

**STATE OF TEXAS
DEPARTMENT OF INFORMATION RESOURCES**

CONTRACT FOR PRODUCTS AND RELATED SERVICES

MTM TECHNOLOGIES, INC.

1. Introduction

A. Parties

This Contract for Services (“Contract”) is entered into between the State of Texas (“State”), acting by and through the Department of Information Resources (“DIR”) with its principal place of business at 300 West 15th Street, Suite 1300, Austin, Texas 78701, and MTM Technologies, Inc. (hereinafter “Vendor”) with its principal place of business at 4 High Ridge Park, Suite 102, Stamford, CT 06905.

B. Compliance with Procurement Laws

This Contract is the result of compliance with applicable procurement laws of the State. DIR issued a solicitation on the Comptroller of Public Accounts’ Electronic State Business Daily, Request for Offer (RFO) DIR-TSO-TMP-223, on February 9, 2015, for Mobile Device Management Products and Related Services. Upon execution of this Contract, a notice of award for RFO DIR-TSO-TMP-223 shall be posted by DIR on the Electronic State Business Daily.

C. Order of Precedence

This Contract; Appendix A, Standard Terms and Conditions For Services Contracts; Appendix B, Vendor’s Historically Underutilized Businesses Subcontracting Plan; Appendix C, Pricing Index; Appendix D, Sample Statement of Work; Block of Time Agreement; Exhibit 1, Vendor’s Response to RFO DIR-SDD-TMP-223, including all addenda; and Exhibit 2, RFO DIR-SDD-TMP-223, including all addenda; are incorporated by reference and constitute the entire agreement between DIR and Vendor. In the event of a conflict between the documents listed in this paragraph, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C, then Appendix D, then finally Exhibit 1. In the event and to the extent any provisions contained in multiple documents address the same or substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded earlier provisions.

2. Term of Contract

The term of this Contract shall be two (2) years commencing on the last date of approval by DIR and Vendor. Prior to expiration of the original term, DIR may extend this Contract, by amendment, for up to two (2) optional one-year terms. Protracted contract negotiations may, in DIR’s sole discretion, result in fewer optional renewal terms.

3. Product and Service Offerings

A. Products

Products available under this Contract are limited to those specified in Appendix C, Pricing Index. Vendor may incorporate changes to their product offering; however, any changes must be within the scope of products awarded based on the posting described in Section 1.B above. Vendor may not add a manufacturer's product line which was not included in the Vendor's response to the solicitation described in Section 1.B above.

B. Services

Services available under this Contract are limited to those specified in Appendix C, Pricing Index. Vendor may incorporate changes to their service offering; however, any changes must be within the scope of services awarded based on the posting described in Section 1.B above.

4. Pricing

Pricing to the DIR Customer shall be as set forth in Appendix A, Section 8. Pricing, Purchase Orders, Invoices and Payment, and as set forth in Appendix C, Pricing Index and shall include the DIR Administrative Fee.

5. DIR Administrative Fee

A. The administrative fee to be paid by the Vendor to DIR based on the dollar value of all sales to Customers pursuant to this Contract is three-fourths of one percent (.75%). Payment will be calculated for all sales, net of returns and credits. For example, the administrative fee for sales totaling \$100,000 shall be \$750.00.

B. All prices quoted to Customers shall include the administrative fee. DIR reserves the right to change this fee upwards or downwards during the term of this Contract, upon written notice to Vendor without further requirement for a formal contract amendment. Any change in the administrative fee shall be incorporated by Vendor in the price to the Customer.

6. Notification

All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:

Dana L. Collins, CTPM, CTCM
Manager, Contract and Vendor Management
Department of Information Resources
300 W. 15th St., Suite 1300
Austin, Texas 78701
Phone: (512) 936-2233
Facsimile: (512) 475-4759
Email: dana.collins@dir.texas.gov

If sent to the Vendor:

Lynn Fussner
MTM Technologies, Inc.
13100 Manchester Road
St Louis MO, 63131
Phone Number: (314) 775-0818
Facsimile: (201) 558-7201
Email: lfussner@mtm.com

7. Service Agreement

Services provided under this Contract shall be in accordance with the Service Agreements as set forth in Appendix D of this Contract. No changes to the Service Agreement terms and conditions may be made unless previously agreed to by Vendor and DIR.

8. Authorized Exceptions to Appendix A. Standard Terms and Conditions for Products Contracts.

The following exceptions to Appendix A, Standard Terms and Conditions for Product Contracts, have been agreed to by Vendor and DIR:

A. Section 9. Vendor Responsibilities, N. Required Insurance Coverage 1.) Commercial General Liability is hereby replaced in its entirety with the following:

Commercial General Liability must include a combined single limit of \$1,000,000 per occurrence for coverage A, B, & C including products/completed operations, where appropriate, with a separate aggregate limit of \$2,000,000. Agencies may require additional Umbrella/Excess Liability insurance. The policy shall contain the following provisions:

- a) Blanket contractual liability coverage for liability assumed under the Contract;
- b) Independent Contractor coverage;
- c) State of Texas, DIR and Customer listed as an additional insured;
- d) Blanket Waiver of Subrogation; and
- e) Vendor will provide 30-days' notice of termination.

B. Section 9. Vendor Responsibilities, N. Required Insurance Coverage 3.) Business Automobile Liability Insurance is hereby replaced in its entirety with the following:

Business Automobile Liability Insurance must cover all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternative acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements in favor of DIR and/or Customer:

- a) Blanket Waiver of Subrogation; and

b) Vendor will provide 30-days' notice of termination.

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This Contract is executed to be effective as of the date of last signature.

MTM Technologies, Inc.

Authorized By: _/Signature on File/_____

Name: Kevin Krick_____

Title: VP Services_____

Date: 9/16/2016_____

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

Authorized By: _/Signature on File/_____

Name: Hershel Becker_____

Title: Chief Procurement Officer_____

Date: 9/20/16_____

Office of General Counsel: _/Signature on File/ 9/20/2016_____