p>
Project Lead 1	1- 7 years of experience in the field or in a related area. Familiar with standard concep certain degree of creativity and latitude is required. Works under limited supervision wi
Project Lead 2	8 or more years of experience, relies on experience and judgment to plan and accomp

Category	Description
Network Engineer	Responsible for installing networking technologies and supporting networks. Assesses software to meet business needs, trains others on the solution, and documents the solution for smaller projects. Provides technical support and assists with the design of network solutions (DNS, routers, firewall, etc.).
Network Engineer 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly used functions of the job. Primary job functions do not typically require exercising independent judgment.
Network Engineer 2	4-7 years of experience in the field or in a related area. Familiar with standard concepts; a certain degree of creativity and latitude is required. Works under limited supervision with some independence.
Network Engineer 3	8 or more years of experience, relies on experience and judgment to plan and accomplish goals.
Network Administrator	<p>Install, configure, and support an organization's local area network (LAN), wide area network (WAN), and intranet to ensure network availability to all system users and perform necessary maintenance and security. Implement network security measures. Coordinate the development, implementation, and testing of network connections. Maintains network support software, analyzes user support statistics, and analyzes statistics on network utilization and availability. Prepares training courses and develops planning activities to enhance the performance of the network resources.</p> <p>Assist in the development, implementation, maintenance, and monitoring of a local area network. Perform independent judgment. Performs procedures for backup, recovery, and archival of files stored on the network locations to obtain clarification of problems and to identify solutions or correct errors. Install software, and utilities. Assists in maintaining the local area network or wide area network. Identify strengths, weaknesses, and potential benefits to the agency—and recommend improvements.</p> <p>Assists in maintaining the network's physical and logical structures and in installing and configuring the network resources and in maintaining network support software. Assists in or conducts network testing to the agency. Assists in maintaining the operating system and security software utilized on the local or wide area network work. Knowledge of network facilities and data processing tools, including monitoring and capacity management tools.</p>
Network Administrator 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly used functions of the job. Primary job functions do not typically require exercising independent judgment.
Network Administrator 2	4-7 years of experience in the field or in a related area. Familiar with standard concepts; a certain degree of creativity and latitude is required. Works under limited supervision with some independence.
Network Administrator 3	8 or more years of experience, relies on experience and judgment to plan and accomplish goals.
Help Desk	This role provides assistance and oversight for all information systems operations activities including operating systems programming, system security policy procedures, and/or web strategies. Oversees all aspects of the daily operation for data network(s) in either a stand-alone data network or a data network using telecommunications technology and systems. Directs technical analysis of complex software problems.
Help Desk 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly used functions of the job. Primary job functions do not typically require exercising independent judgment.
Help Desk 2	4-7 years of experience in the field or in a related area. Familiar with standard concepts; a certain degree of creativity and latitude is required. Works under limited supervision with some independence.
Help Desk 3	8 or more years of experience, relies on experience and judgment to plan and accomplish goals.
Technical Support	<p>Maintains, analyzes, troubleshoots, and repairs computer systems, hardware, and communications equipment. Maintains account information including rights, security, and systems groups. Performs basic operations and troubleshooting. Resolves basic communications problems. Prepares or assists in the preparation of service reports.</p> <p>Assists in monitoring and providing assistance on the use and interface of systems, software, and federal databases. May assist in the review and recommendation of the procurement and installation of computer programs. Experience in automated data processing systems. Knowledge of the practical application of information security policies and procedures. Skill in the use and support of personal computers and information technology systems, to communicate effectively, and to train others.</p>

Category	Description
	<p>Provides assistance in the design, development, and maintenance of various system and assists in testing and upgrading new and existing hardware/software. Reviews and rec presentations and briefings for training sessions. Prepares briefings, reports, and evalu state, or federal databases.</p> <p>Installs, maintains, moves, and assists in testing and upgrading new and existing hard security controls over software. Develops procedure manuals. Develops and makes pr May supervise the work of others.</p>
Technical Support 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly u the functions of the job. Primary job functions do not typically require exercising indepe
Technical Support 2	4-7 years of experience in the field or in a related area. Familiar with standard concept certain degree of creativity and latitude is required. Works under limited supervision wi
Technical Support 3	8 or more years of experience, relies on experience and judgment to plan and accomp
Marketing & Product	<p>Responsible for developing and implementing marketing plans tied to the overall goals services, and market segments and make recommendations to increase effectiveness executive/management team based on identification of trends and direction, customer and forecasts for assigned product or project areas. Works to promote technical vision</p> <p>Participates in system requirements, definition, testing, training, implementation, and s present market requirements. Build requirements to clearly improve the customer expe functionality. Identify customer requirements, develop test schedules, review testing pl Develop comprehensive functional specifications, user flows, use case scenarios and l</p> <p>Develops, coordinates and manages product launch activities which include new servi experience with focus on key business metrics (e.g., adoption rates, usage, transaction the prioritization of all defects related to performance.</p> <p>Strong cross functional collaboration skills are needed to interface with external clients internal groups such as Project Management, Development, Operations, Engineering, communicate technical issues, lead discussions, and influence decisions in the contex</p> <p>Manages the TexasOnline website and online marketing initiatives to ensure a positive creating and managing a line-up of content and services related to seasonal themes, to Internet marketing strategies as appropriate (e.g. managing and implementing search TexasOnline and increase usage.</p> <p>Responsible for the development, implementation, and measurement of a wide range promotional initiatives, and media relations to reach local government, state agencies, marketing communications, including both print and electronic media (e.g., online).</p>
Marketing Specialist 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly u guidelines to perform the functions of the job. Primary job functions do not typically req Provides guidance for directing and monitoring marketing initiatives.
Marketing Specialist 2	4-7 years of experience in the field or in a related area. Familiar with standard concept Relies on experience and judgment to plan and accomplish marketing programs. Initia required. Works under limited supervision with considerable latitude for the use of initia
Marketing Manager	8 or more years of experience, relies on experience and judgment to plan and accomp marketing and product management experience. Directs and/or oversees the activities assignments of strategic importance to the business.
Accounting, Finance & Contracts	The roles in this labor category are responsible for all the project's accounting function reports, which summarize and forecast company business activity and financial positio technical accounting areas, recording complex transactions and purchase accounting; with reporting rules and regulations of the contract and statutes; researching and imple also review the results of the operations and analyze results compared to budget and financial results and other financial matters to key stakeholders: project teams, Board o

Category	Description
	<p>In addition to accounting and financial reporting, the Finance and Contracting category invoices and identifying proper approvals, maintaining proper internal controls, reviewing when journal entries need to be reclassified, analyzing invoices for prompt pay discount payment discounts, and maintaining a filing system for paid and unpaid invoices. Perform Orders (PO). Conduct supplier reconciliations on a monthly basis to identify reconciling the Project Management Group in reporting and analyzing project budgets. Accounts receivable posting to the General Ledger, collections and various other duties.</p> <p>Provide contract management support to enable the administration of government and requirements. Responsible for tracking and monitoring contract changes, deliverables, solutions for approval and provides negotiation support as required.</p>
Finance Specialist 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly used the functions of the job. Primary job functions do not typically require exercising independent modifications to increase the capacity of the system. Directs compilation of records and
Finance Specialist 2	4-7 years of experience in the field or in a related area. Familiar with standard concepts certain degree of creativity and latitude is required. Works under limited supervision with
Finance Manager	8 or more years of experience, relies on experience and judgment to plan and accomplish
Operations Manager	<p>Provide technical assistance to computer system users on a variety of issues. Identify and support. Documents, tracks, and monitors the problem to ensure a timely resolution. Handle computer problems for clients in person, via telephone or from remote location. May provide electronic mail, and operating systems.</p> <p>Provide service and preventive maintenance activities on terminals, printers, personal service manuals and publications. Knowledge of basic mathematics to read and understand parts, and making technical adjustments. Makes appropriate use of reference publications.</p> <p>Assist in coordination of changes, upgrades and new products, ensuring systems will operate in environment questions in a timely manner. Implement shared software, such as operating Communicate accurate and useful status updates. Manage and report time spent on a</p>
Operations Manager 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly used the functions of the job. Primary job functions do not typically require exercising independent
Operations Manager 2	4-7 years of experience in the field or in a related area. Familiar with standard concepts certain degree of creativity and latitude is required. Works under limited supervision with
Operations Manager 3	8 or more years of experience, relies on experience and judgment to plan and accomplish
Quality Assurance	<p>Provides development of the Quality Assurance Plan and implementation of procedure development process is being implemented relative to the defined process and recommendations and services meet quality assurance standards and end-user requirements. Thorough progress on problem resolution to management. Devises improvements to current process improvements.</p> <p>Establishes approach for conducting project reviews, developing corrective action plans effective delivery. Ensures quality planning and quality assurance activities are incorporated</p>
Quality Assurance 1	1-3 years of experience in the field or in a related area. Has knowledge of commonly used established guidelines to perform the functions of the job. Primary job functions do not
Quality Assurance 2	4-7 years of experience in the related area. Familiar with standard concepts, practices, and latitude is required. Works under limited supervision with considerable latitude for Quality System or higher.
Quality Assurance Manager	8 or more years of experience, relies on significant experience and judgment to plan and Professional certification is highly desirable. Must have at least four years of account/project higher and have experience with at least a CMM/CMMI Level 2 Process Quality Assurance
Outreach & Account Management	Oversees or directly manages one or more projects organized around a particular government pre-established goals and objectives required by a specific account (i.e., Agency or Public and is the primary point of contact for the account. Interfaces with upper management

Category	Description
	<p>Provides a variety of project/program management duties including the formulation, de the achievement of performance, revenue, and profit objectives of a project and its cor members and customers. Creates a structure and organization for the management of performance falls below objectives. Arranges for the assignment of responsibility to oth Responsible to the program sponsor for the coordination and completion of projects. O project. Provides feedback on employees' performance to their respective managers. f</p> <p>Designs, plans, and coordinates work teams. Follows standard project management in works closely with client or Agency organization. Creates project charter and work plan defines roles and responsibilities.. Documents risks and develops mitigation plans. Ne project sponsor. Identifies, tracks, and ensures resolution of issues and removal of bar</p>
Outreach Manager 1	3-7 years of experience in the related area. Familiar with standard concepts, practices, and latitude is required. Works under limited supervision with considerable latitude for account/program management experience with a Government organization(s).
Outreach Manager 2	8 or more years of experience, relies on significant experience and judgment to plan a Professional certification is highly desirable. Must have at least four years of account/p
Executive	<p>Guides, oversees, and develops plans, resources, schedules, budgets, and personnel program to identify and fulfill expanding number and variety of online Customer service Texas are maximized. Ensures that the non-commercial nature of TexasOnline is prote</p> <p>Through continuing exploration of new technology and Web 2.0 developments, ensure and that usage rates and penetration of the citizen marketplace expands rapidly. Resp organization and external clients on successful implementation processes. Responsibl</p> <p>Oversees multiple projects and institutes plans and operational policies to ensure that confusion, and disagreements. Resolves project interdependencies, clarify roles and ti supply chain, or any other corporate shared services). Supervises and certifies reports planning, budgeting, reporting, and informational purposes.</p> <p>The Executive Director category includes other senior manager roles that may be prop</p> <p>Requires 10 or more years experience with comparable responsibility in managing larg communications, and conceptual leadership roles. Ability to communicate effectively, i partnering relationships with DIR and Customers. Ability to understand complex applica issues concurrently while not losing sight of our overall goals. Competence in financial of our members. PMP preferred.</p>

F.8 – Pilot Assumptions

The table below describes estimation parameters for application development pilot projects. Use these factors where applicable for your pilot cost projections.

Factor	Number/Units	Description
Term of Pilot	6 months	Demonstration phase of each project must operate 3 full months
Participating Customers		
Large State Agencies	2	Size of TX Department of Public Safety and State Health Services
Small State Agencies	2	Size of Governor's Office and Board of Chiropractic Examiners
Universities	1	Texas A&M or similar
County Governments	2	Harris and Bexar, or similar
Applications	1/Participating Customer	Each application is comprised of one or more pages and services
Transaction Services	3/Application	Any service for which a payment is collected from the user online
Subscription Services	3/Application	Any service for which payment is by Agency subscription
Non-revenue Services	3/Application	Informational web sites
Pages	5/Service	
Average Visits		Transaction numbers are based on average visits per day
Large Agencies	2000/Service/Day	
Small Agencies	250/Service/Day	
All Others	250/Service/Day	
Average Page Views	3/Visit	
Average Transactions	0.10/Visit/Service	Estimation purposes only
Help Desk Calls	100/Customer/Month	For simplicity, assume same for all the services for all Customers
Resolvable in 10 Minutes	95 percent	
Requiring 1 Hour Research	5 percent	Assume none requires 1 hour of technical labor to resolve

Notes: Use these parameters for estimating all pilot projects. Simplified factor values are based on actual values, but are averaged and generalized so that they are not appropriate for use in other estimation tasks. Use these numbers to estimate pilot implementations only.

F.9 – TEX-AN Telecommunications Cost Schedule

TexasOnline 2.0 is required to purchase its telecommunications services from the TEX-AN NG contracts. As of the date of this publication, the TEX-AN NG contracts are not available for Vendor to use in its projections.

The Vendor will use the actual TexasOnline network services cost from fiscal 2008, which was \$174,861, as the cost for each year of the Initial Term of the Agreement. The TEX-AN cost is for information purposes only and does not reflect any forward-looking description of anticipated usage.

F.10 – Security Management Plan Requirements

The Vendor's Security Management Plan must demonstrate the Vendor's understanding and compliance with each numbered item below.

1. Online transactions must be completely secure. Temporary files for all secure online transactions must be securely and permanently deleted when said transaction is complete.
2. Vendor privacy policies and procedures must clearly state how Citizen(s) privacy is being protected in compliance with applicable State, Federal, and industry (e.g., [PCI-DSS](#)) requirements, and what information may be made public.
3. Vendor must comply with all physical security procedures in Vendor facilities.
4. Vendor must maintain TexasOnline 2.0 and associated Equipment, Software, telecommunications, and facilities with appropriate levels of network security on all devices and access points.
5. Vendor must ensure all Services and products maintain compliance with all applicable State, Federal, and industry IT confidentiality, security, and privacy laws, rules, regulations, methods, policies, standards, and guidelines in accordance with documented exception processes. Vendor must describe its methodology for safeguarding the use, publication, and disclosure of information on all users who receive Services under the Agreement in accordance with all but not limited to the requirements of then current [TAC 202](#), [FERPA](#), [IRS 1075](#), [HIPAA](#) (Privacy & Security Rules), and [PCI-DSS](#).
6. Vendor must describe its procedures to monitor, detect, report, contain, correct, and prevent any suspected or confirmed security/privacy incident associated with TexasOnline 2.0. Procedures will include any action pertaining to such unauthorized disclosure required by applicable Federal and State laws (e.g., [TAC 202](#) and other [Texas Penal](#) or [Business and Commerce](#) Codes), and regulations, and any additional actions that may be associated with a confirmed security breach of the Financial Processing System or related databases. Procedures will address Vendor and DIR cooperation to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure; isolation of all electronic records and supporting evidence of a suspected or confirmed security/privacy breach of the Financial Processing System, transactions, or related databases; cooperation with and assistance to the State in any subsequent investigations; options for securing credit card/off-line debit card data and reporting Security or Privacy Incidents.
7. Vendor must describe its procedures to ensure the security of database loads (i.e., data migration). The description must identify, define, and show examples of all security measures and tools it proposes to use to fulfill data migration requirements and maintain data confidentiality, integrity, and availability.

F.10.1 Personnel Security and Staffing

Vendor and its Subcontractors will be required to adhere to and sign agreements that require conformance with all applicable State policies related to acceptable use and security. The Vendor will present these agreements to the prospective employee for signature before the Vendor presents the individual to the State as a proposed resource.

The Vendor will verify that it will employ an adequate number of advanced web programmer/analysts for applicable TexasOnline 2.0 projects that have experience and thorough understanding of security technologies in current use and under development, particularly as they relate to E-commerce applications and secure code development and testing.

F.10.2 Background Checks

Vendor must provide that all employees, including Subcontractor personnel, will be subject to all applicable Federal, State, and Customer security procedures. For submitted personnel to be eligible to actively participate in TexasOnline 2.0 activities, they must complete a Texas Department of Public Safety background check. The scope of the background check is at the discretion of the State and may include the National Crime Information Center (NCIC) Fingerprint Check. All proposed Vendor personnel in positions that may have exposure or access to confidential information must complete and submit a Fingerprint Card for the NCIC Fingerprint Check. DIR will use the results to determine Vendor personnel eligibility for working on TexasOnline 2.0 and accessing State facilities using DIR, or Customer as appropriate, background check criteria. Vendor is responsible for any costs associated with all background check requirements.

Key Personnel must include, at a minimum, the role of Chief Information Security Officer with appropriate authority and certifications (e.g., CISSP, CISA) and experience (e.g., 5+ years managing major IT security projects that include financial transaction applications and [PCI-DSS](#) compliance audit requirements).

F.10.3 Physical Security

Vendor will describe:

- Documented policies and procedures for dealing with physical security issues on an ongoing basis.
- The methodology for preventing non-authorized personnel from physically accessing Vendor facilities.
- Processes for investigating, categorizing and reporting Security or Privacy Incidents, including system or network breaches and lost or stolen hardware, software, database information, mobile computing devices, and any other data or equipment associated with TexasOnline 2.0.
- Environmental controls required to mitigate the risk of loss of resources that are under the Vendor's control.

F.10.3 Network Security

If the Vendor proposes to use leased line connections, these connections must be protected by a network security firewall. All firewalls, by default, must have all ports disabled. Accepted change control procedures must be applied before any firewall port may be enabled. If the Vendor proposes to use any public untrusted medium (e.g., the Internet), it will be the Vendor's responsibility to build and maintain a Virtual Private Network (VPN) using IETF standard protocols for encryption and key management (IPSec/IKE). A firewall will also be required in order to permit control of traffic transiting a VPN. The above requirements apply to any telecommunications connections associated with this project: i.e., Vendor to State, Vendor to Merchant Services Provider. The Vendor must describe in detail the firewall design and other security measures that will be used.

F.10.4 Hosted Systems Security

All hosted systems may not run executable code (e.g., daemons, scripts, services, applications, etc.) that are not required for the operation of TexasOnline 2.0 or to meet the requirements of this document.

No hosted system may be accessible from the Internet or any intranet with administrative-level ("root") privileges without the prior approval of DIR.

Patches and upgrades for all hosted systems must be through the accepted change control process.

F.10.5 Website and Application Security

No web site or application that will be directly accessible from the Internet or any intranet may run with administrative-level (“root”) privileges without prior approval from DIR.

F.10.6 Logical Security

The Vendor will:

- Describe the logical security standards, processes, procedures, and tools for all service offerings based on the hosted architecture in terms of methodologies to limit unauthorized access to sensitive data. This description must include: segmentation/abstraction (e.g., at network layer); restricted access to Confidential or Sensitive data (e.g., via IP or MAC address, application/service, user accounts/groups, and/or data type using packet filtering); restricted logical access controls (e.g., database access independent of active directory or Lightweight Directory Access Protocol, data auditing with passive monitoring and alerting); prevention/detection of common application or database attacks (e.g., SQL injection, Data Leakage Prevention tools).
- Describe procedures for ensuring security web application design including logical (and physical) separation of the presentation, business logic, and data layers both to increase portability, scalability, and re-usability and to support simplicity (i.e., using at least three logical tiers in an n-tier application development architecture).
- Describe procedures to separate presentation, business, or application logic, and data base (or data storage) tiers (e.g., separation of presentation and business/application tiers that may reside on web servers and communicate through web services).
- Describe web application standards to prevent direct presentation layer access to the database, e.g., using a Microsoft-based solution architecture with an IIS web server, a separate IIS-based application server (for ASP.NET, or VB.NET or C#.NET object and application components, plus data access), and an SQL Server or other DBMS on a third server.
- Describe how the Vendor will provide archived back-up security.
- Describe the process and factors for evaluating and determining the appropriate location and security zone separation for hosting each of the presentation, application, and database layers/servers.
- Describe technical architecture standards and safeguards that must be included in all applications to prevent security vulnerabilities for web-based applications and protect the State’s data and technical resources.
- For any proposals that include Blogs (web logs), Forum/Discussion Groups, Wikis, or similar capabilities, the Vendor will describe its methodology and relevant technologies for limiting who can view and comment on the respective Blog, Forum, or Wiki. Additionally, the Vendor will describe Anti-Spam protocols and other controls or security measures that will be in place that will ensure the secure operation of each respective service (e.g., elimination of all injection vulnerabilities).
- Describe how vulnerabilities will be identified and how new vulnerabilities will be handled as they are identified.

- Describe how the application design will provide minimum specified user input validation checks for presentation layer coding to guard against unauthorized access such as injection attacks and cross-site scripting attacks.
- Provide an architecture diagram illustrating the logical security.

F.10.7 Encryption

In addition to encryption requirements associated with user authentication, the Vendor will encrypt any and all State stored data that is now or hereafter classified as confidential or equivalent as specified by Customers in accordance with applicable State, Federal, or industry rules, regulations, and standards. The method used to encrypt data will be compliant with then-current State [TAC 202](#) and applicable State, Federal, and industry standards (e.g., [FIPS-140](#), [IEEE 802.11i](#)).

The Vendor will provide proposed methodologies and technologies for encryption including data at rest, data in transit (in motion), key management, and policy exception procedures (e.g., RAS-Secure ID, AES 256 bit encryption, and WPA2 wireless standards).

F.10.8 Financial Processing System Security

The Vendor will describe the standards, processes, procedures, and tools proposed to operate and maintain the Financial Processing System in accordance with the credit card issuer privacy and security requirements for processing online transactions.

The Vendor will provide its process and tools for completing a formal risk analysis that documents legitimate technological or business constraints (e.g., intrusion detection systems, or IDS) to satisfy [PCI-DSS](#) requirements.

The Vendor will describe its methodology and technologies for storing credit card/off-line debit card data to ensure that it meets or exceeds credit card issuer privacy and security requirements.

The Vendor will describe its methodology and technologies for isolating all electronic records and supporting evidence of suspected or confirmed Security and/or Privacy Incidents or breaches of the Financial Processing System, transactions, or related databases.

The Vendor will describe its policies for cooperating with and assisting the State in any subsequent investigation of suspected or confirmed security and privacy incidents.

The Vendor will describe its methodology and technologies for securing credit card/off-line debit card data.

F.10.9 Security Audits, Testing, and Governance

DIR contracts for annual external penetration and application security testing of TexasOnline. Additional audits of TexasOnline 2.0 security can be required by the State Auditor's Office or other State leadership at any time.

The Vendor will assist the State and individual Customers in support of external security assessments and other externally performed internal controls (security) audits. These assessments and audit activities are anticipated to grow in number and in complexity as the State and individual Customers seek to comply with the Health Insurance Portability and Accountability Act (HIPAA) of 1996, payment card industry requirements, and other privacy and security mandates. The Vendor cooperation will include providing the physical

and logical access reasonably required for authorized representatives to satisfy assessment and audit tasks. In addition, the Vendor will assist and cooperate in like manner with State audit functions in the course of audit activities and investigations.

Vendor will describe how it will implement technical audit functions (e.g., for change management and configuration management process, date-time stamp and full audit trails throughout the entire transaction lifetime, audit trail for identifying all network security breaches and attempted breaches, analysis of unauthorized penetration attempts and intrusion detection policies) to verify and document the confidentiality, integrity, and availability of TexasOnline 2.0.

Vendor will provide parameters for internal controls (security) to support comprehensive audit requirements such as SAS 70 Type II, [SysTrust](#), or [PCI-DSS](#) reviews as appropriate. DIR will review and approve the proposed internal controls. Vendor will conduct quarterly internal audits. In addition, external audits will be conducted by an independent third party in accordance with this RFO. Vendor must describe its process for correcting or remediating any audit exceptions within sixty (60) calendar days of completion of the audit or as specified by DIR.

DIR reserves the right to schedule and conduct external controlled penetration testing (CPT) for all TexasOnline 2.0 Internet-facing WAN components. DIR intends to conduct the CPT at least annually, and will include analysis and reporting of results and best practices for remediation as specified in Texas Government Code, Chapter 2059. DIR will disclose and coordinate with the appropriate Vendor personnel all relevant DIR activities related to the coordination and conduct of CPTs. Additionally, the Vendor will acknowledge the right of DIR to test all TexasOnline 2.0 related applications from a security perspective and require that any vulnerabilities identified by such penetration and/or application testing be subject to Vendor remediation.

Vendor's IT security scanning and vulnerability assessment program will include: process for regular updates to maintain pace with customer requirements and emerging threats; qualified personnel to conduct assessments and remediate any detected vulnerabilities, inventory and testing of all filtered and available network services, network addresses, applications, hardware, and patches installed/running.

Vendor will describe its process for security testing each Software Deliverable in Vendor's development environment prior to turning over any Software Deliverable to DIR for user acceptance testing and approval. Vendor's security testing will include the following, at a minimum, plus any other security testing consistent with requirements and procedures of [CMMI Level 3](#) and other specific DIR or Customer requirements: scanning and testing for common web application vulnerabilities at a minimum depth of 500 links and a minimum breadth of four threads; password attacks on servers (e.g., telnet, FTP, SMB services, and web server basic authentication) and routers (e.g., telnet and community strings).

Vendor will support advanced security testing and auditing technologies for all Vendor and Customer applications that use TexasOnline 2.0. This support must include site scanning, the performance of security penetration tests, and application security using tool(s) that can create intelligent fix recommendations and advanced remediation capabilities, to include comprehensive task lists for remediation of application vulnerabilities, e.g., a combination of ISS, nMap, NESSUS, Core Impact, Rational AppScann, and/or WebInspect for network and web application security scanning and assessment.

The Vendor will describe the process for performing security testing and risk assessment for any current or future Customer web application that uses TexasOnline 2.0. This includes advanced application security testing tool(s) that will be used to create intelligent

fix and advanced remediation recommendations, to include comprehensive task lists for remediation of application vulnerabilities (e.g. Rational AppScan, WebInspect). Using the results of this testing the Vendor will provide DIR (and Customer as directed) expert subject matter analysis of the security risk and any recommendations for remediation prior to adding the application to TexasOnline 2.0.

The Vendor will provide development and test server, monitoring and logging environment for all web-based applications (e.g., appropriate non-production, n-tiered environment) to ensure security performance, secure access to the staging environment (e.g., VPN or on-site) with no back-door access rights. The description of the security test environment will be included in any review and approval presentations to DIR or appropriate Customers.

F.10.10 Security Reporting

Vendor will provide documentation from all Vendor-sponsored scans and/or assessments that include a list of identified vulnerabilities, successful exploits, threat levels, and recommendations for vulnerability mitigation. Reports will redact sensitive information, including all Sensitive Personal Information as defined by the then-current Texas [Business and Commerce Code, Section 48.002](#) (Identity Theft). The Vendor will provide all redacted information via a separate input using DIR procedures to protect confidential information. Vendor will also provide DIR monthly, quarterly, and yearly summary reports.

The Vendor will provide proposed processes for reporting Security/Privacy Incidents and breaches, and compliance with the then-current [TAC 202](#) rules and [NIST SP800-61 Rev. 1](#) including incidents involving:

- Disclosure of confidential information, whether suspected or actual within one (1) business day of becoming aware of such use or disclosure or such shorter time period as is reasonable under the circumstances.
- Lost or stolen hardware or mobile computing devices associated with TexasOnline 2.0 within three (3) business days of discovery.
- Violation of State or Federal laws, whether suspected or actual within one (1) business day of becoming aware of the violation or such shorter time period as is reasonable under the circumstances.

Vendor will complete and return DIR-issued CPT survey reports within three (3) days of receipt.

Vendor will complete and return DIR-issued remediation survey reports within 30 days of receipt.

Vendor will complete and submit to DIR internal security audit reports of internal controls at least quarterly (minimum) or as occurring, if more frequent.

Vendor will complete and submit correction or remediation reports for any audit exceptions identified as a result of the security audit within 30 days after completion of the audit.

Vendor will provide written reports of all results of security testing and third-party web application risk assessments for web applications being considered for TexasOnline 2.0. Reports will include recommendations for acceptance that reflect secure coding best practices, industry standards, with specific remediation thresholds within five (5) business days of testing or assessment completion.

For all Vendor-developed or -hosted applications, the Vendor will provide an application security assessment report to DIR that confirms that the Vendor has 1) performed

applicable security testing, 2) corrected security deficiencies discovered during such testing (noting any exceptions), and 3) applied critical security patches/updates for all deliverables/services. The Vendor will provide this report to DIR at least ten (10) business days prior to proposed implementation.

Sample Reports. The Vendor will provide Sample Security Reports to include, at a minimum: security incident report; internal controls security audit report; web application security assessment; and third-party web application risk assessment.

The Vendor will provide a description of the security test environment that will be included in any review and approval presentations to DIR or appropriate Customers.

Change Management. Vendor will report security testing procedures followed prior to and upon installation of any changes that may impact security. This report will affirm that the changes Vendor makes to State systems is performed in accordance with applicable State, Federal, and industry procedures, including security, access, and configuration management procedures. Report will be due within five (5) business days after the end of the month.

Security Meetings. The Vendor will describe its participation in all relevant security meetings, teleconferences, or briefings such as, but not limited to ad hoc security incident events; pre-engagement CPT or application assessment operations, weekly security engagement updates, post-engagement reviews to discuss findings and report delivery; and regular security reviews (not to exceed one hour per month, to include DIR, Vendor security lead or designated representatives).

Monthly Security Status Reports. The Vendor will provide a monthly status report on all security issues, including Vendor's comments and concerns regarding the current security of the system. DIR reserves the right to modify the report requirements when needed.

F.10.11 Terms

- Advanced Encryption Standard (AES)
- Controlled Penetration Test (CPT)
- Certified Information Systems Auditor (CISA)
- Certified Information Systems Security Professional (CISSP)
- Data Base Management System (DBMS)
- Family Educational and Privacy Rights Act (FERPA)
- Federal Information Processing Standards (FIPS)
- FTP (File Transfer Protocol)
- Health Insurance Portability and Accountability Act (HIPAA)
- Hypertext Transfer Protocol (HTTP)
- Hypertext Transfer Protocol over Secure Socket Layer (HTTPS)
- Institute of Electrical and Electronics Engineers (IEEE)
- International Electrotechnical Commission (IEC)
- Internal Revenue Service (IRS)
- International Standards Organization (ISO)
- Internet Engineering Task Force (IETF)

- Internet Information Services (ISS)
- Internet Key Exchange (IKE)
- Internet Protocol (IP)
- Internet Protocol Security (IPSec)
- Intrusion Detection System (IDS)
- Media Access Control (MAC)
- National Crime Information Center (NCIC)
- Payment Card Industry Data Security Standards (PCI-DSS)
- Public Key Infrastructure (PKI)
- Secure Socket Layer (SSL)
- Server Message Block (SMB)
- Structured Query Language (SQL)
- Systems Security Engineering Capability Maturity Model (SSE-CMM)
- Team for Texas (TFT)
- Telecommunication Network (telnet)
- Texas Administrative Code (TAC)
- Virtual Private Network (VPN)
- Wide Area Network (WAN)
- Wi-Fi Protected Access, Version 2 (WPA2)

F.10.12 Related Security Links

The URLs of online references used in RFO Section F.10 are listed below:

- CMMI Level 3
(<http://www.sei.cmu.edu/pub/documents/02.reports/pdf/02tr011.pdf>)
- FERPA
(<http://www.law.cornell.edu/uscode/20/1232g.html>)
- FIPS-140
(<http://csrc.nist.gov/publications/PubsFIPS.html>)
- HIPAA
(<http://www.hhs.gov/ocr/hipaa/>)
- IEEE 802.11i
(<http://standards.ieee.org/getieee802/802.11.html>)
- IRS 1075
(<http://www.irs.gov/pub/irs-pdf/p1075.pdf>)
- NIST SP800-61 Rev. 1
(<http://csrc.nist.gov/publications/nistpubs/800-61-rev1/SP800-61rev1.pdf>)
- PCI-DSS
(https://www.pcisecuritystandards.org/security_standards/pci_dss.shtml)

- SysTrust
(<http://www.aicpa.org/pubs/cpaltr/nov2000/supps/large1.htm>)
- TAC 202
([http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=4&ti=1&pt=10&ch=202&rl=Y](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=1&pt=10&ch=202&rl=Y))
- Texas Penal Codes
(<http://tlo2.tlc.state.tx.us/statutes/pe.toc.htm>)
- Texas Business and Commerce Codes (Identity Theft)
(<http://tlo2.tlc.state.tx.us/statutes/bc.toc.htm>)

Appendix G – NDA Form

Nondisclosure Agreement

In consideration of the Department of Information Resources (DIR) communicating with Vendor regarding a proposed contract and because of the sensitivity of certain information provided to Vendor, both parties agree that all information regarding DIR or gathered, produced, collected or derived from or related to this project or provided to Vendor as a result of this project (Confidential Information) must remain confidential subject to release only upon prior written approval of DIR, and more specifically agree as follows:

1. The Confidential Information may be used by Vendor only to assist Vendor in connection with this solicitation or any resulting contract with DIR.
2. Vendor will not use, at any time, the Confidential Information in any fashion, form, or manner except in its capacity as proposed consultant or independent contractor to DIR.
3. Vendor agrees to maintain the confidentiality of any and all Confidential Information related to this solicitation or any resulting contract in the same manner that it protects the confidentiality of its own proprietary products of like kind.
4. The Confidential Information may not be copied, reproduced, disclosed or distributed without DIR's prior written approval. Any copies made will be DIR's property.
5. All Confidential materials made available to Vendor, including copies thereof, must be returned to DIR upon the first to occur of (a) completion of the project or any resulting contract, or (b) request by DIR.
6. The foregoing must not prohibit or limit Vendor use of the information (including, but not limited to, ideas, concepts, know-how, techniques, and methodologies) (a) previously known to it, (b) independently developed by it, (c) acquired by it from a third party, or (d) which is or becomes part of the public domain through no breach to Vendor of this agreement.
7. This agreement will become effective as of the date Confidential Information is first made available to Vendor and will survive the project and any resulting contract and be a continuing requirement.
8. The breach of this agreement by Vendor will entitle DIR to immediately terminate the project or any resulting contract upon written notice to Vendor for such breach. The parties acknowledge that the measure of damages in the event of a breach of this agreement may be difficult or impossible to calculate, depending on the nature of the breach. Regardless of whether DIR elects to terminate the project or any resulting contract upon the breach hereof, DIR may require Vendor to pay to DIR the sum of \$5,000 for each breach as liquidated damages. This amount is not intended to be in the nature of a penalty, but is intended to be a reasonable estimate of the amount of damages to DIR in the event of a breach hereof by Vendor of this agreement. DIR does not waive any right to seek additional relief, either equitable or otherwise, concerning any breach of this agreement.

Signature of Authorized Representative

Date Signed

Printed Name of Authorized Personnel

Title of Authorized Personnel

Appendix H – Customer Agreement Templates

Customer Agreement (Template)

This Customer Agreement is effective on the _____ day of _____, 200__ by and between the Texas Department of Information Resources (DIR), TexasOnline 2.0 Vendor (Vendor), and any Customer of TexasOnline 2.0, including an Agency of the State of Texas or local government (Customer). DIR, Vendor, and Customer may each be referred to as Party, and collectively DIR, Vendor, and Customer may be referred to as the Parties.

BACKGROUND

TexasOnline 2.0 is based on, and subject to, the TexasOnline 2.0 Master Agreement between DIR and Vendor dated _____, 2009, including the Customer Agreement Standard Terms and Conditions. TexasOnline 2.0 is the name of the official web portal and application delivery framework for the State of Texas.

AGREEMENT

IN CONSIDERATION of mutual covenants and agreements contained in this Customer Agreement, DIR, Vendor, and Customer agree as follows:

1. Customer may receive Services provided by TexasOnline 2.0 by agreeing to abide by the Customer Agreement Standard Terms and Conditions. The TexasOnline 2.0 Master Agreement and this Customer Agreement represent the entire agreement for access to, and use of, TexasOnline 2.0 Services.
2. TexasOnline 2.0 offers a variety of website development and hosting, e-commerce and related support services to Customers. Exhibit A provides the List of Applications, List of Services, and Fee Schedule for this Agreement. Specifications and additional terms for a Service or Application may be described in a Business Case. The applicable Business Case will be listed in Exhibit A and attached thereto, and is incorporated by reference for all purposes to this Customer Agreement.
3. All notices permitted or required under a Customer Agreement will be in writing and will be by personal delivery, a nationally recognized overnight courier service, e-mail or certified or registered mail, return receipt requested. Notices will be deemed given upon the earlier of actual receipt or one (1) day after deposit with the courier service, receipt by sender of confirmation of electronic transmission or five (5) days after deposit with the U.S. Postal Service. Notices will be sent to the addresses listed below, or to such other address as any Party may specify in writing.

If to DIR:

Texas Department of Information Resources
300 W. 15th Street, Suite 1300
Austin, TX 78701

If to Vendor:

VENDOR
Street
City, State, Zip

If to Customer:

CUSTOMER
Street
City, State, Zip

AGREED AND ACCEPTED:

Vendor:

By: _____

Name: _____

Title: _____

Texas Department of Information Resources:

By: _____

Name: _____

Title: _____

Customer:

By: _____

Name: _____

Title: _____

Exhibit A

List of Application(s) Supported Under this Customer Agreement

- 1.
- 2.
- ...
- x.

List of Service(s) Provided Under this Customer Agreement

- 1.
- 2.
- ...
- x.

Fee Schedule

- 1.
- 2.
- ...
- x.

Customer Agreement—Standard Terms and Conditions

These terms and conditions apply to Customer Agreements by and between the Texas Department of Information Resources (DIR), TexasOnline 2.0 Vendor (Vendor), and any Customer of TexasOnline 2.0, including an Agency of the State of Texas or local government (Customer). DIR, Vendor, and Customer may each be referred to as Party, and collectively DIR, Vendor, and Customer may be referred to as the Parties.

BACKGROUND

TexasOnline 2.0 is based on, and subject to, the TexasOnline 2.0 Master Agreement between DIR and Vendor dated _____, 2009. TexasOnline 2.0 is the name of the official web portal and application delivery framework for the State of Texas.

DIR executed a contract with International Business Machines Corporation (IBM) on November 22, 2006, (Data Center Services Contract) based on House Bill 1516, 79th Legislature (Regular Session) to establish a consolidated Data Center, and accordingly all data center services provided by Vendor under the TexasOnline 2.0 Master Agreement are managed by IBM under the Data Center Services Master Services Agreement.

STANDARD TERMS AND CONDITIONS

1. Customer Agreement Elements

- 1.1 The Parties acknowledge and agree that the terms of the TexasOnline 2.0 Master Agreement will apply to the Customer Agreement, and will remain in full force and effect except as may be expressly modified by the terms of a Customer Agreement or any amendment to the TexasOnline 2.0 Master Agreement made in accordance with specific provisions of the TexasOnline 2.0 Master Agreement, Section _____. In the event of any conflict between the terms and conditions of a Customer Agreement and those of the TexasOnline 2.0 Master Agreement, the terms and conditions in a Customer Agreement will govern with respect to the parties and the Services delivered. The parties acknowledge the TexasOnline 2.0 Master Agreement is subject to subsequent amendment by Vendor and DIR pursuant to its terms and agree that, to the extent any such amendments impact any Customer Agreement terms and conditions, such amendments will automatically apply to the Customer Agreement with no further action by the Parties.
- 1.2 These Customer Agreement Standard Terms and Conditions may be modified by DIR and Vendor pursuant to the terms of the TexasOnline 2.0 Master Agreement. Such modifications will be effective as to the affected Customer Agreements following thirty days written notice to the Customers.
- 1.3 Customer Agreements will continue until terminated as specified therein, and subject to the terms of the TexasOnline 2.0 Master Agreement, and Vendor will provide the Services described in the applicable Customer Agreement.

2. DIR Approval

Customer acknowledges that in order for Vendor to provide services pursuant to a Customer Agreement, DIR must approve placing Customer's website and/or applications (each approved website or application is an "Application") on the TexasOnline 2.0 framework. A list of websites and/or applications using services under a Customer Agreement is included in the Customer Agreement (which also includes information on the specific applications and fees).

3. Services Available to Customer

Vendor offers a variety of website development and hosting, e-commerce and related support services to participants. The specific list of services and applications that Vendor has agreed to provide Customer will be specified in each Customer's Customer Agreement.

4. Customer Website Security

Customer hosting its own website will follow recommended security standards for Texas state and local government websites, and will conform to security policies and procedures in the TexasOnline 2.0 Master Agreement, Section _____. Customer acknowledges that any failure on its part to follow recommended security standards may place its own data and operations at risk as well as those of Vendor and other governmental entities. Vendor will not be liable for violations of security policies and procedures by Customer.

5. Strategic Outreach

In marketing Customer services accessible through TexasOnline 2.0 through brochures, press releases, advertisements and other mail-outs and information pieces, Customer will include in any marketing piece in any medium that the services are provided in affiliation with TexasOnline 2.0 and will use the TexasOnline 2.0 logo slicks and URL provided by Vendor for such purpose. Customer agrees to explore the possibility of co-marketing with Vendor the Customer services available through TexasOnline 2.0 so that marketing costs are shared. There will be a link to the Customer URL from TexasOnline 2.0.

6. Fees

For the Services provided by Vendor, Vendor is entitled to the fees set out in the _____. A Customer Agreement can be modified for the addition of fees as new applications are included in Customer Services based on mutual agreement of DIR, Vendor, and Customer.

7. Customer Obligations

- 7.1 Customer will utilize a single merchant ID for the application(s) listed on Exhibit A.
- 7.2 Customer will provide a contact number for the application or application(s) on an 8:00 a.m. - 5:00 p.m. CT (Monday through Friday) basis to receive 2nd level inquiries received by the Help Desk.
- 7.3 Customer will cooperate with Vendor in Vendor's performance of its obligations under this Agreement. Customer will agree to an online security audit if requested by Vendor. Customer will not store or retain the credit card number or the ACH account number captured on their systems.
- 7.4 Customer will comply with the privacy statements, which are displayed on the TexasOnline 2.0 Website, and with all applicable laws related to information received from or distributed to individuals using the applications. Customer acknowledges that no personally identifiable or private information collected through TexasOnline 2.0 may be used for any purpose or provided to any third party unless: (i) the user is given clear prior notice of the possibility of such other use, and (ii) the user affirmatively consents to such use (i.e., the user "opts-in" to the contemplated use of his or her personally identifiable or private information), and (iii) the Customer agrees to its use.
- 7.5 Customer will provide access to information and systems as necessary to assist Vendor in performing its obligations hereunder.
- 7.6 Customer will follow reasonable security standards and will not take actions or by omissions put State Information or Customer at risk of loss, damage, or breach of security.
- 7.7 Customer will at all times be responsible for the backup and preservation of any data within its control, which does not reside on TexasOnline 2.0.
- 7.8 Customer will process all refunds for its users. Customer will use the Vendor Customer Service interface application to process credit card refunds requested by its users.

8. Representations and Warranties by Vendor

- 8.1 VENDOR REPRESENTS AND WARRANTS THAT ALL SERVICES PERFORMED UNDER THIS AGREEMENT WILL BE PERFORMED IN A GOOD AND WORKMANLIKE MANNER. VENDOR DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- 8.2 NEITHER DIR NOR VENDOR WILL HAVE ANY LIABILITY WHATSOEVER FOR ANY INCIDENTAL, PUNITIVE, INDIRECT, CONSEQUENTIAL, OR SPECIAL DAMAGES OF ANY KIND (INCLUDING LOST REVENUES OR PROFITS, LOSS OF BUSINESS, OR LOSS OF DATA) ARISING OUT OF OR IN CONNECTION WITH OR RELATED TO THIS AGREEMENT OR THE RIGHTS PROVIDED HEREUNDER SUFFERED BY CUSTOMER EVEN IF VENDOR IS INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL DIR'S OR VENDOR'S TOTAL LIABILITY HEREUNDER FOR ANY REASON EXCEED THE TOTAL NET REVENUES RECEIVED OR FEES COLLECTED, AS APPROPRIATE, BY VENDOR UNDER THIS AGREEMENT IN THE TWELVE MONTHS PRECEDING ANY CLAIM. THE PARTIES AGREE AND ACKNOWLEDGE THAT THIS LIMITATION OF DAMAGES IS A FREELY BARGAINED FOR ALLOCATION OF RISK.

9. General Terms

- 9.1 Customer agrees and acknowledges that the terms of the TexasOnline 2.0 Master Agreement related to force majeure, confidentiality, and limitations on damages will apply to Customer Agreements. This section only applies to the extent authorized by law.
- 9.2 No provision of a Customer Agreement will constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies or immunities available to Customer. The failure to enforce or any delay in the enforcement of any privileges, rights, defenses, remedies, or immunities available to Customer by law will not constitute a waiver of said privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. Customer does not waive any privileges, rights, defenses, remedies or immunities available to Customer.
- 9.3 Except as expressly provided otherwise herein, a Customer Agreement will represent the entire agreement by and between DIR, Vendor, and Customer regarding the subject matter of the Customer Agreement. A Customer Agreement may not be changed or amended except by the mutual written agreement of the Parties.
- 9.4 Customer Agreements will be construed and governed by the laws of the State of Texas and is performable in Travis County, Texas. Venue for any action relating to a Customer Agreement is in Austin, Travis County, Texas.
- 9.5 If one or more provisions of a Customer Agreement, or the application of any provision to any party or circumstance, is held invalid, unenforceable, or illegal in any respect, the remainder of the Customer Agreement and the application of the provision to other parties or circumstances will remain valid and in full force and effect.
- 9.6 A Customer Agreement may be amended only upon written agreement between DIR, Vendor, and Customer, but in no case will a Customer Agreement be amended so as to make it conflict with the laws of the State of Texas.
- 9.7 Neither DIR, nor Vendor, nor Customer may assign or transfer a Customer Agreement without the written consent of the other Parties, which consent will not be unreasonably withheld, except that upon written notice to DIR and Customer, Vendor may assign a Customer Agreement without DIR's and Customer's consent to any entity that Vendor controls, is controlled by, or is under common control with, (provided such entity is adequately capitalized) or to any entity which acquires or succeeds to all or

substantially all of the business or assets of Vendor whether by consolidation, merger, sale or otherwise (such as a spin-off of Vendor).

- 9.8 Section _____. Ownership of Intellectual Property; Indemnification of the TexasOnline 2.0 Master Agreement is incorporated herein by reference and will apply to work product created by Vendor pursuant to a Customer Agreement.
- 9.9 Vendor will serve as an independent contractor in providing services under any contract resulting from a Customer Agreement. Vendor's employees are not and will not be construed as employees of Customer.
- 9.10 Vendor will have no authority to act for or on behalf of Customer except as provided for in a Customer Agreement and the TexasOnline 2.0 Master Agreement; no other authority, power or use is granted or implied. Vendor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of Customer other than those incurred in performance of a Customer Agreement.
- 9.11 In addition to the requirements of Section _____ of the TexasOnline 2.0 Master Agreement, "Right to Audit." Vendor will maintain and retain supporting fiscal documents adequate to ensure that claims for Customer Agreement funds are in accordance with applicable State of Texas requirements. These supporting fiscal documents will be maintained and retained by Vendor for a period of two (2) years after the date of submission of the final invoices.
- 9.12 Vendor represents and warrants that Vendor, to the best of its knowledge, has no actual or potential conflicts of interest in providing services to Customer under a Customer Agreement and that Vendor's provision of services under a Customer Agreement to the best of its knowledge would not reasonably create an appearance of impropriety.
- 9.13 Vendor represents and warrants that neither Vendor nor any person or entity, which will participate financially in a Customer Agreement, has received compensation from Customer for participation in preparation of specifications for a Customer Agreement. Vendor represents and warrants that it has not given, offered to give, and does not intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to any public servant or employee in connection with a Customer Agreement.

10. Termination

- 10.1 A Customer Agreement is effective upon execution by representatives of DIR, Vendor, and Customer and expires on _____ with an option to renew every year for up to five years after _____.
- 10.2 In the event that any Party fails to carry out or comply with any of the material terms and conditions of a Customer Agreement, another Party may notify the breaching Party of such failure or default in writing and demand that the failure or default be remedied within thirty (30) days. In the event that the breaching Party fails to remedy such failure or default within thirty (30) days of receiving written notice, another Party will have the right to cancel a Customer Agreement upon thirty (30) days written notice. Notwithstanding the foregoing, Customer will not have the right to cancel a Customer Agreement if Vendor's failure or inability to comply with the terms and conditions of a Customer Agreement is caused by or arises from, in whole or in part, the refusal or inability, for whatever reason, of Customer to provide the support and assistance that Vendor requires from Customer to perform its obligations under a Customer Agreement, and which Customer previously agreed to provide to Vendor. If Customer does not provide Vendor with the requisite level or amount of support, for whatever reason, Vendor will, upon receipt of the Authority's approval, be entitled, but not obligated, to suspend or cancel any further work on the particular service or product or

Application for which adequate support is not available, and focus its efforts on other services, products or Applications.

- 10.3 DIR or Vendor may terminate a Customer Agreement without cause and without cost or penalty upon ninety (90) days prior written notice.
- 10.4 Customer may terminate a Customer Agreement without cause and without cost or penalty, except that Customer will remit to Vendor any and all fees due and owing for transactions completed through the date of termination, upon ninety (90) days prior written notice.
- 10.5 Customer may elect to continue to utilize Vendor's services under a Customer Agreement even if the TexasOnline 2.0 Master Agreement expires or terminates.
- 10.6 Pursuant to the provisions of TexasOnline 2.0 Master Agreement, the Customer will pay any unrecovered costs associated with Vendor providing service to them through TexasOnline 2.0, if the Customer terminates a Customer Agreement for convenience or lack of funding before those costs are fully recovered.

11. Dispute Resolution

If a dispute seeking money damages is identified by DIR, Vendor, or Customer, dispute resolution will follow the procedures outlined in Section ____ of the TexasOnline 2.0 Master Agreement, which references Chapter 2260 of the Texas Government Code and any pursuit of equitable relief will not constitute a waiver by Customer of any immunity from suit or liability. Notwithstanding the foregoing, DIR and Customer are not precluded from initiating a lawsuit for damages against Vendor in a court of competent jurisdiction and may do so without engaging in the process provided by Chapter 2260 of the Texas Government Code or 37 TEX. ADMIN. CODE § 34.1, et seq. (2001) (Department of Public Safety, Negotiation and Mediation of Certain Contract Disputes).

Appendix I – Question & Answer Template



Date:
Company Name:
Primary Contact Name:
Title:
Email Address:
Telephone Number:

Vendor/Unique Question Number	RFO Location/Cell Reference	Question
EXAMPLE ABC001	Servers Exhibit 2.3 E2.3-22	What does Server mean in Cell E2.3-22?

